

INTERIM REPORT 1 17–30 May 2005

I. EXECUTIVE SUMMARY

- On 3 July 2005, Albanian voters will elect the 140 members of the Assembly. The Constitution of Albania provides that one hundred of them are elected directly in single mandate election zones and 40 are elected from party or coalition lists. This complex system appears to have allowed some of the parties to develop informal alliances to maximise the number of mandates they might receive. Such strategies could reduce the effectiveness of the election system in meeting the Constitutional objective to inject a degree of proportionality into the election system.
- The election will be held under the Electoral Code adopted in 2003 and amended in 2004 and 2005. The election legislation can provide an adequate basis for a democratic election. However, the extent to which the law will have a positive effect on the process will ultimately depend on the degree of political commitment - first and foremost of State institutions and political parties - to conduct democratic elections and uphold the law.
- The Central Election Commission (CEC) is holding frequent sessions, in general transparently and collegially. However, discussions were often protracted and the CEC has faced delays in adopting instructions necessary for regulating the electoral process. Some parties, notably the Democratic Party, have unduly delayed the nomination of some members to Zone Election Commissions (ZECs). Consequently, not all of the 100 ZECs were operational by the end of May.
- Voter Lists remain a contentious issue. While some of the concerns expressed by interlocutors regard what are essentially administrative errors, others involve family members split between two voting areas, omissions, possible multiple entries and a sizeable number of citizens whose residence could not be verified.
- Currently, 57 parties are registered to contest the election. The campaign is already well underway and many campaign events have taken place, with Socialist Party (SP) and Democratic Party (DP) campaigns being the most visible. The emergence of new parties may further broaden the voters' choice.
- The media have covered many campaign events. Preliminary monitoring results indicate that the media covered the campaign activities of the SP and DP to the near exclusion of other parties. The tone of the coverage in the electronic media monitored by the Election Observation Mission has thus far been generally measured.

II. INTRODUCTION

In response to an invitation from the Government of Albania to observe the 3 July parliamentary elections, the OSCE/ODIHR deployed an Election Observation Mission (EOM) on 17 May. The OSCE/ODIHR EOM, headed by Mr Jørgen Grunnet (Denmark), consists of 35 election experts and long-term observers (LTOs) from 17 OSCE participating States. The OSCE/ODIHR EOM has deployed LTOs in 11 cities around Albania. The OSCE/ODIHR has requested participating States to second 400 short-term observers (STOs) to observe polling and counting proceedings.

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

A coalition of Albanian NGOs has been formed to observe the upcoming elections, and intends to deploy approximately 3,500 observers throughout the country. The European Network of Election Monitoring Organisations (ENEMO), a group of 17 civic organisations from 16 countries in the OSCE region, intends to deploy 6 long-term and 60 short-term observers.

III. ELECTION CONTEXT

The 2005 parliamentary elections will be the sixth since the establishment of multi-party politics in Albania in 1991. Since then, the two largest parties, the SP and the DP, have dominated the political scene. Mutual mistrust and acrimonious rivalry, including between the party leaders, have resulted in a high degree of political polarisation. Frequently, political deadlock on issues such as electoral reform have only been overcome through the intervention of international institutions, notably the OSCE.

The Socialist Party (SP), led by Prime Minister Fatos Nano, holds the highest number of seats, 73, in the outgoing Parliament¹ With the support of two MPs elected as ‘independent’ candidates and 13 MPs from four other parties, the ruling block comprises 88 deputies in the 140 seat assembly.² In 2001, the opposition ‘Union for Victory coalition’ which, *inter alia*, included the Democratic Party (DP), led by Dr Sali Berisha, the Republican Party, the Movement for Legality Party and the National Front gained 46 seats.³ The New Democratic Party gained 6 seats.

Recent political developments include the founding in 2004 of the Socialist Movement for Integration⁴ (SMI), led by former Prime Minister Ilir Meta, and the emergence of a new political grouping called the Movement for National Development – Leka Zog (MND).⁵

Historically, the Democratic Party derives its strongest support in the north of Albania while the Socialist Party is well supported in the south. The central region of the country is likely to be keenly contested. The Human Rights Union Party (HRUP) seeks the political support of national

¹ The SP was declared the winner in 73 single mandate zones. It did not receive any seat through the party list election.

² The Social Democratic Party (4 seats), the Agrarian Party (3 Seats), the Human Rights Union Party (3 seats) and the Democratic Alliance Party (3 seats). These MPs were all elected through the party-list election.

³ The Union for Victory won 21 mandates in election zones and received 25 mandates through the party-list election.

⁴ The SMI split from the Socialist Party and retained the mandates of nine MPs elected as Socialist Party candidates in 2001 in single mandate election zones.

⁵ The MND is composed of two right-wing parties: the Renewed Democratic Party (RDP) and the Legality Movement Party (LMP) and one non-parliamentary party Conservative Party.

minorities, in particular Albania's Greek speaking communities, that reside mostly in the far south.

Sixteen political parties agreed to sign a Code of Conduct initiated by the President of Albania, Mr. Alfred Moisiu, and calling, *inter alia*, for law-abidance and restraint during the campaign.

IV. ELECTORAL SYSTEM

The Constitution of Albania provides that the National Assembly is composed of 140 deputies. One hundred are elected directly in single mandate election zones in a single election round with candidates requiring a plurality, but not an absolute majority, of the vote to be elected.⁶ The remaining 40 deputies are elected from party or coalition lists. To be entitled to these 40 mandates, parties and coalitions have to pass a threshold of 2.5 and 4 percent of the valid vote, respectively.

While the Constitution establishes an election system in which over 71% of mandates are awarded on the "majoritarian" principle, Article 64.2 requires that "the total number of deputies of a party or party coalition shall be, to the closest possible extent, proportional to the votes won by them on the national scale in the first round of elections". Thus, the Electoral Code provides that 40 MPs "are elected according to the proportional percentage of the votes won by the multi-name lists".⁷

In effect, the allocation of these mandates is linked to the number of majority seats won by a party or coalition in single mandate constituencies. For each party or coalition, if the number of majority seats won exceeds the total number of seats it would be entitled to according to proportional votes, such a party or coalition does not qualify for participation in the allocation of supplementary seats. For each party or coalition, if the number of majority seats won is less than the number of seats it would be entitled to according to proportional votes, such a party or coalition is eligible for participation in the allocation of supplemental seats. These are subsequently distributed so as to approximate the number of seats the respective party or coalition would be entitled to according to the proportional votes.⁸

The Electoral Code (Article 90) provides that voters are presented with two ballots: one for the majoritarian contest in the election zone in which they reside and a second for the national-level contest. Therefore, voters are permitted to make two separate electoral choices. This feature permits parties to develop strategies by forming informal election coalitions. However, such strategies can reduce the effectiveness of the election system in meeting the Constitutional objective to inject a degree of proportionality into the election system.

V. LEGAL FRAMEWORK

The Electoral Code was adopted in June 2003 and amended in October 2004, January 2005 and April 2005. The legislation currently in force can provide an adequate basis for a democratic election. However, as noted on previous occasions, the extent to which the law will have a positive effect on the process ultimately will be determined by the degree of political commitment, first and foremost of State institutions and political parties, to hold democratic elections and uphold the law.⁹

⁶ In previous parliamentary elections, candidates required over 50% of the valid vote to be elected. If none of the candidates were able to secure the required number of votes, the two top-scoring candidates participated in a run-off

⁷ The Electoral Code, Article 65

⁸ The precise formula for allocating supplementary mandates is set out in Article 67 of the Electoral Code.

⁹ The OSCE/ODIHR Needs Assessment Report, Warsaw (29 April 2005), pp 6-8, provides more details.

The legal provisions established by the Electoral Code are supplemented by instructions issued by the CEC. However, in one instance, a CEC Instruction appears to omit one of the requirements of the Electoral Code, regarding the role of police in accompanying the electoral material to the counting centre after the close of the voting. The instruction only requires a police officer to provide an ‘escort,’ whereas Article 109/1 of the Electoral Code explicitly requires a police officer to be seated with the VCC members *in the vehicle transporting the ballots*. This has raised concern among some of OSCE/ODIHR EOM’s interlocutors that police officers may incorrectly believe that they have been relieved of the legal duty to be present in the transporting vehicle. There is still time for the CEC to clarify this issue, and avoid any possible misinterpretation.

VI. ELECTION ADMINISTRATION

A three-tiered election administration will administer the elections: the CEC, 100 ZECs and 4,762 Voting Centre Commissions (VCCs). For the first time in Albanian elections, votes will be counted in 100 Counting Centres, one in each zone.

The CEC is a permanent body composed of seven members with a seven-year mandate. Two members are appointed by the Assembly, two by the President of the Republic, and three by the High Council of Justice, with political parties exerting considerable influence over the nomination procedures. Under an agreement reached between the SP and the DP in October 2004, the ‘political balance’ of the CEC was altered such that the dominant position of the parliamentary majority (5 out of 7 members) be reduced, by surrendering one seat in favour of the opposition. By law, most decisions are taken by majority vote, but a qualified majority of five votes is needed for the certification of election results, the invalidation of elections, and for decisions on complaints against ZEC decisions regarding election results.

Each ZEC is composed of seven members, with parties from each side of the political spectrum proposing three members, while the seventh member is assigned either to the largest party in the ruling block (SP) or the largest opposition party (DP) on a parity basis, determined by “random selection” and “equal distribution”. Parties have the right to replace ZEC members at any time. This could lead to instability in the work of the election administration. Indeed, the CEC is approving the replacement of ZEC members on an almost daily basis. VCCs and Counting teams are appointed by ZECs according to the same formula as for appointments to ZECs. The late deadline for the appointment of counting teams (two hours before the close of the polls) raises concerns as it may lead to problems concerning the proper training of counting teams.

The CEC is holding sessions as frequently as twice per day. During the past months it has adopted numerous instructions and taken around 400 decisions, mostly on the formation of ZECs and party registration. Since 20 May, the OSCE/ODIHR EOM has attended all CEC sessions. In general, these have been conducted in a collegial atmosphere and discussions are transparent, but sessions were protracted, hence delaying the adoption of some important instructions and decisions. However, at this stage, this situation does not appear to have created major problems in the organization of the elections.

By law, all ZECs should have been appointed no later than 3 March 2005. However, since the boundaries of the redrawn electoral zones were not finalised until 3 March, the CEC extended this deadline until 16 May. Nevertheless, only 63 out of 100 ZECs were established by the revised legal deadline because several political parties, in particular the Democratic Party, failed to nominate members. Indeed, 49 ZECs did not hold their inaugural meeting on schedule.

Consequently, several ZECs were unable to attend the first round of official training between 20 and 23 May.

Some LTOs attended several ZEC training sessions and for the most part reported them to be well organised and conducted professionally. Some ZECs are still not fully constituted, most have not received computing or communications equipment, and a few do not have premises. The delay in forming ZECs has yet to have a seriously detrimental effect on the process. However, it was reported that one SMI candidate in Shkodra region was unable to register because the ZEC was not operational. The deadline for candidate registration has yet to expire.

VII. VOTER REGISTRATION

Responsibility for the compilation and maintenance of voter lists has been transferred from the CEC to local government authorities, which also maintain civil registries. However, the law does not provide for the establishment of a central register of electors. The Ministry of Local Government and Decentralization assumed the responsibility to check the electronic versions of the preliminary voter lists sent by local government units for potential multiple entries and obvious misallocations. The Ministry should inform Mayors in the municipalities concerned.

In order to implement the new electoral legislation which provides for the creation of new voter lists, reform of the system of civil and voter registration procedures was required. The preliminary voter lists are based on civil registries, voter lists used in 2003 and a door to door verification process. All citizens were allocated a ten-digit numerical address, and new computerised voter lists were compiled by local authorities. This process was a major challenge, not only because of major population movements, a high degree of ‘informality’ in the planning of new buildings, possible reluctance of some citizens to register their new residences and the short timeframe in which the preliminary voter lists should have been compiled.

According to the law, voter lists were to be displayed for public scrutiny from 1st April (art.64/2 - transitory provisions) until 3 May (art.58.1). A large-scale public information campaign was conducted to inform voters of their rights and duties regarding voter registration. The Ministry of Local Government and Decentralisation ordered the deadline to be extended, first until 20 May and finally until 30 May, to increase the time available to voters to check their entries. The voter lists should be finalised by 8 June. After the closing of the registration period, eligible citizens that are omitted from a voter list may vote on Election Day if they apply for, and obtain, a decision from a district court, up to 24 hours before Election Day. On 17 May, the Ministry of Local Government and Decentralization announced that some 202,000 duplicate records had been identified of which 70,000 had been resolved. On 31 May, the Ministry reported that it had cleared some 55% of the duplicates identified.

The OSCE/ODIHR observers have reported that voter lists remain a contentious issue among some of their interlocutors, e.g. in Durres, Vlore, Shkodra and Fier. While some of the concerns regard what are essentially administrative errors, such as the names of deceased persons yet to be removed from the lists, others involve family members split between two voting areas, omissions, misallocation of electors to polling stations, and a sizeable number of multiple entries. The OSCE/ODIHR EOM has already received information that a high number of voters have a numerical building identification ending in ‘999’ (hereafter ‘999 entries’), indicating that these citizens were not clearly linked by the verification teams to domiciles in which they were registered as resident.

In Vlore, significant differences were reported between the number of voters registered in 2003 and on the 2005 preliminary voter lists.¹⁰ Due to the inclusion of a sizeable number of ‘999 entries’ on voter lists in Vlore and Durres, some voting centres have well in excess of 1,000 voters registered - the maximum permitted by law. In Tirana, election zone 38, a dispute has emerged over the failure to register 1,400 students as voters in Tirana.

While municipal officials express confidence that the voter lists will be in order by Election Day, in many instances, parties in opposition to the ruling party at the local level assert that the lists are being politically manipulated. The inclusion of possibly inaccurate civil registration records in the voter lists may have contributed to the large number ‘999 entries’ and an apparent inflation in the number of voters registered compared to 2003.

VIII. CANDIDATE REGISTRATION

All major political forces are contesting the elections. A total of 57 parties are registered as electoral subjects with the CEC. The final number of parties, coalitions and candidates that will contest the election will be known only after 3 June 2005, the deadline to register party or coalition lists with the CEC and for candidates to register with the ZECs.

The SP and its allies in the ruling coalition have announced publicly that they would contest the elections separately. However, the SP informed the OSCE/ODIHR EOM that it did not exclude the possibility that agreements could be concluded at the local level. In addition, one of the parties in the ruling coalition indicated to the OSCE/ODIHR EOM that cooperation between the SP and allies in the ruling coalition was indispensable and will actually occur.

The DP has concluded agreements with eight political parties¹¹ (hereafter partner parties), whereby it will allow candidates from the partner parties to run under the DP banner in 15 single-mandate constituencies. According to the agreement, the DP partner parties would encourage their supporters to support DP candidates in all single mandate contests in exchange for the DP’s support of their party lists. However at the time of this report no coalition agreement has been approved by the CEC. The SMI and the MND have declared publicly that the parties will contest the election as separate entities.

IX. MEDIA

The Electoral Code entitles parties to receive free airtime in the public media, the amount of which depends on the parties representation in Parliament. By law, the news broadcasts on both public and private radio and television stations should allocate coverage according to similar principles. With the exception of the public broadcaster RTSH, political parties and independent candidates are entitled to place paid political advertisements¹², the volume of which also depends on the parties’ representation in Parliament. Clearly these provisions favour the larger parties.

The Electoral Code also entitles private broadcasters to air electoral debates (provided that they retain a balance among the political forces participating), prohibits the communication of political propaganda by journalists during news broadcasts, and obliges the CEC to establish and appoint a Media Monitoring Board (MMB) responsible for monitoring the compliance of the media with the

¹⁰ The numbers of voters registered for these two elections in zones 94 - 96 varies by between 13,000 and 20,000 per zone.

¹¹ These parties are: the New Democratic Party (NDP), the Republican Party (RP), the Liberal Union Party (LUP), the Democratic Christian Party (DCP), the Movement for Human Rights and Freedoms (MHRF), the National Front (NF), the National Democratic Front (NDF), and the Democratic Union Party (DUP).

¹² RTSH is prevented by law from producing or airing paid political advertisements.

relevant provisions of the Electoral Code. This board was established on 26 May. It should report to the CEC on a daily basis, with the CEC taking decisions or sanctions as necessary. Local level media monitors are appointed by the MMB to analyse the broadcasts of local broadcasters.

On 17 May, the OSCE/ODIHR EOM commenced the monitoring of three national TV channels for 6 hours per day (18:00–00:00 hrs), the prime time news of another TV station (Top Channel) and six daily newspapers.¹³ The OSCE/ODIHR EOM will conduct both qualitative and quantitative analysis, will identify campaign themes, and assess respect for legal provisions covering the campaign in the media.

Although the campaign is due to officially start on 3 June, it is already well underway with all media covering the parties' presentation of their candidates and platforms in current affairs programs and talk shows. Preliminary monitoring results indicate that the media covered the activities of the main parties to the near exclusion of others. By and large the tone of the coverage in the electronic media was measured. The print media's coverage was more antagonistic.

X. THE ELECTION CAMPAIGN

Campaign activities are highly visible throughout the country. Significantly, compared to previous elections, parties' campaigns tend to focus more on their programmes and platforms. However, the SP campaign has highlighted the events of 1997 during which law and order broke down, and the DP has focussed its campaign on alleged corruption of the ruling block. LTOs have received allegations of vote buying and intimidation including pressure on employees, although these allegations are as yet unsubstantiated.

The Electoral Code provides for some public financing of the election campaign. The CEC has allocated Albanian Leke (ALL) 60 million (approximately EUR 480,000) for this purpose. Following a CEC decision of 5 May, half of the money provided for should have been distributed among all parties that received in excess of 2.5% of the vote in the 2001 election. In addition to public funds, electoral subjects can receive private donations of up to ALL 1 million (Euro 8,000) per donation. No later than 45 days after the elections, electoral subjects must submit financial reports to the CEC, justifying campaign expenses and listing donations received.

XI. ELECTION DISPUTES

The CEC has the primary authority to adjudicate complaints during the campaign. Although some election complaints can be filed at ZEC level, the majority of first instance cases will be lodged with the CEC. The CEC also has appellate jurisdiction to review a decision of a ZEC. The right to file a complaint or appeal is limited to an 'electoral subject', which is defined as a political party, coalition or candidate. The only exception to this rule allows an individual citizen to petition a district court for inclusion in the list of voters. Depending on the accuracy of final voter lists, this provision could be significant.

Judicial review of a CEC decision can be submitted by an electoral subject within five days of the decision to the Electoral College of the Court of Appeals of Tirana. The Electoral College, which consists of eight judges chosen by lottery from a pool of all appellate judges in Albania, decides cases in panels composed of five members also chosen by lottery. Article 174 of the Electoral Code provides that a decision of the Electoral College is final and cannot be appealed. However,

¹³ TV stations monitored are as follows: *TVSH*, *TV Arberia*, *TV Klan* and Top Channel. The six newspapers monitored are as follows: *Shekulli*, *Panorama*, *Korrieri*, *Gazeta Shqiptare*, *Tema* and *Koha Jone*.

the Constitutional Court does have jurisdiction over some issues related to “the election ... of the deputies, as well as the verification of their election”.¹⁴ To date, the OSCE/ODIHR EOM is aware of only two election cases filed with the Electoral College concerning the 2005 parliamentary elections: One is an appeal of a CEC decision on the mechanism for replacing observers and the other involves the replacement of a ZEC member. Neither case has been decided.

The OSCE/ODIHR EOM has received ten complaints from four different political parties. Six of these concern issues related to voter lists, two charge that parties held campaign events before 3 June, one relates to media coverage and another relates to the proposed layout of counting centres. The complaints related to voter lists cannot be adequately evaluated at this time as the lists are still in the process of revision. The OSCE/ODIHR EOM will follow closely the handling of election disputes.

¹⁴ Constitution of Albania (Article 131).