



Office for Democratic Institutions and Human Rights

REPUBLIC OF ALBANIA

LOCAL GOVERNMENT ELECTIONS

8 May 2011

OSCE/ODIHR Election Observation Mission Final Report



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TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	1
II.	INTRODUCTION AND ACKNOWLEDGMENTS.....	2
III.	BACKGROUND AND POLITICAL CONTEXT	3
IV.	LEGAL FRAMEWORK AND ELECTORAL SYSTEM.....	4
	A. OVERVIEW	4
	B. ELECTORAL SYSTEM.....	5
V.	ELECTION ADMINISTRATION	5
	A. CENTRAL ELECTION COMMISSION	6
	B. COMMISSIONS OF ELECTORAL ADMINISTRATION ZONES	6
	C. VOTING CENTRE COMMISSIONS AND COUNTING TEAMS	7
	D. ASSESSMENT OF THE ELECTION ADMINISTRATION IN THE PRE-ELECTION PERIOD	7
VI.	VOTER REGISTRATION	9
VII.	PARTY AND CANDIDATE REGISTRATION.....	11
VIII.	CAMPAIGN.....	12
	A. CAMPAIGN FINANCE	14
IX.	MEDIA	15
	A. MEDIA ENVIRONMENT.....	15
	B. LEGAL FRAMEWORK FOR THE MEDIA	16
	C. MEDIA MONITORING	17
X.	PARTICIPATION OF NATIONAL MINORITIES	18
XI.	PARTICIPATION OF WOMEN	19
XII.	DOMESTIC OBSERVERS	20
XIII.	PRE-ELECTION DAY COMPLAINTS AND APPEALS.....	20
XIV.	VOTING AND COUNTING.....	21
	A. VOTING CENTRES	21
	B. BALLOT COUNTING CENTRES	23
	C. COUNTING AND EVALUATION OF VOTES IN TIRANA	24
XV.	AGGREGATION AND ANNOUNCEMENT OF RESULTS BY THE CEC	26
XVI.	POST ELECTION RELATED COMPLAINTS AND APPEALS	27
	A. ADJUDICATION OF POST-ELECTION APPEALS BY THE CEC	27
	B. ADJUDICATION OF POST-ELECTION APPEALS BY THE ELECTORAL COLLEGE.....	28
XVII.	RECOMMENDATIONS.....	30
	A. PRIORITY RECOMMENDATIONS	30
	B. OTHER RECOMMENDATIONS	31
	ABOUT THE OSCE/ODIHR.....	34

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I. EXECUTIVE SUMMARY

Following an invitation from the Permanent Mission of the Republic of Albania to the Organization for Security and Co-operation in Europe (OSCE) to observe the 8 May 2011 local government elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) to the Republic of Albania. The elections were assessed for their compliance with OSCE commitments and other international standards for democratic elections, as well as with national legislation. For election day observation, the OSCE/ODIHR EOM joined efforts with the Congress of Local and Regional Authorities of the Council of Europe.

The local government elections were held in a political environment that was brought to a crisis point after violent clashes between anti-government demonstrators and police on 21 January 2011 resulted in four deaths. While the elections were competitive and transparent, they were highly polarized, with mistrust between political parties in government and opposition. As in previous elections, the two largest parties did not discharge their electoral duties in a responsible manner, negatively affecting the administration of the elections. Partisanship and acrimonious disputes within the Central Election Commission (CEC) during the preparation for the elections weakened its ability to overcome gaps and ambiguities in the Electoral Code collegially and effectively.

Parties and candidates were registered at local level in a mostly inclusive process, and campaigning was active throughout the country; however, numerous instances of violence marred the campaign period. While there appeared to be less abuse of administrative resources for campaign purposes than in previous elections, organized efforts to pressure or intimidate voters persisted. Although media are divided along partisan lines, the plurality and diversity of media outlets allowed voters to choose from a variety of political alternatives. However, contrary to the law, broadcast media often reflected political bias in their election coverage and did not give sufficient airtime to smaller parties. Women's participation remained low, in part due to parties' non-compliance with the gender requirement in nominating candidate lists for local councils.

On election day, voting proceeded relatively well in most of the 384 local government units, but there were nevertheless significant problems in some 10 per cent of voting centres in adhering to legal requirements. These included fully ensuring respect for secrecy of the vote and implementing safeguards for electoral integrity. While the counting process was assessed overall positively, it was very lengthy and in some places marked by unnecessary delays and interference by political parties. In several ballot counting centres, the counting process did not always adhere to procedural requirements.

The highly disputed post-election actions taken by the CEC with regard to determining the results of the Tirana mayoral race, even though partially upheld by the Electoral College, further undermined confidence that the CEC was acting as an impartial and independent body. The consideration of complaints and appeals in the post-election period did not provide for effective redress in all cases, although the Electoral College annulled elections in several constituencies due to irregularities. In contrast, appeals during the pre-election period were adjudicated in an

¹ The English version of this report is the only official document. Unofficial translation is provided in Albanian.

expedited manner that provided for effective redress.

These were the first local elections since the amendment of the Constitution and adoption of a new Electoral Code in 2008. The Electoral Code was previously assessed by OSCE/ODIHR and the European Commission for Democracy through Law (Venice Commission) as providing a thorough technical foundation for elections. However, some provisions are at odds with international standards and best practices. In particular, the two largest political parties have the right to remove one judge each from those selected to adjudicate electoral appeals, undermining the independence of the judiciary. In addition, significant gaps and ambiguities on local elections exist in the Electoral Code.

The CEC completed the complex technical preparations for the elections in a generally transparent manner. However, the political environment affected its work, as did disagreements over whether some decisions could be made with a simple majority or required a qualified majority of votes. The lower-level election commissions worked in a collegial manner; however, several deadlines were missed, often as a consequence of the failure of parties to comply with their legal responsibilities. These delays strained the election administration and affected the uniformity of the process, including voting, counting of ballots, and tabulation of results.

The authorities made considerable efforts to eliminate duplicate records and deceased people from the voter lists. Notwithstanding this progress, issues concerning the accuracy and completeness of the lists persist. Lack of civil registration and identification documents in Roma and Egyptian communities were acknowledged by the authorities as a continuing problem, which may have led to some disenfranchisement.

In an inclusive process, the CEC accredited 4,617 domestic observers from 19 different NGOs. The reporting of several of these groups enhanced the overall transparency of the electoral process. Representatives of parties and coalitions were present in almost all voting and ballot counting centres.

Although there were positive aspects of the elections that laid the groundwork for future progress, this is conditioned by the will of all parliamentary parties to engage in electoral reform. This should be undertaken together with government authorities, election administrators, and civil society. In this respect, OSCE/ODIHR offers a number of recommendations for further improvement, to be considered together with recommendations from previous OSCE/ODIHR reports and legal assessments. OSCE/ODIHR continues to stand ready to support the process of electoral reform in the Republic of Albania.

II. INTRODUCTION AND ACKNOWLEDGMENTS

The President of the Republic of Albania, Mr. Bamir Topi, announced on 6 September 2010 that local government elections would be held on 8 May 2011. These elections were for the mayors of municipalities, the heads of communes, and the councils of Albania's 384 local government units (LGUs). Following an early invitation from the Permanent Mission of the Republic of Albania to the Organization for Security and Cooperation in Europe (OSCE) on 5 November 2010, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) sent a Needs Assessment Mission (NAM) to Tirana from 17 to 21 January 2011.²

2 All OSCE/ODIHR reports on elections in Albania are available at www.osce.org/odihr/elections/albania.

Based on the recommendation of the OSCE/ODIHR NAM, an Election Observation Mission (EOM) was established on 28 March. The OSCE/ODIHR EOM, headed by Mr. Jonathan Stonestreet, consisted of a 16-member core team based in Tirana and 24 long-term observers deployed throughout the country. For election day, the OSCE/ODIHR EOM deployed 298 short-term observers. In total, the OSCE/ODIHR EOM included observers from 35 OSCE participating States.

The OSCE/ODIHR EOM was joined by a 17-member delegation from the Congress of Local and Regional Authorities of the Council of Europe to observe election day. Opening procedures were observed in 75 Voting Centres (VCs). Voting procedures were observed in over 1,000 VCs out of a total of 4,882. The OSCE/ODIHR EOM also observed the counting of ballots and tabulation of results in 57 of the 66 Ballot Counting Centres (BCCs). A limited number of short-term observers stayed until 15 May to observe the protracted counting of ballots in Tirana municipality.

The elections were assessed for their compliance with OSCE commitments and other international standards for democratic elections, as well as with national legislation. This final report follows a Statement of Preliminary Findings and Conclusions, which was released at a press conference in Tirana on 10 May.³

The OSCE/ODIHR EOM wishes to thank the Ministry of Foreign Affairs for the invitation to observe the elections, the CEC for its co-operation and for providing accreditation documents, and to other authorities at national and local level for their assistance and co-operation. The OSCE/ODIHR EOM also wishes to express appreciation to the OSCE Presence in Albania for its co-operation and support.

III. BACKGROUND AND POLITICAL CONTEXT

The 8 May elections were the first local elections to be conducted since the amendment of the Constitution and subsequent adoption of a new Electoral Code in 2008. In the 2009 parliamentary elections, the election coalition led by the Democratic Party (DP) won 70 out of 140 parliamentary seats and formed a government with the Socialist Movement for Integration (SMI), which won 4 seats. The results of the elections were disputed by the Socialist Party (SP), and its MPs boycotted parliament until March 2010.

Following the 2009 elections, the political environment remained highly polarized, characterized by harsh rhetoric and personal attacks, as well as opposition demonstrations. Tension increased following an SP-organized anti-government protest in Tirana on 21 January 2011, when violent clashes took place between protesters and security forces. Four people were shot dead and numerous others were injured. The parliament initiated an inquiry, while the General Prosecutor opened a separate investigation into the shootings. These were still ongoing at the time of the 8 May elections.

Following the 21 January events, there were several high-level international visits to appeal for calm and responsibility in the run-up to the elections. President Topi called on all parties to behave responsibly and to act in accordance with the law. Both majority and opposition leaders stated that their priority was for the elections to be conducted in accordance with OSCE commitments and other international obligations. However, opposition parties expressed mistrust in the authorities and the election administration, while the governing parties claimed that opposition-nominated

3 The OSCE/ODIHR EOM also published two interim reports and one post-election interim report.

election commissioners would obstruct the process. The SP demanded additional safeguards for the election process, including political party access to the preparation of voter lists, the scanning of identity cards, recounts of ballots if requested by two CEC members, and post-election audits of election materials.

At the end of March 2011, under the auspices of the international community, a roundtable discussion among parliamentary parties tried to reach a 'goodwill agreement' on the responsibility of the parties in the electoral process. All parties signed the agreement except the SP, which refused on the grounds that its proposals had not been accepted.

Many smaller parties expressed dissatisfaction with the Electoral Code, which they felt favoured the two largest parties. They objected to the domination of the election administration by those parties, as well as to the conditions for registration of candidates for local elections, which they considered too onerous for small parties that are not part of electoral coalitions.

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

A. OVERVIEW

The 2011 local elections were conducted under a legal framework primarily consisting of the Constitution and the Electoral Code. The provisions set by the Electoral Code were supported and implemented by decisions and instructions of the CEC. Other applicable legislation included the Law on Local Government, the Law on Political Parties,⁴ and the Law on Demonstrations, as well as provisions of the Code of Civil Procedures, the Code of Administrative Procedures, and the Criminal Code.

The Electoral Code is the product of electoral reforms launched after the 2007 local elections and was drafted and supported by both the DP and SP. It addressed several recommendations previously offered by OSCE/ODIHR, and has been assessed as providing a thorough technical foundation for elections.⁵ However, some long-standing recommendations, including those from the OSCE/ODIHR EOM Final Report on the 2009 parliamentary elections, remain unaddressed.

Some provisions of the Electoral Code are contrary to OSCE commitments, other international standards and good practices. Article 146.3 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. This is incompatible with the principle of the independence of the judiciary.⁶ Further, Articles 32.2 and 39.2 grant political parties the unrestricted right to replace members of mid-level and lower-level election commissions at will and without any legal cause, thereby undermining the independence of the election administration.⁷

4 This law was significantly amended in February 2011, especially regarding funding of political parties and increasing the number of founding members required to register a political party from 500 to 3,000.

5 See OSCE/ODIHR Final Report on the 2009 Parliamentary Elections in the Republic of Albania, and the OSCE/ODIHR and Venice Commission of the Council of Europe Joint Opinion on the Electoral Code, available at www.osce.org/odihr/elections/albania/36587.

6 Paragraph 5.12 of the 1990 OSCE Copenhagen Document, Paragraphs 19.1 and 19.2 of the 1991 OSCE Moscow Document, and United Nations Basic Principles on the Independence of the Judiciary (endorsed by UN General Assembly resolutions 40/32 and 40/146 (1985).

7 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, Chapter 3.1, Paragraph

Furthermore, the Electoral Code contains several gaps and ambiguities specifically related to local elections. For instance it is unclear whether there is a minimum threshold for representation in the local councils; provisions on campaign financing from public funds are imprecise; and there is no provision on the competent election administration body for the registration of candidates for Tirana municipality. There is also no clear provision on the role of the CEC in elections for the municipality of Tirana. Other gaps or ambiguities pertaining to both local and parliamentary elections include the deadline for compilation of the Final Voter Lists (FVLs), the nomination of Commission of Election Administration Zones (CEAZ) members and ballot counting teams, provisions on identification of political advertisements in broadcast media, and provisions on contested ballots.⁸

In addition, the Electoral Code does not regulate the validity of ballots cast in the wrong box. The Electoral Code does not explicitly state that such ballots are not valid, nor does it provide for any procedure for the counting of miscast ballots and for their inclusion in the results. This gap led to considerable controversy and a protracted appeals process in the Tirana mayoral election.

B. ELECTORAL SYSTEM

The mayors of municipalities, the heads of communes and the councils of the 384 local government units (LGUs) are directly elected. The constituency for the local elections is the territory of the municipality or commune. In Tirana, there are two levels of local government. The city forms one constituency, as do each of the 11 boroughs into which the city is divided. Mayors and heads of communes are elected under a first-past-the-post system, while members of the councils are elected from closed candidate lists under a proportional system.

The Law on Local Government provides that the number of councillors to be elected in each LGU is determined according to its population size, ranging from 13 members in the smallest communes to 45 members in cities between 100,000 and 200,000 inhabitants. The Law on Local Government does not regulate the number of councillors to be elected in cities over 200,000 inhabitants. For Tirana, the Law on Local Government stipulates a 55-seat council.

There are no specific provisions in the Electoral Code on the applicability of thresholds for the allocation of local council seats. In the absence of clear regulation, the CEC applied the same thresholds specified for parliamentary elections.⁹ Local council mandates were allocated to parties and coalitions according to the d'Hondt system. A second allocation using the Sainte-Laguë method was conducted to distribute seats to parties within a coalition.

V. ELECTION ADMINISTRATION

The 2011 local elections were administered by a three-tiered election administration, consisting of the CEC, 66 CEAZs, and 4,882 Voting Centre Commissions (VCCs). The vote count was conducted in 66 BCCs, working under the authority of the respective CEAZ.

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."

8 Contested ballots are those ballots whose validity or evaluation is disputed by members of counting teams or observers (Article 118 of the Electoral Code).

9 The Electoral Code establishes three and five per cent thresholds for parties and coalitions, respectively, to be eligible to participate in the allocation of mandates in a constituency for parliamentary elections.

A. CENTRAL ELECTION COMMISSION

The CEC is a permanent body whose seven members are elected by parliament for a four-year term and can be re-elected. The formula for the composition of the CEC reflects parliamentary representation, with four members nominated by the majority parties (majority-proposed members) and three by the opposition (minority-proposed members). The current CEC was elected in February 2009.¹⁰ In addition, all parties running in the local elections were entitled to nominate representatives to the CEC. These representatives could take part in discussions and put forward proposals but did not have the right to vote.

The CEC's responsibilities included appointing and removing CEAZ members, supervising the preparations for elections, printing ballots, training lower-level election officials, overseeing campaign finance measures, imposing sanctions for election related administrative infractions, considering complaints and appeals, announcing the winning candidates for the members of local councils, and tabulating the electoral results for the mayor and council of Tirana.

During the election period, the Electoral Code requires the CEC to meet daily in public sessions. Decisions are taken by majority vote, i.e. four out of seven members. However, a qualified majority of five votes is needed for certain types of decisions, such as approval of the CEC organizational structure and its rules of procedures; proposals for dismissal of CEC members; adoption of instructions; delineation of Electoral Administration Zones (EAZ); determination of the number of mandates for each constituency; acceptance of complaints against the aggregated table of results for an EAZ; invalidation of elections in a VC; and the invalidation and repetition of elections in an entire constituency or the whole country. A qualified majority is also needed to issue regulations that are considered "acts of normative nature".

In accordance with its responsibilities, the CEC prepared a voter education campaign, conducted in broadcast and print media. The first phase promoted the participation of young voters and addressed the problem of family voting. The second phase explained voting procedures. According to the CEC, voter education materials were also produced in Greek and Macedonian languages. One CEC get-out-the-vote spot included questions on political issues and was criticized by the SP, which claimed that the spot was similar to a political advertisement of Mr. Basha, DP candidate for the mayor of Tirana.

B. COMMISSIONS OF ELECTORAL ADMINISTRATION ZONES

There is one CEAZ for each of the 66 EAZs.¹¹ CEAZs are appointed by the CEC and consist of seven members, including a chairperson and deputy chairperson, supported by a secretary. The nomination formula for CEAZ members mirrors that of the CEC, with the exception that in one half of CEAZs, the chairperson is nominated by the largest majority party, and in the other half, by the largest opposition party. The criteria to determine the party that held the majority in each CEAZ was regulated through a CEC decision whereby the DP would nominate the chairperson in the CEAZs with odd numbers and the SP in the CEAZs with even numbers. The deputy chairperson and the secretary belonged to the largest party which did not hold the chair of the respective CEAZ. CEAZ decisions are taken by majority vote.

10 The chairperson and two members were nominated by the largest party of the parliamentary majority (DP). The deputy chairperson and one other member were nominated by the largest opposition party (SP). The remaining two members were nominated by the Republican Party (RP) and the Social Democratic Party (SDP) of the parliamentary majority and opposition, respectively.

11 The territorial jurisdiction of an EAZ is, as a rule, the same as the territorial administrative district. For local elections, an EAZ can include one or more LGUs.

The CEAZs were responsible for organizing and conducting the elections in the EAZ under their supervision. This included registering the parties, coalitions and candidates for each LGU; ensuring the distribution of election materials to the VCCs; and preparing and approving the aggregate table of election results for each LGU. In addition, the CEAZs declared the winning candidate for mayors and heads of communes.¹²

C. VOTING CENTRE COMMISSIONS AND COUNTING TEAMS

VCCs were appointed by CEAZs according to the same membership formula as for CEAZs, including the distribution of chairperson and deputy chairperson positions. VCCs were responsible for organizing voting at VCs during election day. At the close of voting, ballots and other election materials are securely packed and transported by VCCs with police escort to relevant BCCs.

Counting took place in 66 BCCs, one per EAZ. Every BCC had between five and ten counting tables, each with two counting teams working in shifts. Counting teams were composed of four members, two from the ruling parties (DP and SMI) and two from the opposition (SP). Although members should represent four parties, only three met the threshold requirement to nominate as in the current composition of parliament, the SP was the only opposition party with at least two seats.¹³ The Electoral Code does not foresee the situation in which only one opposition party has at least two seats in the preceding parliamentary elections, and the CEC decided unanimously that the fourth member of counting teams would be proposed by the SP in order to overcome the legal gap.

The CEC appointed 24 inspectors, 2 per each of the 12 regions, to co-ordinate work with the CEAZs. The inspectors, among other duties, conveyed CEC decisions to the CEAZs and vice-versa, organized the training of CEAZ and VCC members, and supported the CEAZs in the preparation of elections.

Each electoral subject (political party, coalition, candidate proposed by a group of voters, and mayoral candidates) has the right to appoint observers to CEAZs, VCCs and for each counting table in a BCC. For parties forming a coalition, the right to appoint observers lies with the coalition rather than the parties. Candidates were allowed to be present during the vote count, as provided by the Electoral Code.

D. ASSESSMENT OF THE ELECTION ADMINISTRATION IN THE PRE-ELECTION PERIOD

The CEC completed the complex technical preparations for the elections in a generally transparent manner. However, the overall political environment affected the work and the collegiality of the CEC, as did continuing disagreement as to whether some decisions could be made with a simple majority or required a qualified majority of five votes. The tight deadlines foreseen by the Electoral Code contributed to some problems on election day, including the cancellation or partial cancellation of elections in four LGUs due to misprinted or wrongly distributed ballots.

CEC sessions were public and were broadcast live on its website. The sessions were extensively covered by the media. The agenda of the sessions was not always published 24 hours in advance as

12 Except for Tirana, where the CEC prepares the aggregate table of results and declares the winning candidates for mayor and council of the city (Article 122.6 of the Electoral Code).

13 The first and second members of the counting teams are proposed by the parties to which the CEAZ chairperson and deputy chairperson belonged. The third and fourth members are proposed by the parties of the parliamentary majority and minority respectively (with the exception of those parties that have proposed the first and second members), provided that they have obtained at least two seats in the preceding parliamentary elections (Articles 95 and 96 of the Electoral Code).

required by law. Opposition-nominated members of the CEC and a SP representative stated that they did not always receive the documents for discussion sufficiently in advance of sessions. In some cases, the CEC Chairperson addressed these concerns by postponing the discussion to the following session. Most CEC decisions were published on its website, although often several days after being approved.¹⁴

The three opposition-nominated members stopped participating in CEC sessions from 12 January until 8 April, due to disagreements with the majority members about the adoption of certain decisions by simple majority instead of by qualified majority, and about the CEC internal rules of procedures. The absence of these members contributed to delays and problems in the preparations for the elections.

After the CEC began meeting again in its full composition, it did not attempt to resolve these issues, and its work continued to be affected by the highly polarized political environment. In particular, the question of whether a decision should be taken by qualified majority or not remained a frequent topic of discussion in CEC sessions. Discussions were at times acrimonious and of a political nature, and sometimes deteriorated into personal attacks and accusations. In addition, CEC meetings were often used as a political battleground by the DP and the SP representatives.

The CEC voted along partisan lines (four majority-proposed members against three opposition-proposed members) on matters disputed by the DP and SP. This was especially evident in the CEC's role as a media regulatory body (see Media section), but the partisan atmosphere made it difficult for the CEC to address even some technical issues in a collegial manner. These issues included the content of the ballot papers, location of VCs in private premises, and the production of reserve stamps for VCCs. Decisions on all of these issues were appealed to the Electoral College, and some of them were overturned later. The CEC also often adopted decisions unanimously, but only on issues which were not disputed by the DP and SP or where agreement had been reached by these two parties, such as on additional security measures for ballot papers, the order of counting of ballot boxes in Tirana, the composition of counting teams, instructions for counting of ballots, and the manuals for voting and counting procedures.

Other potentially divisive issues were not addressed at all by the CEC. This included the issue of the status of ballots cast in the wrong ballot box, which in the case of the Tirana mayoral race became the deciding factor in the results (see Voting and Counting section). In addition, except for an amendment to a 2009 instruction on counting procedures, the CEC did not adopt any instructions to address the specificities of local elections, such as the registration of coalitions, parties and candidates for Tirana races, campaign financing, and media regulations.

For the most part, the partisanship in the CEC did not extend to the lower-level commissions. Most CEAZs appeared to have worked professionally and collegially with no major problems in the pre-election day period. However, not all CEAZs held regular meetings or followed the working hours recommended by the CEC. The CEAZs managed to conduct their duties in spite of the continuous replacement of CEAZ members at the request of the nominating parties, which continued up to and after election day.¹⁵

14 Article 24.3 of the Electoral Code states that CEC decisions must be published immediately on the official CEC website.

15 By 16 May, 140 of the 528 CEAZ members and secretaries were replaced (42 by the DP and SP each, 38 by the Human Rights Union Party (HRUP) and 18 by SMI).

The CEAZs should have been established three months before the election day, but the parties did not submit their proposals by the legal deadline. Although the majority parties nominated their members shortly thereafter, the opposition parties did not do so, leaving half of the CEAZs without a quorum. As the Electoral Code does not foresee this situation, the CEC was obliged to find a solution in order to ensure that the elections could be conducted as scheduled, a task that was made more difficult by the boycott of the opposition-nominated CEC members. The CEC adopted a decision to appoint commissioners from civil society, enabling the CEAZs to conduct important steps of the election process, such as candidate registration. By the end of March, all parties submitted their nominations, and CEAZ members could be appointed in accordance with the Electoral Code. The CEC accepted the resignation of the civil society nominees who had been appointed to the CEAZs.

The CEC and the CEAZs missed several deadlines established by the Electoral Code. However, this was often a consequence of the failure of parties to comply with their legal duties and responsibilities. These delays placed strains on the election administration and affected the uniformity of the process. Political parties were late in appointing VCC and counting team members, and there were frequent last-minute changes once they were appointed.¹⁶ Therefore, not all VCC members and counting team members could be trained by the CEC in a timely manner, which may have affected the conduct of voting and counting. In addition, the CEC approved the manuals on voting and counting procedures only the week before election day. The selection of parties entitled to nominate counting team members took place on 18 April, and not on 8 April.¹⁷ The BCC locations were finalized on 19 April, 11 days after the deadline.

Finally, four LGUs received the wrong ballot papers or received ballot papers containing errors. According to the CEC Chairperson, these problems were largely due to the tight deadlines specified in the Electoral Code for the nomination of candidates and for any appeals regarding denial of candidacy and the content of ballots. This, in turn, caused the late approval of the content of ballot papers and their printing.

VI. VOTER REGISTRATION

All Albanian citizens 18 years of age or older are eligible to vote, except those declared mentally incapacitated by a court. Voters can only vote in person in a VC in Albania; there are no provisions for voting abroad, voting by mail, or mobile voting. Special VCs can be organized in hospitals, prisons, and pre-trial detention centres.

Albania has a passive system for voter registration. Voter lists are extracted from the National Civil Status Register, maintained by the Ministry of Interior (MoI). This database is based on information from the Civil Status Offices (CSOs), which are part of the local administration. The CSOs are responsible for the compilation and accuracy of the civil register for the territory of the LGU, under the authority of the respective mayor or head of the LGU. According to the CEC, there were a total of 3,166,279 registered voters for the 2011 local elections.

The compilation of the voter lists started in October 2010 with the CSOs creating Preliminary Voter Lists (PVLs) for each polling unit. PVLs were posted for public display on 26 October 2010. Voters could request changes to their data in the PVLs up to 60 days before election day, and in

16 The OSCE/ODIHR EOM observed that in 27 CEAZs parties did not nominate counting team members by the 4 May deadline. Some members were even nominated after the start of counting.

17 Article 96.2 of the Electoral Code prescribes that the CEC organizes a lottery among parties eligible to propose names for counting team members not later than 30 days before election day.

some cases, changes could be requested by family members or third parties, or made directly by the mayor if an individual is registered on more than one list or is not an Albanian citizen.

By law, three printed versions of the Final Voter Lists (FVLs) must be signed by the mayors of the LGUs and sent to the CEAZs one month before election day. For these local elections, the MoI issued an instruction for the CSOs to print the FVLs on 5 April 2011 for each polling unit under their jurisdiction. The majority of CEAZs received the FVLs by the legal deadline of 8 April.¹⁸ Electronic copies were available to parties upon request, which increased transparency.

The CEAZs must post the FVLs for public display at each VC. Voters who find that they are not on the FVL may vote if they obtain a court decision certifying their residence. While the FVLs were usually posted at VCs, the OSCE/ODIHR EOM observed instances in which it was not posted or was inaccessible to voters.¹⁹

The MoI made considerable efforts since the 2009 parliamentary elections to eliminate duplicates and deceased people from the civil registry database. In a verification conducted in October-November 2010, some 39,000 duplicate records were found in the database, corresponding to some 19,000 citizens. After checks were conducted in all CSOs, the duplicate records decreased to 1,600. According to the MoI, the remaining duplicate records could only be deleted by the CSOs after they confirmed which record is current.

Notwithstanding this progress, the OSCE/ODIHR EOM noted a number of issues with the FVLs. A discrepancy of 1,420 voters was noted between the total numbers of voters in the FVLs used by the CEC, which came from the CEAZs, and the numbers announced by the MoI on 9 April, which were based on the civil registry database. According to the MoI, this was caused by CSOs and mayors and heads of communes not always applying uniform procedures for the submission of the FVLs to the CEAZs, especially by printing the FVLs earlier than instructed. In addition, spot checks of the electronic FVL by the OSCE/ODIHR EOM showed that more than 1,200 voters included in the FVLs countrywide were not assigned a VC. Since the FVLs are printed by VCs, this means that these voters did not appear in the voter list at any VC, which could result in disenfranchisement of these voters.

Approximately 40 per cent of the voters nationwide had no specific residence code in the FVLs.²⁰ Local authorities and the MoI informed the OSCE/ODIHR EOM that these were mainly citizens living abroad, or people living in buildings without assigned official addresses, or people whose addresses were otherwise unknown. The number of registered voters without a specific residence code varied throughout the country but was highest in the cities of Vlore (54 per cent), Durrës (51 per cent), and the commune of Prrenjas in Elbasan region (55 per cent). The high numbers of voters with unknown addresses reduces the accuracy of the voter lists. This issue persists from previous elections.

The Electoral Code does not clearly define a deadline for making changes to the FVLs. According to the MoI, the FVL should reflect all changes in citizens' statuses up to the point when FVLs are printed (on 5 April). In the SP's understanding, changes to the voter lists may only be requested

18 Out of the 66 CEAZs, 62 stated that they had received the FVL for all of their LGUs by the deadline. Three of the remaining four (CEAZs 19, 57 and 61) received them one day later. In two communes of CEAZ 4, Vendreshe and Bogovë, the heads of the LGUs refused to sign the FVL.

19 As observed in VC 0664 (Kukes District) and several other VCs in Tirana boroughs (CEAZs 47, 48, 51, 52, 53 and 54).

20 All voters are assigned a residence code on the voter lists. If the specific residence is unknown, a general code such as "888", "999", or "000" appears.

until 60 days before election day. Therefore, by their argument, FVLs should only reflect changes made until 8 March.²¹ The MoI held that the 60-day deadline only concerned changes made at the request of voters and not changes in the civil register from which FVLs are extracted.

In the month before the publication of the FVLs, the SP expressed concerns that voters were illegally added to the civil registers in certain LGUs, including DP and SMI-controlled boroughs of Tirana, in order to change the balance of political power in these locations. The SP demanded that regular updates of the PVLs, reflecting ongoing changes in the registration status of the voters, be made available to them. This was rejected by the MoI, which said that the Electoral Code only provided for parties to receive the PVLs and the FVLs.

Following the publication of the FVLs, the SP stated that the party had found evidence of voters who had been illegally added to the civil register and filed complaints with the prosecutor's office. Some SP officials made public statements that criminal charges might be filed against any such voters who attempted to vote on election day or that such people would be prevented from voting. While these statements were not acted upon, the claims contributed to tensions in the week before election day.

By law, a VC should have between 150 and 1,000 registered voters. In almost all municipalities there were VCs which had more than 1,000 voters, in some cases up to 2,000 voters, a longstanding problem that has been commented upon by OSCE/ODIHR in past elections. Such VCs were prone to overcrowding and long queues of voters on election day.

VII. PARTY AND CANDIDATE REGISTRATION

Local elections can be contested by candidates nominated by political parties, by coalitions of political parties, or by independent candidates nominated by groups of voters (electoral subjects). Political parties and initiating committees of groups of voters who proposed candidates in the local elections were required to register with the CEC. Two or more parties which are registered as electoral subjects can register with the CEC as an electoral coalition.

Electoral subjects had to submit the names of mayoral candidates or multi-name candidate lists for council elections to the CEAZs no later than 40 days before election day. Parties not represented in the parliament or in the respective local council had to provide a list of signatures of at least one per cent of voters registered in a given constituency to nominate mayoral or council candidates. Alternatively, such parties could join a coalition with one of the large parties. A group of voters that had registered with a CEAZ as an electoral subject had to obtain a similar number of signatures, unless their candidate was already a mayor. Voters had to submit supporting signatures before the CEAZ or a notary. The Electoral Code only allows voters to sign in support of one party or candidate.

As the Electoral Code does not specify the body responsible for the registration of candidates for Tirana mayor and council elections, the CEC directly registered these candidates.

The registration of electoral subjects and candidates was generally inclusive. The CEC registered 56 parties as electoral subjects. Of these, 22 parties contested the elections as part of the DP-led coalition, Alliance for the Citizen, and 23 parties competed as part of the SP-led coalition, Alliance

21 Article 52.1 of the Electoral Code states that "requests for changes in the preliminary voter list cannot be submitted later than 60 days prior to the date of the elections".

for the Future. The CEC refused the registration of two parties for submitting incomplete registration documents.

Fifty-three political parties submitted candidate lists for local council elections. According to the CEC, there were some 75,000 candidates for the councils and 872 mayoral candidates. Of these, 62 stood for council elections and 44 for mayoral elections as independent candidates.

The CEC reviewed some 50 CEAZ decisions regarding denial of candidate registration, of which 18 were overturned. In two LGUs, parties with registered candidate lists were initially not put on the ballot by the CEC due to CEAZ errors. In one case, the HRUP appealed to the Electoral College and was put on the respective LGU ballot. In the other case, the New Tolerance Party (NTP) did not appeal.

VIII. CAMPAIGN

The elections took place in a highly polarized political environment. Opposition parties expressed mistrust in the authorities and the election administration, while governing parties claimed that opposition-nominated election commissioners would obstruct the process. Some party leaders alleged their opponents were engaged in corruption or were responsible for the 21 January 2011 events.

The official campaign period began on 8 April, although parties were already actively promoting themselves before then. All contenders were generally able to campaign throughout the country. Party leaders held rallies throughout Albania, together with local candidates. Campaign offices were established in most parts of the country, and local campaign events were organized on a wide scale, including meetings with small groups of voters and door-to-door campaigning. The level of intensity of campaigning varied, and in some rural areas campaign activities were less visible. The leading parties in the two electoral blocs, the DP and the SMI from the Alliance for the Citizen coalition, and the SP from the Alliance for the Future coalition, campaigned most extensively. Some other parties in the two coalitions, as well as the HRUP, which stood alone, were also active. There was a strong focus on the elections for mayors and heads of communes, rather than on the council elections, and particularly on the race for mayor of Tirana.

Election contestants, especially the DP, stressed local issues, including infrastructure development and the quality of municipal services. National issues, particularly employment and taxation, also featured in the campaign. In addition to local issues, the SP focused much criticism on the national government. Campaign advertising was widely used by the larger parties, including billboard posters and TV advertisements. Some SP advertisements included footage of the violent events of 21 January and harsh attacks on the Prime Minister.

State officials, notably the President and the Prime Minister, made repeated calls for a calm and peaceful campaign. However, the large number of violent election-related incidents in several regions marred the campaign environment.²² These included non-fatal shootings of a DP candidate in Tirana on 1 April and at the vehicle of the SP head of commune candidate in Ishem (Durrës region) on 2 May, as well as the non-fatal stabbing of an SP supporter before an SP campaign event in Tirana on 12 April. There were a number of instances of explosions and damage to the property of candidates and parties. On 18 April, an explosive device was detonated outside the apartment of the SP mayoral candidate in Tirana's Borough 7, causing minor damage. On 5 May,

22 Violence was most prevalent in the regions of Tirana (Tirana city and Kamez), Durrës, Korce and Kukës.

the car of the SP candidate for head of commune in Shtiqen (Kukes region) was damaged by an explosion. On 19 April, there was an attempt to set fire to an SP campaign office in Berat. On 28 April, three SP offices were damaged in Korce. In an incident in Mat district (Diber region), a DP supporter was badly beaten with a pistol by an SP activist.

There were also several instances of threats and beatings during the campaign. On 18 April, in Sukth (Durrës region), an SP supporter was severely beaten while attempting to put up flags before an SP rally. On 21 April, an individual disrupted an SP campaign event in a café in Tirana, allegedly threatening some of the participants. Two of the participants had previously informed the OSCE/ODIHR EOM that they were threatened while campaigning in the area. In one of a series of incidents in Kamez (Tirana region), a violent dispute between SP and DP supporters before an SP rally on 17 April resulted in one injured DP supporter. Such violent incidents are not in accordance with paragraph 7.7 of the 1990 OSCE Copenhagen Document.²³

There was controversy over the placing of campaign posters and flags in many areas, which in some cases led to their removal and, at times, to violent confrontations. Provisions in the Electoral Code and a CEC instruction to local authorities to designate places for posting campaign materials were inconsistently implemented, and in many places were not implemented at all. In Tirana there were disputes over an order by the municipality to remove political banners placed in unauthorised locations, as well as over the setting-up of a campaign tent by the SP in the city centre.²⁴ On 18 April, in Sukth (Durrës region), an SP supporter was severely beaten while attempting to put up party flags before an SP rally. Shots were also fired, and a DP activist was arrested for threats, hooliganism and breach of public order.

The OSCE/ODIHR EOM received a large number of allegations in most regions of the country that pressure was exerted upon state employees, including teachers, healthcare workers and civil servants, as well as students, either to join DP campaign events, or not participate in opposition activities. Such pressure included threats of job loss as well as low marks for students. The OSCE/ODIHR EOM assessed several cases in Tirana, Kukes, Elbasan, Vlore and Korce regions as credible. For example:

- Teachers in Vlore and Kamez (Tirana region) were ordered by their school principal to attend DP rallies.
- School pupils in Kukes and university students in Korce were told by their teachers to attend a DP rally.
- Hospital workers in the Elbasan region were required to attend a DP rally.
- Civil servants at a government ministry in Tirana were required by their Human Resources Department to attend DP rallies, and their attendance was checked.

In addition, both the SP and the DP claimed that public sector workers were required to provide their and their family members' personal data as well as in some cases data about their place of voting, allegedly as a form of pressure. The OSCE/ODIHR EOM verified some cases in Elbasan and Tirana regions.

23 Paragraph 7.7 states that 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 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 or retribution”.

24 On 4 April, the Head of the Construction Inspection Office of Tirana Municipality who issued the order to remove banners was shot and wounded, but it could not be confirmed that the incident was election related.

At a Council of Ministers meeting on 29 April, the Prime Minister acknowledged instances of such pressure. He called on public institutions not to put pressure on their staff, and assured state employees they were free to attend campaign events and to vote for parties as they choose.²⁵

The use of administrative resources at either central or local level for campaigning is prohibited by law. At the outset of the campaign, the Prime Minister issued an instruction requiring state and local officials to ensure that administrative resources, particularly vehicles, would not be used for campaigning. This appeared to be largely effective, as only very few instances of such use of administrative resources were brought to the attention of the OSCE/ODIHR EOM. This represented an improvement.

However, the OSCE/ODIHR EOM observed a limited number of instances in which government officials and incumbent mayoral candidates used official events or resources for campaign purposes, inconsistent with OSCE commitments.²⁶ These instances included campaign speeches at inaugurations of infrastructure or other officially financed projects on the part of the Prime Minister and of some mayors, including the mayor of Tirana. In addition, the OSCE/ODIHR EOM noted that the Council of Ministers website contained the record of campaign events and campaign speeches of the prime minister, and the official websites of Tirana and Durres municipalities contained information on campaign events by incumbent mayoral candidates. There were also observed cases when party banners were hung on local government buildings, for example in Kukes.

A. CAMPAIGN FINANCE

The Electoral Code regulates campaign financing through public and non-public (private) funds. In addition, the Law on Political Parties contains rules on the regular funding of political parties. This law was amended in February 2011 so as to provide more detailed provisions on party financing and to address most recommendations of the Council of Europe's Group of States against Corruption (GRECO).²⁷

Public funds are allocated to parties both for their regular activities, under the Law on Political Parties,²⁸ and for their campaign activities, under the Electoral Code. Fifty per cent of the public funds for campaigning are granted to parliamentary parties in proportion to the number of their seats in parliament. A further 50 per cent is allocated among parties with at least two parliamentary seats, in proportion with the total number of votes they received in the previous parliamentary elections. In accordance with these rules, the CEC allocated ALL 65 million (approx. EUR 450,000) among the parliamentary parties participating in the 2011 local elections. Of this sum, more than ALL 60 million was allocated to the DP and the SP.

The effect of these provisions is that non-parliamentary parties standing in the elections, especially those that have representation at local level, are substantially disadvantaged in comparison with

25 Press release of 29 April 2011, www.keshilliministrave.al/index.php?fq=brenda&m=news&lid=14740.

26 Paragraph 5.4 of the 1990 OSCE Copenhagen Document commits OSCE participating States to maintaining "a clear separation between the State and political parties".

27 See GRECO's 'Evaluation Report on Albania on Transparency of Party Funding' (15 May 2009) and the 'Compliance Report on Albania', adopted 1 April 2011, available at www.coe.int/t/dghl/monitoring/greco/evaluations/round3/ReportsRound3_en.asp.

28 The Law on Political Parties divides 70 per cent of the regular public funds allocated to parties among parliamentary parties in proportion to their seats in parliament; 20 per cent equally among parliamentary parties; and 10 per cent among parties that received more than 1 per cent of the votes in the previous parliamentary elections. The state also provides headquarter premises and local offices to parliamentary parties and parties which averaged more than 1 per cent of votes over the last three parliamentary elections.

parliamentary parties and especially the two largest parties. This is contrary to good practice for political party funding.²⁹ The provisions do not appear well-suited to local elections, as parties that have no representation in parliament may nevertheless achieve representation in some LGUs.

Electoral subjects may receive funds for their campaigns from individuals or legal entities. The maximum amount that may be given by any donor, either monetarily or in-kind, is ALL 1 million (approx. EUR 7,000). In line with the Constitution,³⁰ the Electoral Code requires that a list of people making donations of more than ALL 100,000 (approx. EUR 700), and the amount of their donations, should always be made public. The Electoral Code does not state a deadline for when electoral subjects should submit the required list of donors, while the CEC informed the OSCE/ODIHR EOM that this information would only be provided after the elections, thus not providing for transparency of donations during the pre-election period.

The total campaign expenses of a party may not exceed ten times the highest amount that an electoral subject has received from public funds for the campaign. Within 45 days of the announcement of the final results, the CEC appoints accounting experts to audit the funds received and spent by parties during the campaign. The CEC may carry out verifications of the audit reports, but is not required to do so. It must publish the audit reports within 30 days of submission or, if undertaken, verification. Fines may be imposed on parties for failure to co-operate with auditing or for exceeding the spending limit. Refusal to disclose campaign financing may be punishable by a fine of ALL 2 million (EUR 14,000) or a suspension of public financing.

Some issues remain to be addressed. First, the Electoral Code gives the CEC the discretion to verify audit reports, but does not provide criteria for performing such checks. This concern was previously raised in the 2009 OSCE/ODIHR and Venice Commission Joint Opinion on the Electoral Code. Second, the OSCE/ODIHR EOM was informed by the CEC that auditors do not check for the completeness of party records (i.e., that all incurred campaign expenses are reflected in the supporting documents). Failure to check the completeness of the information increases the possibility of undeclared donations. Finally, the CEC has not been allocated sufficient resources to carry out its expanded mandate and is, as yet, unable to carry out its oversight functions effectively. In addition to lack of staff for these tasks, the CEC has limited funds for paying the appointed auditors.

IX. MEDIA

A. MEDIA ENVIRONMENT

A wide range of media outlets operate in Albania, in spite of a limited advertising market. According to official data, there are three TV stations with national coverage (the public broadcaster *TVSH*, *TV Klan* and *Top Channel*), 75 local TV stations and 70 cable TV stations.³¹ Three radio stations broadcast nationally, and numerous radio stations operate at local level.

29 See the OSCE/ODIHR and Venice Commission “Guidelines on Political Party Regulation” CDL-AD(2010)024. Paragraph 187 states, “the formula for the allocation of public funding... should also prevent the two largest political parties from monopolizing the receipt of public funding.” Paragraph 188 states, “to promote political pluralism, some funding should also be extended beyond those parties represented in parliament to include all parties putting forth candidates for an election and enjoying a minimum level of citizen support.”

30 Article 9.3 of the Constitution states that “the sources of financing of parties as well as their expenses are always made public.”

31 According to the National Council of Radio and Television, the media regulatory and licensing authority.

Television and radio are the primary sources of information. There are approximately 30 main newspapers and three main magazines, yet readership and circulation are rather low and limited to urban areas.³²

The plurality and diversity of media outlets allowed the voters to choose from a variety of views in these elections. However, both broadcast and print media were divided along political lines, undermining their independence.

B. LEGAL FRAMEWORK FOR THE MEDIA

The Constitution guarantees freedom of expression and freedom of the media, explicitly prohibiting censorship. Contrary to good practice,³³ libel and defamation remain criminal offenses. Other laws governing the media are the Law on Public and Private Radio and Television and the Press Law. The National Council of Radio and Television is the regulatory and licensing body for the broadcasters.

Articles 77-85 of the Electoral Code include a comprehensive legal basis for the media coverage of the official campaign period. The Electoral Code provides rules for free airtime, news coverage and paid advertisements; stipulates a campaign silence period; and prohibits the publication of opinion polls five days prior to election day.

The Electoral Code provides that large political parties must receive equal coverage in newscasts of all broadcast media, and that they are entitled to receive double the time of coverage of small parties. News coverage of non-parliamentary parties is determined by the editors, but should not exceed the airtime granted to small parliamentary parties.

The law also provides for free airtime on public radio and television for parties, based on their representation in parliament. The CEC, which is the primary media regulatory body during the official campaign period, instructed the public broadcaster to allot 60 minutes of free airtime to large parties, 30 minutes to small parliamentary parties and 10 minutes each to the non-parliamentary parties which were registered for the local elections.³⁴ The order of appearance was decided in a public lottery on 7 April.

Paid political advertising on broadcast media is allowed but is limited to 90 minutes for the large political parties, 45 minutes for the small parties, and 10 minutes for the non-parliamentary parties. Legal limits to paid advertisements based on parliamentary representation are contrary to the principle of non-discrimination among political parties, as set out in OSCE commitments and other international standards.³⁵

32 The IREX Media Sustainability Index 2010 reports that 60 per cent of inhabited territory in the rural areas remains out of reach for print media: www.irex.org/system/files/EE_MSI_2010_Albania.pdf.

33 Joint Declaration of the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, N. 190, December 2002, www.osce.org/fom/39838.

34 Large political parties are defined as those with at least 20 per cent of parliamentary seats (DP and SP). Small parties are those with less than 20 per cent of seats in parliament (SMI, RP, Party for Justice, Integration and Unity (PJIU) and HRUP).

35 Paragraph 7.8 of the 1990 OSCE Copenhagen Document states that OSCE participating States will “provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process”. See also, CoE, Recommendation No. R (99) 15 of the Committee of Ministers to Member States, on Measures Concerning Media Coverage of Election Campaigns.

On 28 March, the CEC established the Media Monitoring Board (MMB), the advisory body in charge of monitoring media compliance with the Electoral Code. The MMB monitored 62 TV channels and 2 radio stations, and submitted its findings and proposals to the CEC on a weekly basis. Findings on the work of the MMB are presented in the following section.

C. MEDIA MONITORING



OSCE/ODIHR EOM media monitoring findings show that the media offered wide coverage of the elections in different types of programmes.³⁶ The five monitored TV channels devoted altogether 258 hours to election related issues, mainly within newscasts, information programmes and TV debates. During the official election campaign, the broadcasters planned 35 TV debates among party representatives and local candidates, although in 16 cases one or both candidates did not attend.³⁷ The public broadcaster *TVSH* fulfilled its obligation to provide political parties with free airtime. These slots were aired daily during evening prime time. Broadcasters respected the provisions for campaign silence.

The media monitored by the OSCE/ODIHR EOM devoted most of their news coverage to the two large political parties, DP and SP, while giving an average of only 11 per cent to all other political parties.³⁸ In this respect, no media respected the provisions in the Electoral Code regarding the small parliamentary parties, which are entitled to receive half of the airtime devoted to large parties.

TVSH devoted 42 per cent of its political news coverage to DP, 35 per cent to SP, 3 per cent to SMI, 2 per cent to PJIU, 2 per cent to RP and less than 1 per cent to HRUP. The non-parliamentary parties received a total of 6 per cent of news coverage. An additional 10 per cent was provided to the DP-led government. The tone of news coverage was more positive for DP and slightly negative for SP.

Despite the political division among media, the private TV channels offered a diversity of views to voters. Media monitoring showed that *TV Klan* favoured the governing parties, while *Vizion Plus* favoured the opposition.³⁹ *Top Channel* and *News 24* provided generally neutral coverage to the two large parties, but their news coverage was more negative in tone towards the government.⁴⁰

Two CEC decisions related to media were highly controversial. On 14 April, upon an MMB proposal, the CEC ordered four private channels (*Vizion Plus*, *Top Channel*, *Ora News* and *News 24*) to suspend the airing of two SP political advertisements on the grounds that the political party was not clearly identifiable. The CEC based its decision on Article 84.4 of the Electoral Code, even though this article does not specify how a campaign advertisement should be marked.⁴¹ On

36 The OSCE/ODIHR EOM monitored five TV channels (*TVSH*, *Top Channel*, *TV Klan*, *Vizion Plus* and *News 24*), daily from 18:00 to 24:00 hours, and four daily newspapers (*Shqip*, *Gazeta Shqiptare*, *Panorama* and 55).

37 TV debates were planned with candidates for mayor in Lushnje, Lezhe, Burrel, Kamza, Kruje, Gramsh, Rrogozhine, Fier, Corovde, Kukes, Peshkopi, Kavaje, Vlore, Gjirokastër, Himara, Elbasan and Durres.

38 The coverage of all parties except DP and SP in the monitored TV channels was as follows: *TVSH* (12 per cent), *TV Klan* (7 per cent), *Top Channel* (10 per cent), *News 24* (14 per cent) and *Vizion Plus* (7 per cent).

39 *TV Klan* gave 59 per cent of its news coverage to DP, 27 per cent to SP and 7 per cent to the government. *Vizion Plus* gave 47 per cent of its news coverage to SP, 34 per cent to DP and 7 per cent to the government.

40 *News 24* allotted 45 per cent of its news coverage to SP, 33 per cent to the DP and 5 per cent to the government. *Top Channel* devoted 41 per cent of its news coverage to SP, 31 per cent to DP and 12 per cent to the government.

41 CEC Decision 425, 2011. Article 84.4 of the Electoral Code states that only electoral subjects are entitled to broadcast political advertisements during the electoral period.

15 April, the CEC added in a press release that according to Article 80.1.ç of the Electoral Code, electoral subjects must be clearly marked in campaign advertisements. However, this article applies only to the free airtime on public broadcasters, and not to the paid time on private media.

Moreover, the MMB exceeded its mandate of an advisory body and sent warnings to the private media outlets to suspend the TV spots, even prior to the CEC taking a decision on the matter. The MMB also proposed to fine those media who did not suspend the spots.⁴² The CEC, however, did not approve the fines. By 15 April the advertisements were broadcast again, after they were more clearly marked as being paid by SP.

In the second instance, on 23 April, the CEC issued a decision which ordered broadcasters to air tapes prepared by electoral subjects in case the stations could not provide their own news coverage and gave political parties the power to determine the allocation of news coverage between party and candidate activities. This decision departed from the Electoral Code and contradicted the Law on Public and Private Radio and Television.⁴³ The CEC decision gave political parties an undue influence over editorial freedom of broadcast media. On 2 May, the decision was overturned by the Electoral College.

On 29 April, the MMB media monitoring report submitted to the CEC showed that DP had exceeded the legal limit of 90 minutes for campaign advertisements on TV. However, the CEC did not suspend the airing of DP advertisements, finding that the legal limit should apply to the coalition-sponsored advertisements supporting candidates rather than party-sponsored advertisements. As a consequence, one week before the end of the election campaign period, the CEC recalculated the limit of for paid advertisements on TV to 411 minutes for DP-led coalition and 310 minutes for the SP-led coalition.

X. PARTICIPATION OF NATIONAL MINORITIES

While Albania has no specific framework law for minorities, the Constitution provides for full political, civil and social rights for minorities, and the Electoral Code guarantees the right to vote and be elected to all Albanian citizens regardless of ethnic background, race, religion or language.⁴⁴ Albania is party to the CoE's Framework Convention for the Protection of National Minorities⁴⁵ but has not signed the European Charter for Regional or Minority Languages.

Three groups have the status of a national minority: Greek, Macedonian, and Montenegrin.⁴⁶ Roma and Vlachs/Aromanians are recognized as ethno-linguistic minorities.⁴⁷ There is a lack of accurate data on minorities, but Greeks are believed to be the largest group followed by Roma.⁴⁸ Other minorities include Serbs, Bosniaks, Bulgarians and Egyptians.⁴⁹

42 The MMB media monitoring report to the CEC for 8–14 April proposed to sanction *Top Channel* (ALL 3.5 million, i.e. EUR 24,831) and *Vizion Plus, Ora News* and *News 24* (ALL 2 million, i.e. EUR 14,182).

43 Article 5 of this law states that “editorial independence is guaranteed by law”.

44 Other relevant legislation includes the 2010 Law for Protection against Discrimination.

45 The Framework Convention was ratified in September 1999 and entered into force beginning of 2000.

46 Albania recognizes only minorities with a “kin state” as national minorities (see ACFC/SR/III(2011)001, ACFC/OP/II(2008)003).

47 According to the Albanian authorities, there is no difference in the scope of protection between the two categories. The Advisory Committee of the Framework Convention is of the view that the distinction between “national” and “ethno-linguistic” minorities should be reconsidered (ACFC/OP/II (2008)003).

48 The last census in 2001 did not include questions on language, ethnic or religious affiliation. Estimations by Greek representatives and the State Committee for Minorities indicate the number of Greeks at around

Four political parties presenting themselves as representing minorities were running for these elections. The HRUP and the Greek Ethnic Minority for the Future Party were both standing alone, competing mostly for the votes of the ethnic Greeks. The Macedonian Alliance for European Integration fielded candidates as part of the Alliance for the Citizen, whereas the NTP, advocating for Egyptian and Roma interests, joined the Alliance for Future and ran in 7 LGUs. Representation by Roma and Egyptians remained marginal, although a number of Roma candidates were elected.

Various OSCE/ODIHR EOM interlocutors raised concern over alleged vote-buying attempts in Roma and Egyptian communities. The OSCE/ODIHR EOM received reports of pressure exercised on some Egyptian and Roma voters by state authorities.⁵⁰ The lack of civil registration and identification documents on the part of a number of Roma and Egyptians has also been acknowledged by the authorities as a continuing problem, which may have led to disenfranchisement. On election day, the OSCE/ODIHR EOM observed instances of attempts to influence illiterate Roma voters.⁵¹

The number of minority representatives in the election administration is unknown. Several ethnic Greek representatives voiced the need to have access to official election-related material, including the ballot papers, in their mother tongue.⁵² The CEC published voter information material in Albanian, Greek and Macedonian languages for these elections.

XI. PARTICIPATION OF WOMEN

The 2008 Law on Gender Equality in Society provides for a minimum 30 per cent representation of women in all public-sector institutions at national and local levels. However, women remain under-represented in public and political life, especially in decision-making positions.

The Electoral Code provides for a gender requirement in CEC and CEAZ membership. However, women were under-represented in the election administration. Two out of seven CEC members are women, and only 3 of the 66 CEAZs were chaired by women. Women represented 24 per cent of CEAZ members. In the VCCs observed on election day, women accounted for only 14 per cent of chairpersons.

The Electoral Code requires that the gender of candidates must alternate in every three names in a candidate list for local elections. Parties that do not comply with this rule must pay a fine, although the list is registered. As the fine is low (ALL 30,000 or approximately EUR 213), this requirement was often not respected. The CEC, in its capacity as the registering body for the Tirana council election, fined one party (the PJIU) for not respecting the gender requirement. While the CEC is empowered to impose fines for violations in other LGUs, it had not done so at the time of writing. The CEC informed the OSCE/ODIHR EOM that the Electoral Code does not provide a timeframe for reviewing the compliance of candidate lists submitted to the CEAZs. Failure to comply with

200,000. Roma NGOs, the Council of Europe, and the authorities estimate the number of Roma from 90,000 to 120,000.

49 Bosniaks and Egyptians are seeking recognition as national and ethno-linguistic minorities, respectively.

50 The OSCE/ODIHR EOM was informed of allegations that some Roma and Egyptian voters were threatened with the loss of their monthly social allowance unless they voted for the party ruling the municipality.

51 In addition, in one VC illiterate Roma voters were denied the right to vote, while non-Roma illiterate voters were allowed to use assistance and vote.

52 They claimed that there are a number of elderly Greek voters, as well as younger voters born outside of the country, without a sufficient command of the Albanian language.

the gender requirement does not affect a party's receipt of public funds for campaign purposes.⁵³ According to the CEC, some 30 per cent of candidates for council elections were women, but there were only 14 women among the 872 mayoral candidates (1.6 per cent). Six of the women candidates for mayor were elected.

Almost all parties contacted by the OSCE/ODIHR EOM had a women's wing. However, gender-equality issues were not generally addressed in parties' electoral platforms, and issues affecting women in particular did not feature in their overall campaigning. According to the OSCE/ODIHR EOM media monitoring, women politicians received an average of 4.4 per cent of the total news coverage on monitored TV broadcasters.

The ability of many women voters to exercise their right to vote freely was affected by the continued high instance of family and proxy voting, which was observed in 26 per cent of VCs visited. While not all observed instances were necessarily of men voting on behalf of women or influencing their choice, OSCE/ODIHR EOM observers reported that this appeared to be the overall tendency. The failure to prevent family and proxy voting, in accordance with the law, contradicts OSCE commitments and other international standards regarding the secrecy of the vote, the free exercise of political choice, and the elimination of discrimination against women in political life.⁵⁴

XII. DOMESTIC OBSERVERS

The Electoral Code provides for observation of the election process by domestic observers and by political party representatives, coalitions and candidates presented by groups of voters, as well as by international observers. In an inclusive process, the CEC accredited 4,617 domestic observers from 19 different NGOs, providing an additional element of transparency to the election process. The Coalition of Domestic Observers deployed some 170 long-term observers and over 900 short-term observers. The Coalition was composed of three national NGOs: Society for Democratic Culture, *KRIIK* Albania, and *Kombinat* Centre for Women and Children, and of 15 regional NGOs. Other domestic observer groups included the Albanian Helsinki Committee and the Forum of Local Observers Monitoring Women's Participation in the Election Process.

Parties can appoint representatives unless they form part of a coalition, in which case the right to appoint lies with the coalition. A number of smaller parties which joined the two main coalitions objected to losing their right to have observers in the BCCs. However, all candidates were allowed to be present inside BCCs, thus permitting each party to be present.

XIII. PRE-ELECTION DAY COMPLAINTS AND APPEALS

The Electoral Code grants the right to file a complaint or an appeal to electoral subjects, individuals or political parties denied registration as electoral subjects, and to those denied accreditation as election observers. The CEC reviews complaints on the conduct of the electoral process, on decisions of the CEAZs, and on the failure of CEAZs to reach a decision. CEC

53 OSCE/ODIHR and Venice Commission, *Guidelines on Political Party Regulation*, paragraph 191. See also paragraph 192 which states, "It is reasonable for states to legislate minimum requirements that must be satisfied before the receipt of public funding. Such requirements may include...gender-balanced representation."

54 See for example paragraphs 5.1, 5.9, 6 and 7.4 of the 1990 OSCE Copenhagen Document.

decisions, and the failure to reach a decision, can be appealed to the Electoral College of the Court of Appeals of Tirana, whose decisions are final.

Up to election day, the CEC reviewed 57 complaints pertaining mostly to denial of registration. The recurrent argument of plaintiffs was that candidates were not able to meet deadlines for registration since the CEAZs were not operational and not present in their offices, in particular during the last day for submission of candidacy documents. In two such cases, the CEC applied different standards for parliamentary and a non-parliamentary parties. The CEC deemed the claims as not proven and dismissed the case of the non-parliamentary party, but instructed the CEAZ to accept the documents in the other case, where the appellant was the SP. In the case of the SP, the CEC stated that the right of the voters to choose had to be protected, even though the deadline was breached.

The Electoral College consists of eight appellate court judges selected prior to parliamentary elections by the drawing of lots.⁵⁵ They serve until the following parliamentary elections are called. For each case, the Electoral College sits in a panel of five judges, who are selected from among the eight judges by the drawing of lots prior to the hearing of the case.

During the pre-election period, the Electoral College reviewed 33 appeals against CEC decisions. Of these, 22 appeals pertained to candidate registration or refusal, most of which were challenges by SP and HRUP regarding the registration of independent candidates or smaller parties. The Electoral College overturned three CEC decisions: two independent mayoral candidates and one from the Christian Democratic Party were granted registration.

The SP challenged three CEC decisions on the grounds that the CEC exceeded its competence and that, in any case, these decisions constituted normative acts and therefore had to be adopted by a qualified majority of five votes and not by four votes as was the case. Two of the disputed CEC decisions were overturned on appeal to the Electoral College.⁵⁶

The Electoral College adjudicated the pre-election day appeals in an expedited manner and respected the procedural rights of the parties. However, a comprehensive analysis of the Electoral College's decision-making was not possible, as the College did not publish its reasoning, except for six cases, which were published with considerable delay.⁵⁷ Article 158.6 of the Electoral Code requires the Electoral College to transcribe its decisions within three days. Even though the Electoral College decisions were final, the reasoning was important, particularly in cases where a CEC decision was sent back for review.

XIV. VOTING AND COUNTING

A. VOTING CENTRES

On election day, the OSCE/ODIHR EOM and the Congress delegation observed opening, voting and closing procedures in a total of over 1,000 VCs throughout the country. The transparency of election day proceedings was assessed positively overall, but the process was also assessed as

55 As noted in the Legal Framework section, the two largest parliamentary parties each have the right to remove one of the judges selected in the drawing of lots, in contradiction to OSCE commitments.

56 These three CEC decisions concerned the technical specifications of the ballot papers, the use of television spots prepared by political parties for media to use in their news coverage (see media section), and the production of reserve ballot paper stamps. The first two of these were overturned by the Electoral College.

57 The first decision was published with a one month delay, and the others with a two month delay.

being affected by procedural problems and disorganization in a considerable number of VCs. Election day was relatively calm compared to the campaign period, with few violent incidents reported. Party representatives, mostly from the two coalitions, were present in 95 per cent of the observed VCs,⁵⁸ while other domestic observers were present in one-fifth of VCs visited. The CEC announced a national voter turnout of 51 per cent.

The majority of VCs observed opened late (57 of 75). Some delays were due to missing election materials, including ballots, ink, or ballot boxes,⁵⁹ but also to disagreements among VCC members over procedures. Observers reported procedural problems in the opening of 19 VCs and unauthorized persons inside 10 VCs, mostly party activists. These factors led to observers assessing the opening of VCs negatively in a high number of VCs (21 of 75). Mistakes in the production or distribution of ballots resulted in a number of electoral races not being held, and voting was cancelled in another eight VCs.⁶⁰

The voting process was assessed positively by observers in 90 per cent of the more than 1,000 VCs visited during the day. The negative assessment in the remaining 10 per cent was mainly due to procedural problems but was, nevertheless, a high figure. The assessment of observers varied regionally, with Tirana being assessed more positively overall (94 per cent).⁶¹

Voting procedures were not always followed in 16 per cent of VCs observed, and the VCCs did not seem familiar with the procedures in 12 per cent of cases. This was particularly evident in the inking procedures, with voters' fingers not consistently checked for ink (20 per cent of observations) and voters' fingers not inked (7 per cent). Group/family voting, which violated the secrecy of the vote, was observed in 21 per cent of VCs visited. Many VCs were overcrowded (14 per cent) or had an inadequate layout (6 per cent). The lack of uniformity in following procedures may have been caused by the late appointment of VCC members and a lack of standardized training. Tension or disturbances were observed inside 7 per cent of VCs visited.

Although to a lesser extent than procedural problems, a number of more serious irregularities were also noted. Voters were intimidated in 15 cases (almost 2 per cent of observations) or influenced in their choice in 37 cases (4 per cent). Proxy voting was observed in 5 per cent of VCs visited and the same person "assisting" multiple voters in 3 per cent.⁶² Observers also verified two cases of ballot box stuffing.

As noted above, the Electoral Code provides for special VCs to be established in prisons and pre-trial detention centres. For local elections, prisoners can only vote in special VCs if they have

58 Observers from the Alliance for the Citizen were present in 90.3 percent of the observed VCs. Alliance for the Future observers were present in 81.6 of the VCs. HRUP observers were present in 21.2 of the VCs. Observers from other parties were present in 25.7 percent of the VCs.

59 This was reported in four VCs in Paskuqan, Rogozhine and Kamez (Tirana region) and Cerrik (Elbasan region).

60 Due to ballot printing or distribution errors, mayoral races were cancelled in Paper and Pishaj Communes (CEAZs 14 and 15 in Elbasan), and the council race was cancelled in Molles Commune (CEAZ 31 in Korçe). Elections were also to be repeated in Shllak (CEAZ 42 in Shkoder), where not all ballot papers were received for the seven VCs, and the SP VCC members walked out. DP commissioners walked out of VC 2801 Stravaj (CEAZ 17 in Elbasan). Reruns were ordered by the Electoral College in another five communes, based mainly on discrepancies between number of voters and ballots cast (see the Post Election Related Complaints and Appeals section). Article 161 of the Electoral Code provides that elections are to be repeated not later than four weeks after the end of the appeals process.

61 The percentage of negative assessment was higher in the regions of Durrës (15 per cent), Diber (14 per cent), Fier (14 per cent), and Elbasan (13 per cent).

62 Article 108 of the Electoral Code provides that a person may help only one voter who cannot vote him/herself.

residence in the LGU where they are detained, and there must be a minimum of 15 voters in each special VC. Due to these requirements, only 223 voters were registered in four special VCs throughout the country: two in Durres region and one each in Kukës and Berat regions. This meant that many prisoners were not able to exercise their right to vote. The General Directorate of Prisons, which is under the authority of the Ministry of Justice, allowed an additional 221 prisoners from 12 prisons and pre-trial detention centres to vote in the VCs of their normal residence, some of whom were escorted by prison officials. The SP alleged that the presence of prisoners at some VCs in Tirana intimidated other voters.

Although efforts to enfranchise voters are laudable, the effort to transport prisoners on election day was undertaken without informing the CEC in advance, as required by Article 4 of the Electoral Code.⁶³ The OSCE/ODIHR EOM was not able to ascertain whether all prisoners who were unable to vote in special VCs had the possibility to vote in the VCs of their normal residence.

The OSCE/ODIHR EOM observers evaluated the closing process positively in 56 VCs out of 72 VCs observed, although in 18 VCs observed, the closing procedures were not always fully adhered to, including not counting signatures on the FVL, not counting unused ballots, not putting the record of closing in the materials box, and not providing observers with copies of the record of closing. In 6 VCs there was tension or unrest during the closing, and the closing in some VCs was unduly delayed. The transport of materials to BCCs was evaluated positively for all VCs observed.

B. BALLOT COUNTING CENTRES

The counting of ballots in the 66 BCCs was very lengthy. According to the Electoral Code, it should have been finished by 17:00 on the day following election day. This deadline was considered unrealistic by all interlocutors and not one BCC finished the counting by this time. Counting in all BCCs outside Tirana was finished by Friday, 13 May. Counting of ballots for the Tirana mayoral election in Tirana BCCs finished on 14 May, and for Tirana borough elections on 23 May.

The OSCE/ODIHR EOM observed the vote count in 57 of the 66 BCCs.⁶⁴ In most BCCs, the counting of ballots proceeded in a generally transparent manner, albeit at a slow pace. In several cases, defeated mayoral candidates conceded. However, the counting process was affected by a high level of mistrust among political parties, which led to disputes, delays and obstructions in some BCCs. Parties frequently intervened in the counting process, directing the activities of their members in election commissions.

Observers were able to be present in BCCs without hindrance. During counting, each ballot was videoed and shown immediately on screens to all observers present. Nevertheless, ballots could not always be seen fully due to the speed of ballots being processed. Observers were generally not allowed to approach the counting tables, and it was therefore difficult to see whether ballots were placed on the stack of ballots for the corresponding candidate/party or how the VC result protocols were filled in. Also, the consideration of contested ballots by counting teams and CEAZ members could not be seen by observers.

The OSCE/ODIHR EOM assessed the process of ballot counting in BCCs for 1,020 randomly chosen VCs. The counting was assessed negatively in 14 per cent of the observations, which were

63 Article 4.3 requires ministries to inform the CEC in writing of any activity that might affect “the administration or conduct of free, fair, democratic and transparent elections.”

64 The OSCE/ODIHR EOM did not observe counting in the BCCs of CEAZs 3, 17, 23, 29, 35, 43, 57, 60, 66.

concentrated in 17 of the 57 observed BCCs.⁶⁵ Procedural problems were mostly related to signatures in the voter lists not being counted (15 per cent of the observed cases), the VCC chairperson stamp on the back of the ballot not being verified (9 per cent), and failure to reconcile figures in the protocol. In 68 per cent of counts observed in which ballots were contested, the counting teams did not record the reasons for contestation of ballot papers as required by the Electoral Code, and in 36 per cent of such cases, the CEAZs did not record the decisions on contested ballots in the poll book.

The counting process was affected by tension in 25 BCCs and by the presence of unauthorized persons in 30 BCCs, although they were generally not interfering with the counting process. The overall understanding of the counting procedures was assessed as poor in 10 BCCs.

There were a few instances of serious irregularities in some BCCs. Several members of one CEAZ, from both the majority and opposition, informed the OSCE/ODIHR EOM observers that they had been directly threatened and as a result invalidated some ballots in the mayoral race for one LGU in order to alter the results. Some smaller parties alleged that counting team members in a number of BCCs had illegally allocated votes for their parties to the results for the DP and SP in some council races. The OSCE/ODIHR EOM directly observed this falsification during the count for the council race of one LGU.

The start of the vote count was delayed in many BCCs, partly due to the fact that some counting team members in some BCCs were not appointed or trained by the time the count started. In addition, the counting process was at times interrupted due to disputes among CEAZ members, counting team members and/or party representatives.⁶⁶ Another reason for delays was fatigue of CEAZ members, as there is no regulation on the working hours of the BCCs.⁶⁷ In a few specific cases brought to its attention, the CEC addressed delays by ordering the continuation of the process.

During the counting process, the CEC continued to replace CEAZ and counting team members at the request of political parties. This was especially noted in Tirana, where the CEC replaced all members of CEAZ 54 and some members of CEAZ 49 on 12 May, and the chairperson of CEAZ 48 and a member of CEAZ 47 on 13 May, which led to further delays.

Copies of VC tables of results and the aggregated tables of results for LGUs were made available to party representatives, which increased transparency.

C. COUNTING AND EVALUATION OF VOTES IN TIRANA

The city of Tirana is divided into 11 boroughs, each of which has its own CEAZ and BCC. In addition to the elections for the Tirana mayor and council, each borough held elections for its respective mayor and council. Each VC in Tirana therefore had four ballot boxes. Following a pre-election day decision by the CEC, the Tirana BCCs opened the ballot boxes and counted the ballots for the Tirana mayor and council elections first, and only then opened the ballot boxes and counted the ballots for the borough elections. Counting in these BCCs was frequently delayed by unscheduled breaks, absence of counting team members and obstructions that appeared, at times, to be politically motivated. The BCCs' counting of the Tirana mayor and council races did not

65 These were in BCCs located in the CEAZs 1, 5, 14, 16, 18, 25, 26, 33, 34, 39, 41, 42, 47, 51, 52, 58 and 65.

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

67 The Electoral Code does not provide for breaks in the counting process, as counting should finish by 17.00 hours the day after the election day. The CEC instruction on counting did not address this issue.

finish until 14 May, almost one week after election day.

Following the end of counting at BCCs for the mayor of Tirana, the preliminary results as provided by the CEC to the OSCE/ODIHR EOM gave Mr. Rama (SP) 10 more votes than Mr. Basha (DP) (124,623 and 124,613 votes, respectively).⁶⁸ Mr. Rama declared victory soon after, while Mr. Basha said that he would wait for the official results from the CEC.

As counting of ballot boxes for the Tirana borough elections continued, DP officials called for miscast ballots for the Tirana mayor race found in these boxes to be counted as valid on the basis that the will of the voter was clear and that Article 117.3 of the Electoral Code, which lists the grounds for considering ballots invalid, does not state that ballot papers cast in the wrong box should be considered invalid. SP strongly disagreed, stating that ballots found in the wrong ballot box had been systematically considered invalid up to that point, both in the 2011 local elections and in previous elections. The SP called on the CEC to tabulate the results for the mayoral race as determined by the 11 BCCs in the respective aggregated tables of results, in accordance with Articles 122 and 123 of the Electoral Code.

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

The CEC received all 11 aggregated tables of results by 16 May, although the results for CEAZ 49 had not been approved by the majority of its members (the majority being held by the governing parties in this case).⁶⁹ On 17 May, the CEC Chairperson proposed a draft decision according to which ballots cast in the wrong box in Tirana would be considered valid and would be counted by the CEC itself.⁷⁰ This count was to be only for ballots found in the wrong box which had been contested at BCC level. According to the CEC Chairperson, the draft decision was proposed due to identical requests received from DP and SMI-nominated members of 7 Tirana CEAZs regarding 60 ballot boxes. The CEC Chairperson stated that the CEC had the right to count contested ballots for Tirana, as the CEC functions as the CEAZ for Tirana mayoral and council elections. The opposition-appointed members disagreed with the proposal, stating that the CEC had no right to count ballots and could only open ballot boxes based on appeals of a decision on the official results. They proposed instead that the CEC tabulate the results from the aggregated tables of results received from the BCCs.

On 18 May, the CEC began to open the ballot boxes identified in the CEAZ requests and to count ballots found for Tirana mayor and council elections. The opening of ballot boxes was based on the draft decision voted “in principle” (by 4-3 vote). As such a decision is not a final, written decision by the CEC, there was no publicly available document that would state the legal basis for the

68 These preliminary results were not displayed by the CEC on its website until one week later.

69 This was the CEAZ for borough 5, the last BCC to finish counting for the Tirana mayor and council elections. The Chairperson of CEAZ 49 claimed that there were irregularities in the aggregated table of results. These were not specified to the OSCE/ODIHR EOM.

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

CEC's actions. Thus there was no possibility for any electoral subject to challenge the CEC's actions in the Electoral College until after those actions had finished. The unofficial draft decision proposed by the Chairperson did not offer a clear legal basis for the CEC's actions but listed a variety of articles which did not appear to be directly related to the CEC's actions. The CEC began opening ballot boxes immediately after voting on the decision "in principle", which indicates that ballot boxes had already been brought to the CEC premises.

During the process of evaluating the miscast ballots, the scope of the counting done by the CEC was broadened to 117 ballot boxes in 9 out of the 11 CEAZs in Tirana. The CEC did not only evaluate miscast ballots contested by the counting teams, but also ballots already deemed invalid by the counting teams and the CEAZs during the counting. On 23 May, once the process was completed, the CEC approved by 4-3 vote Decision 709, regulating *a posteriori* the actions that the CEC undertook during the evaluation process.⁷¹ The decision used a different legal basis from that cited in the 18 May draft decision. The SP appealed this decision to the Electoral College.

The same day, the CEC declared the official results of the mayoral race in Tirana, with an advantage of 81 votes for Mr. Basha (124,786 votes), over Mr. Rama (124,705 votes). The results declared by the CEC for the Tirana mayoral race contained 870 more votes than signatures in the FVL. The CEC did not approve requests by the SP and the minority-proposed members of the CEC to investigate the matter.⁷² The Electoral Code does not regulate the actions to be undertaken in case of discrepancies between the number of ballots cast and the number of voters who cast a vote according to the number of signatures in the FVL.⁷³ The SP appealed the CEC decision on the results for the Tirana mayoral election on 26 May.

With respect to the Tirana mayoral election, the CEC was faced with an unclear legal situation in a highly charged political environment. The CEC could have chosen to aggregate the results provided by the Tirana CEAZs, subsequently considering any potential appeals based on miscast ballots. The fact that the majority-proposed members of the CEC chose to count some (but not all) of the miscast ballots directly, in a non-consensual manner, after the preliminary results were known, and without taking a decision that could have been challenged in the Electoral College, created the perception that they were acting on behalf of the ruling majority. Although its decisions were partially upheld by the Electoral College (see below), the CEC's actions undermined confidence in its ability to function in an impartial and independent manner.

XV. AGGREGATION AND ANNOUNCEMENT OF RESULTS BY THE CEC

The Electoral Code does not regulate the publication of preliminary results. Although the preliminary results were available by municipality or commune for each race, the CEC's public display of preliminary results did not initially include a breakdown by VC, contrary to the practice of previous elections. Political parties were nevertheless able to obtain this information from the CEC upon request, as was the OSCE/ODIHR EOM. An incomplete breakdown of results by VC was eventually posted on the CEC website. At the time of writing this report, the results were still not fully available on the CEC website.

71 Decision 709 on "Evaluating the unevaluated and uncounted ballots for the mayor, municipality council, heads of municipal units and council of municipal units which accidentally were not placed in the respective ballot boxes in the same voting centre in the local elections in Tirana municipality on 8 May 2011".

72 As an example, the aggregated table of results for the Tirana mayor race in borough 5 showed that discrepancies affected 28 out of the 65 VCs in the borough, with a total of 32 more ballots than signatures.

73 Except for recording the fact in the CEAZ Record of Findings (Article 116.5 and 6 of the Electoral Code).

Disputes between majority and minority-proposed CEC members increased during the counting and tabulation of results for the Tirana mayor election, when most CEC decisions were approved by the four majority members against the votes of the minority members, especially those related to the evaluation and re-evaluation of ballots found in the wrong ballot box and the approval of results for the Tirana mayor election. Discussions among the CEC members and political party representatives were at times bitter and vehement, reflecting and contributing to the tense post-electoral period.

On 26 May, following the approval of tables of results for local councils by the CEAZs, the CEC started to approve the allocation of mandates in those LGUs whose results were not appealed. The CEC members unanimously approved all decisions on allocation of mandates, except in Tirana; here, the allocation of mandates for the Tirana municipal council and for 10 of the 11 borough councils was opposed by the minority-proposed members of the CEC. Since the allocation of mandates for council elections requires a qualified majority, the CEC was not able to reach a decision in these cases. The DP appealed to the Electoral College, which approved the allocation of mandates for Tirana municipality (28 for the DP-led coalition and 27 for the SP-led coalition) as well as for the remaining 10 boroughs. The formula used for the allocation of mandates included the thresholds stated in Article 162 of the Electoral Code for parliamentary elections. The OSCE/ODIHR EOM is not aware of appeals filed by parties or candidates against the use of the threshold for the allocation of local council mandates.

XVI. POST ELECTION RELATED COMPLAINTS AND APPEALS

A. ADJUDICATION OF POST-ELECTION APPEALS BY THE CEC

Electoral subjects can appeal the tables of results approved by the CEAZs to the CEC within three days. The aggregate table of results for the Tirana mayor and council tabulated by the CEC can be appealed to the CEC itself within the same time limit. Electoral subjects can also request the invalidation of elections in specific VCs within three days from the tabulation of results. The CEC must reach a decision on appeals by qualified majority within ten days. CEC decisions can be appealed to the Electoral College within five days.

In the post-election period 108 complaints were filed with the CEC challenging the results in communes and municipalities all over the country, including five that disputed the result of the Tirana mayoral race. These complaints included 40 requests for invalidation of results, while the rest requested changes to the table of results and recounts. Approximately half were filed by DP and SP. The complaints invoked irregularities pertaining to voting procedures, such as proxy voting, as well as to counting procedures mainly with regards to the validity of ballots and their attribution to parties. The CEC examined 86 complaints on their merits, while the rest were either dismissed on procedural grounds or withdrawn by the plaintiffs.

While the CEC initially reviewed the complaints in a thorough manner, examining evidence and calling in CEAZ members to give explanations, after 14 May considerable time was devoted to lengthy discussions about the process of the tabulation of the Tirana mayoral race. As of 17 May, the review of complaints was postponed indefinitely and concluded only weeks later, after the CEC had proclaimed the Tirana mayoral result, which as a consequence caused the CEC to miss the 10-day deadline for reaching a decision on complaints in 42 cases.

In a great number of cases, the plaintiffs' claims were not substantiated by solid evidence. Even in cases where plaintiffs were able to prove significant irregularities, the CEC members voted along

partisan lines most of the time. Evidence was examined mostly when the plaintiff belonged to the DP-led coalition. The CEC declined to examine video footage from the BCCs. The lack of collegiality made it almost impossible to uphold a complaint as the law requires a qualified majority of five members. The inability to reach the required majority was the recurrent reason for the dismissal of most complaints; only three complaints were granted.

The CEC overall failed to provide plaintiffs with effective redress. The majority of CEC decisions, in breach of the relevant provisions, lacked cohesive reasoning, and some of them did not even contain the full facts and circumstances of the case reviewed. Furthermore, the CEC did not meet the 24-hour deadline for transcribing and publishing its decisions. This fact compelled electoral subjects to appeal cases to the Electoral College without the formal CEC decisions and to base their appeals on draft decisions with no numbers, bearing only the signature of the CEC Secretary General.

B. ADJUDICATION OF POST-ELECTION APPEALS BY THE ELECTORAL COLLEGE

The Electoral College received some 56 post-election day appeals. The majority of these were requests for invalidation of results in VCs and requests for recounts, and the rest were appeals of CEC decisions on allocation of mandates. The Electoral College granted five requests for invalidation of VC results and for repetition of elections in the LGUs of Armen, Kolsh, Finiq, Shalle and Qendar, based mainly on discrepancies between number of voters and ballots cast. It also ordered the CEC to perform recounts of some VCs in the LGUs of Maqellare, Carunare, Zharrez and Shushice.

Eight of the appeals pertained to the results of the Tirana mayoral race, six filed by the SP and two by the Albanian Pensioners Union Party (APUP).⁷⁴ The first appeal was filed on 23 May and requested the College to compel the CEC to tabulate the table of results for CEAZ 49 and for Tirana municipality on the basis of the tables submitted by the counting teams and the CEAZs respectively. The appeal was dismissed.

Subsequently, SP submitted an appeal of the CEC's draft decision of 18 May, but the appeal was withdrawn when the College refused joint adjudication with a second SP appeal.⁷⁵ In the latter, SP asked for the annulment of CEC decision 709 claiming that it was 'a normative act', thereby requiring a qualified majority for its adoption. The SP also claimed that this decision was unlawful because the CEC had exceeded its competence by evaluating, through a procedure not foreseen by law, ballots that had been previously evaluated by the CEAZs. The SP further claimed that the decision was arbitrary and that it, in effect, changed the rules of the election to affect the result, disregarding previous practice concerning the validity of miscast ballots.

The Electoral College (decision 49) dismissed this appeal and upheld CEC decision 709. The Electoral College decision contained contradictions and gaps in its reasoning: for example, the College found that CEC decision 709 did not constitute a normative act, despite conceding that it regulated a new situation. The Electoral College decision also accepted that the CEC had performed as a CEAZ, without clarifying the legal basis.

The SP then filed another appeal requesting the annulment of the CEC decisions 710 (on the aggregated table of results of CEAZ 49) and 711 (on the aggregated table of results and

⁷⁴ APUP withdrew one of its appeals, while the other was dismissed by the College.

⁷⁵ The Electoral College refused adjudication on procedural grounds, since the preliminary actions of Article 154 of the Electoral Code for the second appeal had not been concluded.

proclamation of the Tirana mayoral result) that were compiled on the basis of decision 709.⁷⁶ The appellant's arguments varied only slightly from those in the previous hearing, while the DP claimed that the subject of the appeal had already been adjudicated. For the first time, the SP stated that there were discrepancies between the number of voters and ballots in a number of VCs in several of the Tirana CEAZs.

On 13 June, the Electoral College decided to partially accept the appeal and to annul decisions 710 and 711 and ordered the CEC to open more ballot boxes, and to recount and re-evaluate the miscast ballots. In unclear and ambiguous language, the decision also extended the investigation to miscast ballots that were deemed invalid by the CEAZs. It attributed the discrepancies to the fact that the investigation of miscast ballots undertaken by the CEC had been partial and concluded that a full evaluation of all miscast ballots would remedy the discrepancies. In ordering an investigation that none of the parties to the case had requested, the Electoral College appeared to exceed its competence.⁷⁷ The inconsistency of this decision with Electoral College decision 49 was noted in the dissenting opinion of two of the five judges.

The CEC began to open the 1,793 ballot boxes which it had not already opened and to evaluate the miscast ballots on 18 June. This operation was conducted in the CEC premises on eight counting tables with two CEC staff members as counters and one observer each for DP and SP, per table. The sessions took place in a tense and acrimonious atmosphere that led to the expulsion of party observers by the CEC Chairperson. The SP objected to the opening of several boxes on the grounds that there were discrepancies between the serial number of the seals and the serial numbers recorded in the protocols, and on the grounds that boxes were damaged, reportedly during transportation. Arguing that the integrity of these boxes was not guaranteed, SP representatives and CEC minority-nominated members asked for a full investigation. These requests were rejected by the CEC Chairperson on the grounds that the CEC was only executing a court decision. The evaluation of the validity of ballots was performed on the basis of recognizing the will of the voter and frequently in disregard of the provisions of Article 117.3 of the Electoral Code regulating ballot invalidity. On 25 June, the CEC proclaimed Mr. Basha the winner of Tirana mayoral race, with a difference of now 93 votes. The aggregate table of results still showed a discrepancy of 870 more ballots than voters.

The SP challenged these results in a complaint filed to the CEC, where the party objected the manner in which the CEC had opened boxes and evaluated ballots, and asked for invalidation of elections in 284 VCs. The CEC did not review the complaint on its merits but dismissed it on procedural grounds. Specifically, the CEC decided that it lacked the competence to review its actions since it was following a decision of the Electoral College. Regarding the request for invalidation, the CEC decided that the deadline had expired. The SP then filed a request for the invalidation of the 284 VCs to the Electoral College. A few days later, it filed another appeal requesting the College to compel the CEC to examine their complaint on its merits. The SP decided to withdraw the invalidation request after the DP requested joint adjudication of both cases.

The Electoral College upheld the CEC decision not to examine the complaint on its merits. It ruled that the deadline of three days during which an electoral subject could request invalidation began when the CEC proclaimed the result on 23 May by its decision 711. However, this decision contradicted the Electoral College's previous decision to annul CEC decision 711.

⁷⁶ The appeal challenged the CEC Decision 827 that dismissed the relevant complaints.

⁷⁷ Article 6 of the Civil Procedures Code stipulates that the court that reviews the dispute must express an opinion on everything that has been brought before it and only on what has been brought before it.

Overall, the adjudication of appeals in the Electoral College in the post-election period presented a variable picture. While it overturned problematic CEC decisions and ordered invalidation and recounts in LGUs where the authenticity of results could be reasonably questioned, its decision making in cases related to the races in Tirana was characterized by contradictions and inconsistencies. The Electoral College did not make use of the 10 days provided by the Electoral Code to reach decisions. With only two exceptions, the Electoral College delivered its decisions on the same day, bringing into question the diligence with which large amounts of evidence were assessed

XVII. RECOMMENDATIONS

The following recommendations are offered for the consideration of the authorities, political parties, election administrators 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 international standards for democratic elections. Most of the recommendations contained in the 2009 OSCE/ODIHR EOM Final Report, as well as those of OSCE/ODIHR and Venice Commission Joint Legal Opinion of 2009, are also directly applicable to the 2011 local government elections. The following recommendations are complementary to and should be considered and addressed with those prior recommendations.⁷⁸ OSCE/ODIHR stands ready to assist the Republic of Albania to further improve the electoral process.

A. PRIORITY RECOMMENDATIONS

1. The first recommendation from the OSCE/ODIHR Final Report on the 2009 parliamentary elections should be considered an immediate priority: 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.
2. Electoral reform should be undertaken well in advance of the next parliamentary election. Discussion of electoral reform should include not only political parties, but also the Central Election Commission, relevant state authorities, and domestic observer groups.
3. The formula for the composition of the Central Election Commission could be reconsidered so as to increase confidence in its independence and in its impartial application of the Electoral Code.
4. Political parties should be obliged to respect the deadlines in the electoral process, in particular the nomination and training of election commission members. The Electoral Code should specify measures to be applied when such deadlines are not met.
5. Legal deadlines for the registration of candidates for local elections should be aligned with practical deadlines such as the printing of the ballots and the deadlines for appeals. This is particularly relevant in local elections since the number and variety of ballots to be printed

⁷⁸ The following recommendations from the 2009 OSCE/ODIHR EOM Final Report are directly applicable to the 2011 local government elections: 1, 3, 6, 7, 8, 9, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, and 28.

is much higher than in parliamentary elections.

6. The Electoral Code should be amended to address the validity of ballots cast in the wrong ballot box, procedures for including such ballots in the table of results, and the procedures to be followed in case of discrepancies when the number of ballots cast exceeds the number of signatures in the voter list. The Electoral Code may also benefit from a review of the definition of contested ballots and of the procedures for contesting ballots.
7. Measures should be taken to strengthen the independence of the public broadcaster from the influence of government and political parties in order to fully implement the goals of a public service broadcaster. Further measures to reduce the dependency upon the state budget should be considered.
8. State bodies should make more effective efforts to address the problem of family voting. This issue should be stressed during the training of CEAZ and VC commissioners.
9. Consideration could be given to increasing the amount of the fine for electoral subjects that do not respect the gender requirement for candidate lists, and to making receipt of public funds for campaign finance contingent on respecting the gender requirement, in line with the OSCE/ODIHR and Venice Commission "Guidelines on Political Party Regulation".

B. OTHER RECOMMENDATIONS

LEGAL

10. The Electoral Code should be amended so as to clearly specify the role of the CEAZs and the CEC with regards to the mayoral and municipal council elections for Tirana.
11. The Electoral Code should be amended so that provisions on the public funding of electoral subjects are specifically framed for local as well as parliamentary elections, and so that they do not to give undue advantage to parliamentary parties.

ELECTION ADMINISTRATION

12. Consideration could be given to assigning the CEC a role in ensuring that the Electoral Code is enforced regarding the allocation of voters to VCs, the maximum number of voters per VC, and the location of VCs. The issue of location of VCs in private premises should be addressed well before the next elections.
13. Consideration could be given to making official, CEC-organized training mandatory for all voting centre and counting team members.
14. The possibility of political parties to replace their members on CEAZs, VCCs and counting teams should be limited to specific circumstances.
15. The CEC could consider setting a working schedule for ballot counting centres. Consideration could be given to imposing fines on counting team members and their nominating parties for absence or refusal to work.

VOTER LISTS

16. The Electoral Code should clearly specify the deadline after which changes in citizen registration status will not be reflected in the Final Voter Lists.
17. In order to increase the transparency and accuracy of the voter lists, and building on the improvements to voter lists reflected in these elections, the Ministry of Interior and local authorities should increase efforts to ensure that all voters on the voter lists have an accurate address code. Consideration could be given to identifying voters known to be residing out of country.
18. The authorities should investigate any specific claims that voters have been added to the civil register and the voter lists in contravention of the law.

CANDIDATE REGISTRATION

19. The exemption from signature support requirement granted to parliamentary political parties should be equally available to a candidate, proposed by voters, holding a mandate in the parliament, or in a local council.

CAMPAIGN

20. The CEC should be given sufficient resources and staff to carry out its responsibilities to oversee implementation of the rules on campaign and party financing.

MEDIA

21. Legal limitations on paid advertisements in broadcast media based on party representation in the parliament should be amended. Paid airtime should be guaranteed on an equal basis to all contestants, and any limits on paid airtime should be applied on a non-discriminatory basis.
22. Clarifications on the media coverage of local elections, such as the allocation of airtime to candidates, political parties, coalitions, government activities, should be addressed by a comprehensive CEC instruction released before the start of the official campaign period.
23. Legislation should specify how campaign material prepared by electoral subjects for broadcast should be identified. Political advertisements should be clearly differentiated from news broadcasts and other programming.

COMPLAINTS AND APPEALS

24. The system for adjudication of electoral disputes should be reconsidered in order to provide guarantees for effective redress and to bring the system in line with constitutional provisions and principles of due process. There should be a possibility to challenge CEC decisions on tabulation of results directly before a judicial body rather than before the CEC itself.

PARTICIPATION OF NATIONAL MINORITIES

25. Efforts to ensure effective participation of Roma communities in public and political life, especially in elections, could be increased.

COUNTING, AGGREGATION AND ANNOUNCEMENT OF RESULTS

26. The CEC should post detailed preliminary results by voting centre on the internet immediately, in order to enhance the transparency of the results tabulation process.
27. Ballot counting centres should be laid out in such a way that observers can properly follow all aspects of the vote counting. The distance between the space reserved for observers, the counting tables, and CEAZ meetings should not be such that meaningful observation becomes impossible.

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).