

Office for Democratic Institutions and Human Rights

REPUBLIC OF ALBANIA

LOCAL ELECTIONS 8 May 2011

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

17-21 January 2011



Warsaw 8 February 2011

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REPUBLIC OF ALBANIA LOCAL ELECTIONS 8 May 2011

OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

On 4 November 2010, in accordance with OSCE commitments, the Permanent Mission of Albania to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 8 May 2011 local elections. The OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Albania from 17 to 21 January 2011. The NAM included Nicola Schmidt, OSCE/ODIHR Senior Election Adviser, Drew Hyslop, OSCE/ODIHR Election Adviser, and Richard Lappin, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the local elections. Based on this assessment, the NAM should recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held in Tirana with officials from the Ministry of Foreign Affairs, the Ministry of Interior, the Central Election Commission (CEC), the Electoral College, and the National Council for Radio and Television, as well as with representatives of political parties, the media, civil society and the international community. A list of meetings is included as an annex to this report.

The OSCE/ODIHR would like to thank the Albanian Ministry of Foreign Affairs and the OSCE Presence in Albania for their assistance and co-operation in organizing the NAM. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the mission and share their views.

II. EXECUTIVE SUMMARY

Elections will be held on 8 May for mayors, heads of communes and local councils of the 384 local government units (LGUs). Mayors and heads of communes are elected in first-past-the-post contests, while councilors are elected under a proportional system.

The political environment continues to be deeply polarized, with harsh rhetoric and personal attacks by the leaders of the main political parties. In addition, on 21 January anti-government protests by the opposition turned violent with scores injured and three killed. Much of the rhetoric continues to focus on the results of the 2009 parliamentary elections and the issue of corruption. Statements have also been made alluding to the possibility that not all parties would participate in the upcoming elections.

The OSCE/ODIHR has long stated that the Electoral Code provides a thorough technical foundation for the conduct of democratic elections, and that what is most needed is the commitment of political parties to uphold the letter and the intent of the

See previous OSCE/ODIHR reports and the review of the current Electoral Code at: http://www.osce.org/odihr/elections/albania.

law. However, discussion recently began about introducing further reforms before the 2011 local elections.

Counting is conducted regionally at Ballot Counting Centres with mechanisms in place aimed at increasing transparency and accuracy. However, the CEC chairperson stated that it would not be possible to complete the thorough count process within the tight deadline set in the Electoral Code.

Despite the obligation of CEC members to fulfill their duties in an independent manner, the preparations for the local elections have already led the CEC to split along party lines. Opposition members of the CEC have not attended or have walked out of a number of CEC meetings, and the practice of instructions being co-signed by the chairperson and the deputy chairperson seems to have ceased.

Appointment procedures for the lower-level election commissions have not changed since 2009, despite an OSCE/ODIHR recommendation for their review. This provides parties the opportunity to recall and replace their members of election commissions at any point during an election, including on and after election day. Some of the parties met by the OSCE/ODIHR NAM defended this practice, as well as the late initial appointment of members, as a manner to protect their own members against being coerced into commissions of Electoral Administration Zones (CEAZs), the second-level election commissions within the required deadline.

Since 2009, and in line with OSCE/ODIHR recommendations, further efforts have been made to continue improving the quality of the voter lists for instance by removing duplicate names. Furthermore, the Ministry of the Interior (MoI) is requesting all LGUs to review the accuracy of data for all voters over 100 years old in the register. Despite these efforts, some OSCE/ODIHR NAM interlocutors still raised concerns about the accuracy of the voter lists.

The distribution of personal identity cards before the 2009 parliamentary elections was the subject of intense political controversy. Since 2009, an additional one million cards are reported to have been distributed. Positively, access to proper identity documents in order to vote was not raised as an issue of concern this time.

The media landscape in Albania is dominated by broadcast media, with limited newspaper circulation. The Electoral Code strictly regulates media coverage of the election campaign. Media-related provisions apply to all broadcast media only during the official campaign period. Different regulations are established for news coverage, free airtime, and paid advertisements. Media coverage of political parties during local elections is determined by their parliamentary representation.

Women are generally underrepresented in Albanian politics, particularly at the local level. The last amendments to the Electoral Code included quotas for candidate lists for local councils and for the representation of the two largest parties on CEAZs. Failure to fulfill the gender quota for candidate lists to local councils is subject to a fine.

There remains a high level of polarization and distrust among political parties. In part because of this distrust, all interlocutors during the OSCE/ODIHR NAM requested the

deployment of a full Election Observation Mission (EOM) for the 8 May local elections. Some asked for the largest possible deployment by the OSCE/ODIHR. Following the tragic events of 21 January, the Prime Minister repeated his request to the representative of the OSCE Chairperson-in-Office.

Although some of the OSCE/ODIHR recommendations have been implemented since the 2009 parliamentary elections, there are a number of issues that remain unaddressed. Most importantly, the primary recommendations from both the 2009 parliamentary elections and the 2007 local elections, that "parties should demonstrate the political will for the conduct of democratic elections" and that "they should discharge their electoral duties in a responsible manner for the general interest of Albania" remain to be fully addressed.

Based on the above findings, the OSCE/ODIHR NAM recommends an EOM be established to observe the local elections. To respond to the request for a significant observation presence and considering the high number of independent elections being organized as part of the local elections, in addition to a core team of experts the mission should include 30 long-term observers to follow the campaign and election preparations. Further, the OSCE/ODIHR NAM recommends that OSCE participating States be requested to second 400 short-term observers to follow election day procedures. Due to the anticipated extended count and tabulation process, short-term observers should be asked to stay several days after election day to follow the entire process.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

The 8 May 2011 local elections are the first elections to follow the contested 2009 parliamentary elections. In 2009, the election coalition led by the Democratic Party (DP) won 70 of the 140 seats in parliament and formed a government with the Socialist Movement for Integration (SMI) to hold a slim majority. The election coalition of the Socialist Party (SP), winning 66 seats in parliament, contested the legitimacy of the 2009 results. The members of parliament from the SP boycotted parliament until March 2010. The SP and other opposition parties have accused the Prime Minister and his government of corruption and of manipulating the 2009 elections and have called for an inquiry committee by parliament to review all election material.

The government and opposition were not able to reach an agreement on the formation of an inquiry committee before early January when, in a contested decision, the CEC destroyed the ballots from 2009 and sent the voter lists to the national archives. Although in line with the Electoral Code, the decisions of the CEC to destroy the ballots and archive the voter lists were taken by a simple majority, without the agreement of members appointed by the opposition.

See recommendation number 1 from the 2009 Final Report of the Election Observation Mission to the 28 June parliamentary elections and recommendation number 1 from the 2007 Final Report of the Election Observation Mission to the 18 February local elections.

The run up to the local elections has seen a continued focus on the 2009 elections. The political environment is deeply polarized, with harsh rhetoric and personal attacks being exchanged by the leaders of the DP and the SP. Following the resignation of the Deputy Prime Minister on 14 January after being implicated in a corruption scandal, the SP cited the current issues as proof that the governing coalition should not be in power.

The SP organized an anti-government protest for 21 January. Despite calls by the leader of the SP for calm in the days leading up to the protest, the situation turned violent with protesters throwing rocks and Molotov cocktails at the police. The police responded with tear gas and rubber bullets. During the clashes, some 120 protesters and police were injured and 3 protesters were shot dead. Investigations are ongoing into the shootings.

Following the protest, allegations about responsibility and interpretations of the events form part of the continuingly strong rhetoric. The Prime Minister and members of parliament of the ruling majority accused the opposition of attempting a *coup d'etat*, while the opposition accused the Prime Minister of orchestrating a massacre. Further protests and counter-protests were planned. There were also statements made alluding to the possibility that not all parties would participate in the upcoming election. The international community, including the Chairperson-in-Office of the OSCE, engaged to calm the situation, calling on all sides to act responsibly.

B. LEGAL FRAMEWORK AND ELECTION SYSTEM

The local elections will be conducted under a legal framework that comprises provisions of the Constitution of Albania (last amended in April 2008) and the Electoral Code that was adopted in December 2008. The constitutional amendments and the Electoral Code resulted from electoral reforms launched after the 2007 local elections and addressed several recommendations previously offered by the OSCE/ODIHR.

According to the Electoral Code, local councils of the 384 local government units (LGUs) and the mayors or heads of commune of the LGUs are elected in direct elections. Councilors are elected under a proportional system, while mayors and heads of communes are elected in a first-past-the-post contest.

The OSCE/ODIHR has long stated that the Electoral Code provides a thorough technical foundation for the conduct of democratic elections, and that what is most needed is the commitment of political parties to uphold the letter and intent of the law. However, discussion recently emerged regarding further reforms before the 8 May 2011 local elections. The Prime Minister, also leader of DP, has stated that he would support any reforms the opposition proposed so long as they were deemed by the OSCE/ODIHR as being in line with OSCE commitments and international standards for the conduct of elections. All opposition parties, as well as the coalition partner SMI, proposed to the OSCE/ODIHR NAM numerous possible amendments to be considered before the upcoming elections.

See previous OSCE/ODIHR reports and the review of the current Electoral Code at: http://www.osce.org/odihr/elections/albania.

The OSCE/ODIHR NAM, while supporting efforts to improve legislation, cautioned all parties about making amendments to electoral legislation so close before an election. Such late amendments could result in difficulties with implementation, either by the election administration that will have little time to train its staff on changes, or by those competing in the election who may not understand the new rules. Furthermore, any changes to the Electoral Code should be adopted following an inclusive discussion, which may not be feasible in the short timeframe left in the run-up to the elections.

C. ELECTION ADMINISTRATION

Local elections are administered by a three-tiered election administration: the Central Election Commission (CEC), 66 Commissions of Electoral Administration Zones (CEAZs), and about 4,800 Voting Centre Commissions (VCCs). In addition, the Electoral Code provides for Counting Teams (CTs) to be established in each CEAZ to conduct the vote count in 66 Ballot Counting Centres (BCCs).

The CEC is a permanent body of seven members elected by parliament for a four-year term. The chairperson and three members are nominated by the parliamentary majority, while the deputy chairperson and two members are nominated by the opposition. In addition, parties competing in the elections and all parties represented in parliament are entitled to nominate representatives to the CEC. These representatives may take part in discussions and put forward proposals but do not have the right to vote.

Most decisions of the CEC need a majority vote, i.e. four out of seven. However, a qualified majority of five votes is required for decisions related to the allocation of mandates, the invalidation of elections, the dismissal of CEC members and some specific administrative decisions.⁴

Despite the obligation of CEC members to fulfill their duties in an independent manner, the preparations for the local elections have already led the CEC to split along party lines. Opposition members of the CEC have not attended or have walked out of a number of CEC meetings. While the CEC chairperson and deputy chairperson should co-operate in the performance of their tasks, the practice that instructions concerning many of the daily tasks of the CEC are co-signed by both has reportedly stopped. This is not against the rules of procedure of the CEC, which allows the chairperson to sign instructions alone and send them to the CEC for a majority vote. However, it is a change in regular practice, which previously saw instructions co-signed.

CEAZs are appointed by the CEC. The nomination formula for CEAZ members mirrors that of the CEC in terms of political representation. However, in half of the CEAZs, the chairperson is nominated by the parliamentary majority, in the other half by the parliamentary opposition. The deputy chairperson and the secretary belong to the main political party that is not chairing the respective CEAZ. Voting centers are administered by VCCs, which are appointed by CEAZs according to the same structure and formula as for CEAZs.

⁴ These include the adoption of instructions; the approval of the CEC organizational structure and its rules of procedure; the allocation of seats for each electoral zone; and delineation of electoral zones.

Appointment procedures for the lower-level election commissions have not been altered since 2009, despite an OSCE/ODIHR recommendation for their review. This leaves the opportunity for parties to replace their members of election commissions at any point during an election, including on and after election day. Some of the parties met by the OSCE/ODIHR NAM defended this practice, as well as the late initial appointment of members, as a manner to protect its members against being coerced into committing fraud. None of the eligible parties have nominated their members to the CEAZs within the legal deadline of 23 January.

The CEC is authorized by law to establish regional offices for the purpose of implementing its duties. The CEC plans to deploy 24 regional inspectors, two each in 12 offices throughout the country to increase co-ordination with the CEAZs.

Counting Teams at the BCCs are established two days prior to the elections. They consist of four members, two by the party of the ruling majority and two by the opposition. The CEC chairperson stated that the counting process, altered by the 2008 amendments to the Electoral Code to add mechanisms aimed at increasing transparency and accuracy, cannot be completed within the tight legal deadline.⁶

D. VOTER REGISTRATION AND IDENTIFICATION

Voter lists are extracted from a central, computerized National Civil Status Register (NCSR) database. Registration in the NCSR database is active; a citizen needs to both de-register, for example when moving or in case of a deceased family member, as well as register, if moving to a new location. Since 2009, and in line with OSCE/ODIHR recommendations, further efforts have been taken to continue improving the quality of the voter lists. The Ministry of the Interior (MoI) reported that following efforts to remove duplicate names, 12,000 of those had been identified and removed. Furthermore, the MoI is requesting all LGUs to review the accuracy of data for all voters over 100 years old in the register. Despite these efforts, some OSCE/ODIHR NAM interlocutors still raised concerns about the accuracy of the voter lists.

Review of preliminary voter lists (PVLs) began on 26 October. The PVLs are posted in municipalities and are available on the MoI and the CEC websites as well as on a specially dedicated civil registry website. Copies of the register have also been sent to the main political parties for review.

As a rule, eligible voters are included in the voter list of the voting center serving their place of residence. The Electoral Code provides for certain categories of voters who can be included in voter lists of special voting centers, including prisons, pre-trial detention centers, hospitals, and military units. Voters added to such lists are removed from the voter list at their place of residence.

In order to vote, a voter must present a valid passport or a personal identity card. These cards were first issued shortly before the 2009 parliamentary elections and were the

See recommendation numbers 8 and 9 from the Final Report of the Election Observation Mission to the 28 June 2009 parliamentary elections.

Article 122 of the Electoral Code states that results must be issued by the CEAZ no later than 17.00 on the day following the elections.

topic of intense political debate. The MoI reports that there are now some 2,538,000 personal identity documents distributed, an increase of over one million since the 2009 election. Access to proper identity documents to vote was not raised by interlocutors as an issue to the OSCE/ODIHR NAM.

E. CANDIDATE REGISTRATION

Any citizen with the right to vote and political parties wishing to contest the upcoming elections must first register as electoral subjects with the CEC. Two or more electoral subjects can then register an electoral coalition. An electoral subject must submit candidates for mayor and candidate lists for the local councils to the CEAZ. Individuals can also be nominated as candidates upon the proposal of a group of voters.

Electoral subjects must register by 9 March and coalitions must register by 24 March. According to the legislation, parties who register as a coalition cannot submit candidate lists independent of the coalition in any of the 384 LGUs. Political parties met by the OSCE/ODIHR NAM had different understandings of this provision. Some understood that registration as a coalition nationally allowed them to run independently for mayors and heads of communes in some areas; others understood it to mean that they could only support coalition candidates for all elections.

The OSCE/ODIHR NAM was informed that the Constitutional Court overturned elements of the Electoral Code relating to candidate signatures. The law currently requires candidates for mayor and candidate lists for local council to provide a list of signatures of at least one per cent of voters registered in the respective constituency. There are some exemptions to the signature requirement. Voters can support only one party or candidate and have to deposit their supporting signatures before the CEAZ employee or a notary.

F. CAMPAIGN PERIOD AND CAMPAIGN FINANCING

The official campaign period lasts approximately one month. The period starting from the day prior to the day of the election until the close of polls constitutes the period of electoral silence, during which campaigning through media, rallies or other activities is not permitted. Opinion polls may not be made public during the last five days before the election or on election day before the close of polls.

Campaign financing consists of both public and private funding and is regulated by the Electoral Code. Public funds, the amount of which is determined by parliamentary decision, are distributed by the CEC in two allotments. One half is distributed among the parties that are registered as electoral subjects, based on the number of seats won in the previous election. The other half is distributed among those parties registered as electoral subjects, that won at least two seats in parliament, in proportion to the votes received in the previous election. A party that is allocated public funds but does not win any mandates in the forthcoming local elections must return the funding.

Electoral subjects are required to disclose the amount of funds received from non-public sources. All private donations must be declared and approved by the CEC. A list of all persons who donate more than ALL 100,000 (approximately EUR 720), along with their donation amounts, must be made public. Campaign expenditures are limited

and are reported to the CEC. Experts appointed by the CEC audit funds received and spent by electoral subjects after the announcement of final results. The CEC is authorized to verify information in the reports submitted by electoral subjects.

The Group of States against Corruption (GRECO) of the Council of Europe evaluated Albania in May 2009,⁷ and a draft law on party financing is currently being discussed in parliament.

G. MEDIA

The media landscape in Albania is dominated by broadcast media, with limited newspaper circulation. In addition to the public broadcaster RTSH, the National Council of Radio and Television (NCRT) has awarded licenses to two TV stations with national coverage, 75 local TV stations, and 70 cable TV stations. A total of three radio stations are broadcast nationally, with a further 68 FM radio stations. All media outlets are widely perceived as being aligned with one of the two main parties and their coverage as being heavily politicized.

The Electoral Code strictly regulates media coverage of the election campaign. Mediarelated provisions apply to all broadcast media only during the official campaign period. Different regulations are established for news coverage, free airtime, and paid advertisements. Sanctions are detailed for any breach of these provisions.

Media coverage of political parties during local elections is determined by their parliamentary representation. The Electoral Code distinguishes between parties with over 20 per cent representation in the parliament (large parties), parties with less than 20 per cent representation (small parties), and non-parliamentary parties. Large parties enjoy double the coverage of small parties in respect of free airtime (30 minutes compared to 15 minutes of daily coverage), paid advertisements (90 minutes compared to 45 minutes per station for entire campaign), as well as news coverage. Non-parliamentary parties are entitled to 10 minutes of free airtime, their news coverage is determined by 'professional criteria', and they are limited to an overall maximum of 10 minutes of paid advertisements per station. Although the Electoral Code foresees the possibility of paid advertisements by independent candidates, no provisions are given for their free airtime or news coverage.

Ten days prior to the start of the election campaign, the CEC establishes the Media Monitoring Board (MMB) to oversee media compliance with the Electoral Code. Each of the seven CEC members appoints one MMB member, who is required to have direct media experience. Using the technical capacities of the NCRT, the MMB monitors the broadcasts of all national TV and radio stations, as well as several local TV stations. Due to resource limitations, the MMB is unable to fully monitor all local TV and radio stations. The MMB provides a daily report to the CEC and can propose administrative sanctions to the CEC in the event of non-compliance.

The GRECO report is available at:
http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)7 Albania
Two_EN.pdf.

While the MMB monitors the amount of time allocated to electoral contestants, it does not provide analysis of the tone of this coverage. Additionally, while the Electoral Code requires that government activities related to the electoral campaign are included in the time of the party to which the head of the institution involved belongs, the assessment of whether a government activity should be considered institutional or campaign-related is left to the discretion of the MMB. OSCE/ODIHR previously recommended that the relevant provision in the Electoral Code be amended to define what constitutes "government activities which are related to the electoral campaign".

H. PARTICIPATION OF WOMEN

Women are generally underrepresented in Albanian politics, particularly at the local level. Currently only 9 of the 384 mayors or heads of communes are women. At least 30 per cent of the CEAZ members proposed by the largest party in the governing coalition and the largest party in opposition must be female. Two of the seven CEC members are women.

For local elections, every third person on a candidate list must be a woman, which is a progressive measure. Article 175 of the Electoral Code states that failure to fulfill the gender quota is subject to a ALL 30,000 fine for each electoral zone (approximately EUR 220).

I. INTERNATIONAL AND DOMESTIC OBSERVERS

Article 6 of the Electoral Code provides for election observation by domestic and international observers, as well as political parties and candidates presented by a group of voters. Each electoral subject has the right to appoint observers to CEAZs, VCCs and for each counting table in a BCC. If parties form a coalition, the right to appoint observers lies with the coalition rather than the parties. Representatives of smaller parties met during the OSCE/ODIHR NAM expressed concern that this regulation may deprive them of having their own party observers. Candidates are allowed to be present during the vote count.

The OSCE/ODIHR NAM was informed that the domestic observer group 'Society for Democratic Culture' intends to observe the upcoming elections with 900 observers deployed in mobile teams, should they receive commensurate funding.

IV. CONCLUSIONS AND RECOMMENDATIONS

There remains a high level of polarization and distrust among political parties in Albania. In part because of this distrust, all interlocutors of the OSCE/ODIHR NAM requested the deployment of a full Election Observation Mission (EOM) for the 8 May local elections. Some asked for the largest possible deployment by the OSCE/ODIHR. Following the tragic events of 21 January, the Prime Minister repeated his request to the representative of the OSCE Chairperson-in-Office.

See recommendation number 20 from the 2009 Final Report of the Election Observation Mission to the 28 June parliamentary elections.

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Although some of the OSCE/ODIHR recommendations have been implemented since the 2009 parliamentary elections, there are a number of issues that remain unaddressed. Most importantly, the primary recommendations from both the 2009 parliamentary elections and the 2007 local elections, that "parties should demonstrate the political will for the conduct of democratic elections" and that "they should discharge their electoral duties in a responsible manner for the general interest of Albania" remain to be fully addressed.

Based on the above findings, the OSCE/ODIHR NAM recommends an EOM be established to observe the local elections. To respond to the request for a significant observation presence and considering the high number of independent elections being organized as part of the local elections, in addition to a core team of experts the mission should include 30 long-term observers to follow the campaign and election preparations. Further, the OSCE/ODIHR NAM recommends that OSCE participating States be requested to second 400 short-term observers to follow election day procedures. Due to the anticipated extended count and tabulation process, short-term observers should be asked to stay several days after election day to follow the entire process.

ANNEX: LIST OF MEETINGS

Government Officials

H.E. Dr Berisha, Prime Minister and Chair of the Democratic Party

H.E. Mr Haxhinasto, Minister of Foreign Affairs

H.E. Mr Basha, Minister of Interior

Mr Poni, Deputy Minister of Interior

Election Administration

Mr Ristani, Chairperson of the Central Election Commission

Mrs Subashi, Deputy Chairperson of the Central Election Commission

Electoral College

Mrs Prifti, Member

Mrs Mullaj, Member

Mr Ndreca, Member

Mr Kalaja, Member

Political Party Representatives

Mr Rama, Chairperson of the Socialist Party and Mayor of Tirana

Mr Meta, Chairperson of the Socialist Movement for Integration

Mr Mediu, Chairperson of the Republican Party

Mr Dule, Chairperson of the Human Rights Union Party

Mr Idrizi, Chairperson of the Party for Justice and Unity

Mr Gjinushi, Chairperson of the Social Democratic Party

Mr Milo, Chairperson of the Social Democracy Party

National Council for Radio and Television

Mr Karapici, Deputy Chairperson

Mr Nathanaili, Director, Programming Department

Media Representatives

Mr Beci, General Director, Public Broadcaster Albanian Radio and Television (RTSH)

Mr Kopani, Director for Current Affairs, RTSH

Dr Oktrova, Director of Albanian Television, RTSH

Civil Society and Commentators

Mr Dervishi, Executive Director of Transparency International Albania

Mr Lani, Director of Albanian Media Institute

Mr Rakipi, Albanian Institute for International Affairs

Mr Nesho, Executive Director, Albanian Council on Foreign Relations

Mr Lubonja, Analyst

Mr Stefani, Media Analyst

Mr Krasniqi, Analyst

Ms Katro, Millennium Women Network

Ms Meçaj, Albanian Helsinki Committee

Ms Meta, Society for Democratic Culture

Ms Cani, Albanian Disability Rights Foundation

Mr Tafaj, National Council of People with Disabilities

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International Community

Ambassador Wollfarth, Head of OSCE Presence in Albania Mr Redford, Deputy Head of OSCE Presence in Albania Mr Puerner, Head of Democratization, OSCE Presence in Albania Mrs El Kholy, Head of UN Women Representatives of Embassies Other Representatives of the International Community