



**Organization for Security and Co-operation in Europe  
Presence in Albania**

**SUMMARY REPORT**

**INTERNATIONAL MEDIATION IN PREPARATION  
FOR THE 2000 LOCAL ELECTIONS**

**25 July 2000**

The following is a factual account of past developments regarding the forthcoming local elections. It has been compiled by the OSCE Presence in Albania on the basis of the best information available to it.

**The Central Election Commission**

By the summer of 1999, six out of seven positions on the Central Election Commission (CEC) had been filled by the organs prescribed in the 1998 Constitution. The seventh seat, the second appointment by Parliament, was left vacant. The Democratic Party was absent from Parliament at the time.

The appointments were followed by an increasing polemic between the opposition and governing parties. The opposition criticised both the appointment procedures and the actual nominations to the CEC.

The OSCE Presence tried to mediate in the dispute over the CEC. Voluntary resignations of appointed CEC members seemed the only lawful way out. After prolonged talks between the Head of Presence, and, top representatives of the State and of the political parties, two members of the CEC resigned in the first week of April 2000. This left three vacancies altogether. A third resignation, as contemplated during these talks did not materialise. In the opinion of some Albanian politicians, the ideal solution would have been the voluntary resignation of all members, and reappointments only with truly neutral candidates. However, the government majority did not consider this possibility.

The second best option, in this view, would have been a “balanced” CEC, composed of members officially unaffiliated, but de facto “acceptable” to government and opposition parties. Members acceptable to the opposition would have been appointed to the places vacated by the voluntary resignations. This option was also impossible to reach. The Democratic Party announced that it would not second a nominee to the CEC, which it does

not recognise.<sup>1</sup> The DP made similar statements towards the Christian Democrat and Legality Parties, when they considered proposing, or actually proposed, candidates.

Two of the three vacant positions were then filled in early June after the Electoral Code went into effect. One nomination was made by the President. This was Klement Zguri, formerly affiliated with the small opposition National Front Party. The other was made by the High Council of Justice (HCJ), Mimoza Arbëri, a Tirana-based lawyer. In their constitutive meeting on 12 June, the CEC elected Fotaq Nano as their chairman, and on 20 July appointed Pali Xhelo as secretary. Both appointments have been questioned for alleged political and personal proximity with leading figures of the governing coalition. The position of vice-chairman is yet to be filled.

Since June, several smaller right-wing parties and institutions of civil society have proposed candidates for the seventh CEC position to be filled by Parliament. On 24 July, Parliament elected to that position Gaspër Kokaj, a Shkodra-based law professor.

### **The Electoral Code**

On 21 February, representatives of the governing and opposition parties in Parliament met at the OSCE HQ, in the presence of the International Community, represented by the heads of missions of the European Union Troika, the United States, and the United Nations (UNDP). The party representatives decided that a working group be established at expert level to review the government draft of the Electoral Code. The established working group consisted of five representatives from the coalition parties, five from the opposition parties, and five from the international institutions. The latter were experts from the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), the Council of Europe, the International Foundation for Electoral Systems (IFES-USA), and the OSCE Presence in Albania.

The working group meetings were hosted by the OSCE Presence and took place every afternoon, including most Saturdays, from 8 March to 7 April. An early dispute over the signing of an agreement assuring equality of rights and opportunities in the process, as requested by the Democratic Party, led to opposition representatives not being present for the meetings on 10 and 11 March. After a meeting on 11 March of the Head of Presence with the chairmen of the Democratic Party and of the Republican Party, the opposition returned to the talks on 13 March.

The opposition representatives ceased participating in the group as of 1 April, expressing dissatisfaction that their calls for a CEC guaranteeing parties representation by a system of parity was not answered, and reiterating complaints about equality of rights and opportunities. The talks then continued with the representatives of the coalition parties and the international community until 7 April. The invitation for the opposition to participate remained open throughout the process.

On 10 April, the Head of Presence handed a draft of the Electoral Code back to the Prime Minister, as its first version had been initiated in the Council of Ministers. On the same day, a meeting of the local Friends of Albania expressed appreciation for the work of the working

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<sup>1</sup> Cf. *Rilindja Demokratike*, 6 June 2000.

group and “welcomed the fact that an amended draft code had now been submitted to the Government incorporating changes agreed between political party representatives and proposals of the international experts”. Two representatives of the Opposition were briefed on the contents of this amended draft code.

The Council of Ministers adopted the draft Code on 13 April. After extensive discussions, Parliament passed it on 8 May without major changes, except in the transitory provisions (see below the section on Article 153).

At the request of the OSCE Presence in Albania, the law was reviewed by experts from several international institutions, who in principle evaluated it as a solid piece of legislation, and in accordance with international standards. These experts were Eugenio Polizzi from the Council of Europe, Pierre Garonne and Bernard Owen from the Council's Venice Commission, Daniel Finn from IFES-USA, and Joseph Middleton and Siri Skåre from the OSCE/ODIHR. Mr. Finn summarised his views on the Code as follows:

"The Code is a highly-developed legislative scheme that amounts to a comprehensive election code for the types of elections within its scope. The Albanian Council of Ministers, which proposes the Code; the Assembly, which approves it; and the entire Albanian government and its staff and external advisors are to be commended for the preparation of a such a highly-developed legal and electoral document."

*Daniel Finn, Legal Specialist for IFES, 6 June 2000*

### **Article 153 of the Electoral Code**

Article 153 is a transitional provision in the Electoral Code, and specifies the composition of the Local Government Election Commissions (LGECs) and Voting Centre Commissions (VCC) for the local elections of the year 2000. They are all to be composed of representatives nominated by the seven parties, which won the most votes *nationwide* in the last local elections held in 1996. The permanent Articles 38 and 43 foresee the composition of each LGEC and VCC membership reflecting the voting results in the last local elections *for each respective local council*.

When the OSCE handed the draft Electoral Code to the Prime Minister on 10 April, transitory Article 153 was not included. The draft also passed the Council of Ministers without substantial changes. On 8 May, the OSCE was present in Parliament on the last day of debate on the Code. It is worth noting, however, that the Head of the OSCE Presence in Albania was not present at the time of this discussion due to an official visit in the United States. In the course of the discussion, the OSCE representatives learnt of the proposed changes to the composition of LGECs when they received a copy of amendments to the draft introduced in plenary session by the Socialist Party Parliamentary Group. The OSCE representatives asked for a break and voiced concern in a meeting with the Speaker of Parliament and the then Chairman of the SP Group, Gramoz Ruçi. Thereupon, two measures were taken. The first one was that the nation-wide results would apply to the local elections of this year only. The second was that Gramoz Ruçi would explain during the parliamentary debate on 8 May that Article 153 was necessary in view of the planned changes to the administrative-territorial division of Albania before the elections.

The OSCE representatives present in this discussion were not fully satisfied with these two measures. The government expressed the need that territorial-administrative changes were required by the Constitution in the context of decentralisation before the elections. This argument was later maintained by other government representatives. Minister of Local Government, Bashkim Fino, met with the Head of Presence on 23 June to present plans on the specific changes. Meanwhile, the Government has publicly announced its decision to postpone any changes to administrative boundaries until after the elections.

Two draft laws on territorial-administrative reform are currently before Parliament, but neither of them foresees changes to the existing local boundaries. One spells out the creation of municipal units with local councils and mayors within the municipality of Tirana. The other specifies the establishment of Regions in Albania, as required by the Constitution.

It had been argued, particularly by legal experts, that changes to territorial-administrative boundaries shortly before an election should generally be avoided. The addition of Article 153 to the Electoral Code has been criticised by several election experts, particularly from the Council of Europe. Their main argument was that a uniform composition of local election commissions might affect small parties with a regional focus and did not comply with the requirements for local autonomy laid out in the European Charter for Local Self-Government.

### **Voter Registration**

The OSCE Enumeration Observation Mission provided continued observation of the door-to-door enumeration from 3 June to 11 July 2000, in the framework of the Electoral Assistance Programme (EAP). The EAP is a UNDP-initiated programme aimed at assisting the Albanian Government with the technical preparations for the elections and financed by a number of countries and international organizations. In general, the aim of conducting a transparent and accurate registration was achieved, and the new procedures for voter registration in general fulfilled their purpose of introducing internationally accepted standards. There were some miscommunications and delays, but in most places at the local level, officials seemed to have made the best of the situation with considerable commitment. Exceptions were larger cities such as Tirana, Durrës, Elbasan, Shkodra, Kukës and Lushnja, where political disputes and blockages hampered technical developments considerably. Enumeration in Lushnja is still blocked as the result of a dispute over the replacement of the mayor, which has been brought before the Constitutional Court by the Lushnja Municipal Council and which has also found the attention of the Council of Europe. A Final Observation Report will be issued by the end of July.

### **Election Monitoring**

The forthcoming local elections are of special significance because of the profound reform of electoral legislation and procedures underway in Albania, and because of the country's political developments. Therefore, the OSCE decided at an early stage to ask OSCE/ODIHR to make an exception to its general rule of monitoring national-level elections only, and to organise a full observation mission for these elections.

The OSCE/ODIHR, with its long experience in the monitoring of national and local elections in the Region and in Albania, has accepted this request by the Government of Albania and

will deploy a large mission of more than 20 Long-Term Observers from the end of August, and 150 Short-Term Observers at the end of September. An agreement exists with the Council of Europe and the United States government to co-operate in the monitoring of the elections and to co-ordinate this effort closely. The Council of Europe plans to send 10-15 Short-Term Observers.

## **Conclusions**

With the local elections only ten weeks away, it is now of the utmost importance that the CEC fulfill its obligations entirely. The Constitution and the Electoral Code charge the CEC with the lead role to organise and manage these elections. At the same time, national and international observation mechanisms provided for by law have to be put in place.

In order to be able to fulfil its tasks, the Commission requires both financial and technical support from national and international institutions as soon as possible. Also, legal provisions on the CEC's role in electoral preparations and its relationship with the Electoral Assistance Programme need to be clearly defined.

One of the major tasks ahead is the establishment of LGECs by early August, so that the local election structure can be trained and is able to function effectively in the preparations for and conduct of the elections.