



# INTERNATIONAL ELECTION OBSERVATION MISSION

## STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

### ELECTIONS TO THE PARLIAMENT OF THE REPUBLIC OF ALBANIA – DEVELOPMENTS THROUGH THE THIRD VOTING DAY – 22 JULY 2001

**Tirana, 23 July 2001** - The International Election Observation Mission (IEOM), established by the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) in partnership with the Parliamentary Assembly of the Council of Europe, issues this statement of preliminary findings and conclusions on developments since the second round on 8 July and on the voting, initial or repeated, on 22 July. The statement is issued before the final certification of the election results and before a complete analysis of the observation findings.

This statement should be considered in conjunction with the statements of preliminary findings and conclusions issued on 25 June and 9 July after the first and second round of voting. The OSCE/ODIHR will issue a comprehensive report approximately one month after the completion of the electoral process. A report will also be issued by the Parliamentary Assembly of the Council of Europe.

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#### PRELIMINARY CONCLUSIONS

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The 2001 parliamentary elections in Albania mark progress over past elections in the areas of campaign conduct, media and election administration. The executive branch of government – unlike incumbent political party leadership – generally avoided interference in the process. With each round of voting the number of contested areas has diminished, but the problems surrounding some of these contested zones have become increasingly serious. Events in certain constituencies suggest that significant improvements are required to meet international standards, in particular regarding accurate tabulation of results and the handling of election related complaints.

The election process has been protracted, litigious and uncertain. The requirement to repeat polling in eight Zones on 22 July, as well as in two further Zones on 29 July, arose because of appeals against alleged election irregularities on 24 June and 8 July and following the decisions of the Constitutional Court. It is a serious concern that even after three rounds of voting the election process is incomplete and further elections will be required to determine the final composition of Parliament.

The largest political parties in Albania need to end their mutual hostility and begin to regard each other as legitimate political opponents. In some election zones the behaviour of party appointed Zone Election Commission (ZEC) and Voting Centre Commission (VCC) members has been unacceptably partisan. Nevertheless, to maintain confidence and transparency parties should for the present continue to have representation on election commissions.

The late elections for the proportional ballot in Lushnje, two weeks after the nation-wide poll, proved extremely controversial as the results – due to tactical campaigning and voting – had the potential to significantly alter the composition of Parliament. It will be necessary for Albanian institutions to investigate fully all allegations of irregularities in order for there to be confidence in the integrity of the process.

The CEC's handling of complaints has improved, but the reasoning and legal rationale for some of its decisions was not clear. Many results have been decided ultimately by the Constitutional Court. At times the judiciary failed to adequately investigate cases and issued some decisions which were not always based on clear and consistent standards. As a result there is concern that some mandates may not have been properly allocated.

Election day, 22 July, was generally calm and passed without problems at most polling stations. However, very serious irregularities were witnessed by international observers in certain constituencies.

As set out in previous IEOM statements, the final conclusions on the parliamentary elections will depend on how the tabulation of results is completed; the manner in which the 40 compensatory mandates for the national multi-member constituency are allocated; the role of the national authorities, including the CEC and the courts, in handling of complaints and redressing irregularities; and the conduct of repeat voting.

OSCE/ODIHR and the Council of Europe are prepared to work with the administration, judiciary and civil society to address the remaining challenges.

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## **PRELIMINARY FINDINGS**

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### **Election Results and Appeals**

The Albanian parliamentary elections were initially scheduled to be conducted in two rounds. A third voting day on 22 July was required because polling in a number of zones was not conducted or completed on the first two voting days, in some instances because of serious irregularities. In addition, the courts ordered reruns or new voting in several constituencies. As a result, by 22 July some 11 zones out of 100 were still undecided, as were the final results of the proportional contest. Following the 22 July voting, further rounds may still be required in 6 zones (2, 4, 13, 21, 22 and 60). This protracted and fragmented situation has been increasingly contentious and detrimental to a sound electoral process.

Following the first round of elections on 24 June, the CEC declared 31 Socialist Party (SP) candidates, 16 Union for Victory (UV) candidates, and one independent candidate (in Zone 13) had been elected, with runoffs or new elections in the remaining 52 zones. Twenty-eight cases were appealed to the courts. By the end of the second round of voting on 8 July, the SP had been awarded 67 mandates and the UV coalition 21, with one additional independent candidate elected in Zone 25. Many second round contests were decided by close margins, with the number of invalid ballots sometimes greater than the margin of victory. Nine cases were appealed to the Constitutional Court, not all of which have been decided.

### **The Proportional Ballot and the Case of Lushnje (Zone 60)**

One of the most controversial issues surrounding the election concerns repeat balloting for proportional seats. The Constitution foresees that 40 seats are to be determined on the basis of proportional voting, which is anticipated to occur on a single, national voting day. Because of irregularities in the first round, the CEC took the difficult decision to repeat proportional voting partially in three zones, and to hold the proportional vote in all of Zone 60, Lushnje, where no voting at all was held on June 24.

The CEC decision was in accordance with the legal framework. However, as a consequence some 36,500 voters were given the opportunity to cast ballots two weeks after their fellow citizens. Political parties seized the opportunity to develop new election strategies. In particular, the SP urged its supporters to vote for its former coalition partners, the Agrarian Party, the Democratic Alliance Party and the Human Rights Union Party, in an attempt to raise their total national vote above the 2.5% representation threshold. Each of these parties was very close to the threshold after the first voting, but none had passed it. This political appeal for tactical voting, if successful, would significantly alter the composition of the incoming Parliament, with some 9-11 seats going to likely SP allies, thus potentially determining the subsequent vote for the President in 2002. Thus, voters in Lushnje were in a position to exercise a disproportionate influence on the outcome of the election.

These circumstances led to an unusually hotly contested election in Lushnje on 8 July and subsequently. Highly questionable handling of ballot boxes and the presence of questionable VCC protocols were reported to the IEOM. The ZEC could not agree to a tabulation procedure and ultimately failed in its duty to declare the results.

On 14 July, the CEC, by 5-2 majority vote, decided to (i) abrogate the ZEC's decision to invalidate the proportional election, (ii) dismiss and request the prosecution of 5 out of 7 ZEC members and the ZEC secretary, (iii) begin the process of tabulating the results itself. Four members of this ZEC are currently in police detention. The UV coalition, Social Democratic Party and Democrat Party were all strongly opposed to the CEC's proposals to tabulate the results itself. The CEC decision to begin the tabulation of proportional results was appealed to the Court of Appeals on 17 July; the Court rejected the appeal on 19 July.

On 22 July, after lengthy debates, the CEC decided to tabulate the proportional vote in Zone 60 using all existing protocols, including some not found in ballot boxes, and despite missing tabulation forms specific to the proportional vote. This procedure was contrary to legal provisions and may lead to a new court case. In addition, the CEC decided to repeat polling in six VCCs due to irregularities, as well as proceeding with a vote in two VCCs where voting did not take place.

### **Adjudication of complaints and Appeals**

Following the first round, 28 cases were submitted to the Constitutional Court of which only 12 were decided by the time of the second round on 8 July. Following the second round, a further nine cases were submitted. In many cases the Court ultimately decided upon election results. The IEOM welcomes that political parties took the correct approach in seeking legal redress to their

grievances, but is concerned that the appeals procedure and the judicial system did not always provide an effective means of redress. The IEOM is particularly concerned that:

- Court rulings were not always based on standards that were clearly set out or consistently applied. For example, in apparently similar cases, the Constitutional Court decided that second round runoffs were required in Zones 25, 33 and 40, but not in Zones 19, 24, 57, 63, and 67.
- In some cases the courts seemingly failed to investigate adequately or take fully into account the circumstances or the evidence presented. For example in Zone 29 the District Court failed to adequately scrutinise ballots declared as invalid by VCCs and appeared to ignore both CEC instructions on invalid ballots and article 106 of the Electoral Code relating to invalid ballots. In Zone 19, the Constitutional Court relied not on protocols prepared at the polling station but decided instead to recount ballots that may not have been adequately safeguarded before the court case. In Zone 35, a District Court recount reversed the original result, in an instance where questions remain over the security of the material in the period prior to the recount.
- Transparency in court proceedings was sometimes an issue. For example, the IEOM has been unable despite its requests to obtain complete documentation related to the Constitutional Court decision to repeat the elections in Zone 13, where the first round victory of the UV candidate appeared convincing.
- An element of bias seemed to creep into some decisions, for example in Zones 19, 24 and 67. There were reports of very serious irregularities in Zone 25 (Durrës) on 24 June and again on 8 July. The failure of the Courts to provide redress on complaints submitted before the second round and the fact that the new Chairperson of the ZEC (appointed three days before the second round) is a close relative of the eventual victor, leaves the IEOM with serious doubt regarding the credibility of the election result in this Zone. However, following the second round, the loser chose not to seek redress.

Since its establishment, the ODIHR EOM received almost 1,000 written and verbal complaints and reports of irregularities from political parties, candidates and election commissions. The ODIHR EOM followed up on many cases and found most to be unsubstantiated or unproven. Others have more credibility and were or still are the subject of court cases or appeals to the CEC. The volume of complaints is unusually high. While this underscores the polemical nature of the contest, it is also illustrative of a very welcome trend by the parties to use the available legal mechanisms to seek redress. However, on some of the most important issues, political parties chose not to appeal CEC's decisions.

### **Other Issues**

The atmosphere between the second round and the elections on 22 July remained generally calm and no instances of violence were reported. Very little campaign activity took place during this period. Coverage of the election in both the print and electronic media was reduced, but both gave extensive coverage to the complaints and appeals process. Significantly, on 16 July the National Council for Radio and Television fined the public broadcaster TVSH for being biased in the period leading up to the second round of voting.

Following the first two rounds, the government took steps to help ensure that officials would not interfere in the electoral process. The Prime Minister instructed ministries to look into issues reported by the IEOM and the police began investigations into cases police interference.

The need to repeat polling in some zones following CEC and Court decisions raised organisational problems for the election administration as the decisions were taken at different times. The decisions concerning when to schedule elections, and the time required to adjudicate cases created uncertainty over which zones would have further elections and a “fragmentation” of the election process.

As has been noted previously by the IEOM, the professionalism of some ZECs was questionable. The inability of representatives of the major parties to work together in the election administration and late changes in membership of some ZECs and VCCs impacted negatively on the process. For example, in Zone 86 (Korca) no election took place on 8 July as scheduled as a result of obstruction and partisan behaviour by the ZEC.

After the 8 July poll the CEC continued to react to the perceived failings of lower level election commissioners by deciding on their dismissal and in some cases penalising them. In some cases this course of action may have been appropriate. With regard to Zones 2 (Shkoder), 14 (Kukes), 49 (Pequin), the CEC investigated the cases and took appropriate decisions albeit with a split vote.

A particular problem arose in Zone 22 (Kruje). On 24 June one polling station failed to conduct voting leaving the result in the balance. On 8 July a boycott by 3 VCC members including the SP was followed by illegal disruption of polling activities by an armed man. Subsequently, this individual was reportedly proposed by the SP as their representative of the VCC for the 22 July poll, although his name was later withdrawn.

### **Election Day & Vote Count**

As in the first two rounds, polling was generally conducted in a calm manner. VCCs generally followed correct polling procedures and observers assessed the conduct of the vote positively at most polling stations. However, the checking of identification and inking of voters’ fingers was disregarded in polling stations in Zones 4, 22 and 49. In Zones 2 and 4 some voters were seen to be in possession of more than one ballot paper. Group voting was frequently observed. Observers reported that the conduct of police in most zones was appropriate. No police interference in the process was witnessed, although police presence was excessive around some polling stations in Zones 2, 14, 18, 22 and 86. In Zone 49, the UV decided to boycott the election on the eve of the poll as a result of the decision of the Constitutional Court to reduce the number of polling stations where voting should be re-run.

Serious violations were witnessed in a number of polling stations:

- In the only polling station in Zone 22 in which polling took place, observers witnessed ballot stuffing by commission members and by 17:00 when the polling station closed early, 98% of eligible voters were registered as having voted, although observers witnessed only a light turnout.

- Ballot stuffing (by a commission member) was confirmed to have taken place in VCC 202 in Zone 40 where voting was suspended for a time when it was discovered that five more ballot papers had been issued than signatures on the voter list.
- Dubious turnout figures were witnessed in VCC 46 of Zone 49, where observers saw questionable signatures on the voter register.
- Elections did not take place at one polling station in Zone 2. At one polling station in Zone 4, there could have been no legal voting because the station had not opened by 1500. However, observers later witnessed commission members from this polling station arriving at the ZEC with a ballot box containing some 290 ballot papers.

Observers reported that counting was generally completed satisfactorily, although as in previous rounds procedures were not always followed correctly. In a serious incident at VCC 14 in Zone 2, observers arrived at the polling station at 15:45 to find that counting had already started and was being directed by an armed man who was reported not to be a member of the VCC. In another serious incident in Zone 4, an observer was required by the Secretary of the ZEC to hand back the protocol that had been obtained from VCC 2 in the zone. The situation in the ZEC was reported to be tense. In Zones 4, 40 and 49, ZECs decided to postpone the tabulation procedure until Monday morning.

*This statement is also available in Albanian.  
However, the English version remains the only official document.*

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#### MISSION INFORMATION & ACKNOWLEDGEMENT

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The International Election Observation Mission (IEOM) for the third voting day of the parliamentary elections in Albania is a joint undertaking of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the Parliamentary Assembly of the Council of Europe. An OSCE/ODIHR Election Observation Mission, with Nikolai Vulchanov as Head of Mission, 10 election experts in the Tirana headquarters and 18 long-term observers deployed to the regions, was established in late May to assess the legal framework, the election administration, the media environment, and conditions for the election campaign. For the repeated elections on 22 July, the IEOM deployed some 48 short-term observers, including five parliamentarians from the Council of Europe's Parliamentary Assembly, to monitor voting and counting procedures in polling stations and election commissions in all districts in which elections took place.

The IEOM wishes to thank the OSCE Presence in Albania for its support throughout the duration of the mission, as well as the international organizations and embassies for their support on election day.

The EOM wishes to express appreciation to the Ministry of Foreign Affairs, the Central Election Commission, and other national and local authorities for their assistance and cooperation during the course of the observation.

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