



Office for Democratic Institutions and Human Rights

# REPUBLIC OF ALBANIA

## PARLIAMENTARY ELECTIONS

28 June 2009

OSCE/ODIHR Election Observation Mission  
Final Report



Warsaw  
14 September 2009

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**I. EXECUTIVE SUMMARY**

Following an invitation from the Ministry of Foreign Affairs of the Republic of Albania to observe the 28 June 2009 parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) to the Republic of Albania. The OSCE/ODIHR EOM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, and domestic legislation. For election-day observation, the OSCE/ODIHR EOM joined efforts with the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe and the NATO Parliamentary Assembly to form an International Election Observation Mission (IEOM).

The 28 June 2009 parliamentary elections marked tangible progress with regard to the voter registration and identification process, the legal framework, adopted in a consensual manner by the two main parties, the voting, counting and the adjudication of election disputes. These substantial improvements were overshadowed by the politicization of technical aspects of the process, including during the vote count and tabulation, which temporarily blocked the counting process in some areas, as well as by violations observed during the election campaign. These actions of political parties undermined public confidence in the election process.<sup>1</sup>

While meeting most OSCE commitments, these elections did not fully realize Albania's potential to adhere to the highest standards for democratic elections. The conduct of democratic elections depends also largely upon the commitment of all Albanian political parties to respect the letter and the purpose of the law and to discharge their electoral duties in a responsible manner in order to preserve the integrity of the process.

The elections were conducted under a new Electoral Code adopted in late 2008. The new Code addressed several recommendations offered previously by the OSCE/ODIHR and brought about significant improvements. For example, a system of regional proportional representation replaced the previous controversial election system and a national computerized population register was developed as a source of voter lists. Overall, the legal framework provides a thorough technical foundation for the conduct of democratic elections. Nonetheless, a number of provisions should be reviewed in order to bring the legal framework fully in line with OSCE commitments and other international standards.

Despite severe time constraints, the Central Election Commission (CEC) prepared and administered the elections professionally and took several steps to increase the transparency of the process. CEC meetings were generally transparent and conducted with professionalism; however, the CEC was frequently divided along political majority-minority lines, especially on more contentious issues. As in previous elections, problems were noted during the appointment of lower-level election commissions; parties used their right to replace commission members

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<sup>1</sup> The IEOM published a Statement of Preliminary Findings and Conclusions on 29 June 2009. This statement and all previous OSCE/ODIHR reports on elections in Albania are available at [www.osce.org/odihr-elections/14208.html](http://www.osce.org/odihr-elections/14208.html).

unreasonably, which affected the efficiency of the election administration and impacted negatively on the integrity of the process. The appointment of Voting Centre Commissions (VCCs) was concluded extremely late, hampering training of VCC members.

In a significant positive development, voter lists were for the first time extracted from the computerized National Civil Status Register, rather than from paper records kept at local level. A total of 3,084,946 citizens were eligible to vote. Reports filed by IEOM observers on election day suggest that the quality of the voter lists has improved significantly since the 2005 parliamentary elections.

Another major Government project was issuing a new, secure ID card to every citizen. The priority was to issue ID cards to around 730,000 eligible voters without a valid passport, the only other means of voter identification. The late start of the program in January 2009 raised concerns that a significant number of voters might remain without a valid ID document and would be unable to vote. Given the various constraints, the ID card distribution campaign was overall successful and laid the groundwork for a solid system of voter identification. Of over 1.4 million applications for ID cards, all but 3,321 were processed before election day. Around 257,000 citizens without a passport did not apply.

The ID card program was one of the most controversial issues surrounding the elections. Opposition parties questioned the administration of the process and alleged politically motivated manipulation. While the OSCE/ODIHR EOM verified some cases of undue involvement of activists of the ruling Democratic Party (DP) in the process, most problems were due to management and capacity deficits and infrastructural shortcomings. Politically, the most significant disagreement over the ID card process stemmed from the Government's failure to provide reliable figures on the progress of the application process of citizens without passports.

Although the elections took place in a highly polarized political environment, the campaign was mostly calm with only a few violent incidents reported. All 34 parties contesting these elections, were able to campaign freely throughout the country. At times, the campaign was marred by use of overly harsh language. Provisions on the placing of campaign posters and banners were inconsistently applied, which led to controversy in some regions, as did the placement of campaign stands and tents.

The OSCE/ODIHR EOM received numerous allegations, of which it corroborated several, of pressure to attend DP campaign events or to desist from opposition activities, often accompanied by threats of job loss. Public-sector workers and university students were particularly affected. Such actions contravene paragraph 7.7. of the OSCE Copenhagen Document. The Government repeatedly used official events, including inaugurations of infrastructure projects, for campaign purposes. The Mayor of Tirana and leader of the Socialist Party (SP), Edi Rama, also used official events to campaign for the SP, but far less frequently. There were substantiated allegations of misuse of administrative resources by the DP for campaign purposes. Such actions blurred the distinction between state and party activities, in contravention of paragraph 5.4 of the OSCE Copenhagen Document.

Albania has a high number of broadcast and print media, which compete for limited advertisement revenues and generally depend on businesses that subsidize them. This combined with interference with editorial policy by politicians and business interests have an impact on media independence. Reform of the public-service broadcaster that is heavily dependent on state funding has stalled.

The Electoral Code includes detailed regulations for the campaign coverage in news and current affairs programs and for free and paid airtime on public and private broadcast media. Smaller parties did not receive the media coverage they were entitled to under the Electoral Code. The CEC's Media Monitoring Board (MMB) was not able to fully discharge its responsibility to establish whether broadcasters met their legal obligations to provide "pluralism of information".

OSCE/ODIHR EOM media monitoring showed that, before the start of the official campaign period, the monitored broadcasters provided unbalanced and partial coverage of the two main political parties (DP and SP). During the 30-day official campaign period, quantitative coverage for the main parties was more balanced. However, all monitored broadcasters showed a bias towards either the DP or the SP, which was reflected in the tone of their coverage. According to information received from journalists, campaign coverage was largely reduced to broadcasting footage and commentary produced and provided by political parties themselves.

New provisions in the Electoral Code introduced a 30-per cent gender requirement for candidate lists and for CEAZ members nominated by the two main parties. Many candidate lists had to be returned to the submitting parties because the gender requirement was not met. The wording of the gender requirement for candidate lists allows parties to circumvent the objective of increasing women's participation. Nonetheless, the requirement resulted in an increase of women elected to Parliament compared to 2005.

Several parties representing minorities participated in the elections. One member of the Greek minority from the Human Rights Union Party was elected, as were Greek representatives from the DP and SP lists. Some election-related issues arose surrounding the Roma community, often connected to the ID card distribution process. The OSCE/ODIHR EOM also received numerous allegations of vote-buying in Roma communities, some of which were corroborated.

Underlining the transparency of these elections, over 6,000 domestic non-party observers from 16 Albanian NGOs were accredited, including a coalition of six NGOs which accredited over 2,300 observers. Two Albanian NGOs conducted a parallel vote tabulation exercise.

Appeals during the pre-election period were adjudicated by the CEC and the Electoral College in a fair and professional manner, providing effective remedies.

Election day was overall calm and peaceful. During the opening of voting centers, problems were noted with regard to recording the serial numbers of ballot box seals and missing election materials. Observers assessed voting positively in 92 per cent of voting centers visited but noted a number of procedural violations. In particular, inking procedures were not always followed, thus devaluing an important safeguard against possible multiple voting. Other serious problems included widespread family voting, cases of proxy voting, series of seemingly identical signatures on the voter list, the same person "assisting" more than one voter, attempts to influence voters, and pressure on voters or election officials. The closing of voting centers was assessed overall positively, with some procedural problems.

The vote count was assessed as bad or very bad in 22 of the 66 Ballot Counting Centers (BCCs). IEOM observers noted procedural shortcomings which seemed to be partly due to insufficient training and guidance. The new electronic monitoring system, by which each ballot was placed under a video camera and shown to observers on large screens several meters away from the counting tables, appears to have only partly reached the aim of enhancing confidence in, and transparency of, the process; it was often not possible to see which party a ballot had been marked for and which pile it was placed on. As the count progressed, political parties started interfering more actively, especially where results were or appeared to be close. As a result, the

process stalled in some BCCs and CEAZs that had problems controlling the process. In a number of BCCs, ballot boxes were not counted, or the results were not included in the Aggregate Table of Results (ATR) for the Electoral Administration Zone. The CEC frequently did not intervene resolutely enough when problems were noted or reported in BCCs.

Despite some similarities with previous elections, there was noticeable progress in the administration of the process by the CEC, mostly in the orderly fashion of receipt of election materials at the BCCs, the electronic transmission of results from BCCs to the CEC and the announcement of preliminary results. There was no evidence of irregular counting or manipulation of results, and no major irregularities at the BCCs, apart from the blockage of the count in some BCCs.

The CEC tabulated results for all 12 electoral zones, based on the results tables submitted by CEAZs, and approved all of them with the simple majority of four votes from the members representing the governing parties. The results compiled by the CEC did not include results from 33 voting centers; five of these never opened on election day, while 28 had not been counted or their results had not been included in the respective CEAZ results table. The results from these 28 voting centers were included following the post-election appeals process at the CEC.

The number of post-election appeals submitted to the CEC (34 appeals) was greatly reduced compared to previous elections. This may be partly due to the reduction of electoral zones from 100 to 12. During the post-election appeals process, political divisions within the CEC were even more apparent than in the pre-election period. However, changes to results tables for electoral zones made following the appeals process were passed with the votes of all CEC members present. The decisions on the seat allocation for the 12 constituencies and the declaration of the final results were also passed unanimously.

Five CEC decisions on post-election appeals were challenged at the Electoral College. In total, 12 appeals against these decisions were filed, of which the Electoral College granted one. The hearings at the Electoral College were conducted in a professional manner, and decision-making appeared rather expedited.

## **II. INTRODUCTION AND ACKNOWLEDGMENTS**

Following an invitation from the Ministry of Foreign Affairs of the Republic of Albania to observe the 28 June 2009 parliamentary elections, the OSCE/ODIHR deployed an EOM to the Republic of Albania on 8 May 2009. The OSCE/ODIHR EOM was headed by Ambassador Audrey Glover and consisted of 40 experts and long-term observers (LTOs) from 20 OSCE participating States, who were based in Tirana and 11 regional centers. OSCE participating States seconded some 300 short-term observers (STOs) for election-day observation.

For election-day observation, the OSCE/ODIHR EOM joined efforts with observer delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the NATO Parliamentary Assembly (NATO PA) to form an International Election Observation Mission (IEOM). Mr. Wolfgang Grossruck headed the OSCE PA delegation and was appointed by the OSCE Chairperson-in-Office as Special Coordinator to lead the OSCE short-term observer mission. Ms. Corien Jonker headed the PACE delegation, and Mr. Bruce George led the NATO PA delegation. On election day, the IEOM deployed some 395 observers from 38 OSCE participating States, who observed the opening of 121 voting centers, voting in around 1,400 of the 4,753 voting centers in Albania, and the closing of 112 voting centers. The IEOM also observed the vote count in all 66 Ballot Counting Centers (BCCs).

The OSCE/ODIHR EOM is grateful to the Ministry of Foreign Affairs, the Central Election Commission, other authorities, political parties and civil society of the Republic of Albania for their co-operation. It also wishes to express its appreciation to the OSCE Presence in Albania and to the diplomatic missions of OSCE participating States and international organizations resident in Albania for their support.

### III. POLITICAL CONTEXT

Albania is a parliamentary republic, with legislative powers vested in the Parliament, and executive powers exercised by the Government, led by the Prime Minister. The 28 June elections were the first to be conducted under a regional proportional electoral system, introduced as a result of reforms adopted in a consensual environment between the two main political parties, the Democratic Party (DP) and the Socialist Party (SP). The previous election system provided for 100 members of the parliament to be elected in single member constituencies and 40 supplemental seats to be allocated from nationwide multi-name lists, with a view to approximate proportionality. The particular implementation of this system, referred to as “Dushk” allowed large parties to maximize their gains by shifting proportional votes to smaller allies, without having to forfeit seats won in single members constituencies.<sup>2</sup>

The last parliamentary elections of 2005 were won by a coalition led by the DP. These as well as the local elections of February 2007 were assessed as having “only partly met OSCE commitments and Council of Europe standards.”

Many smaller parties expressed dissatisfaction with the new electoral system, which they felt favoured the two largest parties. In particular, they objected that, under the new system, the two largest parties dominated the election administration. They also objected that under the regional proportional system, with some electoral zones (constituency) returning a small number of seats, the threshold would be impossibly high for smaller parties to have representatives elected.

### IV. THE LEGAL FRAMEWORK AND ELECTION SYSTEM

The 2009 parliamentary elections were conducted under a legal framework that comprises provisions of the Constitution of Albania (last amended in April 2008) and a new Electoral Code adopted in December 2008.<sup>3</sup> The constitutional amendments and the new Code resulted from electoral reforms launched after the 2007 local elections and addressed several recommendations previously offered by the OSCE/ODIHR. They brought about substantial improvements, in particular changing the electoral system and voter registration, but also related to the vote count and the complaints and appeals process.<sup>4</sup> Overall, the legislation provides a thorough technical foundation for the conduct of democratic elections. However, these elections demonstrated once again that such conduct depends upon the political parties’ commitment to respect and uphold the letter and the purpose of the law, which was at times missing.

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<sup>2</sup> See OSCE/ODIHR Final Report on the 2005 parliamentary elections in the Republic of Albania, available at: [www.osce.org/odihr-elections/14208.html](http://www.osce.org/odihr-elections/14208.html).

<sup>3</sup> Other legislation applicable to the conduct of elections includes, *inter alia*, the Law on Political Parties, the Law on Demonstrations, the Law on State Police, the Criminal Code, as well as Decisions and Instructions of the Central Election Commission (CEC) and of the Council of Ministers.

<sup>4</sup> The Venice Commission of the Council of Europe and the OSCE/ODIHR have provided a Joint Opinion on the Electoral Code, available at: [www.osce.org/documents/odihr/2009/03/36881\\_en.pdf](http://www.osce.org/documents/odihr/2009/03/36881_en.pdf).

Notwithstanding those positive aspects, the Electoral Code still contains unclear and vague provisions. To bring the Code fully in line with international standards and OSCE commitments, a number of provisions should be reconsidered, in particular: Article 67.3, which allows chairpersons of political parties to run in as many constituencies as they choose. This may challenge the principles of equality<sup>5</sup> and non-discrimination. Article 146.3 which gives the two largest parties of the parliamentary majority and of the opposition the right to each remove one of the judges selected by lottery for the adjudication of election appeals questions the compatibility with the principle of the independence of the judiciary.<sup>6</sup>

Provisions regulating the receipt of election material and the counting procedures at BCCs have been improved, aiming to minimize opportunities for disrupting or blocking the counting process. Despite very detailed provisions, the Electoral Code does not clearly specify how CEAZs should deal with irregularities that are discovered after the opening of a ballot box and that may indicate violations of the law. In several instances, this gap led to arbitrary and *contra legem* interpretations during the vote count.

The Code limits the possibility to repeat elections in a constituency after the invalidation of elections in one or more voting centers. The CEC can order repeat elections if the invalidity of elections in one or more voting centers impacts on the allocation of seats in the constituency.<sup>7</sup>

## THE ELECTION SYSTEM

The Parliament of Albania is a unicameral body composed of 140 members, elected for a four-year term. The constitutional amendments repealed the previous controversial election system and introduced a system of regional proportional representation. The members of Parliament are now elected with closed candidate lists in 12 constituencies that correspond to the administrative regions of Albania. The constituencies are of different sizes, with the number of mandates ranging from four in Kukës to 32 in Tirana, based on the number of citizens registered in each constituency. The Electoral Code establishes a constituency-level threshold of three per cent of the votes cast for political parties and five per cent for coalitions to be eligible to participate in the allocation of mandates in a constituency. Individual candidates must pass the natural threshold (i.e. the number of valid votes divided by the number of mandates) in a constituency to receive a mandate.

## V. THE ELECTION ADMINISTRATION

### A. ELECTION-ADMINISTRATION BODIES

The 28 June parliamentary elections were administered by a three-tiered election administration, consisting of the Central Election Commission (CEC), 66 Commissions of Electoral Administration Zones (CEAZs), and 4,753 Voting Center Commissions (VCCs). The vote count

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<sup>5</sup> Article 26 of the International Covenant of Civil and Political Rights; Article 7 of the Universal Declaration of Human Rights; Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms; Paragraph 7.6 of the OSCE Copenhagen Document.

<sup>6</sup> UN Basic Principles on the Independence of the Judiciary; Paragraph 5.12 of the Copenhagen Document; Paragraphs 19.1 and 19.2 of the OSCE Moscow Document. See also Joint Opinion on the Electoral Code (*supra* note 4), para 84.

<sup>7</sup> According to Article 161.2 of the Electoral Code, such an impact exists if the number of voters who have or could have voted in the voting centers where voting was declared invalid is equal to or greater than the number of voters required for the allocation of one seat in the respective constituency (as opposed to the number being high enough to shift a mandate from one contestant to the other).



was conducted in 66 BCCs, one for each Electoral Administration Zone (EAZ). Each BCC had between five and ten Counting Teams (CT) working under the authority of the respective CEAZ.

The CEC is a permanent body whose seven members are elected by Parliament for a four-year term and can be re-elected. The chairperson and two members were nominated by the DP, the largest party of the parliamentary majority, and one member by the Republican Party (RP), also part of the parliamentary majority. The deputy chairperson and one member were nominated by the SP, the main opposition party, and one member by the Social Democratic Party (SDP), also opposition. In addition, parliamentary political parties as well as parties who are running for elections are entitled to nominate representatives to the CEC. These representatives may take part in discussions and put forward proposals but do not have the right to vote.

During an election period, the CEC is required to meet daily in public sessions. Decisions are taken by majority vote, i.e. four out of seven. However, a qualified majority of five votes is needed to take decisions related to: allocation of mandates in each electoral zone; acceptance of complaints against the Aggregated Table of Results for an electoral zone; invalidation of elections in one or several voting centers; invalidation and repetition of elections in an entire electoral zone or the whole country; adoption of instructions; approval of the CEC organizational structure and its rule of procedures; proposals for dismissal of CEC members; the determination of the number of mandates for each electoral zone; and delineation of EAZs.

CEAZs are appointed by the CEC and consist of seven members, including a chairperson and deputy chairperson, and are supported by a secretary. The nomination formula for CEAZ members mirrors that of the CEC. In one half of CEAZs, the chairperson was nominated by the DP, and in the other half, by the SP. The deputy chairperson and the secretary belong to the main political party which does not hold the chair of the CEAZ.

Voting centers are administered by VCCs, which are appointed by CEAZs according to the same formula as for CEAZs. Each electoral subject (political party, coalition, or candidate proposed by a group of voters) has the right to appoint observers to CEAZs, VCCs and for each counting table in a BCC. If parties form a coalition, the right to appoint observers lies with the coalition rather than the parties. Candidates are allowed to be present during the vote count.

## **B. ASSESSMENT OF THE ORGANIZATION OF ELECTIONS**

Despite severe time constraints, the Central Election Commission prepared and administered the elections professionally. The staff of the various CEC departments performed their duties in an overall impartial and professional manner. The CEC also appointed 12 Regional Inspectors and 12 Assistant Inspectors, to allow for better coordination between the CEC and the CEAZs. In efforts to increase transparency, the CEC regularly updated its website, arranged live transmission of CEC sessions on the Internet, introduced new software for transmitting the results of the vote count from BCCs to the CEC and for announcing preliminary results, and arranged video monitoring and recording of the vote count at the BCC.

As in previous elections, problems were noted during the appointment of lower-level election commission members. While CEAZs were established within the legal deadlines, many parties submitted nominations late in the process. The SP initially did not meet the legal requirement that at least 30 per cent of its nominees nationwide be from each gender.

The extensive use of the unrestricted right of political parties to replace members of mid-level and lower-level election commissions at will and without any legal cause (Articles 32.2 and 39.2 of the Electoral Code) significantly affected the independence, professionalism and efficiency of

the election administration and had a negative impact on the integrity of the electoral process. The compatibility of these provisions with good electoral practice is questionable.<sup>8</sup> Parties extensively used their right to replace CEAZ members, resulting in the replacement of many CEAZ members, including chairpersons, deputy chairpersons and secretaries, during the weeks before election day and, in some cases, even on election day and thereafter. These replacements impacted negatively on the work of many CEAZs since not all members could be trained.

The appointment of VCCs was concluded extremely late, sometimes only on the eve of election day. Despite the legal requirement that VCC appointments be concluded no later than 20 days prior to election day, political parties failed to provide names until very late, arguing that their nominees could be bribed or pressured by competing parties. Some of the deficiencies and problems reported by IEOM observers on election day can be attributed to lack of training due to late appointment of VCC members. In some voting centers, the opening of the vote was delayed because of last-minute replacements of VCC members.

The establishment of voting center locations was to a degree hampered by the division of responsibilities between mayors of Local Government Units (LGUs), the CEC and the General Directorate of Civil Status (GDSCS) of the Ministry of Interior (MoI). Only 61 of the 384 mayors fulfilled their obligations and provided the CEC with precinct maps, locations of voting centers and a breakdown of the voter lists by voting centers. The locations of some voting centers were established after the legal deadline and were debated at length at the CEC. Opposition-nominated CEC members and representatives of opposition parties argued that voting centers should not be located in privately owned premises and claimed that the owners of these premises were often DP supporters, which could have an intimidating effect on voters supporting the opposition. The majority of CEC members maintained that where private premises were selected, no adequate public premises were available, and that, according to the Electoral Code, the location of voting centers should remain unchanged from one election to the next wherever possible.

The CEC's authority over and control of CEAZs was limited. This became evident on election day and in particular during the vote count. Arguing that overseeing the voting process and conducting the vote count was a responsibility of the CEAZs, the CEC did not use its full authority to address problems which arose during the vote count, although it did send inspectors to BCCs where the count was particularly problematic. More legal guidance, as well as more specific and thorough CEC instructions could have prevented many of the problems which occurred during the vote count, such as the CEAZs' inconsistent approach regarding validity of ballots, or blockage of the counting process on procedural grounds in several BCCs.

In general, CEC meetings were transparent and conducted professionally; the chairperson made efforts to keep the balance between the CEC members and always consulted the representatives of political parties. However, the CEC was frequently divided along political majority-minority lines, especially on more contentious issues. CEC meetings were at times characterized by unnecessarily long and repetitive interpretations of the law and personal and political statements, put forward by CEC members and party representatives alike. This politicization affected the CEC's work, in particular its task to administer the elections in a neutral and efficient manner.

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<sup>8</sup> OSCE/ODIHR Existing Commitments for Democratic Elections in OSCE participating States, Part 2, Paragraph 4.2, states: "Appointments to election administrative positions at all levels should be made in a transparent manner, and appointees should not be removed from their positions prior to their term, except for legal cause." The Venice Commission's Code of Good Practice in Electoral Matters, 3.1 paragraph 77 states that: "...bodies that appoint members to election commissions should not be free to recall them, as it casts doubts on their independence. Discretionary recall is unacceptable, but recall for disciplinary reasons is permissible – provided that the grounds are clearly and restrictively specified in law."

## VI. VOTER REGISTRATION AND IDENTIFICATION

In 2008 and the months preceding the elections, the Government undertook two important administrative reforms; both were implemented by the Ministry of Interior (MoI). The first was the completion of the National Civil Status Register (NCSR) database maintained by the General Directorate of Civil Status and the assignment of a national personal ID number to every citizen by the end of 2008. The second reform aimed at providing every citizen with a new personal identity document, a high-level security ID card containing biometric data. Both reforms had an important impact on the elections and addressed previous OSCE/ODIHR recommendations. They also corresponded to measures the Government committed to fulfil, under the road map agreement with the European Commission on visa liberalization signed in June 2008.

### A. VOTER REGISTRATION

For the first time in Albanian elections, voter lists were extracted from the central, computerized NCSR database. Previously, voter lists were extracted from records maintained in hardcopy by local Civil Status Offices (CSOs) prior to each new election. The old system did not allow for nationwide crosschecks for errors, omissions and duplicates, and was a major obstacle to improving the overall quality of the civil register and the voter lists.

Preliminary Voter Lists (PVLs) were publicly displayed at voting centers and available on the MoI and CEC websites for individual checks. After a revision period of two months, during which citizens' requests for corrections should have been reflected in the database, the Final Voter Lists (FVLs) were extracted from the centralized database by the CSOs on 29 May 2009 and sent to the CEAZs. The CEC and electoral subjects received an electronic copy of the entire voter list and paper copies of the lists for each LGU, thus allowing parties to check the lists. Apart from delays caused by CEAZs becoming operational late and by logistical difficulties (in particular in Dibër and Berat regions), voter lists were updated and extracted in line with the provisions and deadlines set by the Electoral Code.

The FVLs contained 3,084,067 names, 88,690 less than the PVLs. Including the names added to the voter lists by a court decision, a total of 3,084,946 citizens were eligible to vote. The SP contested around 8,600 entries, mainly multiple registrations, records of people over 110 years of age, and records of people who had lost Albanian citizenship. The NSCR said legal requirements and software restrictions did not allow cleaning the FVLs after their announcement.<sup>9</sup>

As a rule, eligible voters are included in the voter list of the voting center serving their place of residence. The Electoral Code provides for certain categories of voters who can be included in voter lists of special voting centers, including prisons, pre-trial detention centers, hospitals, and military units. Voters added to such lists are removed from the voter list at their place of residence. In several cases, the prison administration compiled incomplete voter lists (prisons in Lezhë and Durrës), while heads of other institutions (the prison hospital in Tirana, a military unit in Poshnjë, Berat region) did not submit voter lists, disenfranchising several hundred voters.<sup>10</sup>

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<sup>9</sup> The Law on Civil Status, dated 10 October 2002, allows deletions of names from the CSO records only if a court confirms events of death not reported by relatives. A recent amendment (Law No. 10129, dated 11 May 2009, "On Civil Status", in force since 1 June 2009) establishes a simpler, reliable and enforceable procedure for deletion of names of citizens older than 100 years, with monthly reporting periods for CSOs.

<sup>10</sup> Because of the late submission of voter lists by the heads of the prisons in Fushë-Krujë and Shënkoll, the CEC on 24 June took the extraordinary decision to order the printing of additional 698 ballots. Under Article 97.4 of the Electoral Code, the number of ballots printed for each voting center equals the number of registered voters plus a two per cent reserve.

On election day, IEOM observers reported that some voters were turned away because their name was not on the voter list in 26 per cent of voting centers visited. In the 2005 parliamentary elections, IEOM observers reported such cases from 51 per cent of voting centers visited.

## **B. VOTER IDENTIFICATION**

In previous elections, voters without a valid passport used so-called birth certificates with a picture as a means of identification. The lack of secure identity documents routinely led to allegations and accusations of misuse and politically motivated manipulation. Therefore, providing each eligible voter with a secure identity document was seen as one of the key steps in improving the election process and was one of the priorities of the Government.

In order to vote, a voter needed to present a valid passport or a new ID card. Of the approximately 3.1 million registered voters, some 730,000 did not possess a passport. The effort to provide citizens with new ID cards started later than planned; on 12 January, the first application center opened in Tirana. The expansion of the distribution process to all regions was further delayed beyond the initial schedule. This delay created the risk that not all citizens without a passport would be able to apply for and receive a new ID card in time and would therefore not be able to vote. The process of issuing new ID cards quickly turned into a very contentious issue in these elections and was reflected in the election campaign of several parties.

Given the various constraints, the campaign to provide citizens with new ID cards was overall successful and laid the groundwork for a solid system of voter identification. The Government supported the ID card distribution process through a public information campaign, by extension of working hours of application centers and introducing a credit scheme to support voters in paying the application fee. In total, 1,402,361 citizens applied for a new ID card by 18 June, the last day applications could be submitted in order to receive an ID card before election day. Of those, 472,236 did not possess a passport. The number of ID cards collected by applicants by election day was 1,321,376.

The short timeframe and the involvement of 354 LGU administrations, as well as the very limited time available to train administrative personnel, resulted in management and capacity deficits. The entire operation was based on technology that was sensitive to infrastructural shortcomings which became apparent in more peripheral regions of the country.

The administration of the process was criticized by the opposition, in particular the following issues: the application fee of 1,200 ALL (around 9 EUR), which they considered too high; the scheme of subsidized prices provided to various social groups and of credit arrangements, which they claimed were selectively applied; the operational plan of the contractor, whereby application centers in smaller LGUs opened only after 15 May, creating obstacles for people living in remote locations; frequent power cuts, Internet outages, equipment failures and changing working hours, which the opposition alleged were orchestrated; and the travel cost entitlement to applicants travelling in order to apply, which the opposition claimed was used as leverage to target certain groups of voters.

OSCE/ODIHR EOM long-term observers received numerous allegations of undue involvement of DP activists in the process. They investigated most of the cases brought to their attention and verified cases in the Vlorë and Korçë regions.

Politically, the most significant controversy over the ID card distribution stemmed from the failure of the MoI to deliver reliable figures on the progress of the application process of citizens without a passport. The MoI provided figures several times before election day but inaccuracies

in the data provided resulted in the opposition accusing the Government of deliberate manipulation and in the SP pressing criminal charges against senior MoI officials.<sup>11</sup> This issue was further complicated since, according to an MoI estimate, of the 729,020 citizens without passports, between 160,000 and 260,000 were out of the country without valid ID documents.

By election day, only 3,321 of the 1,402,361 applications submitted were not processed; 77,751 new ID cards remained uncollected. Furthermore, 256,792 citizens, who were registered in the database of those without a valid passport, did not apply for a new ID card. There is a significant discrepancy between male and female citizens of certain age among this group, especially among those aged between 21 and 50. It is likely that many women who married and changed their last name remained in the local registers under their maiden name, as duplicates. It is also likely that the file still contained mistakes caused by the imperfect adaptation of the software used to the Albanian language.<sup>12</sup>

Over 2,000 voters with disabilities who do not possess a valid passport could not apply for a new ID card, according to the estimate of the biggest Albanian NGO lobbying for the rights of the disabled due to difficult or impossible access to application centers.<sup>13</sup> Homebound voters also were not able to apply as there were no mobile application workstations. The OSCE/ODIHR EOM was informed that over 1,000 families were disenfranchised due to the continued practice of traditional blood feud as they could not leave their places of shelter to apply for ID cards and/or vote.

## VII. CANDIDATE REGISTRATION

Political parties wishing to contest these elections had to register as electoral subjects with the CEC. Two or more electoral subjects could then register an electoral coalition. A party registered as an electoral subject had to submit its constituency candidate list no later than 40 days before election day. Candidate lists of non-parliamentary parties running individually, or of coalitions which had less seats in the outgoing Parliament than the number of parties in the coalition, had to provide supporting signatures of 10,000 or 15,000 registered voters, respectively, collected nationwide. The Code also allows individuals to be nominated as candidates upon the proposal of a group of voters, with the signature support of at least one per cent of voters registered in the respective constituency. Voters had to deposit their supporting signatures before the CEC or a notary. A voter could support only one party or candidate.

Forty-five parties registered as electoral subjects with the CEC. A total of 36 parties submitted candidate lists to the CEC. Of these, 33 were part of a coalition.<sup>14</sup> In addition to political parties, three initiative committees for candidates supported by a group of voters were registered by the CEC. Two of them submitted the required candidacy documents and supporting signatures. In an inclusive process, the CEC initially approved the candidate lists of 35 parties and the candidacy of one candidate nominated by a group of voters.

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<sup>11</sup> Databases were delivered on 2, 26 and 28 May and on 23 June. The NCSR Director confirmed that the second and the third set of data were deficient.

<sup>12</sup> The software used did initially not allow for the use of the complete Albanian alphabet. Two letters used in the Albanian variant of the Latin alphabet, ë and ç, were replaced with e and c, creating varieties of erroneous and/or duplicate entries.

<sup>13</sup> The figure was shared with the OSCE/ODIHR EOM by Mrs. Mybere Prizreni, President of the Association of the Paraplegics and Tetraplegics of Albania.

<sup>14</sup> One party within the DP-led coalition did not submit candidate lists.

Most parties had submitted candidate lists that had to be returned for corrections, especially due to incomplete or incorrect documentation<sup>15</sup> or failure to meet the legal gender requirements. The CEC decided on the corrected lists by 29 May. The SP was the only party that submitted its candidate lists after the deadline of midnight on 19 May.<sup>16</sup> It claimed that nobody was at the CEC to receive its lists, a claim which the CEC refuted. The CEC voted unanimously to accept the SP candidate lists.

The Reorganized Party of Labour of Albania (RPLA) forged the signature of a public notary, claiming that its 10,000 supporting signatures were deposited in front of this notary. After the SP representative produced a signed statement from the notary in question denying that she had witnessed the signature collection, the CEC decided to take the RPLA off the ballot.

The Alliance for Change registered as a coalition made up of 17 parties, including the DP of Prime Minister Sali Berisha. Other parties in the coalition which were represented in the outgoing Parliament included the Republican Party, the Environmental Agrarian Party, the Democratic Alliance Party, and the Liberal Democratic Union. It also included the Party for Justice and Integration. The Union for Change coalition was made up of five parties, including the SP, as well as the Social Democratic Party and the Social Democracy Party, which also have seats in the outgoing Parliament. The Human Rights Union Party participated in the previous DP-led Government, but joined the SP-led coalition just before the deadline for the registration of coalitions. The Union for Change coalition also included a new party, G99, which was created by prominent civil-society figures.

The Socialist Alliance for Integration is a six-party coalition led by the Socialist Movement for Integration (SMI). It also included the Real Socialist Party '91, a party formed at the beginning of 2009 following a split within the SP. The six-party Freedom Pole, a centre-right coalition, was formed in April 2009. It included the Movement for National Development and the Demo-Christian Party, which was part of the DP-led bloc in the 2005 elections.

## VIII. THE ELECTION CAMPAIGN

The elections took place in a highly polarized political environment. Many opposition parties expressed deep mistrust in the State authorities and the election administration. The campaign was partly overshadowed by controversy over the distribution of the newly introduced ID cards. Particularly, the SP focused on the ID card distribution process and claimed that the election would be delegitimized if a significant number of voters remained without ID cards, and therefore unable to vote. It also accused the Government of providing false data on ID card distribution.

The official campaign period began on 28 May. The campaign environment was mostly calm, despite some violent incidents, especially in Korçë region.<sup>17</sup> All parties were able to campaign freely throughout the country, with the DP and the SP campaigning most extensively. Prominent political leaders, in particular, travelled extensively and held rallies around the country. Local campaign offices were established in many regions, although campaigning was limited in some areas. Although all but one party ran as part of a coalition, they mostly campaigned individually, rather than jointly with the coalition; only the Freedom Pole campaigned as a coalition.

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<sup>15</sup> In most such cases, candidates had submitted copies of expired passports as identity documents.

<sup>16</sup> At 08:00 hours on 20 May, according to the CEC Protocol register book.

<sup>17</sup> Other violent incidents were reported to OSCE/ODIHR observers in Tirana, Dibër and Lezhë regions.

The DP emphasized its achievements in Government, as well as its aims for a future term in office, focusing on areas such as NATO and EU integration, infrastructure development, the fight against corruption, education and tax reform. The SP stressed the achievements of its leader, Edi Rama, as Mayor of Tirana, and promised to extend that success to the rest of Albania. The campaign was occasionally marred by overly harsh language against opponents, but also at times against prominent figures of parties within the same coalition. The DP and the SP levelled corruption allegations against each other's leaders.

The OSCE/ODIHR EOM received numerous allegations, from most regions, of pressure on public-sector workers, including threats of job loss, to attend DP campaign events or to desist from opposition activities. Such actions contravene paragraph 7.7 of the OSCE Copenhagen Document.<sup>18</sup> The OSCE/ODIHR EOM followed up on these allegations, and corroborated many of them. For example:

- Municipal workers were required by their superiors to attend DP rallies in Peqin (Elbasan region) and Shkodër.
- At a school in Tirana region, the headmaster threatened teachers with dismissal unless they voted for the DP. He told them to photograph their ballot papers as proof of how they voted.
- In Fier region, a public-sector worker who attended an event with a senior SP official was threatened with dismissal.
- A public-sector worker in Kavaja (Tirana region) was warned his job could be at risk if he was too openly involved with the Human Rights Union Party.

Pressure on university students was also reported to the OSCE/ODIHR EOM:

- In Korçë, students were obliged to attend a DP rally, and were warned that they would not pass their exams if they did not attend.
- In Elbasan region, an SMI youth activist was told by a senior official not to work for the SMI and warned that his relatives could fail at school and his father could be dismissed.

The Government repeatedly used official events for campaign purposes, blurring the distinction between state activities and campaigning, in contravention of paragraph 5.4 of the OSCE Copenhagen Document.<sup>19</sup> Inaugurations of infrastructure projects by the Prime Minister and other senior DP officials occurred with great frequency during the pre-election period, including shortly before election day. They were attended by large crowds waving DP flags, with speeches that were clearly of a campaign character. For example:

- The Prime Minister inaugurated a hydro-electric plant at Bushat (Shkodër region) on 23 May, at which municipal workers and teachers were required to be present, and a second such plant in Elbasan region on 8 June.
- The Prime Minister inaugurated a section of the Durrës–Kukës road on 25 June, in the presence of the Prime Ministers of Turkey and Kosovo. At this event, the podium used for the speakers bore the DP campaign slogan.

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<sup>18</sup> Paragraph 7.7 states that OSCE participating States will “ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution”.

<sup>19</sup> Paragraph 5.4 of the OSCE 1990 Copenhagen Document stipulates “a clear separation between the State and political parties.”

It was alleged that several inaugurations were fabricated. For example, a renovated maternity hospital in Durrës opened by the Prime Minister was found shortly afterwards by OSCE/ODIHR observers to be non-functioning. The Mayor of Tirana also used official events to campaign for the SP, but far less frequently. Notably, an event on World Music Day organized by the City of Tirana prominently featured the number “33” on the stage, the SP’s number on the ballot.

The OSCE/ODIHR EOM received several allegations of schools being closed so that pupils could attend inaugurations or DP campaign events. Some were verified, including during the hydro-electric plant inauguration in Elbasan region on 8 June and a DP rally in Korçë on 5 June.

Allegations were made that the DP misused administrative resources, such as official vehicles and buildings, as well as public-sector workers, for campaign purposes, in violation of the Electoral Code (especially Articles 3.7 and 88). In Shijak (Durrës region), Elbasan and Korçë, the OSCE/ODIHR EOM witnessed trucks belonging to the company OSSH, the privately owned distribution arm of the publicly owned electricity provider, KESH, putting up DP flags or posters and, in one instance, removing SP ones. In Elbasan, invitations to a DP rally were, on the instruction of the director of the post office, delivered together with the mail.

Provisions on the placing of campaign posters and banners were inconsistently applied, leading to controversy in several regions. According to the Electoral Code and CEC Instruction No. 14, local authorities were supposed to allocate public spaces for political posters and to inform electoral subjects accordingly. In many cases, parties were not informed about allocated spaces. In several instances, this led to the removal of posters and violent confrontations. In Tirana, there were differences over whether the borough or the city mayor should approve the placing of campaign materials. In the most severe incident, a dispute over the placement of posters resulted in the fatal shooting of a DP activist by an SP activist in Qerret, near Durrës, on 12 June. Both parties made statements calling for calm and downplaying the political aspect of the incident.

Campaign stands and tents also caused controversy. A G99 tent in Kamëz (Tirana region) was damaged by police on 21 May, and, on 4 June, the Mayor of Borough 6 in Tirana removed an SP tent. The Mayor of Shkodër adopted a restrictive approach, based on the Law on Urbanization, which did not appear to be applicable in this case. A G99 stand was removed by municipal police, and the party was fined. G99 stands were reportedly also removed in two other locations in the region.

## **CAMPAIGN FINANCING**

Electoral subjects are allocated public funds for campaigning. Fifty percent of funds are allocated to all electoral subjects which hold seats in the outgoing Parliament, in proportion to the number of their seats in Parliament. A further 50 per cent are allocated among parties that obtained no less than two seats in the last parliamentary elections, in proportion with the number of votes they obtained nationwide. Parties allocated funds under the second distribution that do not obtain any seats in the new Parliament are required to pay back this allocation to the CEC, which is then re-allocated among those parties that have won seats.

The Electoral Code now tasks the CEC (Articles 89–92) with the oversight of rules for campaign financing through public and non-public funds. Electoral subjects are required to register funds received, including establishing special bank accounts for donations greater than ALL 100,000 (around EUR 770). Not later than 45 days after the announcement of the final election results, the CEC appoints accounting experts to carry out audits of funds obtained and spent for the campaign. While these provisions are a welcome improvement, the transparency of the process would be enhanced if there were provisions for declarations of income and expenditure during



the campaign itself. While Article 91 of the Code stipulates that the CEC can itself carry out verifications of the financial reports of electoral subjects, it does not include criteria for performing such checks. The CEC is responsible for paying the appointed auditors but has limited funds at its disposal for this purpose.

## IX. THE MEDIA

### A. GENERAL MEDIA ENVIRONMENT

The National Council of Radio and Television (NCRT) has currently awarded broadcast licenses to three commercial TV stations with national coverage, 69 local TV stations and 50 cable TV stations.<sup>20</sup> Due to the lack of systematic and reliable audience research, the real market share of individual broadcasters is not known. Twenty-one daily newspapers compete for a total readership believed to be less than 60,000.<sup>21</sup> Due to the large number of media competing in a limited advertising market (estimated at 21 million EUR per year)<sup>22</sup> media outlets do not receive sufficient income from sustainable financial sources and depend largely on subsidies from businesses. The ownership of the most important broadcasters and daily newspapers is generally known, but their sources of financing remain non-transparent. The structure of the advertising market is such that a few advertisers, such as public authorities<sup>23</sup> or big companies<sup>24</sup>, can influence editorial policies. The most important broadcast and print media are considered to be aligned with either one of the two main political parties.

Editorial quality is hampered by interference from politicians, economic lobbies, and media owners with political or economic interests. Journalists and media, due to their political alignment, minimize to the point of self-censorship various aspects of the news or highlight what is in harmony with their political or business allegiances.<sup>25</sup> Criminal sanctions for defamation and libel also contribute to self-censorship of journalists.<sup>26</sup> The absence of a culture of self-regulation and the unprotected employment situation of most journalists<sup>27</sup> also harm editorial standards and ethics in journalism.

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<sup>20</sup> See NCRT: [www.kkrt.gov.al](http://www.kkrt.gov.al).

<sup>21</sup> According to Article 19, an international NGO dealing with media issues, see: [www.article19.org/pdfs/publications/self-regulation-south-east-europe.pdf](http://www.article19.org/pdfs/publications/self-regulation-south-east-europe.pdf).

<sup>22</sup> According to International Research Exchange Board (IREX) working on strengthening independent media, see: [www.irex.org/programs/MSI\\_EUR/2009/albania.asp](http://www.irex.org/programs/MSI_EUR/2009/albania.asp).

<sup>23</sup> Government advertising and notifications constitute a considerable source of media income. Governments have continuously been accused of publishing more notifications in media that are closer to them and favor them in their coverage. The OSCE/ODIHR EOM's media monitoring of the two weeks before the start of the official campaign period showed that civic information spots launched by Government ministries and agencies, which could be interpreted as campaigning in favor of the DP, were broadcast more in public television (30 per cent) and TV Klan (48 per cent), which are close to the DP, less in Top Channel (22 per cent), and not at all in the two monitored TV stations that appeared to be more critical of the Government.

<sup>24</sup> For example, mobile phone companies, which for several years blocked the publication of criticism on the high monopoly prices they charge (see [www.irex.org/programs/MSI\\_EUR/2009/albania.asp](http://www.irex.org/programs/MSI_EUR/2009/albania.asp)).

<sup>25</sup> This became evident *inter alia* in the coverage of the OSCE/ODIHR EOM's reports by the monitored media. Figures were taken out of context, criticism was ignored and individual findings were used in misleading headlines.

<sup>26</sup> The Criminal Code includes five provisions that can be characterized as criminal defamation laws: simple insult, simple libel, insult of public officials related to their public function, libel of public officials related to their public function, and libel of the President of the Republic. Since the Criminal Code does not define 'insult', the courts have been free to make their own interpretation. Legal amendments aiming at decriminalizing defamation and libel are pending in Parliament.

<sup>27</sup> According to the Union of Albanian Journalists, in 2005, about 95 per cent of journalists in Albania worked without contracts or social security.

Special responsibility to ensure pluralism rests with public service broadcasting. Publicly funded broadcasters should provide a complete and impartial picture of the entire political spectrum in their coverage of elections, since they are obliged to offer a diverse, pluralistic and wide range of views.<sup>28</sup> The reform of the public-service broadcaster, Albanian Radio-Television (RTSH), which still has the biggest territorial coverage of the country, has stalled. With only nine per cent of its budget coming from subscription fees, RTSH remains financially dependent on State funding. Political interference is especially visible after changes of Government. After the 2005 elections, the winning coalition led by the DP changed the Steering Council, management and some of Albanian Television's (TVSH) staff. More than 80 TVSH employees lost their jobs.

## **B. MEDIA-RELATED CAMPAIGN REGULATIONS**

The Electoral Code includes detailed regulations for campaign coverage in news and current affairs programs of public and private broadcasters. It provides for free airtime for political parties on public TV and radio, and it limits the amount of paid airtime electoral subjects can buy on private broadcasters. Provisions apply only during the official campaign period, which starts 30 days and ends 24 hours before election day. The Media Monitoring Board (MMB), established by the CEC, is the main body supervising the broadcast media during the campaign; each CEC member appoints one MMB member. The MMB relies on the technical capacities of the NCRT to carry out its tasks. The NCRT's monitoring unit provides only quantitative data about the amount of time devoted to political subjects, but not about the quality, i.e. the tone of the coverage. This methodological shortcoming does not allow for establishing whether broadcasters comply with their legal obligation to provide "pluralism of information" as stipulated by Article 80.2 and implied in Article 84 of the Electoral Code. Media monitors were appointed late and did not receive proper training. OSCE/ODIHR EOM long-term observers reported that local monitors<sup>29</sup> were not capable of fulfilling their tasks due to a lack of technical equipment and insufficient training received.

The Electoral Code provides that airtime allotted to the coverage of Government activities which are related to the election campaign must be included in the time allocated to the party to which the head of the institution that organizes the activity belongs. Due to a lack of definition in the Electoral Code, the assessment which Government activities are campaign-related is up to the MMB members. Events in which the Prime Minister gained advantage by campaigning in his institutional function were disputed within the MMB. The four MMB members appointed by the CEC members nominated by the parliamentary majority assessed them as institutional events, and the other three members as campaign-related. Disparate statements in the MMB reports showed a lack of independence by its members from party interests.

The different assessment as to whether events are institutional or campaign-related had a significant impact on the equality of the amount of airtime devoted to the coverage of the DP and SP campaigns, and as a consequence also on the total amount of airtime that should be devoted to "smaller" parliamentary parties.<sup>30</sup> The MMB in its reports covering the period up to 24 June stated that a significant number of broadcasters failed to provide the "smaller" parties with the amount of airtime they were entitled to, but it refrained from proposing concrete corrective measures to the CEC. The Electoral Code requires private broadcasters to be fined in case of a

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<sup>28</sup> Council of Europe, Committee of Ministers, Recommendation No. R (99) 15 of the Committee of Ministers to Member States, on Measures Concerning Media Coverage of Election Campaigns (adopted by the Committee of Ministers on 9 September 1999 at the 678<sup>th</sup> meeting of the Ministers' Deputies).

<sup>29</sup> For local broadcasters that cannot be covered by the NCRT, local monitors were appointed.

<sup>30</sup> Under the Electoral Code, "large" parliamentary parties holding more than 20 per cent of the seats in Parliament are entitled to twice the amount of airtime of "small" parliamentary parties.

violation of the legal provisions. Instead, measures for compensation through additional airtime were approved for the SMI and SDP, the only parties that submitted such requests. As the CEC also approved significant amounts of compensatory airtime in favor of the DP and the SP on several of the leading channels it was impossible for broadcasters to adjust their coverage so that “smaller” parties would have received the amount of coverage they were entitled to.

### C. OSCE/ODIHR EOM MEDIA MONITORING

From 14 May to 28 June, the OSCE/ODIHR EOM conducted quantitative and qualitative monitoring of the campaign-related coverage in the prime-time broadcasts of five television channels (public TVSH, private Vizion Plus, Top Channel, Klan TV, and the private all-news channel News 24). The OSCE/ODIHR EOM also monitored the coverage provided by four daily newspapers (*Gazeta Shqiptare*, *Shqip*, *Panorama*, and *55*).

OSCE/ODIHR EOM media monitoring results indicate that in the two weeks before the start of the official campaign (14–27 May), the monitored broadcasters in their prime-time news and current affairs programs<sup>31</sup> provided unbalanced and partial coverage of the two main political parties in contradiction to legal provisions.<sup>32</sup> Public TVSH and private TV Klan showed a bias towards the DP and were critical of the opposition, while the other three monitored commercial broadcasters favoured the SP and were critical of the DP. Article 41 of the Law on Public and Private Radio and Televisions stipulates that news and information broadcasts by radio and television operators shall present facts and events in a fair and impartial way, promote the formation of free opinions and not serve the interests of any political party or organization, economic group, and religious association or community. There is no detailed legislation regarding the print media.<sup>33</sup>

There is a wide variety of newspapers in Albania most of which express their preference for one or another political party. A pluralistic landscape of newspapers contributes to informing voters about the elections. The monitored newspapers showed a significant bias during the pre-campaign period with regard to their coverage of the DP and the SP. While all monitored newspapers devoted the majority of space within their news coverage to the DP, the tone of coverage varied. All monitored newspapers except the daily newspaper *55* showed bias in favour of the SP.<sup>34</sup>

OSCE/ODIHR EOM media monitoring for the official campaign period (28 May to 26 June) shows more balance in the quantitative coverage of the two main parties than before the official campaign period. Public TVSH devoted 45 per cent of time in news and current affairs programs to the DP and 25 per cent to the SP. The DP received 37 per cent and the SP 28 per cent coverage on Vizion Plus. TV Klan dedicated 56 per cent of airtime to the DP and 30 per cent to

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<sup>31</sup> The Electoral Code refers to “news and informative programming” (Article 80.2) as well “normal and special news programs” (Article 84.1) and prescribes that broadcasters cover electoral subjects and the electoral campaign in such programs.

<sup>32</sup> Articles 80, 81 and 84 of the Electoral Code.

<sup>33</sup> An Act on Freedom of the Press drafted in 2004 has been rejected by the Parliament.

<sup>34</sup> Forty-five per cent of the DP’s coverage in *Gazeta Shqiptare* was in a negative tone, while the SP’s coverage was mostly positive (43 per cent) or neutral (48 per cent). *Shqip* covered 43 per cent of the news on DP in a negative tone while covering the SP in a positive (48 per cent) or neutral (45 per cent) way. *Panorama* showed a slightly more balanced approach, covering both DP (46 per cent) and SP (48 per cent) in a neutral tone, while covering 21 per cent of the DP’s space in a negative and 40 per cent of the SP’s space in a positive tone. The newspaper *55* showed a clear bias in favor of the DP, with 88 per cent of space devoted to the ruling party in a positive tone. During the same period, 88 per cent of the SP’s news coverage in *55* was in a negative tone. The figures in this section refer to the coverage of political actors as candidates or participants in the campaign and exclude actors’ coverage in their institutional role.

the SP. News 24 and TV Klan devoted fairly equal airtime to the DP and the SP.<sup>35</sup> Despite devoting fairly equal airtime to the two main parties, both News 24 and Top Channel continued to show a bias in favour of the SP, in terms of the tone of the coverage. Vizion Plus displayed a negative approach towards the DP, while the majority of the coverage of both DP and SP on TVSH and TV Klan was in a positive tone. The monitored broadcasters failed to comply with their obligation, set by the Electoral Code, to balance the coverage of the two “large” parties and to support a level playing field in regard to the coverage of the “smaller” parliamentary parties and non-parliamentary parties.

In addition to the bias shown by the monitored broadcasters in both quantitative and qualitative terms, a significant lack of editorial independence was noted. Journalists employed by all monitored broadcasters informed the OSCE/ODIHR EOM that campaign coverage is largely reduced to broadcasting footage and commentary produced and provided by political parties themselves. Such control over editorial policies by political parties, at times disguised as the freedom and right of the program director to choose whom to invite to a broadcaster’s programs, resulted in the absence of voices and opinions which could have been considered critical or inconvenient to a given media outlet’s political allegiance.

## **X. PARTICIPATION OF WOMEN**

Women are generally underrepresented in Albanian politics but the issue of gender balance gained momentum in the run-up to these elections. The Law on Gender Equality in Society, adopted in July 2008, mandates achievement of a minimum 30 per cent standard for representation of each gender in all public-sector institutions at national and local levels. The amended Electoral Code established gender quotas for candidate lists and membership in CEAZs for the first time.

Women are underrepresented in the election administration. Only two of the seven CEC members are women. Albeit late in the process, full compliance with the CEAZ gender quota was eventually achieved by 18 June. The SP did not initially meet the requirement that each gender account for at least 30 per cent of CEAZ members nationwide nominated by the biggest parties of the parliamentary majority and the opposition. Nonetheless, their nominees were accepted by the CEC to meet the legal deadline for establishing CEAZs. In voting centers visited by IEOM observers on election day, women accounted for only 16 per cent of VCC members and for 14 per cent of VCC chairpersons. In 41 per cent of voting centers visited, the VCC was composed only of men.

The Electoral Code requires that each candidate list includes at least 30 per cent of candidates from each gender, or one of the top three candidates must be from each gender. For these elections, 43 per cent met both criteria. Three candidate lists were registered without meeting either criterion, namely the lists of the Social Democracy Party and of the New European Democracy Party in Lezhë, and the list of the Democratic National Front Party in Berat.

The new gender quotas increased women’s representation in Parliament, but weaknesses in the formulation of the legal provisions undermine their objective. Theoretically, candidate lists with 30 per cent women all listed at the bottom in probably unwinnable positions would qualify. Additionally, the law does not provide a ceiling on the number of candidates that can appear on a list relative to the total number of seats in a constituency. In several instances, parties whose lists

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<sup>35</sup> News 24 devoted 38 per cent of the coverage to the DP and 37 per cent to the SP, while Top Channel gave 30 per cent to the DP and 35 per cent to the SP.

did not meet the gender requirements simply added women in positions that exceeded the number of mandates. The CEC decided that such lists satisfied the gender requirement in spite of the fact that none of the women added could possibly be elected.

Ultimately, 23 women were elected to the Parliament, compared to ten in 2005, an increase from 7.1 per cent of members to 16.4 per cent. The order of placement of women candidates on the lists influenced their success. While 27.8 per cent of the DP candidates were women, they represent only 15 per cent of their elected candidates (10 of 68). Women represented a slightly smaller share of the SP candidates, but their placement in higher-ranking positions resulted in women accounting for 20 per cent of the SP's elected members of Parliament (13 of 65).

## **XI. PARTICIPATION OF NATIONAL MINORITIES**

National minorities are guaranteed full rights under the Constitution. While there is no reliable official data on minorities in Albania, it is widely accepted that the most significant are the Greek and Roma minorities, although the latter is recognized only as a community not as a national minority. Smaller minorities include ethnic Macedonians, Bulgarians, Serbs, Montenegrins, Bosniaks and Vlachs. Several political parties focus on minority communities. The Human Rights Union Party (HRUP) mainly represents Greek voters. The Macedonian Alliance for European Integration was part of the DP-led Alliance for Change. The Human Rights and Freedoms Movement targets minorities generally and the New Tolerance Party advocates the interests of Roma and Egyptians. Both were part of the Socialist Alliance for Integration. One member of the Greek minority from the HRUP was elected, as well as Greek representatives from the DP and SP lists.

A number of election-related issues arose concerning the Roma community. In order to facilitate the distribution of the new ID cards among Roma, the Government decided on 15 April that they could apply free of charge. Implementation of this decision was complicated by the fact that official documents do not identify Roma as such. The result was inconsistent implementation; in many areas Roma were allowed to apply free of charge, while in some places they had to pay the full price. In many areas, Roma community leaders and NGOs helped the authorities to identify Roma. The OSCE/ODIHR EOM received numerous allegations of vote buying in Roma communities, also put forward by members of the Roma minority. Two such cases were corroborated in Lezhë and Durrës regions. One case of a Roma community leader controlling the votes of about 30 members of his extended family was verified in Korçë region.

## **XII. DOMESTIC OBSERVERS**

The Electoral Code provides for election observation by domestic and international observers. According to Article 6 of the Electoral Code, in addition to electoral subjects whose candidates lists have been registered by the CEC, Albanian NGOs have the right to nominate observers for each CEAZ, each voting center, and each counting table in a Ballot Counting Center (BCC).

The process of accreditation of domestic non-party observers was open and transparent. The CEC registered a total of 6,120 domestic observers from 16 different NGOs, providing an additional element of transparency to the election process. The biggest observation effort was undertaken by a coalition of six NGOs under the leadership of the Society for Democratic Culture which deployed over 2,300 observers. The former head of *MJAFT!*, one of the NGOs in

the coalition, is the leader of the G99 party, which led some stakeholders to doubt the coalition's impartiality.<sup>36</sup>

Two Albanian NGOs, the 'Elections to Conduct' Agency (ECA) and KRIIK–Albania, conducted a parallel vote tabulation exercise in all 66 BCCs, based on the CEAZ data sent to the CEC, and posted the results on the ECA website. The posting of results by the CEC as well as these NGOs provided for increased transparency of a crucial step of the election process.

Political party observers were present in 95 per cent of voting centers visited by IEOM observers on election day, and domestic non-party observers in 26 per cent.

### **XIII. PRE-ELECTION COMPLAINTS AND APPEALS**

Under the Electoral Code, only electoral subjects have the right to file a complaint or an appeal. Individual voters have no means of legal redress in case their electoral rights are violated, except to request inclusion in the Final Voter Lists. Electoral subjects can file complaints on the conduct of the electoral process with the CEC. Decisions of CEAZs and failure of CEAZs to make a decision can be appealed to the CEC. All CEC decisions and failure of the CEC to make a decision can be appealed to the Electoral College of the Court of Appeals of Tirana as the last instance.<sup>37</sup> The Electoral Code does not foresee a mechanism for complaint resolution at VCC level despite obliging the VCC secretary to keep a register of complaints submitted to the VCC (Article 41).

Despite several allegations of violations of campaign regulations, electoral subjects did not make use of the available recourses and no complaints were filed with the CEC before election day. Three appeals were filed with the CEC, against two CEAZs decisions in Shkodër region denying accreditation to observers of the Freedom Pole coalition and the Socialist Alliance for Integration. The CEC handled these appeals in a fair manner and provided an effective remedy.

Seven appeals against CEC decisions were filed with the Electoral College before election day, pertaining to the establishment of BCCs in privately owned buildings, the definition of the parties entitled to participate in the lottery for the appointment of the third and fourth member of the Counting Teams, and to the approval of the candidate lists of the Environmentalist Agrarian Party. Two of the appeals were dismissed on procedural grounds. The Electoral College upheld two CEC decisions and overturned two, one fully and one partly. In general, the Electoral College adjudicated the appeals in an impartial and professional manner, providing effective and timely remedies during the pre-election period. It failed, however, to provide written transcripts that describe the evidence and reasons supporting its decisions, within three days from the day a decision was given, as stipulated by Article 158 of the Electoral Code. This could undermine an appellant's means of effective and timely legal redress in cases where the Electoral College returns a case to the CEC for reconsideration.

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<sup>36</sup> Other cases where prominent civil society activists ran as candidates in these elections include the former head of the Albanian Helsinki Committee who headed the SP candidate list in Tirana, and the former head of the European Movement of Albania who was Number 7 on that list.

<sup>37</sup> The Electoral College, which consists of eight judges chosen by a lottery from a pool of all appellate judges adjudicates cases in panels composed of five members, also chosen by lottery.

## XIV. VOTING AND COUNTING

### A. ELECTION DAY

Election day was overall calm, without major incidents or violence. According to the CEC, all but five voting centers opened and voter turnout was 50.77 per cent. Political parties of the governing majority and the opposition hailed the conduct of voting as a significant improvement over previous elections. The CEC started announcing preliminary results on election night as they arrived from the BCCs and posted them on its website, down to voting center level.

During the opening of voting centers, IEOM observers noted a relatively high number of cases where the election material was incomplete, including instances where the indelible ink used to mark voters was missing or where the ink pads for stamping ballots had dried up. They also reported problems with recording the serial numbers of the ballot box seals and with depositing the Record of Sealing in the ballot box. Many VCCs did not put in writing and sign the formal decision on the opening of voting, as required by law. These problems led to critical assessments of the opening process by many IEOM observers. Two-thirds of the voting centers where opening was observed opened late, in most cases with delays of up to 30 minutes.

IEOM observers assessed the voting process as good or very good in 92 per cent of voting centers visited. The overall assessment was more positive in urban than in rural areas. Regions with a relatively high proportion of negative assessments included Vlorë, Durrës, Kukës, Dibër (Peshkopi) and Korçë. VCCs' performance and understanding of procedures was assessed positively in the large majority of voting centers visited. Cases where VCCs were not sufficiently familiar with procedures may have been partly due to the late appointment of many VCC members, who did not undergo official training.

Tensions were evident in or around some voting centers (4 and 3 per cent, respectively), sometimes caused by activists of various political parties. IEOM observers also reported cases of campaigning in or around voting centers (1 and 5 per cent, respectively).

IEOM observers noted a number of procedural violations. In particular, inking procedures were not always followed, thus devaluing an important safeguard against possible multiple voting: in 29 per cent of voting centers visited, not all voters were properly checked for ink, and in 10 percent they were not always marked with ink. IEOM observers reported seven cases where voters were allowed to vote although they already had traces of ink. Multiple voting constitutes a direct challenge to the universal principle of equality of the vote included in paragraph 7.3 of the OSCE Copenhagen Document.

In 9 per cent of voting centers visited, the secrecy of the vote, enshrined in paragraph 7.4 of the OSCE Copenhagen Document, was not ensured, mainly due to poor layout, space constraints or overcrowding. However, in 2 per cent of voting centers visited, not all voters marked their ballots inside the booths, and in 4 per cent, not all voters folded their marked ballots in a way that ensured that the secrecy of the vote was maintained. Family voting, a violation of the secrecy of the vote, was reported from a significant 19 per cent of voting centers visited.

Other problems observed included: proxy voting (3 per cent), attempts to influence voters (4 per cent), the same person "assisting" more than one voter (4 per cent), pressure on election officials or voters (1 per cent), and seemingly identical signatures on the voter lists (4 per cent). In a few isolated cases, the voter list was incomplete, which may have disenfranchised some voters. With very few exceptions, ballot boxes were sealed properly, but in 14 per cent of voting centers

visited, the serial numbers of the security seals had not been recorded in the VCC Meeting Record Book. Unauthorized persons were observed in 3 per cent of voting centers visited and were seen interfering in or directing the process in nine cases.

During election day, the CEC issued a statement that the use of micro cameras and fluorescent lamps inside voting centers was illegal and subject to criminal proceedings, after several SP commissioners and activists in Tirana and other cities were found to carry such cameras, concealed in pens, and UV lamps, the latter ostensibly to be used to detect falsified ID cards.

Closing procedures were assessed overall positively by a large majority of IEOM observers, but some noted that the process was slow due to apparent lack of training. They also reported procedural problems, including: failure to seal the ballot box slot after the end of voting or to record the serial number of the security seal; isolated cases of VCCs not counting or recording the number of voters who voted, of unused ballots, or of spoiled ballots; and frequent cases where copies of the Record of Closing were not given to party observers.

After the close of voting, ballot boxes and boxes with election material were transported by VCCs to the 66 BCCs. The receipt of election material at BCCs was assessed overall positively, although the number of VCCs waiting to be processed at some BCCs resulted in overcrowding, especially in urban areas with many voting centers. Prescribed procedures for the receipt of election material were generally followed. However, IEOM observers noted that in a few BCCs, party observers and/or domestic non-party observers were obstructed in their observations.

## **B. THE VOTE COUNT**

The vote count in the 66 BCCs started after all VCCs from a respective Electoral Administration Zone (EAZ) had submitted their ballot boxes and other election materials. Proceedings at all BCCs were broadcast live to the CEC where they could be monitored on big screens. In addition, the main TV channels provided significant coverage of the count. Each BCC had between five and ten counting tables, with two Counting Teams (CTs) per table working in shifts. To ensure political balance, CTs were composed of four members, nominated by the parliamentary majority and by the opposition. One CT was supposed to count between five and ten ballot boxes before being relieved, but they were often not replaced, putting an additional strain on them.

IEOM observers followed the vote count in all 66 BCCs from the evening of 28 June, and, in almost all BCCs, until its completion, reporting on their observations at regular intervals. No CEAZ managed to conclude the vote count for its EAZ by the legal deadline of 17:00 hours on 29 June. IEOM observers assessed the vote count negatively in 22 of the 66 BCCs. Of the CEAZs in these BCCs, 12 had a majority of opposition-nominated members, and ten had a majority of members nominated by the governing parties. The transparency of the counting process was assessed negatively in 11 BCCs. Party and domestic non-party observers were obstructed from observing the process in 18 and 17 BCCs, respectively.

IEOM observers noted procedural problems, some of which appeared to be due to lack of sufficient training and guidance. Respect for counting procedures was poor in nine BCCs (14 per cent). CT members generally had a good understanding of the process but in 14 BCCs (21 per cent) they performed poorly. IEOM observers reported that in 62 BCCs (94 per cent), one or more CT had problems completing the tables of results for voting centers.

Other shortcomings during the vote count included: failure to verify all election materials before opening a ballot box (between 8 and 17 BCCs, depending on the specific steps of the verification); failure to expose the reverse side of each ballot to the monitoring camera (30



BCCs); failure to expose the front side of each ballot to the monitoring camera (8 BCCs); cases of unreasonable or inconsistent determination of ballot validity (34 BCCs); instances where party observers were not allowed to contest ballots (28 BCCs); and failure to record the reason for contesting a ballot on the ballot's reverse (35 BCCs). IEOM observers also reported that copies of the voting center tables of results were not always given to CT members and/or party observers (reported from 23 and 30 BCCs, respectively), in contradiction with legal provisions.

In light of the partial preliminary results that suggested a close race, political parties started to interfere in the counting process. As a result, the process stalled in some BCCs, especially in regions where the allocation of mandates was or appeared to be close. Some CEAZs had problems controlling the process in the BCCs. IEOM observers noted party observers exerting pressure on CEAZ and CT members and interfering in the count. They also noted that the presence of candidates inside BCCs often detracted from the process. IEOM observers reported interference by party representatives in 28 BCCs. IEOM observers reported the presence of unauthorized persons in 49 BCCs, and such persons interfering in or directing the process in 21 of them. IEOM observers noted tension or unrest in 45 BCCs.

One of the main problems observed during the vote count concerned arguments over whether certain ballot boxes should be counted or not. The Electoral Code provides procedures for CEAZs to declare a ballot box "irregular" only upon receipt from the VCC if it has or could have been tampered with.<sup>38</sup> If inaccuracies or irregularities are noted during the verification of election material or the vote count, the CEAZ has to decide on the matter. After recording the inaccuracy or irregularity in the CEAZ Record of Findings, the CEAZ makes "a decision for the CT to continue the vote counting procedures" (Article 116.6 of the Electoral Code). There are no provisions in the Code for the CEAZ or CT to declare a ballot box irregular or invalid once the CT has started counting it.

In practice, however, Article 116.6 was interpreted as giving the CEAZ authority to stop the count of a ballot box or to not include it in the Aggregate Table of Results (ATR) for the EAZ. For example, six ballot boxes in EAZ 39 (Laç, Lezhë region) were not counted due to missing ID document numbers in the voter lists.<sup>39</sup> The CEAZ did not complete and decide on the ATR.

Other cases where not all ballot boxes were counted concerned two voting centers in EAZ 11 (Krujë, Durrës region), seven in Korçë region (EAZs 29, 30, 31, and 32), and one in Berat (EAZ 2). In these cases, however, the CEAZs completed the ATR and sent it to the CEC. In EAZ 30 in Korçë region, the CEAZ chairperson did not send the results from five voting centers to the CEC until IEOM observers inquired about the reason for not sending them. The same CEAZ chairperson also decided not to count the last ballot box, saying the result in the EAZ was "too close" for him to assume the responsibility to count it. In EAZ 37 (Lezhë town), the SP-dominated CEAZ decided not to include the results from 11 voting centers in the ATR. The CEAZ members nominated by the governing parties sent a separate ATR which included all voting centers in the EAZ but had not been signed by the majority of the CEAZ members.

In BCC 41 in Bushat (Shkodër region), the opposition-nominated CEAZ majority blocked the process, and no ballots were counted between 14:00 hours on 30 June and 12:00 hours on 1 July. During this period, the SP-nominated CEAZ chairperson was replaced twice, with the agreement of the opposition-nominated CEC members and the SP representative at the CEC. After it

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<sup>38</sup> According to information provided by the CEC, two ballot boxes were declared irregular, in EAZ 13 (Elbasan region) and in EAZ 38 (Lezhë region).

<sup>39</sup> According to the Electoral Code, at the time of issuing the ballot to a voter, the VCC chairperson has to write in the voter list the number of each voter's identification document. In some voting centers, this procedure was not followed at all; in other cases, a few ID document numbers were missing.

became apparent that the 42 uncounted ballot boxes from Bushat would not impact on the seat allocation in the electoral zone, the count resumed and finished without problems. IEOM observers reported that cases of ID numbers missing on the voter list, the main reason given previously for refusing to count these ballot boxes, appeared to be no longer considered an issue.

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

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

The way the new monitoring system was implemented, by which each ballot was placed under a video camera and shown to observers on large screens several meters away from the counting tables, appears to have contributed only partly to the transparency of the process but did not resolve the problems of interference noted in these and previous elections. While the ballots could be viewed on the screens, the voter's choice was not always discernable and it was often impossible for observers to see whether ballots were placed on the correct pile; smaller parties alleged that their votes had been placed on the piles for the two main parties.

## **XV. AGGREGATION AND ANNOUNCEMENT OF RESULTS BY THE CEC**

As the Electoral Code does not provide specific regulations regarding the publication of preliminary results, the CEC adopted instructions on the electronic transmission of election results from the BCCs to the CEC and their publication. CEAZs were obliged to send electronically a results table for each voting center as soon as it had been counted. These results were posted on the CEC website. Aggregated partial preliminary results were also displayed live at the CEC. The ongoing and timely announcement of preliminary results by the CEC increased the transparency of the process and was a reliable source of information. However, the CEC did not include some key figures, including the number of registered voters, the number of voters who voted, and the number of invalid ballots.

The CEC tabulated results for all 12 electoral zones, based on the Aggregated Tables of Results (ATR) submitted by the CEAZs. The CEC approved all ATRs with a simple majority of four votes. The results compiled by the CEC did not include the results from 33 voting centers; five of these voting centers never opened on election day, while ballots from 28 had either not been counted, or their results had not been included in the ATR for the respective EAZ. Despite the legal requirement that a CEAZ should include the results for each voting center and each electoral subject in the results table for its EAZ, the CEC accepted incomplete ATRs from

several CEAZs, arguing that these had been signed by all CEAZ members, or by the required majority.

The ATRs that did not include the results from all voting centers were contested by parties and were the cause of post-election appeals that were submitted to the CEC. The most prominent case concerned Fier region, where the CEC had approved the results table without the results from nine voting centers which had either not been counted or had been declared invalid by the respective CEAZ. Following the appeals process, the results from these voting centers were included and resulted in the SP gaining a mandate at the expense of the DP-led coalition. As a result of the appeals process, the CEC also included in the results table for Lezhë region the results from the 11 voting centers which CEAZ 37 had refused to include in its ATR although they had been counted. Unlike in Fier, this had no effect on the distribution of mandates.

The CEC did not use its legal power to conduct investigations on its own initiative in cases where not all voting center results had been included in the results tables. Instead, it simply transcribed the results from the original voting center tables of results into the final ATRs.

Following the appeals process at the CEC, the three changes to ATRs for Fier, Lezhë and Shkodër regions resulting from the appeals process were passed with the votes of all CEC members present.<sup>40</sup> The decisions on the seat allocation for the 12 constituencies were also passed unanimously, as was the CEC declaration of the final election results on 1 August.

## **XVI. ELECTION-DAY RELATED COMPLAINTS AND APPEALS**

### **A. ADJUDICATION OF POST-ELECTION APPEALS BY THE CEC**

The Electoral Code provides that electoral subjects can appeal a results table prepared by a CEAZ, as well as any intermediate decision taken by the CEAZ during the reception of election materials, the vote count and the tabulation of election results, together with the CEC decision which approved that ATR. Such appeals must be filed within three days of the relevant CEC decision. All 34 post-election appeals filed with the CEC were against CEC decisions approving the CEAZ results tables in various regions. It is of note that the number of appeals submitted to the CEC following election day was greatly reduced compared to previous elections.<sup>41</sup> This may be partly due to the reduction of electoral zones from 100 to 12.

The CEC had ten days to decide on such appeals; the CEC decision can be further appealed to the Electoral College within five days. The CEC never exhausted the time limit set by the Electoral Code, deciding on most post-election appeals within one day. The only exceptions were the appeals against the results tables of Lezhë and Fier electoral zones, where the CEC conducted a recount. In adjudicating appeals against ATRs, the CEC never requested any information or evidence in addition to that provided by the plaintiffs. Likewise, the CEC never called a VCC, CEAZ or Counting Team member as a witness. Rather, the CEC based its investigation on election administration documents, mainly CEAZ Records of Findings, CEAZ

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<sup>40</sup> The inclusion of the results from one voting center in the ATR for Shkodër region failed as the CEC did not muster the required majority of five votes to uphold the appeal.

<sup>41</sup> In the 2005 parliamentary elections, the CEC received 281 appeals against results declared by Zone Election Commissions and 107 requests to invalidate election results. Of these, 185 appeals and 100 invalidation requests were adjudicated by the CEC, while the rest were rejected on procedural grounds. Following the 2007 local elections, the CEC received 152 appeals against the declaration of election results (or failure to declare them) and 93 requests for invalidation.

or VCC Meeting Record Books, and voting center tables of results which included remarks by Counting Team members.

During the appeals process, the CEC counted ballots from six voting centers in Lezhë region (EAZ 39), eight voting centers in Fier region, and two voting centers in Shkodër region. Apart from results from one voting center in Shkodër region, which were invalidated, the results from these voting centers were included in the respective ATRs. The CEC also decided to include the results of two voting centers in Fier region and 11 voting centers in Lezhë region, which had been counted but had not been included by the CEAZs in the respective results tables. Following the appeals process at the CEC, the results from a total of 28 voting centers were added to the tabulated results.

According to the Electoral Code, electoral subjects can also request the invalidation of the results in one or more voting centers if the law was violated, the voting center never opened, or voting was suspended for more than six hours on election day and if any of these causes may have impacted on the seat allocation. The Justice and Integration Party (PJI, part of the DP-led coalition) requested the invalidation of results from four voting centers in Fier electoral zone. The SP argued that the appeal should be dismissed since it was submitted past the deadline and the CEC had already evaluated the ballots from these voting centers during a previous appeal for Fier. The request to invalidate the results of these two voting centers failed to gain the required votes of five CEC members.

During the post-election appeals process, political divisions within the CEC were even more apparent than in the pre-election period. CEC members and party representatives made numerous political statements and unnecessarily long and personal remarks, instead of referring to factual and procedural aspects. On occasion, party representatives used diametrically opposed legal argumentations and interpretations of the same articles of the law when it suited them. For example, the DP in its appeal against the results table for Lezhë electoral zone referred to Article 122.2 of the Electoral Code, which requires that results tables are completed “for each electoral subject and each voting center”, but it rejected the same interpretation of the article when it was used by the SP to request that uncounted ballots from several voting centers in Fier region be counted.

The interpretation of what was a valid ballot caused some debate at the CEC. According to Article 117.3.a of the Electoral Code, a ballot is invalid if it “does not have the same size, color or format as the ballot paper approved by the CEC”. During the hearings on the appeals against the Fier ATR, DP representatives argued that ballots which had been torn off the pad below the stub perforation should be considered invalid since they were of a “different size”. Similarly, some opposition-nominated CEC members argued during the count of ballots from voting centers in Lezhë electoral zone which had not been counted at the BCC that ballots which had been torn from the pad together with the stub should be invalidated as the secrecy of the vote was violated (since the serial numbers on the stubs could conceivably be associated with individual voters). Such interpretations of the law, if accepted, would not only potentially disenfranchise voters but could open the way for ballots being torn from the pad incorrectly with the aim of purposely invalidating certain voters’ ballots.

Alleging widespread irregularities, the SP filed appeals to the CEC regarding the CEC decisions on the ATRs for Tirana, Berat and Shkodër regions and asked for a full recount of ballots counted in several BCCs. The DP representatives argued that the SP had made no consistent remarks of any misconduct or irregularities during the voting and counting process and had not provided any factual evidence in support of its claims. Based on Article 138.3 of the Electoral Code, which states that “[if] the request for the recount and/or re-evaluation of certain votes is

made by two of its members, the CEC is required to perform the recount and/or re-evaluation of the requested votes”, the two SP-nominated CEC members asked for a full recount of the disputed ballots. The CEC chairperson stated that this provision was foreseen as a way of gaining evidence, and was thus applicable only for counting “certain ballots” and not all ballots under suspicion. SP lawyers strongly opposed this interpretation, arguing that the provision was a safeguard for minority representatives in the CEC, and that the request had to be executed without formal approval from the CEC. When put to the vote, the requests were rejected with the votes of the four majority-nominated CEC members. The SP appealed these CEC decisions to the Electoral College.

Eight appeals were filed with the CEC by smaller parties and the independent candidate who ran in Tirana electoral zone. The plaintiffs claimed that CT members from the big parties had deliberately placed ballots cast for small parties on the piles of votes cast for the big parties. The fact that many smaller parties did not have CT members and that the right to nominate observers rested with coalitions rather than with individual parties worked to the disadvantage of these parties. The video monitoring of the count was also not as useful as initially envisaged. However, the plaintiffs failed to produce evidence in support of their allegations.

Some problems observed during the post-election period were also noted in previous elections, indicating that they are partly systemic and caused by the political appointment mechanism of the election administration. Several ambiguous legal provisions inherited from previous versions of the Electoral Code resulted in inconsistent interpretation of the Code. These problems are compounded by lack of political will from political parties to always uphold the letter and purpose of the law. Strategic considerations of political parties that put pressure on CEAZs or CTs not to count ballots were one of the main reasons for post-election appeals.

## **B. ADJUDICATION OF POST-ELECTION COMPLAINTS BY THE ELECTORAL COLLEGE**

Five CEC decisions, approving the ATRs for Berat, Durrës, Fier, Shkodër and Tirana electoral zones, were challenged at the Electoral College in 12 appeals filed by the SP, the DP, G99, the PJI, the Demo-Christian Party, the Conservative Party and the Movement for National Development. As parts of their appeals, the DP and the PJI requested the invalidation of the elections in six voting centers in Fier region.

The Electoral College granted only one appeal, filed by the SP against the CEC decision which approved the ATR of Fier region. The SP had requested the invalidation of 440 ballot papers of voting center 3052 with only one stamp on the reverse which the CEC had considered valid due to the circumstances leading to this irregularity. The Electoral College accepted that ballot papers that do not bear on the reverse the stamps of the VCC and the VCC chairman should be considered invalid regardless of the facts that led to this situation, as long as the CEC does not take the necessary steps to rectify this irregular situation.

In challenging the ATRs of Berat, Tirana and Shkodër, the appellants and especially the SP argued that the CEC decisions were invalid because the CEC breached Article 138.3 of the Electoral Code when it refused requests for recounts by two CEC members. The Electoral College adopted a rather formalistic approach and interpreted the Code restrictively. With at times contradictory argumentations, it ruled that the term “certain votes”, which may need to be recounted, means only ballots that had been contested previously, and that therefore only these votes could be accepted as evidence during the administrative investigation at the CEC. It also ruled that the CEC was entitled to decide whether a request by two of its members was justified but was not compelled to act upon the request.

The DP requested the invalidation of the elections in three voting centers in Fier region, since a previous request by the PJI to the CEC had failed to obtain the required number of votes. The DP and the PJI also asked the Electoral College to invalidate the elections in three voting centers in Fier region which never opened on election day as stipulated in the Code. A draft decision prepared by the CEC on its own initiative on the invalidation of these voting centers had not obtained the required five votes. During the hearing, the appellants invoked breaches of the law but failed to establish an impact on the allocation of mandates. The Electoral College dismissed the appeals.

The hearings at the Electoral College were conducted in a professional manner, ensuring an adversarial process and giving parties equal opportunities to present their claims and arguments. The process of decision-making, however, appeared rather expedited, as the College delivered its decisions on the day of the hearings, after having examined hundreds of pages of evidence in a short time. The Electoral College failed to fulfil its legal obligation to provide transcripts of its decisions with reasoning, including dissenting opinions, within three days from the day it reached a decision.

## **XVII. RECOMMENDATIONS**

The following recommendations are offered for consideration by the authorities, political parties and civil society of the Republic of Albania, in further support of their efforts to conduct elections fully in line with OSCE commitments and other standards for democratic elections. Some of these recommendations have already been offered in previous OSCE/ODIHR final reports but remain to be addressed. Other recommendations offered in previous OSCE/ODIHR final reports and Joint Opinions by the Council of Europe's Venice Commission and the OSCE/ODIHR also remain valid. The OSCE/ODIHR stands ready to assist the authorities and civil society of the Republic of Albania to further improve the electoral process.

### **A. POLITICAL PARTIES**

1. Parties should demonstrate the political will for the conduct of democratic elections commensurate with the broad privileges they enjoy under the law in regard to the conduct of elections. They should discharge their electoral duties in a responsible manner for the general interest of Albania. This extends to the performance of election commissioners and elected and appointed officials at all levels, who should refrain from basing election-related actions and decisions on political considerations.

### **B. LEGAL FRAMEWORK<sup>42</sup>**

2. The provision in the Electoral Code giving special candidacy rights to the chairpersons of political parties should be reconsidered bearing in mind the principles of equality and non-discrimination. It should be ensured that voters know in advance of the candidates who are likely to be seated as a result of their support.
3. Political parties' involvement in the selection of judges who adjudicate election appeals should be eliminated.

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<sup>42</sup> These recommendations should be read in conjunction with other recommendations formulated in previous reviews of the Code, including the Venice Commission of the Council of Europe and the OSCE/ODIHR Joint Opinion on the Electoral Code, available at: [www.osce.org/documents/odihr/2009/03/36881\\_en.pdf](http://www.osce.org/documents/odihr/2009/03/36881_en.pdf).

4. Provisions relating to the repetition of the elections in a constituency should be amended in order to state, clearly and unambiguously, conditions necessary for repeat elections.
5. Consideration should be given to include mechanisms to provide individual voters with the right to appeal in case their electoral rights have been violated.
6. The Electoral Code could be amended so that provisions for public funding of electoral campaigns do not give disproportionate and undue advantage to parliamentary parties.
7. Consideration could be given to amending provisions in the Electoral Code related to campaign financing, to provide for declarations of political parties' income and expenditure during the campaign itself and to specify criteria under which the CEC can itself carry out verifications of the financial reports of electoral subjects.

**C. ELECTION ADMINISTRATION**

8. While preserving the transparency and inclusiveness of the election administration formation and functioning, the Electoral Code should be amended in order to eliminate any opportunity for abuse and blocking the process by political parties. In particular, there should be effective mechanisms for filling vacancies in the election administration in case parties do not exercise their right to make nominations within the established deadlines. Such mechanisms should be applied without delay when appropriate.
9. In order to ensure the independence and professionalism of the election administration, political parties should not be allowed to arbitrarily replace members of lower-level commissions. Replacement should be allowed only for specific reasons clearly stated in the law.
10. The CEC should make more use of its wide authority under the Electoral Code when this is necessary, in particular vis-à-vis lower-level election commissions. When it identifies or is informed of problems with a specific CEAZ or VCC, the CEC should be more proactive in investigating and resolving such problems.
11. Training of CEAZ, VCC and Counting Team members should be intensified and improved.

**D. VOTER REGISTRATION AND IDENTIFICATION**

12. The National Civil Status Register database should be further cleaned and updated in order to further improve the quality of the voter lists. To this effect, it is recommended that the proper administrative capacity be built and maintained. Both the parliamentary majority and the opposition should be consulted in the process, in order to ensure transparency, address remaining deficiencies and to prevent civil and voter registration becoming a political and campaign issue again.
13. Consideration could be given to regulating the current system of compiling voter lists for special groups of voters, so that these voters do not face the risk of being disenfranchised due to inefficiency or malfunctioning of the administration of the institution where they would exercise their right to vote.

**E. CANDIDATE REGISTRATION**

14. The restriction that citizens may sign in support of only one party or candidate should be removed. Citizens should be able to sign for any party or person whose right to participate in an election they choose to support.
15. Consideration could be given to removing the requirement that voters can only deposit supporting signatures in front of a notary or at the CEC. Instead, persons signing in support of a party or candidate should provide sufficient personal information to an authorized representative of the party or candidate so that they can be identified and contacted if there is a need for further verification.

**F. ELECTION CAMPAIGN**

16. The authorities as well as political parties should take resolute steps to ensure that pressure is not applied on public-sector employees, political activists or other citizens to attend campaign events, to desist from political activities, or to vote in a particular way. Any cases of such pressure should be thoroughly investigated, and the perpetrators brought to justice in accordance with the law.
17. Institutional mechanisms should be strengthened for monitoring possible misuse of administrative resources for campaign purposes, as well as the use of official events for campaigning, and holding those responsible accountable.

**G. MEDIA**

18. Consideration could be given to mechanisms that minimize the politicization of the Media Monitoring Board's (MMB) work, such as establishing a different formula for nominating MMB members. The MMB could include experts in the field of media analysis or nominated by independent media institutions, rather than by individual CEC members.
19. Consideration could be given to train MMB members and media monitors in quantitative and qualitative content analysis, in order to enable the MMB to assess whether broadcasters comply with their detailed obligations set by the Electoral Code.
20. Consideration could be given to including coverage of all Government activities during an election campaign in the time allocated to the party to which the head of the institution that organizes the activity belongs, in order to avoid conflicting interpretations whether a Government activity is campaign-related or not. At the least, Article 84.2.b of the Electoral Code should be amended to provide a definition of what constitutes "government activities which are related to the electoral campaign".

**H. VOTING, COUNTING AND AGGREGATION AND ANNOUNCEMENT OF RESULTS**

21. Better adherence by VCCs to voting procedures, in particular those concerning the secrecy of the vote and use of ink to mark voters' fingers, should be ensured by appropriate training of chairpersons, whose responsibility is to ensure compliance with legal provisions.



22. Rules regarding the presence of individuals in voting centers and BCCs should be enforced strictly. In particular, it should be ensured that only authorized persons are present in BCCs. The number of party observers should be limited as foreseen in the law to those who carry the prescribed accreditation. Interference by unauthorized individuals should be effectively prevented.
23. Consideration could be given to modifying the counting and aggregation procedures so that the relevant deadlines foreseen by the Electoral Code can be met. However, this should not be done at the expense of the transparency of the counting process.
24. Election contestants should be allowed to observe counting on an equal basis. Further efforts should be made to improve the possibility for observers to check the accuracy of the count. The existing system should be implemented in such a way as to ensure that observers can actually see which pile each individual ballot is placed on.
25. If the current system of video monitoring of the ballot evaluation is maintained, consideration could be given to adjust it so that it is easier for observers to see for whom each individual ballot has been cast. Those entitled to copies of the recordings of the count should be provided with such copies promptly upon request.
26. The Electoral Code should clearly specify how Counting Teams and CEAZs should handle ballot boxes and boxes with election material which were considered regular upon reception by the CEAZ but which are later found to have problems that indicate serious violations or irregularities. The Electoral Code should clearly state, in an exhaustive manner, which conditions have to be met for a ballot box not to be included in the count although it was classified as regular upon receipt. All such cases should be immediately reported to the CEC. Consideration could be given to make further processing of such ballot boxes contingent on a CEC decision.
27. Consideration should be given to having the CEC conduct its administrative investigations regarding voting and the vote count prior to the CEC aggregating the results for electoral zones, based on findings of VCCs, CEAZs and Counting Teams. Article 123 of the Electoral Code should be revised so that the votes counted following a CEC administrative investigation are included in the Aggregate Tables of Results.
28. When publishing preliminary results, the CEC should include the number of registered voters, voters who turned out to vote, and invalid ballots, down to voting center level.

#### **I. COMPLAINTS AND APPEALS**

29. The invalidation of results from one or more voting centers should not only be linked to the impact this may have on the allocations of seats. Potential grave breaches of the law or other reasons which indicate that the result is seriously flawed should be sufficient reason to invalidate elections in voting centers and allowing for a potential recount.

#### **J. PARTICIPATION OF WOMEN**

30. Electoral Code provisions that establish gender quotas for candidate lists should be revisited in order to meet the 30 per cent standard required under the Law on Gender Equality in Society and to close loopholes that allow parties to defy the purpose of the law. Relevant provisions should be revised to clearly define the manner in which gender

balance is to be achieved, in the representative numbers of each gender on the lists as well as in terms of their balance in placement order throughout the lists.

**K. PARTICIPATION OF NATIONAL MINORITIES**

31. The CEC voter information campaigns should be extended to all minority communities in a targeted manner.

## ANNEX: ELECTION RESULTS

Total number of voters on voter list	3,084,946
Number of voters who voted	1,566,079
Percentage of voters who voted	50.77%
Number of valid ballot papers	1,519,176
Number of invalid ballots	46,903
Percentage of invalid ballot papers	2.99%

No.	Electoral Subject	Votes	Percentage	Mandates
<b>"Alliance of Change" Coalition</b>				
1	Democratic Alliance Party DA	4,682	0.31	0
2	Liberal Democrat Union LDU	5,008	0.33	0
3	Albanian Demo-Christian League Party DCL	6,095	0.40	0
4	Environmental Agrarian Party EAP	13,296	0.88	0
5	Macedonian Alliance for European Integration MAEI	1,043	0.07	0
6	Alliance for Democracy and Solidarity ADS	1,067	0.07	0
7	National Front Party NFP	5,112	0.34	0
8	Democratic National Front Party NDFP	4,177	0.27	0
9	New European Democracy Party NEDPA	2,111	0.14	0
10	Democratic Party DP	610,463	40.18	68
11	New Denied Rights Party NDRP	1,408	0.09	0
12	Forca Albania Party FAP	319	0.02	0
13	Legality Movement Party LMP	10,711	0.71	0
14	Albanian Time Party ATP	786	0.05	0
15	Party for Justice and Integration PJI	14,477	0.95	1
16	Republican Party RP	31,990	2.11	1
	<b>Sum</b>	<b>712,745</b>	<b>46.92</b>	<b>70</b>
<b>"Freedom Pole" Coalition</b>				
17	Movement for National Development NDM	10,753	0.71	0
18	Democrat Union Party DUP	1,030	0.07	0
19	Demo-Christian Party DCP	13,308	0.88	0
20	Albanian Democratic Reforms Party ADRP	495	0.03	0
21	Albanian Conservative Party CONS.P	1,067	0.07	0
22	Freedom Road Party FRP	1,002	0.07	0
	<b>Sum</b>	<b>27,655</b>	<b>1.82</b>	<b>0</b>
<b>"Socialist Alliance for Integration" Coalition</b>				
23	Human Rights and Freedoms Movement HRFM	2,931	0.19	0
24	Socialist Movement for Integration SMI	73,678	4.85	4
25	Green Party GP	437	0.03	0
26	Party for the Protection of Emigrants' Rights PPER	376	0.02	0
27	Real Socialist Party 91 RSP 91	6,548	0.43	0
28	New Tolerance Party NTP	437	0.03	0
	<b>Sum</b>	<b>84,407</b>	<b>5.56</b>	<b>4</b>
<b>"Union for Change" Coalition</b>				
29	Human Rights Union Party HRUP	18,078	1.19	1
30	Social Democracy Party SDY	10,395	0.68	0
31	G99 Party G 99	12,989	0.86	0
32	Social Democratic Party SDP	26,700	1.76	0
33	Socialist Party SP	620,586	40.85	65
	<b>Sum</b>	<b>688,748</b>	<b>45.34</b>	<b>66</b>
34	Abdullah Adil Omuri (candidate proposed by group of voters – Tirana constituency only)	756	0.05	0
35	Law and Justice Party LaJuP	4,865	0.32	0
	<b>TOTAL</b>	<b>1,519,176</b>	<b>100.00</b>	<b>140</b>

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/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 Summit Document). This is referred to as the OSCE human dimension.

The OSCE/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 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/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.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)).