



Office for Democratic Institutions and Human Rights

REPUBLIC OF ALBANIA

LOCAL GOVERNMENT ELECTIONS

12 October 2003 - 25 January 2004

OSCE/ODIHR Election Observation Mission Report



Warsaw
25 February 2004

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OSCE/ODIHR Election Observation Mission
Final Report

I. EXECUTIVE SUMMARY

The Republic of Albania held local government elections on the 12 October 2003 for councils and mayors in 65 municipalities (including Tirana), 11 municipal sub-units of Tirana, and 308 communes. The OSCE/ODIHR Election Observation Mission (EOM) for the local government elections was established in response to an invitation from the Ministry of Foreign Affairs.

The local government elections were a missed opportunity for significant progress towards compliance with OSCE commitments and other international standards for democratic elections. While important improvements were noted in the campaign, media coverage, handling of complaints and appeals, and election administration, the process was again protracted and litigious, especially in Tirana. Problems with counting were particularly widespread. Although the Socialist Party (SP) and Democratic Party (DP) showed an unprecedented capacity for dialogue during reform of the legal framework, more political will was required from both parties to ensure an effective and credible election process.

The elections were held under a new, improved Electoral Code that provides a substantive basis for the conduct of democratic elections. The Code was adopted following consensual work of an *ad hoc* parliamentary committee with multi-party representation. It was established following recommendations of the OSCE/ODIHR after the 2001 parliamentary elections, to improve the framework for elections.

However, it also contains provisions related to the formation and functioning of election commissions, which the major political parties took advantage of to block the decision making process. These provisions were the product of an SP-DP agreement intended to ensure adoption of the new Electoral Code by parliament.

The Central Election Commission (CEC) administered the elections in a generally professional, transparent and even-handed manner. However, it lacked clearly defined rules of procedure. Decisions on a number of important issues were taken late. In a few cases, in particular related to the elections in Tirana, important issues were not addressed at all. Middle and lower level commissions generally functioned in an open manner. However, when they were misused by the SP and DP to block decisions with which the parties disagreed, they became highly politicised.

Voter registers continued to be a problem. Efforts to improve their accuracy in the short term did not bring substantial results. On election day, problems appeared to be more extensive than had been anticipated, and a considerable number of voters were unable to find their names on the register. This was particularly the case in Tirana, Durrës and Shkodra. However, documentation provided to the OSCE/ODIHR by the DP did not support the conclusion that the registers had been politically manipulated to exclude its voters.

The election campaign took place in a calm atmosphere, with an increase in the level of substantive debate on political issues and without the heated rhetoric that marred past campaigns. In welcome developments, political parties increasingly recognized each other as legitimate political opponents and there was a sharp reduction in complaints relating to intimidation and other undue pressure. Regrettably, public funding for the campaigns of political parties were released late. This provided an advantage to incumbent parties and candidates with private funds. Incumbents from both SP and DP appeared to benefit from the advantages of public office in a number of areas.

The performance of the electronic media was substantially improved in comparison to previous elections. The major broadcasters, including the public broadcaster, TVSH, complied with the legal provisions for balanced coverage and there was an absence of aggressive or inflammatory reporting. While the print media was more aggressive than the electronic media, it was noticeably more moderate and balanced than in the past.

Voting was assessed positively in the vast majority of voting centres visited by international observers, although a number of important transparency safeguards were not applied consistently. The incidence of group and family voting remained high. Police acted in conformity with the amended Law on State Police, and stayed away from voting centres during the voting process, which had a positive effect on the election day environment.

In contrast, there were significant procedural errors in the counting of votes. Confusion and disputes over the validity of ballot papers, and other serious problems in completing results protocols, were witnessed in around 40 per cent of voting centres observed. Of most concern, the falsification of results was reported by international observers in 10 per cent of vote counts observed. In 19 per cent of the counts observed, more ballot papers were found in the ballot box than the number of voters recorded as having voted.

Tabulation of results was generally undertaken in an appropriate manner. However, in Tirana, serious problems of substance, procedure, administration and obstruction delayed completion of the process. This eventually led to a decision by the Electoral College to re-run elections in one third of the voting centres in the city.

Elections in a number of other local government units also had to be repeated, with the result that the process was not concluded until the 20 February 2004 announcement of final results by the CEC. Although there was wide variance in the conduct of repeat voting, flagrant violations were observed in some voting centres.

The improved system of complaints and appeals provided by the new Electoral Code generally worked well, but could have been used more effectively by political parties and candidates. The Electoral College operated in an efficient manner, although in some cases it failed to conduct sufficient investigation of complaints.

In positive developments, the electoral process resulted in an orderly change in government in municipal units throughout the country, including in some unexpected places, and no newly-elected local government organs have been boycotted.

The OSCE/ODIHR stands ready to assist the authorities and civil society of the Republic of Albania to continue to improve its electoral process. In this regard, it is essential to promptly

address the shortcomings observed in these elections, in time for the next parliamentary elections. Given the persistent problems of political will, the OSCE/ODIHR reiterates the importance of inclusive and consensual processes of reform of the electoral framework. To assist this process, a series of recommendations are included in this report and a detailed assessment of the Electoral Code will shortly be published by the OSCE/ODIHR, in association with the Council of Europe, Venice Commission.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The OSCE/ODIHR EOM, headed by Ambassador Robert L. Barry (USA), began work on 10 September 2003 and remained in Albania until 24 October 2003. Twenty-nine election experts and long-term observers from 19 OSCE participating states were deployed in the capital and seven regional centres.

On election day, the OSCE/ODIHR EOM was joined by a delegation from the Council of Europe Congress of Local and Regional Authorities of Europe (CLRAE), headed by Ms. Helene Lund (Denmark), to form an International Election Observation Mission (IEOM). A total of 220 observers from 25 OSCE participating States were deployed as short term observers by the OSCE/ODIHR over the election day period along with nine observers from the CLRAE. The international observers visited 1,064 of the 4,684 voting centers in Albania.

As a result of the large number of recounts and re-run elections, the election process continued into 2004. Although the EOM officially closed on 24 October 2003, the OSCE/ODIHR continued to monitor the process closely from Warsaw and through visits to Albania in November and December. Repeat elections on 28 December 2003 were monitored by the OSCE Presence in Albania, supported by the OSCE/ODIHR, and were also observed by CLRAE.

The OSCE/ODIHR wishes to express its appreciation to the Ministry of Foreign Affairs of the Republic of Albania, the CEC, other authorities and civil society organizations, as well as resident diplomatic missions and international organizations, for their cooperation and assistance throughout what proved to be a lengthy and complex process. The cooperation of the CEC was exemplary and of particular note.

The OSCE/ODIHR also wishes to thank the OSCE Presence in Albania for its extensive support, and for organizing monitoring of re-run elections and the extended complaints and appeals process.

III. POLITICAL BACKGROUND

Since 1991, politics in Albania has been highly polarized, with the two dominant political parties, the SP and DP, competing for power at both the national and local level. The SP, led by Prime Minister Fatos Nano, has held power at the national level since 1997, although there have been fissures in the party at all levels. Dr. Sali Berisha, continued to lead the DP after it lost power in 1997, although it has also had its share of dissent and defections.

As a result of this polarized atmosphere, elections observed by the OSCE/ODIHR in Albania

since 1992 have generally failed to meet OSCE commitments and other international standards for democratic elections, though the OSCE/ODIHR has noted gradual improvements. However, the process has generally been contentious and drawn out, with allegations of irregularities and fraud, some of which have been documented by the international community. The party that failed to win local or national elections generally refused to acknowledge the election results as legitimate, often resorting to boycotts of elected bodies or threats of boycotts. This atmosphere undermined public confidence in elections and in democratic institutions.

Overwhelming political support in Albania for closer integration with Euro-Atlantic institutions, particularly the European Union (EU) and NATO, promised to moderate this trend. The EU decided in January 2003 to open formal negotiations with the Albanian government on a Stabilization and Association Agreement, the first step on the road to EU accession. Under the agreement, significant progress is required in institutional reform, combating organised crime and corruption and strengthening government at both central and local levels. On the eve of the local government elections, all leading political figures and parties publicly stated their determination to carry out the 2003 local government elections successfully.

In this context, remarkable improvements in political relations began, in February 2002, when the OSCE Presence in Albania led negotiations between the SP and DP for the establishment of a bi-partisan process of reform. In response to the OSCE/ODIHR Final Report on the 2001 elections, a solution was found in setting up an ad hoc “bi-partisan” parliamentary committee on electoral reform, co-chaired by the SP and DP with representation from all parliamentary parties. The committee began work in May 2002 with a mandate to investigate past irregularities and to review the legislative framework for elections. The political process underpinning the agreements on reform was further bolstered by the election of the President of the Republic through consensus in June 2002.

By the completion of its work in April 2003, the bi-partisan committee had addressed most of the recommendations of the OSCE/ODIHR Final Report on the 2001 parliamentary elections.¹ The committee was assisted by the OSCE Presence in Albania, as a facilitator of the process, with expertise provided by the OSCE/ODIHR and the Council of Europe, Venice Commission. The largely conflict-free process and the consensual approach personified by the two co-chairs contrasted markedly with previous attempts at electoral reform and opened a new chapter in Albanian political dialogue and parliamentary practice.²

As the election campaign approached, the level of consensus began to diminish. Nevertheless, in June 2003, the parliament adopted a new Electoral Code. This was primarily based on agreement reached by the bi-partisan parliamentary committee, but also contained key provisions, in particular related to composition of the CEC and formation of lower level commissions, based on separate agreements between the SP and DP.³ Smaller political parties

¹ The bi-partisan committee operated under special voting rules. Amendments were approved with full consensus, in almost all cases, in accordance with a decision-making formula that required both a simple majority and the consent of the two main parties.

² Individual small parties only dissented within the bi-partisan committee on ballot paper format, multi-name lists, provision for CEC intervention to clarify ambiguous party names and were in favour of strict rather than proportional equality in the distribution of free campaign media time.

³ The SP/DP agreements were outlined in two protocols signed in May 2003. These also committed the signatories to address the outstanding issues of campaign financing, re-districting of electoral zones, and the electoral system after the 2003 local government elections.

objected to the provisions based on the SP/DP agreement, arguing that they solely favored the SP and DP. Although the new Code was welcomed by the leaders of both the SP and DP and the international community as a positive development, it was widely accepted that the new legislation would have to be reviewed and revised in light of experience in the local government elections.

Just ahead of the local government elections, a new split developed in the ruling SP, with the resignation of Foreign Minister, Ilir Meta, a former SP Prime Minister. The replacement proposed by Prime Minister Nano was rejected by a vote of parliament, an unprecedented event exploited by the opponents of the Nano government. In addition, the appointment of CEC members, delay in the allocation of funds to political parties and election day policing became issues of controversy between the major political parties. Thus, the campaign for local elections began against a background of re-emerging rivalries.

IV. LEGISLATIVE FRAMEWORK

The new Electoral Code improved the legal framework for elections and addressed most of the recommendations contained in the OSCE/ODIHR Final Report on the 2001 parliamentary elections.⁴ Taken together with other sources of relevant law, including the Constitution and supplemental CEC instructions, it was considered by the OSCE/ODIHR to provide a substantive basis for the conduct of democratic elections.⁵

A central feature of the new Code is the *de facto* establishment of an election administration in which members of election commissions are nominees of four political parties, in this case the SP, DP, Social Democratic Party (SDP) and Republican Party (RP).⁶ Under the previous Electoral Code, Local Government Election Commissions (LGECs) and Voting Centre Commissions (VCCs) were composed of representatives of the seven parties with the largest vote-share in the previous local government elections. The new Electoral Code provisions use a mixture of parliamentary representation and nationwide aggregate proportional results for the previous local government elections for appointment of commission members.

The dominant role of the SP and DP at every level of the election administration was reinforced by provisions agreed by the SP and DP requiring that important decisions be made by a two thirds qualified majority - i.e., five votes out of seven, and the requirement that decisions be signed by both the chairman and deputy chairman, who in the current political circumstances are the SP and DP representatives. These provisions created substantial opportunity for deadlock in election commissions. In practice, political parties often nominated party activists to commissions, where they acted in a highly politicized fashion, blocking decisions with which they disagreed, regardless of the merits.⁷

⁴ The Electoral Code of the Republic of Albania is Law No. 9087, dated 19 June 2003.

⁵ This portion of the report is intended to provide only a brief overview of some of the more relevant portions of the Code and is not intended, nor should be construed, as a formal assessment or comprehensive analysis of the Code. Nor should failure to comment about a particular provision of the Code be interpreted as agreement with the provision. Further, the comments in this portion of the report relate primarily to legal provisions applicable to local government elections.

⁶ Of the 50 parties registered for the elections, only 39 fielded candidates or multi-name lists. Eleven parties were elected to parliament in the last parliamentary elections.

⁷ Informal comment submitted to the Laws Committee of the Parliament by an OSCE/ODIHR senior legal expert, prior to the approval of the law in June 2003, raised concerns about inclusion of qualified majority

The issue of CEC membership also became a matter of controversy, even before commencement of the campaign period, for a number of reasons. First, provisions in the new Electoral Code on the appointment of members to the CEC gave *de facto* control of appointments to the DP and SP. Second, these provisions may be contrary to the Constitution in the excessive restriction they impose on the prerogative of the three appointing bodies (the Parliament, President and High Council of Justice). Third, the Electoral Code fails to define adequately those political parties with the legal right to nominate the members of the CEC as well as lower election commissions and, instead, uses vague terminology that attempts to describe the ideologies of current political relevance.

The new provisions do not ensure an effective or sustainable framework for determining the membership of the CEC and lower election commissions. Fundamentally, election commissions should be bodies responsible for the efficient administration of an electoral process that is inclusive, transparent and independent of political advantage. The new framework can guarantee this only in the presence of sufficient political will to respect the popular vote and the law.

Another major issue with the new Electoral Code is the method for updating voter lists, which has long been a problem in Albanian elections. The decision of the parliament not to adopt the transitory provisions for 2003 elections agreed by the bi-partisan committee, compelled the CEC to bridge the legislative gap with an instruction based on the previous Code and issued while it was still in force. The system used for updating the voter register was in large measure that of the previous Code. However, the CEC obtained agreement from party representatives for all voter register revision procedures.

Some of the major problems noted during past elections are not adequately addressed by the relevant provisions of the new Code. Specifically, the new Code allows political parties, as well as individuals, to petition to have a voter's name included or excluded from the provisional voter lists prepared by LGECs. In practice, this led to the submission of long lists of names without substantiating evidence which LGECs had great difficulty in verifying. The welcome provision in the new Code requiring that each voter be notified of the voting centre where he or she is registered to vote, was not implemented on 12 October.⁸ The Code is, however, unclear as to how the procedure operates. Election authorities resorted simply to urging voters to find out for themselves where to vote.

A significant improvement in the new Code is the introduction of a complaints and appeals process that provides a simplified and more transparent procedure for the resolution of electoral disputes. Previously the legal framework provided that aggrieved electoral stakeholders could seek remedies against alleged electoral violations through different legal routes. This created confusion and allowed protracted litigation. The new Code establishes a single, hierarchical, route for decisions of election commissions to be challenged and resolved within clear timeframes. Decisions of the CEC can be appealed to the Electoral College at the Court of

voting and increasing signature requirements, stating that they “lay a foundation for deadlock, obstruction and inability to make necessary decisions during the elections” and indicating that they enhanced the possibility that the electoral process would again be protracted, litigious, fragmented and uncertain.

⁸ The CEC, with the support of the International Foundation for Election Systems (IFES), did provide written notification and polling unit maps to voters prior to the 28 December partial re-runs in Tirana, which reduced election day confusion.

Appeals of Tirana to ensure judicial consistency in electoral disputes.

Although the new Code improved the process for resolution of electoral disputes, shortcomings remain. Deadlines for decisions on appeals by the CEC and the Electoral College may be unrealistically compressed and conflict with provisions in the Administrative Code and the Code of Civil Procedures, which provide that parties to a dispute be given sufficient time to procure and present evidence. Application of these Administrative Code and Code of Civil Procedures provisions led to delays in decisions on appeals and, as a result, a large number of complaints accumulated at the end of the campaign period. Understandably, the CEC had difficulty coping with these cases in a timely fashion. Moreover, there was a general reluctance by political parties to rely on the new procedures, with complaints often being addressed informally at CEC meetings or via the media rather than by submitting formal documentation to the appropriate body.

The Code could also be improved by including detailed regulation of campaign financing and by requiring the reporting and disclosure of contributions. Coupled with similar shortcomings in the Law on Political Parties, this resulted in a legal framework that fails to provide for transparent financing and campaign spending of political parties. As an example, there are no legal provisions requiring disclosure of private election-related contributions to individual candidates for mayoral positions.

Provisions in the Code regulating the design of the ballot and determination of ballot validity are of particular concern. According to Article 90, the ballot consists of two separate sections and the voter has a vote for each ballot section. The absence of clear regulations on how to separately count the votes on each ballot paper led to serious problems during the counting. VCCs often did not know how to deal with ballots on which a vote was validly cast on one ballot section but not on the other.⁹

Inconsistency in Articles 91 and 109 also present a significant problem concerning the validity of a ballot. Article 91 provides that failure to sign the ballot by the chairman or the vice chairman of the VCC does not delay the voting process. However, under Article 109 clause (1)(dh)(i), a ballot is considered “irregular” if any of the required signatures is missing. This suggests that, although the voter will be given an unsigned ballot so that the process is not delayed, the ballot will ultimately be determined to be invalid (“irregular”). Giving a voter a ballot that will later be determined to be invalid is equivalent to denying the voter the right of suffrage.

The procedures for counting votes established by the Electoral Code are unnecessarily complicated and allow too much time for the transfer of results from a voting centre to the relevant LGEC. The Code also establishes vague and unworkable procedures for the tabulation of votes by LGECs. Although the early and comprehensive publication of results by voting centres is technically feasible and would provide a major contribution to the transparency of the electoral process, there is no legal requirement for LGECs or the CEC to provide preliminary results. The law should require that LGECs and the CEC to provide preliminary results broken down by voting centre as expeditiously as possible. The CEC Chairman urged that an instruction on the early announcement of results be adopted, but this was rejected by some

⁹ IEOM observers noted that, in the voting centres in which they were present, this contributed to a relatively high proportion (up to 15%) of ballot papers being declared invalid.

political parties. The Code also contains unclear provisions regulating vote recounts, as well as many inconsistencies and ambiguities in terms and definitions.

V. ELECTION ADMINISTRATION

There is a three-tier level of election administration in Albania: the CEC, 384 Local Government Election Commissions (LGECS) in each of the municipalities or communes, and 4,688 Voting Centre Commissions (VCCs) in each polling station.¹⁰ All commissions consist of seven voting members, plus a secretary without voting rights. Each political party and coalition contesting the elections is entitled to have a non-voting representative attend meetings of all election commissions, while mayoral candidates are allowed similar representation at LGEC and VCC meetings. These representatives have the right to present and discuss proposals at election commission meetings.

A. COMPOSITION OF ELECTION COMMISSIONS

The new Electoral Code introduced a new formula for the appointment of members of election commissions. Based on the protocol agreement between the SP and DP in May 2003, the formula attempts to ensure that there is no single, dominant force in control of election administration by creating a numerical “balance” on every commission. In previous elections, there were numerous instances where election commissions acted in a highly politicized manner, particularly in the favour of incumbents.

Regrettably, the SP/DP formula is problematic for several reasons. First, it appears to violate Article 154 of the Constitution of Albania regulating the appointment of CEC members. Secondly, it reduces excessively the number of political parties represented on the commissions. Thirdly, coupled with the new 5:2 voting requirement and the double signature on all election commission decisions of significance, it gives *de facto* veto power to the SP and DP on every important issue. The misuse of such veto power, in the absence of sufficient political will on both sides to respect the popular vote and the law, proved to be a major problem.

Under Article 154 of the Constitution, the seven members of the CEC are appointed by the Parliament (two members), President (two members), and High Council of Justice (three members). The new Electoral Code places the nomination process for these seven appointees under the control of political parties in accordance with parliamentary representation. This process is of concern as it limits the number of candidates from which the three appointing constitutional institutions can make their selection.¹¹

Due to the composition of the current Parliament, the appointment process makes it possible for the SP and DP to control the election of two parliamentary appointees, although the law requires them to be proposed by the smaller parliamentary parties, one from the “left spectrum” and the other from the “right spectrum”. The High Council of Justice is also required to appoint one SP member and one DP member from a list, not exceeding two names, provided respectively by the SP and DP. The two presidential appointees must come from the nominees of the SP and DP.

¹⁰ For parliamentary elections, the Zonal Election Commission (ZEC) tabulates results from VCCs, and forwards results to the CEC

¹¹ The relevant Code provisions limit the appointing Constitutional institution’s nomination choices to a list of no more than two candidates. Thus, the list could consist of one name only.

The third appointee of the High Council of Justice must be chosen from a narrow list of consensual candidates agreed to by both the SP and DP.

The new formula for the appointment and balancing of the CEC was only partially implemented for these elections because of the continuing mandates of four CEC members appointed under previous legislation. Of the three newly appointed CEC members, one was appointed by Parliament on the formal nomination of the smaller right wing parties and one by the President upon the nomination of the DP, thus re-establishing opposition representation on the CEC. The High Council of Justice, on the grounds that there were no transitory provisions to regulate the process of balancing the commission, appointed the third new member on the proposal of the SP. The DP argued that the resultant CEC was biased in favour of the government and publicly expressed a lack of confidence in the impartiality of the CEC.

The appointment procedures for LGEC members were established by a similar new formula in the Electoral Code. Of the seven members, the SP and DP were entitled to appoint two members each. The SDP and RP were also represented by one member each on the basis that the Electoral Code provided representation to the two political parties that respectively placed second from both the “right” and “left” nationwide in the 2000 local government elections. Further, the SP held the right to appoint the seventh member in half of all LGECs, and the DP held the right to appoint the seventh member in the other half. An identical formula was followed for the appointment of VCC members.

The Electoral Code also establishes a similar procedure for determining the chairperson of LGECs and VCCs. The right to appoint the chairperson was held by the same political party that had appointed the seventh member, with the other political party then holding the right to appoint the deputy chairperson and the secretary of the commission.¹²

The CEC conducted a public lottery for assigning the seventh members and Chairs of LGECs to the DP and SP.¹³ All interested parties accepted the results and commended the process, in marked contrast to the conflict that had previously accompanied elections for these positions.

B. ADMINISTRATION OF THE ELECTIONS

In its overall supervisory role, the CEC was generally well organized and functioned openly and transparently. Co-operation with the EOM was exemplary. Despite the controversy surrounding the alleged lack of political balance amongst its seven members, the CEC operated in a generally even-handed manner during the pre-election period, with little evidence of partisanship. The CEC secretariat was independent and generally professional, despite the inexperience of some of its key personnel. A number of innovations to improve the electoral process were adopted by the CEC, including more secure ballot boxes as recommended by the OSCE/ODIHR Final Report on the 2001 parliamentary elections. For the 28 December partial re-run elections in Tirana, individual voters were notified of the voting in centre in which they were to vote and use of mobile telephones was banned in voting centres and the LGEC during counting and tabulation.

¹² The CEC intervened on the proposal of the DP with an instruction assigning the right to nominate the Secretary to the party holding the position of Deputy Chair.

¹³ VCC composition mirrors the membership structure of the respective LGEC.

Nevertheless, the effectiveness of the CEC and middle and lower level election commissions was significantly compromised by delays in the decision-making process of the CEC. Decisions to approve the registration of candidates, the location of voting centres, and the revision of voter lists were all taken later than the deadlines established by the Electoral Code. Moreover, most of the decisions of the CEC relating to complaints and appeals against alleged electoral violations were postponed and addressed beyond the three-day deadline required by the Code.

Decisions on a number of crucial procedural instructions were also taken too late in the process. Instructions on voting procedures, provisions for which were already clearly stated in the Electoral Code, were adopted less than ten days before the elections, delaying the production and dissemination of training materials. Further, the CEC instruction on the counting of votes was not adopted until three days before the elections. The CEC also failed to address a number of key issues where instructions or guidelines were clearly needed. In particular, despite being raised by a number of interlocutors, including the EOM, the CEC ignored the issue of the procedures to be followed for the transfer of results between VCCs and LGECs in Tirana, where two separate election contests were taking place. This omission caused considerable confusion and delay in the post-election period.

The major factor contributing to delays in the decision-making process of the CEC was the manner in which its sessions were conducted. While the granting of a right of audience to all non-voting representatives of political parties increased the transparency of the election process, it also meant that CEC sessions were unacceptably prolonged by political discussions, often on issues not included on the agenda. The absence of any clearly defined rules of procedure for the CEC permitted such indiscipline. For unspecified reasons, an attempt by the CEC Chairman to introduce more clearly defined rules of procedure was blocked by CEC members representing opposition parties.

For the most part, administration of the elections by LGECs was also implemented in an open and collegial manner. Overall, however, LGECs acted passively and in most cases failed to meet the legal deadlines for the revision of voter lists and establishment of voting centres. In a few instances, the CEC imposed fines on LGECs that missed deadlines. Similarly, many LGECs were reluctant to intervene in electoral disputes or rule on alleged violations and tended to refer complaints immediately to the CEC for determination without taking a formal decision. The requirement for an LGEC secretary to be a qualified lawyer was inconsistently applied and proved difficult to implement in rural areas. Some LGEC secretaries were openly partisan, and in a small number of cases the LGEC secretary was also a candidate for local office. Almost all LGECs complained that they were provided with insufficient funding by the CEC.

As election day approached, a number of LGECs ceased functioning because of disputes amongst members along partisan lines. The CEC tended not to intervene in these disputes on the assumption that they would be resolved by instructions from political party headquarters. Often they were, but in two instances they were not and voting did not take place on election day. This problem persisted during re-run elections after 12 October.

Many of the members of VCCs were appointed late by LGECs, mostly because of delays in their nomination by the four political parties entitled to representation. In accordance with their rights under the Electoral Code, some political parties replaced their nominees after their appointment. This limited the opportunity to provide training for VCC members on their responsibilities, a failure made worse by the late dissemination by the CEC of information packs

including copies of the Electoral Code, CEC instructions, and official guidebooks on voting and counting procedures. In most cases, these were not received by VCC members until the eve of the elections.

Overall, members of LGECs and VCCs were not sufficiently knowledgeable of either the Electoral Code or CEC instructions. Many were serving for the first time and were dealing with a new law with which they had little time to become familiar. Further, many commission members gave precedence to instructions from the political parties which nominated them rather than to the Code. Regrettably, the right of political parties to nominate commission members was not accompanied by a sufficient degree of co-operation and support for the generally good training provided by the CEC in co-operation with international support.

There was a controversial new design for the ballot papers used for these elections. The ballot paper was divided into two sections for each of the two different contests. This caused confusion on election day, with a proportionally high number of votes being declared invalid. At a late stage in the process, the CEC issued restrictive instructions on what was to be considered a valid vote. Failure to give consideration to the practical problem of fitting large ballot papers into the new ballot boxes, necessitated the provision of supplementary ballot boxes late on election day. Voting had to be interrupted in a limited number of voting centres, which may have influenced turnout in these centres. Similarly, the CEC failed to develop procedures that would facilitate easier polling in Tirana where two ballot boxes and two ballot papers without adequate colour differentiation were used.

C. VOTER REGISTERS

Inaccurate voter registers have been a concern in all Albanian elections observed by the OSCE/ODIHR, despite a variety of efforts to resolve the problems. Administrative negligence, as well as failure of citizens, at times intentional, to report civil status changes to local civil status registers, has impacted negatively on the accuracy of the latter which form the basis for preliminary voter registers. In addition, intensive internal migration and emigration have further aggravated the situation. The widespread lack of street addresses, in particular in major cities such as Tirana, Durrës, Vlora and Shkodra, complicates the process of verifying voter eligibility. Merging or division of polling station areas creates confusion when voters are not notified that the voting centre to which they are assigned has been changed. In virtually every election, opposition political parties have charged ruling parties with manipulating the voter registers to their advantage.

While considerable effort and resources were put into improving the voter registers, the lack of clear vision for a long term solution and political will to start a difficult process of designing and implementing a long-term strategy have resulted in repetitious problems. In the absence of sound administrative procedures, many hundreds of thousands of names have been moved or deleted from voter registers since 2000, based on door-to-door enumeration and/or verification by multi-party teams.

Projects supported by the international community have been carried out in order to develop a national computerized voter register. At a round table in December 2002 attended by representatives of political parties, the OSCE/ODIHR and the OSCE Presence, it was acknowledged, by all political parties, including the SP and DP, that while updating of the 2001 voter registers should continue, only limited improvement would be possible in advance of the

2003 local government elections but that the civil registers should be the sole source for voter registers in the future system, then expected to be implemented in time for the 2005 parliamentary elections. However, despite this agreement, and extensive CEC consultations with political parties on the revision process, the voter registers were again a source of controversy at these elections.

In the new Code, the final responsibility for approving the preliminary voter registers rests with the LGEC, while the CEC is responsible for supervising LGECs and municipal authorities as they revise the lists. According to the Electoral Code, preliminary voter registers must be made public. Individual voters, political parties and “other interested institutions” are allowed to apply to add or subtract names from the lists. Appeals from LGEC decisions on these applications are heard by the local district court, which must render a decision within two days. The court’s decision is final.

Early in the campaign it became evident that the voter registers would be a central issue of contention. In key contested constituencies such as Tirana, Durrës and Shkodra, the DP came forward with lists of hundreds or thousands of “their” voters whose names were not on the registers supplied by the civil status offices. The SP often countered with lists of its own. Usually, these lists were presented to LGECs without the documentation required by law. Most LGECs had no idea how to cope with this problem. The CEC instructed the LGECs to send multi-party verification teams door to door to verify whether the voters actually lived in the constituencies where the parties claimed they lived. This was a time consuming process of questionable credibility, and the CEC chose to ignore the deadline for finalizing preliminary voter registers. In some cases, revision of registers continued up until the eve of elections, despite CEC efforts to convince LGECs that they must make decisions on registers in a timely fashion.

In a number of cases, LGEC decisions on voter registers were appealed, mostly by the DP. However, with few exceptions, these appeals were not addressed to the local district court, as the law provides, but to the CEC, EOM or the media.

On election day, problems with the voter registers were more extensive than had expected, given the amount of effort and resources devoted to improving them over the past years. A considerable number of voters found that they were not on the register where they claimed they had voted in the past, or that they were not registered anywhere.

In response to DP claims that it could demonstrate that the registers had been politically manipulated to exclude its supporters, the EOM agreed to examine any evidence presented prior to the closure of the Mission on 24 October. After examining a number of documents provided by the DP, the EOM concluded that serious problems remained with the voter registers but did not reach the conclusion that the voter registers had been politically manipulated.

In response to further complaints made to OSCE/ODIHR Director Ambassador Christian Strohal during a meeting with Dr. Berisha in Vienna on 7 November, a follow up team led by an OSCE/ODIHR Senior Election Adviser, who is an expert on voter registration, visited Tirana between 18-26 November. The team examined the documentation submitted by the DP, requested additional information from the DP, the CEC and other relevant bodies, and carried out a sampling exercise to assess the validity of the claim of political manipulation. The DP also provided additional documentation subsequent to this visit. None of the documentation

provided by the DP, at any time, has changed the EOM's original conclusion.

Problems with the voter registers, polling unit mapping and the individual notification to voters of their assigned voting centre have been consistently brought to the attention of the Albanian authorities and emphasised by every OSCE/ODIHR EOM since 1997. However, the Albanian authorities have not taken adequate action in this regard. These problems require a comprehensive, long-term solution rather than the piecemeal but expensive efforts made to date. It is therefore the government's responsibility to take immediate action to ensure that modernisation and reform of the civil registration system is completed quickly and effectively. It is essential that a significant improvement in the quality of the civil status offices' input to voter registers be assured in time for the next elections.

VI. REGISTRATION OF PARTIES AND CANDIDATES

Around 1,750 candidates were registered for the 384 mayoral first-past-the-post contests. Thirty-nine political parties, including one coalition, were registered by the CEC to participate in the proportional races for council assemblies, which between them had over 4,516 multi-name lists approved by the separate LGECs.¹⁴

The legal framework for the registration of candidates and political parties for participation in local government elections is relatively clear and simple. Candidates and lists require supporting signatures from between 50 and 300 voters, depending on the size of the municipality or commune, for their nomination to be approved by a LGEC. There are exemptions for sitting mayors, independent councilors and those parties already represented in parliament or council assemblies. In a welcome improvement, the deadline for registration in the new Electoral Code now precedes the start of the official campaign.

In contrast to previous elections where the registration process caused controversy over its often partisan nature, the registration of candidates and political parties generally proceeded smoothly and there was a marked decrease in the number of complaints on decisions of the LGEC. In a positive step not envisaged by the Electoral Code, the registration process for every contest was reviewed by the CEC as part of its responsibility to order the printing of ballot papers. Although this caused a delay in the official announcement of candidates and party lists, it contributed towards a less contentious registration process. Few complaints regarding refusal by an LGEC to register a candidate or party list were made to the CEC and all were addressed in accordance with the law.

VII. ELECTION CAMPAIGN

There was a marked improvement in the campaign atmosphere for the local government elections in comparison to previous elections in Albania. In an important development, there was an absence of heated rhetoric between candidates and political parties and a sharp reduction in the number of complaints relating to intimidation and other undue pressures. The campaign was generally conducted in a calm and orderly manner, with an increase in the level of substantive debate on political issues rather than personal attacks. Disputes in the pre-election

¹⁴ The coalition was composed of the DP, Republican Party and Liberal Union Party.

period were addressed in a mature and inclusive manner, with the President of Albania and CEC playing a constructive role.

Despite the local nature of the elections, most party campaigns were focused on national issues and were dominated by the national party leaders. At a local level, EOM observers reported that while several candidates and political parties stressed local issues, most campaigns were based on allegations of an opponent's corruption. The campaign that attracted by far the most attention was that for the mayor of Tirana.

Public funding for the campaigns of registered political parties was released only during the third week of the campaign. The delay was caused by the failure of the government to determine and approve the funds for allocation by the CEC well before the start of the campaign. Many local branches of political parties informed EOM observers that they received no funds at all. Thus, incumbent parties and candidates with private funds had a significant advantage over other candidates. Smaller opposition political parties claimed that the delay was deliberate and restricted their opportunity to campaign. Several candidates, many of whom were businessmen, funded their own campaigns or relied heavily on private contributions.

While political parties are obliged to publicly disclose their sources and uses of campaign funds, the law is silent on any requirement for the individual candidates to make a public accounting.

Numerous complaints were received that incumbent candidates used public office to benefit their campaigns. In addition, opposition parties alleged that the SP took full advantage of its control of national government to promote the campaigns of its local candidates. EOM observers reported several incidents where incumbents appeared to benefit from the advantages of public office. This generally related to the use of buildings and transport and were used to the advantage of both the SP and DP.

VIII. MEDIA

The broad spectrum of electronic and print media in Albania provided comprehensive coverage of these elections and their wider political background, supplying voters with detailed reporting and diverse commentary on candidates, political parties, campaign activities and the work of the election administration. In contrast to previous elections, which were marred by an aggressively partisan media, the tone and quality of coverage, especially by public television, was substantially improved.

A. LEGAL FRAMEWORK

Improvements in the Electoral Code established a new framework for the coverage of election campaigns by the electronic media. Guaranteed free airtime on the public broadcaster, TVSH, was made available to all political parties registered to take part in the elections. The allocation was made to parties by the CEC, in proportion to each party's current parliamentary strength, with non-parliamentary parties receiving a comparatively smaller allocation. A number of the smaller political parties complained to the EOM that a restrictive interpretation by the CEC of an ambiguous Electoral Code provision had unfairly limited the proportion of airtime awarded to them, but the decision was not appealed.

The Electoral Code also placed all television broadcasters, public and private, under an obligation to provide equal and balanced airtime for all political parties, again, on the basis of their parliamentary size. In order to ensure further balance, television coverage of any activity of the government potentially relevant to the campaign was counted as being included within the proportion of airtime given to the incumbent SP. The stringency of new provisions was criticized by broadcasters and concerns were raised that the ban on editorial comment within news bulletins limited editorial freedom.

As part of its new role in supervising media compliance with the Electoral Code, the CEC established a Media Monitoring Board (MMB), composed of seven members, six of whom were appointed by the SP, DP, RP and SDP, with the chairperson appointed by the People's Advocate (Ombudsman). The MMB was charged with advising the CEC on all electronic media-related issues and was required to undertake monitoring of campaign coverage in order to identify possible violations and advise upon any sanctions. While the work of the MMB was hampered by limited resources and delays in the appointment of its members and staff, it eventually succeeded to perform in a generally effective manner that encouraged broadcasters to respect the legal requirements.

Constructively, the CEC upon the suggestion of the MMB sought to avoid violations from taking place by a pro-active approach of issuing "unofficial warnings" to broadcasters that a change in their coverage was required. These warnings were mostly followed and no sanctions were applied. Nevertheless, the partisan nature of the appointments to the MMB compromised its capacity to function cohesively or act as a specialist advisory body. Moreover, its reporting sessions to the CEC were regularly disrupted and prolonged by political party interventions.

A number of regional broadcasters operate in Albania and, in an attempt to ensure their compliance with media regulations, each LGEC was unrealistically required to establish its own, local version of the MMB. In the end, none were successfully established, partly because of delay in the appointment of the MMB, but also because of an absence of suitable technical resources. In any case, the legal basis for media supervision by LGECs, especially their power of sanction, is unclear.

Coverage of the election campaign by the print media is not regulated by law.

B. MEDIA MONITORING¹⁵

Coverage of the election campaign by the electronic media was substantially improved, both in comparison with previous elections in Albania and in regard to the relevant international standards for the media in democratic elections. Overall, the tone of the coverage was balanced and factual, with a total absence of aggressive or inflammatory reporting. Television reporting was dominated by coverage of the SP and DP, which provided balance, but came at the cost of reducing the attention given to other political parties. Televised debates, in particular, generally only included supporters of the two major parties.

As well as supplying free airtime for political parties as required by law, the public broadcaster,

¹⁵ The EOM undertook monitoring of the election campaign from 12 September to 10 October on three nationwide television channels (the public broadcaster, *TVSH*, and private channels *TV Klan* and *TV Arberia*) and seven private daily newspapers (*Albania*, *Gazeta Shqiptare*, *Koha Jone*, *Shekulli*, *Korrieri* and *Panorama*)

TVSH, also provided an equally proportional level of coverage during its prime-time news and analysis programmes (DP 24%, SP 22%, other parties 34%, government 20%) with the tone of reporting mainly positive or neutral. The two private broadcasters monitored by the EOM also provided generally balanced coverage (*TV Klan*: DP 47%, SP 32%, other parties 14%, government 7%; *TV Arberia*: DP 31%, SP 27%, other parties 30%, government 12%). A number of journalists reported instances in which political parties tried to influence the reporting of their activities. In a clear violation of the law, the EOM verified that one regional private broadcaster, *TV Rozafa* in Shkodra, distributed a list of the fees it would charge political parties to cover their campaign activities in its news programmes.

The print media was more aggressive and negative in comparison with the electronic media. However, while coverage often tended towards polemics and sensationalism, it was notably more moderate in comparison with previous elections. Newspapers provided wider access to different opinions and views than television, especially in their reporting on local contests and campaigns. While the print media tended to hold partisan positions, overall coverage was balanced but again dominated by the major players (DP 31%, SP 34%, other parties 17%, government 18%).

A number of media outlets violated the 48 hour electoral silence period prescribed by the Electoral Code, primarily by covering press conferences called by political parties and candidates to denounce alleged irregularities in the voting process, but which often included campaign propaganda.

IX. COMPLAINTS AND APPEALS

The new system of complaints and appeals outlined in the new Electoral Code generally worked well when used. However, the concept of filing formal complaints appeared not to have been widely accepted or understood among political parties and candidates in the pre-election period. Political parties tended to address complaints informally to the international community or straight to the CEC, regardless of whether the complaint was within its area of responsibility. The EOM repeatedly encouraged use of the appropriate procedures especially as, in a welcome contrast to previous elections, fewer allegations were made of bias amongst the judiciary and election commission members during the campaign period.

Relatively few complaints and appeals were lodged with the CEC ahead of election day. There were delays in the time within which the CEC dealt with complaints and appeals, often because of a lack of proper documentation evidencing the claims. This usually required making a request for supporting documentation that had the effect of extending the deadline for the determination of the complaint to allow due process. Further delays were caused by regular party interventions at CEC sessions held to consider complaints.

Nevertheless, complaints were generally handled by the CEC in a fair and transparent manner and very few decisions of the CEC were appealed to the newly-instituted Electoral College of the Courts of Appeals of Tirana. Those that were appealed were adjudicated by the Electoral College in an expeditious and efficient manner, while maintaining principles of due process.

The CEC received 455 complaints and appeals in relation to alleged irregularities on election day and during the post-election process. These generally related to the allocation of seats in council assemblies, requests for recounts or invalidation of results in specific voting centres,

allocation of council seats and delays in the tabulation process. Despite the large number of complaints and appeals, the CEC undertook time-consuming preliminary verification procedures of most in order to see whether further information was needed, confirm the calculations used to allocate seats, or join together different appeals relating to the same complaint.

On occasion, the CEC appeared unwilling to make full use of the investigative powers afforded it by the Code. In other cases, however, such as those regarding the delivery of election materials in Tirana and the irregularities in Himara, the CEC made a considerable effort to investigate the claims. CEC sessions in which they were discussed were again prolonged by party interventions and, in a number of instances important decisions were taken by a 5:2 vote, indicating a more partisan approach by CEC members.

Around 100 decisions of the CEC in the post-election period were appealed to the Electoral College. These appeals, regarding CEC decisions on recounts, repeat elections or the validity of results and allocation of mandates were dealt with by the Electoral College with the same efficiency that it had shown before election day. However, in some cases the Electoral College failed to thoroughly investigate the cause of the matter. For example, in the case regarding the voter registers in Durrës, the Electoral College could have allowed or requested more evidence in order to discover the cause of the problems that occurred on election day. In another case the Electoral College decided to invalidate the elections in 118 out of 345 voting centres in Tirana. The judgement contains a minority opinion and although the decision appears to be well founded, the Electoral College could have ordered intermediate steps, such as the request of new evidence, that could have led to a more thorough understanding of the scale and the content of the problem.

X. PARTICIPATION OF WOMEN

Women's participation in politics has been steadily declining since 1990.¹⁶ The local government elections confirmed this trend. Only 70 (3.5%) of the 1,949 candidates for mayor or chair of commune of the 384 local government divisions were women, and of these only 10 were elected.¹⁷ The main political parties also failed to implement quota provisions in their statutes guaranteeing 25-30 per cent female candidacies. In addition, a number of women candidates reportedly withdrew their candidacies because of pressure from party headquarters.

Although some political parties claim substantial membership by women, including in their governing bodies, in general women do not hold positions of influence in political parties. Although quota provisions exist for women's membership in party organs in some political parties, in most cases these have not been fully implemented. Almost all candidates and parties made some reference to women's issues in their political programmes and several organized events targeted specifically at women voters. However, in general, women's issues play little role in party programmes, even at the local level.

In a welcome development, media attention on issues of concern to women was greater than in

¹⁶ Only nine of the 140 members of the current parliament are women. In government, only one of 18 ministers (European Integration) and four deputy ministers are women, although both deputy speakers of the parliament are women.

¹⁷ At the 2000 local government elections, nine women were elected as mayor or head of commune of 385 local government units.

previous elections and a number of programmes and articles focused on problems experienced by women in elections and more generally in political life. Voter education spots encouraging women's participation in the elections were also broadcast.

There has been some improvement in the participation of women in the electoral administration, in particular in their membership on VCCs, which increased from 8 per cent in 2001 to some 23 per cent at these elections. However, only one out of the seven members of the CEC and two of the seven members of the MMB are women.

On election day, the high level of group and family voting, explicitly forbidden by law, was a concern. In 39 per cent of voting centres visited by IEOM observers, group voting was observed. In one case, a man came to a voting centre with 15 women, demanded and received 15 ballots and was observed instructing each which way they should vote.¹⁸

Civil society organizations play an active role in women's issues and were involved in promoting women's participation in these elections. This included organization of training for women in leadership and decision making, campaigning for increased participation in decision making and political life and observation on election day.

XI. PARTICIPATION OF NATIONAL MINORITIES IN THE ELECTORAL PROCESS

While there are several distinct groups of national minorities in Albania, their level of participation in the electoral process has not been an issue of general contention. At these elections, no reports were received of direct discrimination against recognized minority groups or obstacles harming their participation.

However, participation by national minorities as candidates or in the election administration was limited. In addition, turnout by registered voters from national minorities, especially Roma and Egyptians, was very low. This problem was exacerbated by the fact that many eligible voters from Roma communities were not included in voter registers and of those who were, many lacked proper identification documents necessary for voting. There was little evidence that political parties addressed issues of concern to minority communities and, despite assistance by the international community, voter education measures aimed at encouraging minority participation in the elections were inadequate.

Political tension remains in the area surrounding Himara, where some politicians based their campaigns around Greek minority issues. This tension escalated into violent incidents on 12 October and during repeat voting on 16 November.

XII. DOMESTIC OBSERVERS

The Electoral Code provides the same rights to Albanian observers as to international observers. In practice, however, some domestic observers reported problems with access to voting centres

¹⁸ Decision No. 169 of the Constitutional Court in 2002 ruled that family voting constitutes grounds for the invalidation of a result.

and in obtaining copies of protocols showing the results of the vote count.

In a positive development, a group of 18 civil society organizations, supported by the OSCE Presence, organized a more comprehensive observation than at previous elections, deploying some 2,200 observers on election day in 40 per cent of voting centres visited by IEOM observers. For the first time, most of these organizations co-operated under a single umbrella group, the Forum of Domestic Observers, led by a former CEC Chairman. In the context of an OSCE Presence project for developing synergies and shared methodology, this group gave special attention to issues of gender and disability. On the day after the 12 October elections, the group held a joint press conference and issued a concise report on the elections, which generally agreed with the IEOM assessment.

During repeat elections in Tirana on 28 December, the civil society organizations, deployed 50 observation teams in a commendable first major domestic effort to observe elections on a voluntary basis, independent of foreign donor contributions.

XIII. OBSERVATION OF VOTING AND COUNTING

A. VOTING

In a major and welcome departure from past practice, police were instructed to stay away from voting centres on election day unless called upon in writing by the VCC to intervene to deal with a problem of public order. In general, this instruction was adhered to, and police were not present in the vicinity of voting centres. This had a positive effect on the election day atmosphere and there were much fewer allegations of police interference in the electoral process on election day than in the past.

Voting on election day was assessed positively by IEOM observers in 88 per cent of the voting centres visited. While polling proceeded in a generally calm manner, there were reports of tension and unrest in 9 per cent of voting centres, although this was often caused by confusion due to voters being unable to find their names in the voter registers, which was noted in over 70 per cent of voting centres visited by IEOM observers. Regrettably, a small number of violent incidents occurred, especially in Himara where election-related disturbances included the detonation of an explosive device at a voting centre, resulting in minor injuries to a policeman.

In Vau i Dejës (Shkodra) and Lurë (Diber), voting did not take place because political deadlock on the LGEC prevented the opening of voting centres. In Durrës, there were widespread delays in the start of voting because of the last-minute replacement of VCC members representing the DP. Voting was also disrupted in a number of voting centres around the country because the ballot boxes provided were not large enough to accommodate all ballot papers. The problem was worse in Tirana and led to the CEC deciding to extend voting in the capital by an hour. A number of VCCs reported receipt of insufficient numbers of ballot papers and, in at least two instances, polling finished in the early afternoon because the VCC claimed to have run out of ballots, leaving some voters unable to vote. Over a quarter of voting centres were reported to have obstacles that limited or prevented access to disabled voters.

IEOM observers reported that voting procedures were mostly followed correctly. However, there were notable failures in checking for ink (38%), applying ink (18%), and requiring voters

to produce identification documents (14%), all of which are important safeguards against double voting. The incidence of group and family voting, as previously noted, was unacceptably high.

In a notable improvement over previous elections, IEOM observers reported significantly reduced numbers of unauthorized persons (6%) and police officers (3%) inside voting centres. The transparency of the electoral process was enhanced by the presence of representatives of political parties and candidates in 83 per cent, and domestic non-partisan observers in 33 per cent, of the voting centres visited by IEOM observers.

B. COUNTING

IEOM observers noted serious problems after the close of polls. A negative assessment of the counting process was reported in 38 per cent of voting centres where the count was observed and, in 43 per cent of voting centres in which IEOM observers were present, significant procedural errors and omissions were observed. There were disputes over the validity of ballot papers in 45 per cent of voting centres observed, resulting in a relatively high proportion (up to 15%) of ballot papers being declared invalid. IEOM observers noted that in most of these cases the ballot papers appeared to clearly indicate the intention of the voter. There was a high level of confusion over counting, with IEOM observers reporting that 40 per cent of VCCs experienced serious problems in the completion of result protocols. The late issuance of counting instructions by the CEC may have been a contributing factor.

In addition, IEOM observers witnessed varying degrees of falsification of results in 10 per cent of voting centres. Despite the legal requirement for a quorum, 11 per cent of VCCs operated with less than four members and, in 10 per cent of voting centres, IEOM observers reported intimidation of VCC members. There were no verified reports of ballot stuffing, but in 19 per cent of voting centres more ballot papers were found in the ballot box than the number of voters recorded as having voted.

On a positive note, counting was undertaken in a mostly transparent manner, with all aspects of the counting process being visible to VCC members, party representatives and observers in 97 per cent of the voting centres at which IEOM observers were present.

C. TABULATION OF RESULTS

In Tirana, the absence of written instructions on the procedures to be followed by VCCs for the delivery of ballot boxes between the municipal LGEC and the 11 borough LGECs resulted in considerable confusion and delay, some intentional, in the transfer of ballot boxes. Tabulation by the Tirana LGEC did not start until 16 October, three days late, and prolonged delays followed, caused partly by the failure of VCCs and sub-unit LGECs to deliver required election material, such as result protocols and ballot papers. In a number of instances, commission members resigned or did not attend sessions. Primarily, however, the problems were caused by political obstructionism by LGEC members who, despite their legal obligation to process results quickly, intentionally sought to create disputes in order to delay their task. The CEC was also reluctant to enforce the legal deadlines for the completion of the tabulation process. Eventually, the CEC intervened on 21 October and assumed the responsibility for the Tirana tabulation. However, even this step did not lead to an expeditious process. Disputes continued among CEC members and tabulation was temporarily suspended due to an investigation by the Prosecutor-General. The official results for Tirana were finally announced by the CEC on 13 November.

Tabulation problems were also experienced in nine of the 11 sub-units of Tirana and in other major cities. In Durrës, for example, tabulation was completed within the deadline but the result protocol was not approved with the required qualified majority. This necessitated a decision by the CEC, which allowed an appeal by the SP to certify the results and rejected a counterclaim by the DP to invalidate the elections in the city. The CEC decision was upheld by the Electoral College.

Elsewhere in Albania, the tabulation of results was generally undertaken in an appropriate manner, with the majority of LGECs completing their duties within the 48 hour deadline. A practical problem experienced by many LGECs was the inability of the CEC to efficiently process the return of election materials, with the result that some officials queued for up to 72 hours to formally deliver their result protocols and election materials.

Following the last of the repeat elections in January 2004, the CEC imposed administrative sanctions on 300 election commission members, primarily those involved in the Tirana LGECs and VCCs and some 240 cases are under investigation by the Prosecutor's Office. The OSCE Presence will monitor the handing of these cases.

D. PUBLICATION OF RESULTS

The Electoral Code does not distinguish between preliminary results and final results, and the time frame specified for tabulating results and declaring results is lengthy, allowing up to two days after the elections. The announcement of results is further subject to delay due to the requirement for a qualified majority decision and the signatures of chairman and deputy chairman on the LGEC protocol to validate results. In a positive move, the CEC chairman proposed that an effort be made to announce the preliminary results within 25 hours after the closing of the polls, however, this failed to get the necessary support from other CEC members.

The CEC published the official results of the elections in local government units as soon as they were approved but, as a consequence of the delays experienced by many LGECs in completing result protocols and returning election materials to the CEC, the official announcement of results for each local government unit was delayed. This problem was particularly acute in Tirana because of obstructionism and incompetence by many LGEC members.

E. RECOUNTS

A total of 54 requests for recounts of municipality and commune results were submitted to LGECs following the initial approval of tabulated results. In at least one case (Gose - Kavajë) a request for recount was refused by the LGEC even though the recount was required to be held under the Electoral Code. The request was made by an independent mayoral candidate who was not represented on the LGEC. The CEC overturned the decision and ordered a recount. All recounts were held in the presence of a CEC representative. In at least one case (Peshkopi), the recount overturned the initial results.

XIV. REPEATED ELECTIONS

Consistent with past elections in Albania, some constituencies experienced great difficulty in

holding elections at all, or in agreeing the results. In all, elections were repeated on five different dates - 16 November, 7 December, 14 December, 28 December 2003 and 25 January 2004.¹⁹ As the EOM closed on 24 October, monitoring on all dates was organized by the OSCE Presence in Albania, supported on 16 November and 28 December by OSCE/ODIHR and the resident diplomatic community, and on 28 December by CLRAE.

16 November Repeat Elections

On 16 November, elections took place in Vau i Dejës and Lurë, where no elections were held on 12 October because the LGECs failed to organize them. In addition, partial re-runs took place in Himara, Temal, Fierzë-Pukë, Qafë e Malit, Derjan, Bubq, and Tërbuf, in accordance with decisions of the CEC and Electoral College.

While voting went smoothly in Lurë and Bubq, there were widespread violations and conflict in voting centres in Himara, Vau i Dejës and Tërbuf, including proxy and multiple voting and ballot stuffing. In some Himara voting centres, unauthorized persons were involved in directing the process and in one voting centre police were present without the required identification. Although police witnessed a stabbing incident outside a voting centre in Himara village, they took no action to apprehend the assailant.

The vote count and tabulation in Himara was tense and marked by violent incidents and blatant fraud. Without examining the original protocols in ballot boxes, the SP-led LGEC declared the SP the winner. Based on a complaint by the Human Rights Union Party (HRUP), the CEC decided to open the ballot boxes and re-examine the ballots, ultimately declaring the HRUP the winner.

In Vau i Dejes, the process of tabulation broke down, and no decision was reached by the LGEC. The Electoral College decided to hold repeat elections in three voting centres, which after failed attempts on 14 December and 11 January, finally took place on 25 January 2004. On 29 January, the CEC declared the result for Vau i Dejes based on an aggregation of results from both election days, a decision that was upheld by the Electoral College.

28 December Repeat Elections

The Electoral College decision in response to an appeal by the DP, to order repeat elections for both the mayor and council in 118 Tirana voting centres was based on a number of procedural violations and omissions. However, the central DP allegation of irregularity was based on the voter registers. Dr. Berisha continued to maintain that DP voters had been intentionally eliminated from the registers, and that all those who had been so disenfranchised in Tirana should be allowed to vote in repeat elections, regardless of whether they resided in the areas served by the 118 voting centres where the election was to be repeated.

¹⁹ On 7 December, elections were held in two voting centres in the commune of Gruemire of the Malësi e Madhe district, following a decision of the Electoral College, and a by-election was held in Vergo commune of the Delvina district to replace a mayor who had died since being elected on 12 October. While the by-election in Vergo went smoothly, numerous violations of law and violent incidents by members of the VCC and their supporters were witnessed at a voting centre in Gruemire by monitors of the OSCE Presence, who at one point were asked to assist in the marking of ballots with which to stuff the ballot box. On 14 December, following a decision of the Electoral College, council elections were re-run in one voting centre of Shkodra municipality and were conducted in a generally peaceful manner.

In a series of meetings in Tirana on 17 December, Ambassador Barry reiterated that evidence provided to the OSCE/ODIHR did not support such a claim, and that wholesale revision of the registers prior to 28 December was neither feasible nor consistent with the Electoral Code. Nevertheless, the Tirana LGEC decided by a 4:3 vote to revise the voter registers by accepting a list of names supplied by political parties and individuals. This decision was reversed by the CEC on the basis of a complaint by the SP. The DP appealed to the Electoral College, which upheld the decision. The voter registers used on 28 December were therefore the “final” registers used on 12 October.

In advance of 28 December, the CEC took a number of steps to address administrative deficiencies noted on 12 October, which proved to be beneficial. These included issuing clear instructions on VCC members on proper hand-over procedures of election material, and informing individual voters of the voting centre at which they should vote. A new LGEC was also appointed which took steps to resolve technical problems in a professional manner.

Voting was conducted in a generally calm manner, without any major problems, although turnout was reported by the CEC to be only 27 per cent. Again, more problems were noted during counting, including significant procedural errors in a number of voting centres. In a positive development, in comparison to the 12 October elections, no blocking votes were used by VCC members and the transfer of ballot boxes to the LGEC was undertaken in an orderly manner. Tabulation was conducted professionally by the LGEC and all results were aggregated by the legal deadline. No complaint was filed against the LGEC decision on mayor. However, both the LGEC and CEC failed to reach the qualified majority of 5:2 required to declare the result for the council, due to disagreements on the validity of six voting centre tabulations. The Electoral College reviewed the case based upon an SP appeal and declared the final result, including the six disputed tabulations, on 14 January 2004.

XV. ELECTION RESULTS

The results of the local government elections mark a reduction in the share of the vote won by the SP in the 2000 local government elections and the 2001 parliamentary elections, although it is notable that the DP did not improve on its proportional support in the 2001 parliamentary elections. However, the DP won significant victories in mayoral and council assembly elections in regions outside its traditional base and where the SP was previously dominant, including in urban areas of Tirana and towns in central and southern regions. Important victories were also scored by smaller parties and, in many cases, a mayor is now from a different political background than the party controlling the majority of seats in the council assembly. Significantly, no newly-elected local government organs have been boycotted. In terms of local government, Albania is a country that is now less politically polarized between north and south.

XVI. RECOMMENDATIONS

The following recommendations are offered to the Albanian authorities in an effort to improve the electoral process. It should be noted that addressing many of these, particularly those relating to the appointment and performance of the election administration, is dependent upon political will of the major electoral contestants.

A. LEGAL FRAMEWORK²⁰

1. The Electoral Code should be amended to:

- (i) address the significant problems associated with appointment of members to the CEC, middle and lower election commissions. In particular:
 - transitory provisions should be provided to govern the order of appointment of the new CEC members, and clarify the rotation of mandates;
 - the legal framework for the appointment of members should be clearly defined and in compliance with the Constitution;
 - political representation on all election commissions should be wider to ensure that more parties are represented on election commissions;
 - the system of appointment should be sustainable and provide safeguards both against political advantage and deliberate obstructionism;
 - the requirement for qualified majority voting for decisions and co-signatures should be reconsidered;
 - political parties should recognize that election commissions must operate impartially, and professionally without any external interference, and that grievances are to be raised through the appropriate complaints procedures; and
 - election commission members should recognize that they are administrators rather than politicians.
- (ii) provide more realistic deadlines for taking decisions on complaints and appeals. Due account should be taken of the requirement that an effective system of complaints and appeals must produce results expeditiously;
- (iii) specify all procedural provisions that apply to the complaints and appeals process and that they should take precedence over the procedural provisions of the Administrative Code and Code of Civil Procedures. These provisions should require that a complaint, when initially filed, be supported with the necessary documentation,²¹ if it is to be considered by the LGEC, CEC and Electoral College, thus permitting decisions to be made within the deadlines provided in the law;
- (iv) eliminate the role of political parties in the preparation, revision and verification of voter registers. The role of political parties is to monitor all phases of the process, for which full transparency must be assured;
- (v) limit the provisions for temporary resident voting to exceptional circumstances such as medical treatment, army service or electoral duties;
- (vi) establish timely deadlines for the allocation to the CEC of financing for the administration of elections and political party campaigning;
- (vii) include additional requirements for candidate qualification in local government elections. In order to avoid a conflict of interest, the Code should require a person on an election commission to resign the position before being registered as a candidate;
- (viii) provide for public disclosure of accounts for fundraising and spending on election campaigns, including those by mayoral or independent candidates;

²⁰ As noted previously, this report is not intended, nor should be construed, as a formal assessment or comprehensive analysis of the Electoral Code. Similarly, these recommendations can only address significant and major legal shortcomings observed in legal provisions applicable to local government elections. Failure to comment about a particular provision of the Code should not be interpreted as agreement with the provision.

²¹ Or a sufficient written explanation of why it is not possible to support the complaint with the necessary documentation at the time the complaint is filed.

- (ix) ensure that the location of voting centres is established sufficiently in advance of the display of the preliminary voter registers;
- (x) clarify the criteria by which a marked ballot paper is considered as valid or not, with the primary consideration for ballot validity being whether there is a clear indication of the voter's choice;
- (xi) ensure that when a ballot paper contains two separate votes, invalidation of one section does not invalidate the other;
- (x) require VCCs to complete a count and transfer election materials to an LGEC within a maximum of twelve hours;
- (xi) require LGECs to undertake and publish an immediate preliminary tabulation of the results contained in each VCC result protocol before commencing official verification of election materials;
- (xii) require the CEC to dismiss and replace any LGEC that fails to complete tabulation or verification within 12 hours after receipt of the last VCC protocol in the constituency;
- (xiii) simplify and revise counting procedures to ensure efficiency and consistency. The CEC must provide explicit and clear instructions to assist VCC members in the vote count;
- (xiv) require publication of preliminary results broken down by voting centre by LGECs within 12 hours after receipt of the last VCC protocol and by the CEC within 24 hours after receipt of the last LGEC protocol.
- (xv) clarify the criteria for holding recounts in mayoral and multi-name party list contests; and
- (xvi) ensure consistency of deadlines and definitions and greater clarity of language.

B. ELECTION ADMINISTRATION

2. The Albanian authorities should reform and modernize the system of civil registration to ensure timely information for the generation of voter registers. The role and powers of all bodies involved in the process should be clarified and stated in greater detail. Responsibility for the accuracy of voter registers should be clearly defined. There should be a sustained and systematic effort to improve the quality and accuracy of both the civil registry and voter registers.
3. The Albanian authorities must develop and publish accurate maps for all polling units and electoral units. Such maps, together with reliable civil register data, including addresses, are the primary basis for accurate voter registers.
4. The Albanian authorities should undertake a thorough review of the system for revising and publishing voter registers. In particular, the law should specify means of providing individual notification to voters of the voting centres at which they are registered.
5. The CEC should undertake a thorough review of its preparations for elections and ensure that decisions and instructions on important issues, such as procedures on voting and counting, are taken and disseminated as a priority. A review of the provision of funds to LGECs should also be undertaken.
6. The CEC should adopt rules of procedure that enable it to operate more efficiently and which, *inter alia*, should allow open debate but ensure against excessive delays.
7. The CEC should emphasize instructions to take account of accessibility of voting centres by

disabled persons, as most election commission members are not aware that this should be a consideration in selecting voting centres. Election administrators should ensure that provisions for assisted voting are respected.

8. The CEC should make efforts to ensure that the procedures of ID-checking and inking are effectively implemented. In order to effectively prevent double voting, a voter must be checked for ink before receiving a ballot.
9. The CEC should review the format of result protocols to ensure greater clarity of format and content. The original protocol to be used for tabulation should be clearly distinguishable from copies.
10. The CEC should provide guideline procedures on voting, counting and tabulation in the different local government election contests taking place in Tirana and its sub-units and any other occasions when more than one ballot box is used.
11. The CEC should be provided with permanent, appropriately equipped premises.
12. The requirement for an LGEC Secretary to be a qualified lawyer should be reconsidered.
13. Political parties should not have the right to substitute members of VCCs after their appointment. Eligibility criteria should be established for commission members, including the fulfilment of training requirements.
14. Use of mobile telephones during the vote, count and tabulation processes should be prohibited.
15. The role of the CEC in the registration process for candidates in local government elections should be clarified.
16. Use of the “double” ballot should be reconsidered. At a minimum, the Code should describe in detail how the voting centre commission is to count a ballot that contains one valid vote and one invalid vote on the same ballot paper.
17. The Prosecutor’s Office, in response to reports from election administrators, should promptly institute criminal proceedings against those who violate election-related legislation. This should especially apply to members of election commissions who prevent voting from taking place, or block the tabulation of results. Aggrieved interested parties should utilise the Electoral Code and Penal Code provisions against perpetrators of electoral fraud.

C. COMPLAINTS AND APPEALS

18. All electoral stakeholders should undertake to respect the current procedures for submitting a complaint or an appeal. The CEC should refuse to consider a complaint that has not been formally submitted. Middle-level commissions should be required to decide upon complaints made to them and failure to adjudicate a complaint within the deadline should be considered a rejection, thus constituting grounds for an appeal.

D. MEDIA

19. The legal framework for the allocation of free airtime to political parties should be clarified on the issue of the level of coverage provided to smaller parliamentary parties to ensure that the intention of the legislator is respected.
20. Members of the MMB should be appointed on a non-partisan basis, with appointment criteria requiring technical expertise in media and analytical issues.
21. The requirement for LGECs to establish local media monitoring should be removed or amended to allow practical implementation.

E. PARTICIPATION OF WOMEN

22. The Albanian authorities and political parties should take steps to encourage greater participation by women in all aspects of political life, including the election administration.
23. The CEC should take steps, including gender awareness training, to prevent group and family voting. Given the lack of awareness of the seriousness of the violation, training should stress that family voting constitutes an effective denial of the right to vote.

F. DOMESTIC OBSERVATION

24. Domestic observation should be encouraged, and the international community should continue to provide assistance to expand the capacity of relevant observer groups.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It coordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, gender equality, and trafficking in human beings. The ODIHR implements a number of targeted assistance programs annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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