

POST-ELECTION INTERIM REPORT
10 - 18 May 2011

20 May

I. INTRODUCTION

On 10 May, the OSCE/ODIHR Election Observation Mission (EOM), together with a delegation from the Congress of Local and Regional Authorities of the Council of Europe, issued a Statement of Preliminary Findings and Conclusions, reflecting their observations through election day and the beginning of the counting process.¹ In the post-election period, the OSCE/ODIHR EOM has focused on the observation of the vote count, the aggregation and announcement of results, and the review of complaints and appeals. A limited number of short-term observers extended their stay through 15 May to observe the protracted counting of ballots in Tirana municipality. The OSCE/ODIHR EOM will depart Albania on 24 May but will maintain 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 CEC and the Electoral College.

II. THE POLITICAL ENVIRONMENT

In most regions of the country, the counting of ballots in the 66 Ballot Counting Centres (BCCs) proceeded to its conclusion in a generally transparent manner, albeit at a slow pace. In several cases, defeated mayoral candidates congratulated their victorious opponents. However, the counting process was affected by a high level of mistrust among political parties, which led to disputes, delays and blockages in some BCCs. Political parties frequently intervened in the counting process, directing the activities of their members in election commissions. The media informed the public extensively on the counting process, especially the Tirana mayoral race between former Minister of Interior Lulzim Basha of the Democratic Party (DP) and the incumbent mayor Edi Rama, the leader of the Socialist Party (SP).

As it became apparent that the Tirana mayoral race would be decided by a narrow margin, national attention focused on the counting of votes in the 11 BCCs in Tirana. The counting in these BCCs was frequently delayed by unscheduled breaks, non-appearance of counting team members and other reasons, often politically motivated. The delays increased tension in Tirana, especially given the closeness of the preliminary results.

Following the end of counting at BCCs for mayor of Tirana on 14 May, the preliminary, unofficial results as provided by the CEC to the OSCE/ODIHR EOM gave Mr. Rama 10 more votes than Mr. Basha (124,623 and 124,613 votes, respectively). Mr. Rama declared victory soon after, while Mr. Basha said that he would wait for the official results from the CEC. DP officials, including Prime Minister Sali Berisha, subsequently called on the CEC to consider as valid ballots for the Tirana mayoral race that were found during the counting of ballots for the borough elections (see Election Administration below).² The SP demanded that the CEC tabulate the results already determined by the Tirana BCCs. At the time of writing, the CEC had not

1 The statement is available at www.osce.org/odihr/77446.

2 Each voter in Tirana received four ballots: for Tirana mayor, Tirana council and the respective borough mayor and council elections. Each voting centre in Tirana had four separate ballot boxes marked for each of the four elections.

announced official results for the Tirana mayoral race. On 18 May, the CEC began opening some of the ballot boxes for borough elections from some of the Commissions of Electoral Administration Zone (CEAZ) of Tirana to count miscast mayoral ballots. Tensions have increased as the SP protested the CEC's actions. SP supporters, including many MPs, gathered at the CEC and attempted to force their way into the CEC building. They were held back by police.

III. ELECTION ADMINISTRATION

According to the Electoral Code, CEAZs should issue the Aggregated Table of Results (ATR) by 17:00 hours on the day following election day. This deadline was considered unrealistic by all interlocutors, and no BCC finished the counting by this time. Counting in all BCCs outside Tirana was finished by Friday, 13 May. Counting of ballots for the mayoral election in Tirana BCCs finished on 14 May; counting for Tirana borough elections is continuing in some BCCs at the time of writing.

The start of the vote count was delayed in many places, partly due to the fact that some counting team members in some BCCs were not appointed or trained by the time the count started. In addition, OSCE/ODIHR observers reported that the counting process was at times interrupted due to disputes among CEAZ members, counting team members and/or party observers.³ There were no national-level instructions issued regarding taking breaks during counting, leaving each CEAZ to make its own decisions in this respect. In a few specific cases brought to its attention, the CEC addressed delays by ordering the continuation of the process. However, some CEAZs continued to work at a slow pace, especially in Tirana.

During the counting process, the CEC continued to replace CEAZ and counting team members at the request of parties.⁴ This was especially noted in Tirana, where the CEC replaced all members of CEAZ 54 and some members of CEAZ 49 on 12 May, and the chairperson of CEAZ 48 and a member of CEAZ 47 on 13 May. The Electoral Code does not require parties to explain the reasons for requesting replacements.

Observers were able to be present in the BCCs without hindrance. During counting, each ballot was recorded by camera and shown immediately on screens to all observers present. However, ballots could not always be seen fully due to their placement under the camera or to being left for insufficient time under the camera. Moreover, observers were not allowed to approach the tables, and it was therefore difficult for them to see whether ballots were placed on the stack of ballots for the corresponding candidate/party or how the voting centre result protocols were filled in. Finally, the consideration of contested ballots by counting teams and CEAZ members could not be seen by observers.

Prior to election day, the CEC established an electronic system for receiving each voting centre's result protocol from the BCCs. Preliminary results were displayed at the CEC premises and on the CEC website as they were entered in the data system. The preliminary results were available by municipality or commune for each race. Contrary to practice in previous elections, the public display of preliminary results did not include a breakdown by voting centre. Political parties were nevertheless able to obtain this information from the CEC upon request, as was the OSCE/ODIHR EOM. At the time of writing, the CEC had still not included on its website the

3 CEAZs 31 in Erseke, 32 in Pogradec, 34 in Kukes, 44 in Kopik, 41 in Shkoder, 42 in Kukes, 62 and 63 in Vlore and 65 in Ksamil.

4 To ensure political balance, counting teams were composed of two members nominated by the majority (DP and SMI) and two members nominated by the opposition (SP).

results of the last counted ballot box for mayor in Tirana, and the website showed Mr. Basha as leading the race.⁵

After all 11 Tirana CEAZs have submitted the ATRs for the Tirana mayoral and council elections, the CEC has 48 hours to verify the documents and announce the results for the Tirana municipality elections.⁶ All ATRs were received by 16 May, although the ATR for CEAZ 49 had not been approved by the majority of its members (the majority being held by the governing parties in this case). The Chairperson of CEAZ 49 claimed that there were irregularities in the ATR (which were not specified to the OSCE/ODIHR EOM). At the time of writing, the CEC had not taken a decision on this ATR. The SP requested that the CEC take a decision regarding the ATR for CEAZ 49 and that the CEC consequently determine the results of the Tirana mayor and council elections based on the 11 ATRs.

At the same time, as counting continued for the ballot boxes for the Tirana borough elections, DP officials called for ballots for Tirana mayor found in these boxes to be counted as valid for the Tirana mayoral race, on the grounds that the will of the voter was clear. SP strongly disagreed, stating that ballots found in the wrong ballot box had been systematically considered invalid up to that point.

The Electoral Code does not directly regulate the validity of ballots found in a ballot box other than the one corresponding to the type of election for that ballot. Nor does it provide any procedure for reconciling ballots found in other boxes. There was no CEC decision or instruction regarding this issue prior to election day, nor did the CEC-approved counting manual address the issue, even though miscast ballots were an issue in previous local elections. Counting team members were apparently trained to consider any such ballots as invalid, and miscast ballots were considered invalid in Tirana through the conclusion of counting for the Tirana mayoral race on 14 May.

On 17 May, three days after the conclusion of counting for the Tirana mayoral race in the last Tirana BCC, the CEC chairperson proposed a draft decision according to which ballots cast in the wrong box would be considered valid and would be counted by the CEC itself.⁷ This count would only be for ballots found in the wrong box which had been contested at BCC level. According to the CEC chairperson, the draft decision was proposed due to requests received from the DP and SMI-nominated members of seven Tirana CEAZs regarding 60 ballot boxes.

The opposition-appointed members disagreed with the proposal, stating that the CEC had no right to count ballots and could only open ballot boxes based on appeals of a decision on the official results. They proposed instead that the CEC tabulate the results in the ATRs received from the BCCs. The CEC session where the draft decision was to be discussed was disrupted by SP MPs, and the session was postponed before a vote could be held.

On 18 May, after voting on a decision “in principle” (by a 4-3 vote), although no final decision was adopted, the CEC began to open the 60 ballot boxes identified in the requests and to count ballots found for Tirana mayor and council elections. The legal basis for opening the ballot boxes was unclear to the OSCE/ODIHR EOM. The opposition-nominated members of the CEC left the session. The ballots counted by the CEC from 20 ballot boxes at the session on 18 May found 60 ballots for the Tirana mayoral race, 46 for Mr. Basha and 14 for Mr. Rama.

5 The website included results for only 484 of the 485 voting centres in Tirana, <http://result.cec.org.al/?q=1&r=31&l=384>.

6 According to the Electoral Code (Articles 122 and 123).

7 Draft Decision “On the Evaluation of the Ballot Papers for the Mayor and Municipal Council of Tirana Found in the Wrong Box.”

IV. COMPLAINTS AND APPEALS

Up to 17 May, 93 complaints were submitted to the CEC regarding the ATRs for mayor and council races throughout the country. These include some 40 requests for invalidation of results in several VCs. For the most part, complaints have been made regarding alleged irregularities during the counting process, in particular the evaluation of the validity of ballots and the attribution of votes to parties. Some complaints have also been received regarding allegations of irregularities during voting.

The CEC has accepted approximately 80 complaints for examination, while dismissing 10 on procedural grounds, mainly with regard to the legal standing of the plaintiff.⁸ The other complaints were returned for more information. The CEC has reviewed so far only 13 of the post-election complaints accepted for examination. Some of these have been dismissed, while a few are still pending. The process of reviewing complaints has at the time of writing been effectively suspended, due to lengthy discussions in the CEC about the Tirana mayoral race.

⁸ The Electoral Code grants the right to file a complaint or an appeal to three groups: electoral subjects, individuals or political parties denied registration as electoral subjects, and those denied accreditation as election observers. In some cases, the complaint was signed by the candidate, rather than the authorized representative of the electoral subject.