

POST-ELECTION INTERIM REPORT
29 June–7 July 2009

10 July 2009

I. EXECUTIVE SUMMARY

- Following the Statement of Preliminary Findings and Conclusions on 29 June, the OSCE/ODIHR Election Observation Mission (EOM) has continued its observation of the electoral process, with a focus on the vote count and the aggregation of results.
- International EOM observers followed the vote count in all 66 Ballot Counting Centers (BCCs). They assessed the count as bad or very bad in 22 BCCs.
- The vote count was protracted and marked by high levels of mistrust among political parties and their representatives at all levels of the election administration. Delays in the count provoked tensions among parties, especially where results were or appeared to be close. In several cases, the vote count was temporarily blocked. Interference by party observers and candidates in the counting process often detracted from the process.
- The Central Election Commission (CEC) frequently chose not to intervene when problems arose in BCCs.
- One of the main problems noted during the count concerned arguments over whether votes from certain voting centers should be counted or not. In several BCCs, not all ballot boxes were counted or included in the Aggregate Table of Results.
- The adoption of Aggregate Tables of Results for the 12 electoral zones (constituencies) by the CEC was very contentious, with repeated arguments about whether the CEC should at this stage count and include ballot boxes which had not been included by Commissions of Electoral Administration Zones (CEAZs) in the tables. CEC members nominated by the parliamentary majority and by the opposition traded mutual accusations. During the reporting period, the CEC approved eight Aggregate Tables of Results out of the total of 12 against the votes of the opposition-nominated members.
- The new electronic monitoring system, where each ballot was placed under a video camera so that observers could see which party the ballot was marked for, appears to have made only a limited contribution to the transparency of the process. In particular, it was not always possible to see which contestant the ballot had been marked for or whether ballots were placed on the pile for the correct party.
- Thus far, the CEC has received 16 appeals against Aggregate Tables of Results from Electoral Administration Zones (EAZs) in Tirana and Durrës regions. The appeals were suspended, to be re-filed and examined once the Aggregate Tables of Results for the respective electoral zones have been approved by the CEC.
- The OSCE/ODIHR EOM will retain a small team of experts to follow the remaining stages of the electoral process, in particular the adjudication of complaints and appeals.

II. INTRODUCTION

On 29 June, the International Election Observation Mission (IEOM), a joint undertaking of the OSCE/ODIHR, the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe and the NATO Parliamentary Assembly, issued a Statement of Preliminary Findings and Conclusions, reflecting developments of the pre-election period and election day. The IEOM preliminarily concluded that the 28 June 2009 parliamentary elections in Albania marked tangible progress with regard to the voter registration and identification process, previously a contentious issue, and the legal framework, adopted in a consensual manner by the two main parties. However, these improvements were overshadowed by the politicization of technical aspects of the process by political parties and violations observed during the election campaign which undermined public confidence in the election process. The IEOM stated that the final assessment would depend to a significant extent on the conduct of the vote count and tabulation as well as the appeals process, essential elements of the electoral process.

The OSCE/ODIHR Election Observation Mission (EOM) has since continued its observation activities, focusing on the vote count, the aggregation of results at the level of Electoral Administrative Zones (EAZs) and at national level, and the announcement of results.

III. THE POLITICAL ENVIRONMENT

Following voting on 28 June, the process of counting ballots proceeded slowly and was delayed due to disputes in several regions. The slowness of the process was exacerbated by high levels of mistrust among political parties and their representatives at all levels of the election administration. The delays brought increased tensions among parties in the days following election day, especially given the closeness of the result. Victory announcements by the Democratic Party (DP) before the vote count was finalized and celebrations by its supporters were objected to by the Socialist Party (SP). Tensions were especially marked in places where the count was particularly protracted, such as Fier, Shkodër and Tirana regions. On 4 July, the leader of the Socialist Movement for Integration (SMI), Ilir Meta, reacted positively to an invitation by Prime Minister and DP leader Sali Berisha to join the DP in Government. An extraordinary national convention of the SMI on 7 July supported Mr. Meta's decision.

IV. ELECTION ADMINISTRATION

The Vote Count and Aggregation of Results at CEAZ Level

After the close of voting, ballot boxes and boxes with sensitive election material were transported by Voting Center Commissions (VCCs) to 66 Ballot Counting Centers (BCCs), one for each EAZ. IEOM observers followed the receipt of election material and the vote count in all BCCs. Proceedings at all BCCs were broadcast live to the CEC where they could be monitored on big screens. In addition, the main TV channels provided significant coverage of the count.

The CEC administration established a system that allowed for electronic transmission of results from BCCs to the CEC in real time, as results from each voting center were being processed. Partial preliminary results, which were continuously updated, were posted on the CEC website and displayed on big screens at the CEC. In addition to reporting by the CEC, two domestic NGOs, the Elections to Conduct Agency (ECA) and KRIIK–Albania, published results of their parallel vote tabulation exercise, which was based on the CEAZ data sent to the CEC.

Each BCC had between five and ten counting tables, with two Counting Teams (CTs) per table working in shifts. To ensure political balance, CTs were composed of two members nominated

by the parliamentary majority and two members nominated by the opposition. Although one CT was supposed to count between five and ten ballot boxes before being relieved, in reality CTs were often not replaced, which put an additional strain on CT members.

IEOM observers assessed the receipt of election material by Commissions of Electoral Administration Zones (CEAZs) as good or very good in 90 per cent of BCCs. However, they noted that the process was slow in some BCCs, especially in large towns where VCCs had to wait for a long time to be processed.

IEOM observers followed the vote count in all 66 BCCs from the evening of 28 June, and, in almost all BCCs, until its completion, reporting on their observations at regular intervals. IEOM observers assessed the vote count negatively in 22 of the 66 BCCs. They noted procedural problems, some of which appeared to be due to lack of sufficient training and guidance. According to their reports, respect for counting procedures was poor in nine BCCs (14 per cent). CT members had a good understanding of the process in 54 BCCs (82 per cent) but performed poorly in 14 BCCs (21 per cent). Bad or very bad performance of the CEAZ was reported from 11 BCCs (17 per cent). IEOM observers reported that in 62 BCCs (94 per cent), one or more CTs had problems completing the voting center results tables.

The vote count was off to a slow start, partly due to the fact that many CT members had been appointed late and had not received proper training. Later on, the pace increased and counting proceeded more smoothly. No CEAZ managed to conclude the vote count for its EAZ within the legal deadline, i.e. by 17:00 hours on 29 June. From the evening of 29 June, the count slowed down again, partly due to exhaustion of CEAZ and CT members.

At that stage, however, in light of the partial preliminary results which suggested a close race, political parties started to interfere more heavily in the counting process. IEOM observers reported interference in the process from 28 BCCs. As a result, the process stalled in some BCCs, especially in regions where the allocation of mandates was or appeared to be close. In some cases, the CEAZ had problems to control the process in the BCC. IEOM observers noted party observers exerting pressure on CEAZ and CT members and interfering in the process. They also noted that the presence of candidates inside BCCs often detracted from the process. In 33 per cent of their reports, IEOM observers noted that unauthorized persons were present inside the BCCs. In Krujë (BCC 11), the situation was tense, and police had to be called in on one occasion to restore order. IEOM observers noted tension or unrest in 45 BCCs.

One of the main problems observed during the vote count concerned arguments over whether certain ballot boxes from some voting centers should be counted or not. The Electoral Code provides procedures for CEAZs to declare a ballot box “irregular” only upon receipt from the VCC if it has or could have been tampered with.¹ If inaccuracies or irregularities are noted during the verification of election material or the vote count, the CEAZ has to decide on the matter. After recording the inaccuracy or irregularity in the CEAZ Record of Findings, the CEAZ makes “a decision for the Counting Team to continue the vote counting procedures” (Article 116.6 of the Electoral Code). There are no provisions in the Code for the CEAZ or CT to declare a ballot box irregular or invalid once the CT has started counting it.

In practice, however, this was interpreted as giving the CEAZ authority to stop the count of a ballot box or to not include it in the Aggregate Table of Results for the EAZ. There were cases where such boxes were not counted. For example, six ballot boxes in EAZ 39 (Laç, Lezhë

¹ According to the CEC, two ballot boxes were declared irregular, in EAZ 13 (Elbasan region) and in EAZ 38 (Lezhë region).

region) were not counted due to missing ID document numbers in the voter lists.² The CEAZ failed to complete and decide on the Aggregate Table of Results.

Other cases where not all ballot boxes were counted concerned two voting centers in EAZ 11 (Krujë, Durrës region), seven in Korçë region (EAZs 29, 30, 31, and 32), and one in Berat (EAZ 2). In these cases, however, the CEAZs completed the Aggregate Table of Results and sent it to the CEC. In EAZ 30 in Korçë region, the CEAZ chairperson did not send the results from five voting centers to the CEC until IEOM observers inquired what the reason for not sending them was. The CEAZ chairperson also decided not to count the last ballot box, saying the result in the BCC was “too close” and that he could not assume the responsibility to count it.

In EAZ 37 (Lezhë town), the SP-dominated CEAZ decided not to include the results from 11 voting centers in the Aggregate Table of Results. The CEAZ members nominated by the governing parties sent a separate Aggregate Table of Results which included all voting centers in the EAZ but had not been signed by the majority of the CEAZ members.

In BCC 41 in Bushat (Shkodër region), opposition-nominated CEAZ members were blocking the process, and no ballots were counted between 14:00 hours on 30 June and 12:00 hours on 1 July. During this period, the SP-nominated CEAZ chairperson was replaced twice, with the agreement of the opposition-nominated CEC members and the SP representative at the CEC. After it became apparent that the 42 uncounted ballot boxes from Bushat would not impact on the seat allocation, the count resumed and finished without problems. IEOM observers reported that cases of ID numbers missing on the voter list, the main reason for previously refusing to count these ballot boxes, appeared to be no longer considered an issue.

In BCC 5 (Peshkopi, Dibër region), the count was temporarily blocked after DP-nominated CT members demanded to see the high-school diplomas of SP-nominated CT members, questioning their eligibility to be CT members.

The most serious problems regarding the vote count were noted in Fier region. In addition to three voting centers which never opened on election day³, the results from nine voting centers were not included in the Aggregate Tables of Results. The votes from five of these voting centers were actually counted, but the majority of the members of CEAZs 18 and 20 refused to include them in the Aggregate Table of Results. In EAZ 20, prominent SP politicians and supporters gathered outside the BCC, demanding that the contested ballot boxes be included in the results table. After several hours, the tense situation was resolved and the crowd dispersed. This blockade was followed by the arrest of four protesters, three of whom were quickly released. The main reasons for the problems witnessed in Fier were the election results, with one mandate hanging in the balance between the DP-led coalition and the SP-led coalition. The votes cast in the voting centers which were not included in the Aggregate Table of Results could determine the allocation of mandates in Fier electoral zone.

Regrettably, the CEC frequently chose not to intervene when problems were noted or reported in BCCs, despite the fact that it was in a position to monitor what was happening in BCCs. Insufficient guidance to CEAZs and CTs and the lack of action where problems occurred led to subsequent debates at the CEC as to when and how to address these problems, especially where uncounted ballot boxes were concerned.

² According to the Electoral Code, at the time of issuing the ballot to a voter, the VCC chairman has to write in the voter list the number of each voter’s identification document. In some voting centers, this procedure was not followed at all; in other cases, a few ID document numbers were missing.

³ The CEC has yet to provide the OSCE/ODIHR EOM with an official reason or explanation as to why these voting centers did not open.

The new electronic monitoring system, by which each ballot was placed under a video camera and shown to observers on large screens mounted several meters away from the counting tables, appears to have contributed only in a limited way to the transparency of the process and did not resolve some of the problems of interference noted in previous elections. While the ballots could be viewed on the large screens, it was not always possible to discern which party they had been marked for. It was also often impossible for observers to see whether the ballots were placed on the correct pile, and smaller parties made allegations that their votes had been placed on the piles for the two biggest parties.

The Aggregation and Announcement of Results at the CEC

Upon receipt of the Aggregate Tables of Results from the CEAZs, the CEC tabulates the results for each of the 12 electoral zones (constituencies). The relevant CEC decision, which requires a simple majority, must be adopted within two days of receipt of the EAZ Aggregate Tables of Results for an electoral zone. This deadline was not always met. As a final step, the CEC must allocate the mandates for each electoral zone within three days from the completion of the appeals process, with a qualified majority of five votes.

The adoption of the Aggregate Tables of Results by the CEC was very contentious. The opposition-appointed CEC members and the SP representative at the CEC demanded that the CEC count and include in the respective CEAZ Aggregate Tables of Results all ballot boxes which had not been included by CEAZs. The majority of the CEC argued that if there was a CEAZ Aggregate Table of Results, it must serve as the basis for the Aggregate Table of Results for an electoral zone and that in such cases, the Electoral Code does not allow the CEC to take on the role of a CEAZ, as provided for by Article 35.5 for cases where a CEAZ fails to make a decision within the legal deadline. The majority also pointed out that ballots would in any case have to be recounted or reevaluated at the request of two CEC members if an appeal was filed against the Aggregate Table of Results for an electoral zone. During the reporting period, the CEC approved eight Aggregate Tables of Results out of the total of 12, against the votes of the opposition-nominated members.

In the case of Laç (EAZ 39), the CEC decided to count the six uncounted ballot boxes from EAZ 39 and to adopt the Aggregate Table of Results for the EAZ, including the six ballot boxes which were counted by the CEC, since the CEAZ had failed to do so. In the case of EAZ 37 (Lezhë town), the CEC decided to use the Aggregate Table of Results which included all voting centers but had not been signed by the majority of the CEAZ. The CEC decided to take this table into account since the data were supported by the original tables of voting center results for the 11 voting centers in question. During the reporting period, the CEC did not adopt the Aggregate Table of Results for the Lezhë electoral zone.

The CEC sessions at which the Aggregate Tables of Results were adopted were marked by distrust, tension and acrimony. After long discussions, each table was adopted with four votes, with CEC members nominated by the parliamentary majority voting in favor and opposition-nominated members voting against. Discussions on the Aggregate Table of Results for Fier region were particularly controversial, given the possible impact of the uncounted votes on the seat allocation in the constituency and threats by the SP that it would not recognize the election results if not all ballot boxes from Fier were counted and included in the results. Following prolonged discussion during which the CEC members appointed by the majority and the opposition accused each other of trying to undermine the electoral process, no compromise was reached, and the results table was adopted with four votes in favor. A request by the SP representative that the results from the two voting centers which had been counted but had not

been included in the Aggregate Table of Results for EAZ 20 (Fier district) be included was rejected by the majority of the CEC. SP leader Edi Rama warned that, in the event that the counting process in Fier was not completed in a manner his party considered satisfactory, the SP might initiate street demonstrations.

V. COMPLAINTS AND APPEALS

The Electoral Code provides that any electoral subject (a political party or coalition contesting an election, or a candidate proposed by a group of voters) have the right to appeal to the CEC against CEAZ decisions if their “legal interests have been affected by that CEAZ decision”. The Code also states that the decision of a CEAZ on the approval of the Aggregate Table of Results of the EAZ, as well as any decision taken by a CEAZ during the receiving of the electoral material and documentation from the VCCs and during the counting and tabulation of the results are interim decisions and can be appealed to the CEC, together with the appeal against the decision of the CEC on the Approval of the Aggregate Table of Results of the electoral zone. Nonetheless, 16 appeals against decisions of several CEAZ in Tirana and Durrës regions on the Aggregate Table of Results of the EAZ were filed with the CEC during the reporting period, at a time when the Aggregate Tables of Results for the respective electoral zones had not yet been approved by the CEC. One appeal was filed by the Republican Party, one by an accredited DP observer, four by a candidate of the Albanian Conservative Party and ten by the Movement for National Development Party. The DP eventually withdrew its appeal.

So far, the CEC has been handling these appeals in a somewhat inconsistent manner. While two of the appeals of the Conservative Party candidate were dismissed on procedural grounds (the Electoral Code does not allow for individual candidates to appeal, unless they are candidates proposed by a group of voters), the other two were returned to the appellant for corrections, since the contested CEAZ decision was not attached. Most of the other appeals were also returned for corrections. Once they were corrected, the appeals were suspended, to be re-filed and examined at a later stage, after the Approval of the Aggregate Table of Results for the Electoral Zone.

In addition to deciding on appeals against Aggregate Tables of Results of electoral zones, the CEC also decides on requests by electoral subjects or on its own initiative to invalidate elections in specific voting centers and on requests to invalidate and repeat elections in an entire electoral zone if the invalidation of the elections in one or more voting centers impacts the allocation of seats in the electoral zone. All CEC decisions can be appealed by electoral subjects to the Electoral College within five days. The Electoral College has to adjudicate an appeal within ten days.

VI. OSCE/ODIHR EOM ACTIVITIES

During the reporting period, the OSCE/ODIHR EOM debriefed its short-term and long-term observers. The Core Team continued its regular activities and meeting schedule. The OSCE/ODIHR EOM will retain a small team of experts to continue its observation of the remaining stages of the electoral process, in particular the handling of complaints and appeals by the Central Election Commission (CEC) and the Electoral College.