



Office for Democratic Institutions and Human Rights

REPUBLIC OF ALBANIA

PARLIAMENTARY ELECTIONS

3 July 2005

OSCE/ODIHR Election Observation Mission Report



Warsaw
7 November 2005

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OSCE/ODIHR ELECTION OBSERVATION MISSION

FINAL REPORT¹

I. EXECUTIVE SUMMARY

In response to an invitation from the Minister of Foreign Affairs of Albania to observe the 3 July 2005 parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 18 May 2005. It assessed the electoral process for compliance with the OSCE Commitments, and other international standards. The OSCE/ODIHR EOM joined efforts with observers from the OSCE Parliamentary Assembly (OSCE PA), The Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) to form an International Election Observation Mission (IEOM) to observe election day procedures.

The 3 July 2005 parliamentary election complied, only in part, with OSCE commitments and other international standards for democratic elections, and marked some progress in the conduct of elections in Albania. It was a competitive contest and voters were offered a wide electoral choice from a range of political parties. Yet, the process was again protracted and at times uncertain.

Major parties mounted highly visible campaigns. The electronic media were generally balanced in their coverage of electoral subjects and strived to meet their legal obligations. However, they provided the two largest parties with more than their legal entitlement and were inconsistent in the coverage of smaller parties. Despite a generally calm campaign, a few incidents occurred including a fatal shooting on election day.

These elections were the first to be held under a new Election Code, adopted in 2003 and subsequently amended. While there is room for further improvement of the legal framework, the law is overall conducive for the conduct of democratic elections. However, the major political parties are yet to demonstrate political will and responsibility commensurate with the broad authority granted to them for the electoral process. This was particularly evident in the parties' approach to the election administration, the full respect for citizens' fundamental freedoms, and the implementation of electoral strategies to maximise electoral gains. These strategies undermined the constitutional objective of proportionality "to the closest possible extent" of the electoral system, which remains open to abuse and should be reformed in an inclusive manner.

The Central Election Commission (CEC) administered the process in line with the provisions of the Electoral Code and consolidated its reputation for an effective, transparent and largely impartial collegial body. Many of the 100 Zone Election Commissions (ZECs), the Voting Centre Commissions (VCCs) and the Counting Teams (CTs) were formed late, for which parties bear their share of responsibility. Observers reported that often ZEC and VCC members appeared to give priority to party interests, rather than to fully respect the law.

A considerable and relatively successful, if late, effort by the state and local government authorities introduced a new framework for voter registration providing for a clear division of responsibilities of the bodies involved. In many election zones this exercise resulted in improved accuracy of voter lists. However, the significance of these efforts was lessened by the long standing inaction of the

¹ This report is also available in Albanian. However, the English version remains the only official document.

Albanian authorities in introducing a uniform system of addresses of buildings and new personal identification documents. Consequently, voter lists remained a contentious issue. Nevertheless, with a few exceptions, observers did not detect deliberate attempts to disenfranchise voters or otherwise manipulate voter lists for political gain.

The conduct of the voting demonstrated only limited progress. In many cases, VCCs did not have sufficient respect for correct procedures, particularly regarding the use of ink to prevent multiple voting, the secrecy of the vote and the checking of voters' identity. Fewer voters were turned away from polling stations because their names did not appear on voter lists.

The counting of votes was often contentious and took considerably longer to complete than foreseen in the law. While some delays were attributable to fatigue, most were caused by obstruction of the process. As the count progressed, observers reported a number of serious irregularities in some zones including cases when votes were not counted honestly.

While it took over six weeks for the CEC and the Electoral College to hear all post-election complaints, largely as a consequence of parties filing frivolous cases, complaints were handled fairly. However, in a few cases, appellants were denied effective legal remedy due to the emphasis on the form of an appeal over its substance, as well as the CEC's unwillingness to use fully its powers of investigation in such cases.

Minority populations, notably Roma, continued to be marginalized and were subjected to election intimidation and attempted 'vote buying'. Further efforts are needed to improve their registration as voters and participants.

The election brought only a marginal increase in the low number of women MPs. Women are also considerably under-represented in the election administration. A genuine effort is required to address the gender imbalance in Albanian public affairs.

The OSCE/ODIHR, as well as the institutions represented in the IEOM, remains committed to support the efforts of the Albanian authorities to bring the conduct of elections in Albania fully in line with OSCE Commitments and other standards for democratic elections.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

In accordance with Albania's commitments as an OSCE participating State, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) was invited to observe the 3 July 2005 election process. An Election Observation Mission (EOM) was formally established on 18 May, headed by Mr. Jørgen Grunnet (Denmark). The OSCE/ODIHR EOM consisted of 40 election experts and long-term observers (LTOs) based in Tirana and 11 other cities.

Ambassador Andreas Nothelle (Germany) coordinated the OSCE PA Delegation. Mr. Jerzy Smorawiński (Poland), Member of the Polish Senate, led the PACE Delegation. Ms. Doris Pack (Germany), Member of the European Parliament, led the EP Delegation. The IEOM deployed 408 observers from 36 OSCE participating States, including 23 parliamentarians from the OSCE PA, 20 from the PACE, and nine from the EP. The IEOM observed the polling and vote count in over 1,200 VCs throughout the country and 97 counting centres (CCs).

The OSCE/ODIHR EOM extends its appreciation to the Ministry of Foreign Affairs, the Central Election Commission and other state and local authorities for their assistance and co-operation. The EOM is grateful to the OSCE Presence in Albania for its support throughout the duration of the

mission, and to the Embassies of OSCE participating States accredited in Tirana. The EOM is also grateful to the OSCE Missions in Kosovo and the former Yugoslav Republic of Macedonia for their support in sending observers.

III. POLITICAL BACKGROUND

The 3 July 2005 parliamentary elections were the sixth since the establishment of multi-party politics in Albania in 1991. Since then, the two largest parties, the Socialist Party (SP) and the Democratic Party (DP) have dominated the political scene. Frequently, their rivalry has been intense, based on a mutual lack of trust, and at times antagonistic. In recent years this has caused political deadlocks, often resolved through the facilitation by international institutions, notably the OSCE.

The last parliamentary elections were held in 2001 and local elections were held in 2003. Both processes were protracted and contentious with repeated elections in a number of constituencies due to irregularities. In 2001, the SP led by Mr. Fatos Nano, received a majority of seats (73). It formed a coalition government and enjoyed parliamentary support from 13 MPs elected from four other parties² and two MPs elected as ‘independent’ candidates. The DP, led by Mr. Sali Berisha, and other opposition parties gained 52 seats.³ The DP considered the 2001 elections to be characterised by fraud and boycotted the main institutions, including the Parliament. In February 2002, a less confrontational phase commenced, which led to the opening of discussions on a reform of the electoral framework, and to the consensual election of Mr Alfred Moisiu as President of Albania by the Parliament in the summer of 2002. A month after the election of the President, SP Chairman Fatos Nano became Prime Minister.

In the fall of 2004, former SP Prime Minister Ilir Meta broke away from the socialist parliamentary group and founded the Socialist Movement for Integration (SMI). The SMI was then represented in parliament by 9 MPs elected in 2001 as candidates of the SP. Since 2004, the LMP has formed an alliance with the Renewed Democratic Party to form the pro-monarchist Movement for National Development – Leka Zogu I (MND).

IV. LEGAL FRAMEWORK

A. APPLICABLE LEGISLATION

The elections were conducted under a new Electoral Code, adopted in June 2003.⁴ In 2004, the OSCE/ODIHR and the Venice Commission of the Council of Europe issued ‘Joint Recommendations’ to improve the legislative framework in order to meet OSCE commitments and other international standards.

The Electoral Code was subsequently amended in October 2004, January 2005 and April 2005. The amendments, some of which addressed the Joint Recommendations, brought about several changes, in particular concerning the election administration, the compilation of voter lists, the criteria for

² The Social Democratic Party (SDP), the Environmentalist Agrarian Party (EAP), the Human Rights Union Party (HRUP) and the Democratic Alliance (DA)

³ The DP ran in the 2001 elections in coalition with the Republican Party (RP), the Liberal Union Party, the Legality Movement Party (LMP) and the National Front Party. In 2001, the New Democratic Party (NDP), also in opposition, ran separately.

⁴ Other legislation relevant to the holding of elections includes the Constitution of the Republic of Albania, the Civil Procedure Code, the Code of Administrative Procedure, various laws and the instructions of the CEC and government ministries.

establishing electoral zones, the counting process and the handling of complaints and appeals. These changes were largely devised through a bi-partisan process comprising the SP and the DP.

New boundaries for electoral zones were set out in a separate law (March 2005), resulting from a bi-partisan SP-DP political agreement. While the current election zones are an improvement over the previous boundaries, based on the voter lists produced for this election on election day a few zones do not meet legal requirements⁵, in particular, some deviated excessively from the “average number of voters for an election zone”.⁶

B. ELECTION SYSTEM⁷

Article 64 of the Constitution (1998) establishes the following election system:

- A fixed number of parliamentary mandates (140), with 100 deputies (71%) elected in single mandate election zones (hereafter ‘single-seat’ mandates) and 40 (29%) elected from party or coalition lists (hereafter ‘supplemental’ mandates);
- That “the total number of deputies of a party [...] shall be, to the closest possible extent, proportional to valid votes won by them on the national scale [...]” (Art. 64.2); and,
- That parties must obtain at least 2.5% of valid votes and coalitions must obtain at least 4% of valid votes, to participate in the allocation of the 40 supplemental mandates.

The current electoral system was first provided for in the previous Electoral Code (2000), based on an interpretation of Art.64 of the Constitution. The 2003 Electoral Code further elaborated the system. Unlike in the 2000 Electoral Code, candidates in the 100 election zones required a simple majority, and not an absolute majority of the vote to be elected.⁸ Article 65 of the Electoral Code states that the 40 ‘supplemental mandates’ are allocated “according to the proportional percentage of votes won by the multi-name [party] lists”. However, the law does not establish a ‘parallel’ election system as the allocation of the ‘supplemental mandates’ is intrinsically linked to the number of single seats won by candidates of each party or coalition. According to the Code (Art. 67), if the number of single seats won by each party/coalition exceeds the total number of mandates to which it would be entitled should all 140 seats be allocated through a full proportional system (Art.67.1.b), the party/coalition will not receive any of the 40 supplemental mandates.⁹ While article 67 of the Electoral Code attempts to respect article 64.2 of the Constitution, the objective of proportionality in the composition of parliament is hampered by a combination of four factors:

⁵ For example zone 85 is non-contiguous.

⁶ While art.181.1.of the Electoral Code provides that “No electoral zone may be subject to a deviation of more than 10 percent from the average number of voters on a national scale”, the number of voters in several zones varies by more than 10 percent from the national average. According to the Venice Commission’s Code of Good Practice in Electoral Matters [CDL-AD (2002)23, page 10] “the permissible departure from the norm should not be more than 10%”. The existence of constituencies, the size of which differs excessively from the country’s average challenges the principle of equal suffrage. However, the delineation of the zone boundaries was conducted partly on the basis of figures which reflect, in addition to the numbers of voters registered in these zones for the 2003 municipal elections, also voter turnout figures and data for the population from the 2001 census.

⁷ The rules for translation of votes into seats.

⁸ In 2001, the 100 candidates required 50% +1 vote to be elected. If no candidate secured a majority of the vote in the first round, a second round (run-off) election took place between the two top scoring candidates.

⁹ *Inter alia*, article 67 establishes that the number of valid votes won by each party/coalition meeting the respective threshold is divided by the total number of valid votes for all parties overcoming the threshold and multiplied by 140 (the total number of deputies). This establishes a preliminary ‘mandate entitlement’. In this system, parties that received a significant share of the vote in the party list election (“the national scale”) but no or few single seats, can expect to receive a number of supplementary mandates to enable their representation in parliament to be approximately proportional to the percentage of the vote they received in the party list election. Conversely, parties or coalitions that receive a high proportion of single seats, may receive few if any supplementary mandates.

1. The number of supplemental mandates is fixed rather than variable.
2. The number of supplemental mandates is relatively small (40) and thus may not be sufficient to achieve proportionality.
3. The impossibility of ‘taking away’ any of the single seats won by a party candidate; and
4. The provision that the election is a two-ballot contest¹⁰ (Electoral Code, art 90).

Importantly, the legal framework does not ensure that the Constitution’s stated objective can be realised i.e. to achieve a parliament composed on the principle of proportional representation. Using various methods, political parties can circumvent the aim of the election system and distort the allocation of supplementary mandates in their favour. For example, if supporters of a party (Party A) systematically split their votes between the candidate representing Party A and the election list of another, formally or informally allied party (Party B), then the combined number of mandates won by the two parties is likely to be increased. While this strategy might be within the law, it is problematic for a number of reasons:

- It can only work by lessening the effectiveness of Article 67 of the Electoral Code in meeting its purpose and is at odds with the stated objective of the Constitution.
- It significantly weakens the ‘linkage’ between the two parts of the election, *de facto* making the election similar to a ‘parallel election’.
- It necessarily results in fewer mandates being awarded to parties that do not engage in the same or a similar strategy.
- It blurs distinctions between political parties and could therefore mislead voters; and
- It does not enable voters to know exactly how their votes will translate into seats.

Although similar strategies had been applied on a smaller scale in 2001¹¹, the provisions of the electoral code on allocating the supplemental mandates remained largely unchanged.

C. ASSESSMENT OF THE LEGAL FRAMEWORK¹²

While the Electoral Code provides room for further improvements, it can serve as a basis for democratic elections if implemented in good faith by State authorities *and* political parties. However, while political parties have a central role in any democratic election process, at times the Electoral Code places their interests above those of citizens. Notwithstanding many positive aspects of the Electoral Code, the following two shortcomings run contrary to international standards:

- The Electoral Code allows parties to submit to the CEC internal party agreements for re-ordering mandate recipients according to party-stipulated criteria.¹³ In 2005, many parties submitted such agreements to the CEC.¹⁴ This is problematic because it lessens the certainty among voters concerning the translation of their votes into mandates being allocated according to transparent criteria.

¹⁰ Each voter can cast two ballots, one for a candidate running in the single mandate constituency and one for a party or coalition candidate list, without any restriction on any of his or her choices.

¹¹ See OSCE/ODIHR Final Report on the elections of 2001.

¹² Space limitations preclude a comprehensive and complete analysis of the legal framework. The absence of commentary regarding a specific provision does not signify that the provision could not be improved.

¹³ As noted in the OSCE/ODIHR – Venice Commission joint assessment of 2004: “to the extent that [the law] would permit a re-ranking or “final” ranking of candidates to occur after a voter casts the ballot, then [it] would be contrary to OSCE Commitments and international standards.”

¹⁴ The internal party agreements often contained formulas that took into account the electoral performance of the party/coalition list or of individual candidates in specific election zones. However, the SP and the DP submitted electoral lists with a fixed ranking of candidates.

- The Code (art. 163) grants parties the right to influence the selection of the pool of judges that hear election appeals.¹⁵

While according to art.154 of the Constitution, the power to elect CEC members is a constitutional prerogative of the Assembly, the President, and the High Council of Justice, art.22 of the Electoral Code limits the significance of this prerogative by the nomination power it gives to political parties. Yet, the Constitution does not exclude the possibility for political parties to propose members. In this regard, the issue lies in the fact that the choice given by political parties to the three electing institutions is limited to a maximum of two names per list¹⁶, rather than in the participation of the parties in the nominating process. Of equal importance is the profile of the parties' nominees. In effect, the two largest political interests control the functioning of the CEC through their nomination of members.

According to the Electoral Code, six parties nominate the entire membership of ZECs and VCCs.¹⁷ These parties are granted the unrestricted right to replace ZEC and VCC members *at any time for any reason*. They may delay submitting the list of nominees to vote counting teams until only two hours before the close of polls. Arguments in favour of such legal privileges are usually presented as ways to counter possible attempts to 'buy' election commissions' members. However, such privileges enable parties, particularly the two largest ones, to exert a high degree of influence on the stability, professionalism, independence and impartiality of the election administration, and consequently create possibilities for a negative impact on the election process.

The Electoral Code favours certain parties e.g. it provides that CEC members are appointed from among only the parties of the 'left' or the 'right' political wing. This discriminates against parties not clearly affiliated with either political wing.¹⁸ Additionally, non-parliamentary parties do not have the right to receive copies of official results protocols from ZECs and 'smaller' parties face restrictions in conveying campaign messages e.g. in the area of paid political advertisements in the private electronic media, where the Code grants 'larger' parties the right to purchase double the amount of airtime of 'smaller' parties. These factors create an uneven electoral 'playing field' and thus challenge aspects of paragraph 7.6 of the OSCE Copenhagen Document.

Following the signature of an SP-DP Protocol on 17 May 2003, and some subsequent amendments, the Code provides that in the event that part of the party list election is invalidated e.g. in an election zone, it should not be repeated. The affected voters will only have one vote (for the single seat contest) while others will have two. Notwithstanding problems Albania has faced during previous elections regarding the fragmentation of the electoral process, it should be noted that the failure to repeat the party list election in a specific area could challenge the equality of the vote, an established international standard, and could affect the allocation of mandates.

The provisions on campaign finance, although representing some improvement over the previous elections when they were almost non-existent, lack consistency; e.g. while Art.144 provides that the campaign expenditure limit for a political party includes its candidates' expenditures, Art.145.1 does not require party candidates to report expenditures either directly or through the party. The

¹⁵ The OSCE/ODIHR and the Venice Commission previously expressed their joint concern over Article 163. See Recommendation No. R (94) 12 of the Committee of Ministers of Council of Europe on the Independence, Efficiency and Role of Judges; UN Basic Principles on the Independence of the Judiciary; Paragraphs 5.12 and 5.13 of the OSCE Copenhagen Document (1990) and Paragraphs 19.1 and 19.2 of the OSCE Moscow Document (1991).

¹⁶ See Joint OSCE/ODIHR Venice Commission Recommendations on the Electoral Law and the Electoral Administration in Albania – [CDL-AD(2004)017rev2], page 8

¹⁷ The six parties that achieved the best election result in the previous parliamentary election.

¹⁸ The SMI complained that it had suffered discrimination in being legally unable to replace its election observers after an 18 June deadline, whereas the SP and the DP could replace members of electoral bodies at will.

requirement to declare expenditures relates only to those made within a limited campaign period. Hence, the legal provisions can be circumvented through the careful timing of donations and expenditures. Finally, parties are not required to submit financial reports on campaign expenditure until 45 days after the election, thereby lessening transparency.

The Code allows political parties to appeal against the tabulation of results by a ZEC and separately to request the CEC to invalidate results in an electoral zone. Where both an appeal and an invalidation request are lodged with the CEC, the latter is considered before the former. This is not efficient and the ZEC's tabulation of results may constitute important evidence supporting the request to invalidate the results.

V. ELECTION ADMINISTRATION

A. STRUCTURE AND COMPOSITION OF THE ELECTION ADMINISTRATION

Parliamentary elections in Albania are administered by a three-tiered election administration: the Central Election Commission (CEC), 100 Zone Election Commissions (ZECs), and 4,764 Voting Centre Commissions (VCCs) were established in 2005. In addition, up to five Counting Teams (CTs) were established in each electoral zone to conduct the vote count in 100 Counting Centres (CCs).

The CEC is a permanent body composed of seven members.¹⁹ CEC members have a seven-year mandate. Political parties exert considerable influence over the composition of the CEC as they nominate members for appointment. Under an agreement reached in October 2004 between the SP and the DP, the 'political balance' of the CEC was altered, with the SP 'surrendering' one of its five seats to the opposition.²⁰

Following amendments made to the Electoral Code on 10 January 2005 in line with OSCE/ODIHR and Venice Commission recommendations²¹, most CEC decisions are taken by a majority vote: at least four votes are needed to take a decision, and CEC sessions are valid if at least four members attend it. However, a qualified majority of at least five votes is needed for the certification of the final election results, the invalidation of elections, and in adjudicating appeals against ZEC decisions on election results. Political parties are entitled to nominate representatives to the CEC, who may participate in discussions but do not have the right to vote on issues decided by the CEC.²²

Each ZEC was composed of seven members who are appointed by the CEC based on combined nominations made by the three largest left wing parties (combined) and three largest right wing parties.²³ The SMI was not entitled to nominate ZEC, VCC or CT members despite being perceived as the second largest left wing party.²⁴ SMI was critical of what it referred to as a 'two-party political division' and complained it was unable to influence CEC decisions. The SP and the DP were granted the right to nominate the seventh member on a parity basis determined by "random selection" and "equal distribution". The ZEC Chair was appointed from among the political bloc that held the majority on the particular ZEC, while the Deputy Chair and Secretary were nominated by the minority. The Electoral Code provides that if parties fail to nominate members, the right of nomination passes to the next largest party from the same side of the political spectrum. However,

¹⁹ In addition, a 'non-voting' Secretary is appointed to the CEC, as well as to the 100 ZECs and to the VCCs.

²⁰ The left and right political wings each propose three members, one each to each of the three appointing bodies. Both sides submit jointly nominees for a third member to be appointed by the High Council of Justice.

²¹ See Joint 2004 OSCE/ODIHR - Venice Commission Recommendations, page 9

²² Representatives of parliamentary parties have a permanent status. Those of non-parliamentary parties do not.

²³ The SP, the SDP and the HRUP (on the left) and the DP, the NDP and the RP (on the right)

²⁴ The nomination right is based on the results achieved in the last parliamentary elections (2001).

despite some parties failing to make nominations by the legal deadline, the CEC did not apply the provision.

VCCs and CTs had the same political composition as ZECs. Political parties and independent candidates were entitled to have observers at ZECs and VCCs, as well as in CCs.

B. ASSESSMENT OF THE ORGANIZATION OF ELECTIONS

In general, the CEC administered the election process in line with the Electoral Code. During the electoral period, it held frequent meetings, took over 1,700 decisions and adopted some 20 instructions regulating the process. For the most part, CEC meetings were conducted professionally, collegially and transparently. The proposals of party representatives were given a fair hearing. During the pre-electoral phase, OSCE/ODIHR EOM observers did not observe any political bias for or against an election stakeholder. While at times discussions were protracted and important decisions delayed, overall, this did not have a significantly adverse effect on electoral preparations.

The CEC's staff also performed their duties in an impartial and professional manner throughout the electoral period. In addition to the staff in Tirana, the CEC established 12 Regional Election Offices that provided technical and logistical support to ZECs. While not foreseen in the Electoral Code, these offices played a positive role in the elections by enhancing the flow of information to ZECs.

The CEC faced several logistical and administrative challenges in organising the elections. According to the Electoral Code, ZECs should have been appointed by 3 March 2005. This proved impossible since at that point the election zone boundaries had not been approved. The CEC decided to postpone the first ZEC meetings until 16 May in order to give parties time to nominate ZEC members. Nonetheless, only 63 ZECs were fully composed by the new deadline, largely because some parties, notably the DP and the RP, did not make their nominations on time. Shortly after the ZEC appointment process was complete, some parties made extensive use of their right to replace members. Although the number of replacements decreased closer to election day, some parties' approach caused instability in the ZECs and some members were appointed after training had been completed. Additionally, some local government authorities did not fully cooperate with the CEC. They did not meet legal deadlines on submitting the final numbers of registered voters and the location of voting centres (VCs), necessitating the imposition of fines by the CEC.

At least half of the ZEC chairs had served on a ZEC during a previous election. This experience may have proved valuable in the administration of elections. However, a significant minority of ZECs lacked adequate material resources and the majority reported that they had not received operating funds in time. ZECs also faced major challenges in appointing VCC members, once again because parties did not meet nomination deadlines. Several political parties justified their actions by claiming that if the VCC and CT members were known well in advance of the election, they could be bribed or intimidated. As for ZECs, the delay in appointing VCC members meant that many did not participate in trainings organised by the CEC. Observers in approximately 10% of zones questioned the independence of ZECs and some appeared to take decisions based on political rather than administrative criteria.

VI. PARTY AND CANDIDATE REGISTRATION

The registration procedure comprises two steps. First, political parties must register as electoral subjects with the CEC. Then, they either present a multi-name national list for the 40 supplemental seats, or candidates running in single-seat contests, or both. Parties must be registered individually as electoral subjects before entering a coalition.

For the 2005 elections, the CEC first registered 57 parties as electoral subjects. Of the 57 parties registered as electoral subjects, 10 parties did not present any multi-name list for the national contest, 19 parties would be running as part of four coalitions, and 28 parties would be running separately for the national lists contest.

A. REGISTRATION OF MULTI-NAME NATIONAL LISTS

Candidate lists of parties and coalitions must be registered with the CEC. The Electoral Code makes a distinction in the registration procedure between ‘parliamentary parties’ and ‘non parliamentary parties’. Non-parliamentary parties must submit the signatures of at least 7,000 registered voters, while coalitions of non-parliamentary parties must submit at least 10,000 signatures. This requirement is reasonable and complies with established international best practices.²⁵ Parties represented in the outgoing parliament are required to submit a signed declaration by at least one sitting MP that he/she is a *member* of the party in question. Coalitions can also submit declarations of sitting MPs who are members of one of the parties of the coalition, in the same number as there are parties within the coalition. Positively, if the CEC finds deficiencies in the registration documentation, parties are not rejected but rather are granted two days to remedy the shortcoming.

Of the 28 parties which applied to run separately, eight were represented in the outgoing parliament and two additional parties²⁶ were treated as such by the CEC. The handling of these two latter cases deserves attention. Documentation sent by the Assembly to the CEC on various other issues did not list either of them as having parliamentary representation. The two parties’ lists applied without supporting signatures. However, each of the two parties was able to provide a declaration by an incumbent MP that he was a *member* of that party, while neither had been elected on the ticket of the party for which he submitted a declaration and both were running for other parties in the 2005 elections. Nonetheless, the CEC accepted the declarations at face value and registered both parties without requiring support signatures.

All remaining 18 parties running separately had to present lists of support signatures. The CEC disqualified 11 of them for defects in the signatures lists. The Electoral College overturned the CEC decision of disqualification for one party. In the end, of the 28 parties which had attempted to register multi-name national lists for the 40 supplemental mandates, 18 could run.

The lists submitted by coalitions had to go through the same two procedures. Of the 57 parties registered as electoral subjects by the CEC, 19 submitted four separate coalition agreements:

- Seven parties considered as being closed to the DP submitted a list forming the ‘Alliance for Freedom, Justice and Welfare’ (AFJW) coalition;²⁷
- Three parties (the LMP, the Renewed Democratic Party and the Conservative Party) formed a coalition called Movement for National Development – Leka Zogu I (MND);
- Four parties not represented in the outgoing parliament formed a coalition called Albanian Social Parties and National Unity Party (ASP + NUP);
- A coalition of five parties formed around the Democratic Movement for Integration (DMI).

Of the seven parties making the AFWJ coalition, 6 had parliamentary representation, and of the three parties making the MND coalition, two had parliamentary representation. In both cases, they had enough sitting MPs altogether to be exempted from the obligation of support signatures.²⁸

²⁵ See Venice Commission’s Code of Good Practice in Electoral Matters [CDL-AD (2002)23], page 9

²⁶ The National Front Party and the National Security Party

²⁷ New Democrat Party (NDP), Demo-Christian Party (DCP), Liberal Democratic Union (LDU), Democratic National Front Party (DNFP), Albanian Democratic Union Party (ADUP), Republican Party (RP) and the Human Rights and Liberties Movement Party (HRLMP)

The CEC disqualified both the ASP+NUP and the DMI coalitions for defects in support signatures lists. The Electoral College overturned the CEC decision to disqualify the ASP+NUP coalition²⁹. In the end, of the 19 parties which applied to run in coalitions, 14 could run in three coalitions³⁰.

The process of checking of support signatures was not satisfactory. The Electoral Code does not set out the method by which the CEC should assess the supporting signatures and provides insufficient time for the CEC to scrutinise the signatures adequately. Nevertheless, the CEC could have adopted a decision on the issue before the verification process began. It did not do so, and addressed the issue only after the submission of the lists.³¹

B. REGISTRATION OF CANDIDATES IN THE SINGLE MANDATE ZONES

In the election zone contests, candidates must register with the respective ZEC. Candidates of parliamentary parties and sitting MPs elected as independent candidates are not required to submit support signatures, while candidates of non-parliamentary parties and independent candidates must submit the signatures of 300 voters registered in the zone where they intend to stand.

ZECs registered 1,235 candidates in the 100 single mandate zones. Very few prospective candidates were denied registration by a ZEC. However, observers questioned ZEC decisions to reject a few independent candidates. Seventeen appeals on candidate registration were filed at the CEC.³²

Prior to the election, the DP concluded written agreements with the seven parties in the AJFW coalition, whereby the DP and each of the seven parties in the AJFW would register at least one candidate for the single seat contest under the banner of the DP. Indeed, formally, the DP fielded 100 candidates, as required by law, 15 of these were nominated by DP allies parties, in accordance with the above mentioned agreements.

For the party list contest, the DP and the AJFW registered separate candidates' lists. It is noteworthy that the list of the RP, a party of the AJFW coalition, contained the names of 30 DP members, including MPs in the outgoing Parliament elected as DP candidates in 2001. The SP did not appeal the CEC's decision to register these candidates under the DP banner.

²⁸ Art.84.2: "[...] The coalition is exempted from the obligation for signatures contemplated in this article of the Code, if its member parties hold jointly in the Assembly no fewer seats than the number of member parties."

²⁹ The Electoral College ruled that the party lists should be included on the ballot because the number of questionable signatures involved did not bring any list below the required number and that therefore there was no objective basis to conclude that the parties had failed to meet the registration criteria.

³⁰ The AFJW registered a composed multi-name list. In this case, the 7 parties appeared separately on the ballot which indicated the name of the coalition and the name of the respective party, each of which had its own square for marking the ballot. The MND and ASP+NUP registered joint multi-name lists. In such a case, only the name of the coalition appeared on the ballot.

³¹ Initially, the CEC checked ten entries from each list to verify if signatories were registered in the preliminary voter list. It then increased this number to 50. This method was questionable as it led the CEC to dismiss entire lists, including valid signatures, on the basis of the presence of some invalid ones. The CEC also asked the police for assistance in performing a graphology check. They confirmed that all lists submitted contained some multiple signatures by the same person. The acceptance of notarised statements from persons who had signed on behalf of other citizens was also questionable and not foreseen in the Electoral Code (for example the Green League). Three parties that were present when the CEC took a decision on their registration were given time to provide additional documentation. Of these, two were accepted and one rejected. Other parties that were not present at the CEC when their lists were rejected complained they were denied the opportunity to provide additional documents.

³² It upheld seven, rejected four on their merits and two for lack of supporting evidence. Four appeals were rejected on procedural grounds or withdrawn.

The SP registered 100 candidates in the election zones. However, in many zones, the SP's allies also registered candidates for the single-seats.³³ The SP and its five allies also registered separate multi-name lists for the 40 national supplemental seats contest. The SMI ran separately from all other parties, as did the MND.

VII VOTER REGISTRATION

A THE REGULATORY FRAMEWORK

Between October 2004 and January 2005, the legislation covering voter registration was reformed and responsibility for the compilation and maintenance of voter lists was transferred from the CEC to local government units. This was a welcome development, in particular since the local government maintains the books with the civil status data of the population. The fact that previous electoral processes had been persistently marred by allegations that the lists had been politically manipulated at central level also played in favour of a decentralized approach.

To implement the new legislation, an overhaul of the civil registers kept and maintained by local government units, and compilation of temporary resident registers with the civil registry offices, were to be conducted. For this purpose, a door-to-door verification and identification process was carried out between November 2004 and February 2005. Once identified and verified, citizens would be assigned a ten-digit 'numerical address' based on digital locality maps.³⁴ Secondly, new computerised voter lists, based on civil registries, had to be compiled from scratch locally.

Both tasks were to be performed by local government units. Yet, even in a decentralized system, there are a number of tasks which can only be performed centrally: ensuring that a uniform methodology is applied by all local government units, and checking the lists for possible multiple entries within local government units and across municipal administrative borders. The Electoral Code "(art.55 and following), vested such responsibility with the Ministry of Local Government and Decentralisation (MLDG). The MLDG showed at first a reluctance to engage in these tasks. At times, this led to belated and/or unclear instructions, which affected the work of local government units and resulted in a number of inconsistencies in the implementation.

Yet, using the preliminary voter lists sent by local government units, the MLGD created a country-wide voter database. The MLGD's role was limited to identify multiple entries and instruct local governments to resolve them. In effect, despite the establishment of a countrywide database, it remained the responsibility of local government to compile and maintain voter registers. Eventually, the MLGD identified 203,034 'possible multiple entries' in the preliminary lists, corresponding to around 100,000 registered voters. By 8 June, the entries for 83,630 citizens had been resolved so that these citizens were registered only once.

Preliminary voter lists should have been displayed publicly from 1 April until 3 May, to allow citizens to check their entries. During this period, voters omitted from the list could request Mayors to have their names added. The MLGD extended the display period to 30 May. Final voter lists were finalised by 8 June.

Some 2.85 million citizens were registered in the final voter lists. However, about 470,000 entries lacked a complete numerical address (so-called '999 entries'), mostly because during the door-to-

³³ The SDP, the Social Democracy Party (SDY), the HRUP, the DAP and the EAP.

³⁴ Albania is still in the process of developing a proper address system. Numerical addresses identify the local government unit in which a citizen has his or her registered residence (three digits), the polling station the person is assigned to (four digits), and the building in which the citizens is registered (three digits).

door verification exercise mobile teams were unable to contact some citizens whose details were included in the civil register and were thus unable to confirm that these citizens remained resident in the building in which they were registered. Such cases were recorded in 291 of the 383 local government units. The phenomenon was a particular problem in urban areas, due to the large-scale migration to urban areas, emigration, and so-called 'informal residential areas'. Parties expressed concern that 999 entries could open the door to electoral manipulation. These fears were magnified in election zones where a close contest was anticipated.

B. ASSESSMENT OF THE VOTER REGISTRATION PROCESS

The accuracy of voter lists was a politically contentious issue during the pre-election period. While the establishment of new registration procedures was certainly a positive development, local governments had insufficient time and resources to complete the task. OSCE/ODIHR EOM observers reported that few voters checked their data on the final voter lists, and even less sought to obtain a court decision. Notwithstanding imperfections in the process, efforts to improve voter lists were welcome, significant and largely successful. However, the continued inaction of the Albanian authorities in reforming and modernising the civil registration system, introducing a uniform system of addresses of buildings, and issuing personal identification documents lessened the significance of the efforts.

While most observers noted only a few serious problems with the accuracy of voter lists, some reported significant deficiencies in specific zones. e.g. zones 5 and 6 in Shkodër region, zones 25 and 28 in Durrës and zones 33 and 38 in Tirana. In zone 33, a high number of citizens' legitimate requests to be included in the final voter lists were not acted upon. In the same zone and zone 38, serious concerns were raised over the potential disenfranchisement of students omitted from the preliminary and final voter lists based on apparently political motives. Other shortcomings noted in the registration of voters included:

- The inconsistent spelling of many voters' names in the civil registers and voter lists;
- An inconsistent approach taken in allocating 999 entries to VCs;
- The failure in some zones to meet legal deadlines for the display of final voter lists;
- Delays in furnishing political parties with complete voter registration data;³⁵ and,
- The high number of VCs where the number of registered voters exceeded the legal maximum.

In the later stages of the pre-electoral process, a controversy arose over the issuance of 'birth certificates', one of the three types of documents by which citizens can prove their identity at VCs.³⁶ On 27 June, the CEC responded by adopting an instruction obliging civil registry officers to keep records of certificates issued for voting purposes, requiring VCCs to retain the certificates shown by voters to prove their identity, and declaring invalid certificates with certain serial numbers corresponding to batches of blank certificates which had become unaccounted for. On 1 July, in a separate decision, the CEC decided that if at least two VCC members questioned a voter's identity,

³⁵ Political parties had the right to receive copies of the final voter list.

³⁶ In this context, the term 'birth certificate' refers to a certificate evidencing an entry in the civil status book. Certificates, issued by civil registry offices, have a three-month validity and bear a picture of the person. Despite the approval of a Law on Identity Cards since 2002, no identity cards have been issued in over a decade and 'birth certificates' are easily obtained and are widely used. Observers reported that, as a matter of practice, most local government units do not keep records of birth certificates issued and in some cases issue birth certificates without adequate control. For example, in Shkodër, observers were informed that the civil registry office kept no record of birth certificates issued, but that the office received 110,000 forms in October 2004, of which all but 20,000 had been used. This malpractice, combined with the allegations of theft of a significant number of blank birth certificates and illicit printing and distribution of even larger numbers, raised serious concerns among some parties that deficiencies in the voter lists could be exploited.

that person would only be allowed to vote if he or she produced an additional official identity document containing a photograph.

VIII. CAMPAIGN

The campaign was highly visible and a large number of campaign events took place. It provided the electorate with a large volume of political information. Compared to previous elections, candidates and parties devoted more time to promoting their own political platforms than to verbally attacking rivals. While the campaign of the SP and DP were the most intense, the SMI was also active. The campaigns of the HRUP, the MND and the RP appeared to be concentrated in specific election zones.

The AFJW and the DP often held joint campaign events, as did the SP candidates with allied parties, albeit to a lower extent. The RP openly encouraged their supporters, including on billboards, to vote for the DP candidates in single seat contests. Despite the absence of a formal electoral coalition agreement between the SP and its allies, prior to the election EOM observers reported repeated calls from politicians within the SP and allied parties to vote for SP majority candidates in the single mandate zones and for allied parties' candidate lists. Similar calls were observed on the broadcast media and campaign leaflets distributed within individual single mandate zones.

Thus, both major political camps based their campaigns, in part, on electoral strategies that challenged the limits of the law, blurred distinctions between political parties and had the potential to circumvent the objective of proportionality "to the closest possible extent", as described in previous ODCE/ODIHR documents.³⁷

Prior to the start of the official campaign, sixteen political parties signed a Code of Conduct initiated by the President of Albania, Mr. Alfred Moisiu. The signatories pledged to abide by the law and exercise restraint during the campaign. While the Code of Conduct set important 'campaign benchmarks', no formal monitoring of respect for the Code of Conduct existed. While the signatories generally conformed to its provisions, the campaign became more rancorous as it progressed and many advertisements in the media contained 'negative campaigning'.

The Electoral Code provides for some public financing of parties' election campaigns. The CEC allocated ALL 60 million (approximately € 480,000) for this purpose. In addition to public funds, electoral subjects can receive private donations of up to ALL 1 million (€ 8,000) per donation. Some candidates have informed observers that they are self-financing their campaign. Observers in some zones were highly critical of candidates' approach to campaign expenditure, in particular the financing of infrastructure projects such as road building, it was claimed from personal funds.

While the rights to free speech, association and peaceful assembly were mostly respected during the campaign, observers received many allegations and reports of serious shortcomings, some of which directly challenged these rights:

- Although less widespread than in previous elections, a few violent incidents marred the campaign;³⁸

³⁷ See OSCE/ODIHR, Needs Assessment Report on the Albania 2005 Parliamentary Elections, p.5-6; and OSCE/ODIHR EOM to Albania 2005, Interim Report n.2, Annex 1.

³⁸ For example in Shijak (EZ26), where SP supporters broke into a private building and assaulted its occupants for displaying opposition posters and the vandalizing of party offices in Fier, Korça, Laç, Shkodër and Tirana.

- Many allegations were made that some public employees were pressured to attend campaign events, support a specific candidate or party or to refrain from supporting others;
- Allegations that students were pressured to support university staff running as candidates;
- Credible reports were received that teachers brought school children to campaign rallies;
- In 12 election zones, observers received allegations, some of which were credible, that the police pressured citizens in their political activity and failed to respond to violations of campaign regulations and the alleged intimidation of certain electors;
- In almost a quarter of the election zones observers received allegations that citizens received, or were offered, gifts or money to support a particular candidate; and,
- The demolition of buildings on the orders of local government structures, including an SMI party office and a house owned by the Mayor of Saranda (DP), before appeals on the demolition orders had been heard, may have been politically motivated.

Candidates who were holding particular official positions pursuant to Article 69 of the Constitution, resigned their posts. However, opposition parties and the ruling party publicly complained over potential conflicts of interest and the misuse of administrative resources by candidates. In almost half of the election zones, observers received allegations that administrative resources were used for campaign purposes or that public employees were campaigning for candidates.

IX. MEDIA

A. REGULATORY FRAMEWORK

The Electoral Code regulates the media's coverage of the electoral campaign. Provisions apply almost exclusively to the electronic media. The Code clearly sets out penalties applicable in the event of non-compliance with the regulations. The media related provisions only apply during the official campaign period, from 3 June to 1 July. The print media is not subject to any regulations except an obligation to respect the campaign silence period immediately prior to election day.

The Code requires the public broadcaster to provide each party contesting the elections with free campaign airtime. The time allocation is dependent on the size of a party's representation in parliament with parties placed in one of three categories: those with over 20% of parliamentary seats (hereafter large parties), those with less than 20% of seats (hereafter small parties) and non-parliamentary parties.

Additionally, both private and public media are required to cover parties' campaigns in news programs, with airtime dependant on parties' strength in parliament. The total amount of time allocated to each 'large' parliamentary party should be "double the amount of airtime" allocated to each of the 'small' parliamentary parties.

Private media may air paid campaign slots, with larger parliamentary parties entitled to purchase double the amount of airtime of smaller parties, discriminating against the latter.

In line with the legislation, the CEC established the Media Monitoring Board (MMB) to oversee the media's compliance with the Code. In addition, local monitors were appointed to assess local level campaign coverage. Local monitors' activities were hampered by delay in their appointment. The MMB prepared daily reports for the CEC on the quantity of coverage for each electoral subject. Despite some procedural and methodological shortcomings, the MMB fulfilled its mandate

effectively.³⁹ The CEC used the MMB's reports to adjudicate on media related campaign complaints.⁴⁰ The CEC issued a number of formal warnings to media outlets and it required media to address imbalances in their campaign coverage through granting 'compensatory' airtime.

B. MEDIA MONITORING

On 17 May, the OSCE/ODIHR EOM commenced the monitoring, between 18:00-24:00 hrs, of three national TV channels. These included the TVSH which is financed largely from the State budget, TV Arberia and TV Klan, both privately owned. In addition it monitored the prime time news broadcasts of Top Channel and six daily newspapers, *Shekulli*, *Panorama*, *Korrieri*, *Gazeta Shqiptare*, *Tema* and *Koha Jone*.

In general, the electronic and print media provided comprehensive electoral coverage and a diverse range of political opinions. The main TV channels frequently aired current affairs programmes and political discussions focussing on the parties' campaigns. Nevertheless, these programs tended to provide a forum mainly for the SP and DP, and to a lesser extent, for SMI and MND. Positively, a number of local TV stations also aired candidate forums. Regrettably, a long awaited televised debate between Fatos Nano and Sali Berisha did not take place. This was a missed opportunity for the two political leaders to present their views. As election day drew closer, the media carried voter information items and slots encouraging citizens to vote.

Prior to the commencement of the official campaign period, the media offered extensive election coverage, and TVSH granted the government favourable coverage – 46% of all time devoted to politics. Other electronic media monitored by the OSCE/ODIHR EOM tended to concentrate their coverage on the government and the SP and DP. Prior to the start of the official campaign period, SMI received approximately 10% of airtime devoted to politics on TV Klan and Top Channel's main news, but negligible coverage on TVSH and TV Arberia.

At the start of the official campaign period, TVSH provided parties with free airtime, as required by law. Its news coverage of the SP and the DP was more balanced, with the DP receiving 19% of airtime and the SP receiving 16%.⁴¹ The tone of TVSH's news coverage of all parties was either politically neutral or had positive connotations. The SP and the DP also received a broadly equal amount of airtime in the news programmes of the privately owned channels monitored by the OSCE/ODIHR EOM.⁴² In general, they portrayed the parties in a politically neutral manner, and complied with the legal prohibition of "political propaganda, commentaries and statements" during news editions (art.140.2.ç).

However, the media failed to comply with the legal provision regarding the share of airtime between larger and smaller parliamentary parties. In fact, a disproportionately high amount of airtime was allotted to the SP and DP in all electronic media monitored. In addition, monitoring revealed that inequalities existed between the small parties, with some receiving considerably less coverage than others. These issues were frequently noted in the MMB's reports to the CEC and some requested compensatory airtime. However, public debate on the media's political balance tended to focus on the evenness of coverage between the DP and the SP. The SP placed the largest

³⁹ The shortcomings included an apparent misinterpretation of art. 140 whereby the MMB included paid advertisements in the calculation of parties' TV airtime and failing to present data in a consistent manner.

⁴⁰ Parties submitted a number of formal complaints to the CEC concerning alleged unfair or unlawful coverage. The smaller parties were active in complaining, particularly against the negligible amount of coverage they received. The DP also requested extra airtime to compensate for time given to the SP's campaign launch.

⁴¹ During the campaign period, figures for the SP's airtime include coverage of ministers appearing as candidates.

⁴² TV Klan gave the DP 27% and the SP 29% of airtime covering political issues in the news. TV Arberia gave 27% to the DP and 26% to the SP. Top Channel gave the DP 28% to 24% given to the SP.

number of paid advertisements. Also the DP and the SMI extensively exercised their right to place paid campaign slots.

Newspapers provided voters with a variety of political views. However, the print media generally focussed on the contest between the two larger parties, with some displaying an evidently partisan editorial line and harsh criticism of specific parties. A number of the print media did not respect the campaign silence period.

X. ELECTION COMPLAINTS AND APPEALS PRIOR TO ELECTION DAY

Political parties, coalitions, and candidates had the right to seek judicial review of a CEC decision by submitting a request to the Electoral College of the Court of Appeals of Tirana.⁴³ Prior to election day, 34 appeals against CEC decisions were filed with the Electoral College. The Court overturned nine CEC decisions⁴⁴, returned two to the CEC for additional consideration, and either dismissed or upheld the remaining appeals. Observers attended most cases heard by the Electoral College. No political bias was apparent during the hearings or in their rulings. All parties were given a fair opportunity to present their claims and in several cases were granted postponements in order to secure relevant evidence. In general, prior to the election, the Electoral College fulfilled its obligation to adjudicate appeals fairly and impartially.

Article 60 allows a citizen who is eligible to vote but omitted from a voter list the right to request a district court for their inclusion on the list. It is the sole provision that provides citizens with a legal remedy. However, it does not specify which documents the citizen must present to the court to prove eligibility. The OSCE/ODIHR EOM observed that the district courts took an inconsistent approach, with some requiring documents not required by other courts.

The most controversial pre-election appeal concerned a decision by the Mayor in Borough 2 (Tirana) not to register as voters 1,422 university students. Consequently, the students could not exercise their right to vote in Tirana.⁴⁵ Because university staff scheduled exams on election day, students could not return to their place of permanent residence and were in effect disenfranchised. Five students appealed the Mayor's decision to the District Court of Tirana. On 9 June, the Court ruled in favour of the students and cancelled the Mayor's decision. However, it only ordered the registration of the five students who had lodged the appeal. Even these persons were not registered to vote because the final voter lists had already been printed. It was deeply regrettable that these students were kept out of the voters list due to the actions of government authorities. While the CEC fined the mayor 80,000 LEK (approximately €670) for his actions in disenfranchising these voters, this penalty appears modest in comparison to the infringement.

XI. PARTICIPATION OF NATIONAL MINORITIES

There is an absence of reliable current official data on national minorities in Albania. Nevertheless, it is widely known that Greek-speaking communities reside in parts of southern Albania, and Roma and Egyptian communities are resident in cities and villages across Albania. Other minorities

⁴³ The Electoral College, which consists of eight judges chosen by lottery from a pool of all appellate judges in Albania, decides cases in panels composed of five members also chosen by lottery.

⁴⁴ Five successful appeals concerned CEC decisions not to register parties' multi-name candidate list. Three successful appeals related to the registration of independent candidates in the single mandate zones. One successful appeal related to the manner in which parties and coalitions were listed on the ballot.

⁴⁵ A dean of the University of Tirana was a candidate for the DP and the Mayor was elected on the SP ticket.

include Aromanians (Vlachs), Macedonians and Serbs/Montenegrins, with the latter two minorities mostly living in concentrated settlements in specific communes.

In 2004, the government approved the establishment of a Special State Committee for Minorities, tasked to make recommendations on the promotion of the rights of some minorities. The position of some minorities has improved, partly through their own initiatives to create or develop political associations and their advocacy efforts. There is no legal impediment to create a political party on ethnic, religious or a regional basis, providing that the party does not engage in racial, religious, regional or ethnic hatred. Recently, the Macedonian Alliance for European Integration was the first 'ethnically based' party to be registered, with the party seeking to protect the rights of this national minority.

Traditionally, the HRUP sought the political support of the minority populations. However, during the election campaign it devoted little attention to minority issues. The EOM noted that DP commented on the social problems faced by Roma and Egyptian communities during their campaign. However, the Movement for Human Rights and Freedom (MHRF), formed following a split in the HRUP, was the only party whose platform included calls for the enactment of minority rights.

Observers received credible allegations in certain communes that illegitimate attempts were made to influence the electoral choices of Roma and Egyptian voters, particularly regarding intimidation and 'vote buying'.

In general, the media devoted little attention to the participation of minorities in the election and very few candidates from national minorities were invited to participate in organised TV debates. In some election zones, observers noted campaign material in the Greek and Macedonian languages. While the CEC placed some public information advertisements in minority languages in the local media (Greek, Macedonian and Serbian), electoral material including ballot papers were printed solely in Albanian.

The incoming parliament comprises four MPs from the Greek speaking minority. However, it is particularly noticeable that MPs drawn of the Roma and Egyptian minorities are not present in parliament.

XII. PARTICIPATION OF WOMEN

Equal rights for men and women are guaranteed in the Albanian Constitution. Nevertheless, women are significantly and constantly under-represented in Albanian public life. If anything, a negative trend is apparent. Since the first multi-party election in 1991, women's representation in parliament has decreased after each of the six parliamentary elections, reaching a low in 2001 with only 8 women MPs (5.7%) elected.⁴⁶ In 1991, the corresponding figure was 20.5%.

While the major parties signed a Code of Conduct, which *inter alia* states: "We will concretely encourage and support full participation of women, both as candidates and also as commissioners in the electoral process", no significant initiatives were undertaken in this regard. In the media, male politicians received 95% of the political airtime. Parties made almost no effort to integrate women in party structures or select female candidates. In the single mandate election zones the SP nominated eight women while the DP nominated only three. While the SP and the DP nominated women on their party lists in higher numbers, their call for supporters to vote for other parties' lists made this truly a meaningless gesture.

⁴⁶ After 2001, another woman MP was elected during the parliament's term, raising the total to 9 MPs (6.4%).

Of the 38 parties that contested the 2005 elections, the leader of only one, the Albanian Green League, is a woman. The elections saw only a very marginal increase in the number of women elected - 10 (7.1%). and the 2005 elections can be regarded as another missed opportunity to address the problem. All three of the DP's women candidates were elected, including Jozefina Topalli, vice chair of the DP who received over 60% of the votes in her zone as well as four of eight for the SP.⁴⁷ In the expected ruling coalition, only four MPs are women. Among the opposition parties the SP counts four women MP's, and two of the seven SDP MPs are women. Eight parliamentary parties have no women MPs in their ranks.

Only four of the 100 ZEC chairs nominated by parties were women and less than 16% of VCC chairs were women. Observers reported numerous cases, predominantly in rural areas, where women and men voted together or where the male was given two ballots. This raises serious concerns of the disenfranchisement of some women.

XIII. CIVIL SOCIETY AND ELECTION OBSERVATION

The Electoral Code complies with Paragraph 8 of the OSCE Copenhagen Document (1990) by providing for observation of the elections by political parties, domestic NGOs and international organisations.⁴⁸ Requests for accreditation must be decided by the CEC within five days of submission. A refusal to grant accreditation can be appealed. While the law provides a sound framework for domestic and international election observation, it makes unnecessary distinctions between the two, which to an extent could lessen the scope of domestic observation.⁴⁹ The CEC adopted an open and flexible approach to accrediting observers, including for the repeated elections on 21 August (See section XVI). Very few accreditation requests were rejected, all on reasonable grounds. However, a delay occurred in the accreditation of observers from a temporary coalition of NGOs due to confusion concerning the name under which the coalition should be registered.

A relatively high number of domestic non-partisan observers were accredited for the 3 July elections. The biggest organisations accredited by the CEC were the 'Domestic Observer Forum', led by the Albanian Coalition Against Corruption as well as the Albanian Youth Council, which accredited around 2,500 and 1,000 observers, respectively.

XIV. OBSERVATION OF VOTING AND COUNTING

A. VOTING

While election day was generally peaceful, a few violent incidents marred the event including the fatal shooting of a party observer close to a voting centre (VC) in zone 37, and disruption caused by an armed gang in zone 65. A similar situation was reported to IEOM observers in zone 26, causing a disruption of their observation activities. Observers in zones 38, 63 and 79 reported public order incidents. Allegations of violent incidents in zones 4, 10 and 34, made by parties, could not be verified. However, observers did report 14 violent incidents at VCs, although only a few were of a grave nature.

⁴⁷ Ms Topalli will hold the highest position in the newly elected parliament: the Speaker of Parliament.

⁴⁸ The CEC adopted an Instruction that further elaborated the criteria and rules for election observation.

⁴⁹ Domestic observers cannot apply for accreditation more than 45 days before election day or less than 15 days before the election whereas international observers face no restriction on when they can first submit an application for accreditation and can request accreditation up to 72 hours before election day.

Overall, observers assessed voting in positive terms in 67 percent of the VCs visited, and noted significant problems in 11 percent of the VCs visited. Although a tense atmosphere was reported in 11 percent of VCs visited, the overwhelming majority of VCCs, 96 percent, co-operated well with each other to conduct polling. However, observers noted that in almost four percent of VCs persons without authority interfered in the voting process.

A considerable number of VCs did not open on time. Particular problems were noted in zones 26 and 2. In the latter, 19 out of 70 VCs did not open at all, leading to the annulment of results. Interruptions in voting were noted in eight percent of VCs visited. Access to VCs was difficult in 14 percent of VCs visited and some nine percent were overcrowded.

IEOM observers reported that in 51 percent of VCs some voters had been turned away because their names were not included in the voter list at the VC.⁵⁰ While this figure appears high, in a large majority of cases a small number of citizens were affected, and the problem occurred less frequently than in previous elections. However, it is a concern that some observers noted discrepancies between the final voter list posted at VCs, and those given to VCCs. Observers reported a few cases where a small number of citizens were prevented from voting due to misspelling of their names.

Generally, police respected their legal obligation to remain outside VCs unless their presence was specifically requested and, in contrast to previous elections, the police did not interfere in the electoral process. IEOM observers identified domestic non-partisan observers in 28 percent of VCs while party observers were present in 94 percent.

The EOM received allegations, from a variety of sources, of serious electoral irregularities, including vote buying. However, few allegations were substantiated or observed directly. Despite the controversy in the run up to the election, only very rarely did observers receive allegations on election day that birth certificates were being misused. Most VCCs applied the CEC decisions to retain certificates and to demand additional identification documents, if a doubt existed about a voter's identity.

While procedures, such as the proper sealing of ballot boxes, were generally respected, others were not. Observers noted that voters' ID documents were not checked properly in six percent of VCs visited, mostly in rural areas. Voters were rarely or never checked for traces of invisible ink in 19 percent of VCs visited and the ink was not applied in 11 percent of VCs visited. This reduced the efficiency of important safeguards against possible multiple voting. In five percent of VCs, voters did not sign the voter list or had their names crossed. This may have complicated ballot reconciliation and could explain some of the discrepancies noted later between the number of signatures on voter lists and the number of ballots found in ballot boxes. After the close of polls, observers noted that copies of minutes compiled by VCCs during election day were not always given to those that were entitled to receive them.

In 13 percent of VCs visited, the secrecy of the vote was not adequately respected. So-called 'family voting' was observed in 10 percent of VCs visited. While "family voting" occurred less frequently than in the past, it persists as a problem, especially in rural areas. New provisions that allowed blind citizens to cast their vote unaided were a welcome innovation. However, no provisions exist to ensure homebound citizens can exercise their franchise through a mobile ballot box.

⁵⁰ Where such problems occurred, many VCCs directed citizens to information points to check their registration.

B. COUNTING

For the first time in Albanian parliamentary elections, ballots were counted in counting centres (CCs) rather than in VCs. IEOM observers were present continuously in 82 out of 100 CCs to observe the delivery of election material, the vote count, and the tabulation of results and were present for at least part of the process in a further 15 CCs.

Most counting centres provided adequate premises for the task, although observers reported that the premises were too small in 25 percent of observed cases. A tense atmosphere was reported in 29 percent of cases during the receipt of voting material, and two violent incidents were reported. In some CCs, the handover of material was chaotic. In 31 zones, observers reported that a few ballot boxes were considered as “irregular” e.g. where security seals were missing or their codes did not match official records, or where boxes were damaged or not properly closed. The law provides that such boxes must be forwarded to the CEC for further investigation. Observers reported not all irregular boxes were identified and secured, as required by law. A large number of VCCs, particularly in mountainous areas did not manage to deliver the voting material to counting centres within the legal deadline of 22:00 hrs on 3 July.

The training of counting teams (CTs) began late due to short legal deadlines on nominating CT members, and in some cases, due to their late arrival. Consequently, many CTs were not fully prepared for their tasks. Once the count got underway, observers frequently reported that the distance between the area allocated to observers and the counting tables prevented a proper observation of the CTs’ work. In some 20 CCs, observers reported that the process lacked transparency.

While counting generally started late on the night of the elections, in almost all counting centres the process took much more time to complete than envisaged in the Electoral Code (17:00 hrs on 4 July). In many zones it was highly protracted and took 3 days to complete. In a few zones the count lasted even longer. By the end of 6 July, the CEC had announced approximately half of the results for single mandate election zones, based on the tabulation of results submitted by ZECs. At this time, observers reported that in about 20 election zones, the count had either not been completed or the ZEC had yet to tabulate the results for either the single mandate or the party list elections, or both. By the afternoon of 8 July, four days after the legal deadline, aggregate results for candidates were still missing for eight zones, and party list election results, from nine zones. By 11 June, one week after the legal deadline, three ZECs had yet to send the aggregate tables of results for the single mandate elections, and two for the party list election.

The length of the process placed a considerable strain on the ZECs and CTs. While some delays were attributable to fatigue, in the most part they arose because CT and ZEC members, particularly from the two largest parties, obstructed the completion of the vote count or the official vote tabulation, sometimes by interrupting the process of by staging ‘walkouts’. In so doing, these persons placed party interests above their duty to serve as impartial election officials. As the count unfolded, it became increasingly contentious. Disputes over the validity of ballots arose frequently.⁵¹ Other problems arose because of discrepancies between the number of voters having signed the voter lists and the number of ballots found in ballot boxes.

Observers reported a number of serious irregularities, particularly regarding the party list election in zones where the completion of the count was delayed. These included nine zones where observers reported that votes were not being counted honestly, as required by paragraph 7.4 of the 1990

⁵¹ In some 15% of zones visited by observers reported that CTs did not carry out their tasks in a politically neutral way.

OSCE Copenhagen Document.⁵² Similarly, allegations were made to observers in a further ten zones.⁵³ Later, the SMI, the MND, the DAP and the SDY, among others, alleged that votes cast for their parties were intentionally attributed to other parties. They also alleged that some votes cast for the DP were attributed to parties of the AFJW, in particular the RP, and that some votes cast for the SP were attributed to some of the parties in the outgoing government coalition, particularly the SDP.

The ZEC in election zones 2, 64 and 73 refused to count the votes from a small number of ballot boxes. The CEC dismissed, fined and initiated criminal proceedings against members of ZEC 2 and fined ZEC 64 for failing to comply with the law and CEC instructions. In zone 2, the votes in two boxes remained uncounted since a newly appointed ZEC also failed to complete the count. ZECs 64 and 73 sent the unopened boxes to the CEC⁵⁴.

Several ZECs, where observers noted irregularities during the vote count or the tabulation of results, including in zones 36 (Tirana) and 43 (Kamëz), requested new blank forms used to tabulate ZEC results. The ZECs claimed that the original tables had been used by counting teams by mistake or were illegible due to corrections of clerical mistakes. The CEC decided to provide ZECs with new forms only if the ZECs returned the original forms to the CEC.

On the night of the elections, based on ZECs' information, the CEC started to issue preliminary partial results⁵⁵ for single mandate and the party list contests in some zones, announcing them to the media and publishing them on the CEC website. However, a number of ZECs did not supply the CEC with partial results. As ZECs finished the vote count and tabulation of results, the CEC replaced the initial data with the aggregated result for the zone. This approach, while easing its workload, reduced the transparency of the process by preventing a comparison of partial results with the aggregated zone level results. It would also have been preferable if the CEC had decided to publish all VC level results online, on its website.

A summary of official results is contained in Annex 1.

XV. POST-ELECTION DAY COMPLAINTS AND APPEALS

Election subjects (parties, coalitions or candidates) may file appeals against ZECs' decisions on the zone-level election results, within two days of the decision being taken. The CEC has ten days to adjudicate such appeals. CEC decisions on these appeals can be appealed to the Electoral College within five days.

In addition, up to 10 days after election day, election subjects can request the CEC to invalidate election results for a voting centre, an election zone, or the whole country.⁵⁶ The CEC has ten days to adjudicate such requests. It can invalidate elections if there were violations of the law due to a natural disaster, or voting did not begin or was suspended for more than six hours *and* the electoral

⁵² In zones 12, 18, 36, 37, 43, 61, 64, 89 and 92 observers indicated that either ballots cast for specific party lists were intentionally placed on piles of votes for other parties and were counted in favour of the other party, or that during the tabulation of results votes appeared to have been 're-attributed' between the parties.

⁵³ These allegations were made in zones 7, 17, 55, 58, 67, 68, 72, 77, 78 and 93.

⁵⁴ For a detailed analysis of the zone 73 case, please read the following section

⁵⁵ The results comprised summarised results of several VCs that had been counted at that point.

⁵⁶ If both an appeal and an invalidation request are lodged for the same zone, then the CEC first adjudicates the invalidation request. The appeal is only adjudicated if the request for invalidation was not successful.

process has been affected to such a degree that it may have affected the allocation of mandates in the electoral unit or on a national level.⁵⁷

CEC decisions on appeals against the election results or on requests for invalidation require the votes of at least five CEC members. If an appeal or invalidation request does not receive this majority, it is considered rejected.

If the invalidation of VC results for the single-mandate contest does not affect the result, the CEC may decide not to order a repeat of the vote at these VCs. However, if the allocation of a mandate could have been affected by the invalidation of specific VC, the CEC is obliged to order the holding of a repeat election in the whole election zone. Theoretically, this requirement could lead to frequent repeated elections in a zone, delay the CEC's announcement of final results, and hence the convening of a new parliament and formation of a government. While the CEC has the authority to invalidate part of the party list election, partially invalidated results are not repeated.

The CEC received 281 appeals against results decided by ZECs,⁵⁸ and 107 requests to invalidate election results. Almost all were rejected. Appeals against 99 CEC's decisions were filed with the Electoral College⁵⁹. With two exceptions, these were unsuccessful.⁶⁰ While only a few claims were upheld, the vast majority were handled correctly.

The CEC did not consider 96 appeals against election results on procedural grounds. Of the remaining 185, most were adjudicated by the CEC before it heard the requests on invalidating the elections largely because requests to invalidate results in specific zones were filed after the CEC heard the original appeal. The large majority of the appeals and requests to invalidate election results lacked merit and reflected a refusal to accept electoral defeat. Often, parties or candidates were unable to provide any substantial evidence to support their claims or did not request that potentially relevant evidence be taken into consideration.⁶¹ The few substantive cases were buried under the weight of the numerous unfounded claims. Consequently, the CEC faced a considerable challenge to adjudicate claims within the timeframe provided by law.

While many appeals were straightforward, it appeared that some CEC decisions were taken hurriedly. In the few substantiated appeals, the stringent evidentiary requirements of the Civil Procedure Code, and the importance placed upon documenting violations in the ZEC "Record Book", prevented appellants from receiving an effective legal remedy. From this perspective, decisions on these cases did not satisfy OSCE commitments and international standards. This was particularly noticeable in cases involving disputes within parties.⁶² In such cases, credible evidence was presented concerning violations during the vote count or tabulation of party list results in specific zones. However, they were not considered for procedural reasons, and the CEC and the Electoral College were formalistic in their approach. The CEC declined to use fully its powers of inquiry, e.g. by conducting an examination of all evidence presented or recounting ballots.⁶³ Some

⁵⁷ Article 117 of the Electoral Code (Albanian version) permits the CEC to invalidate elections even if there is no potential impact on the allocation of mandates. However, in such a case, the election is not repeated.

⁵⁸ Of the 281 appeals 54 were filed by the DP (or its candidates) and the parties in the AFJW coalition, 92 were filed by the SP and other parties in the outgoing government coalition, 21 were filed by the SMI, and the remaining 114 appeals were filed by all other electoral subjects.

⁵⁹ Seven additional appeals were filed with the Electoral College against the CEC decision on the final results.

⁶⁰ The successful appeal concerned the CEC's refusal to invalidate the elections in Zone 90. The Electoral College ordered that the election results for both contests should be invalidated and the single mandate contest repeated.

⁶¹ Many appeals against the results in a zone concerned alleged violations during voting rather than counting.

⁶² Article 15 of the Electoral Code entitles parties to submit internal agreements on the allocation of the party's share of the 40 supplementary mandates. In some instances, candidates of the same party were vying among themselves to secure the mandate.

⁶³ Articles 156-158 of the Election Code give the CEC the authority to open ballot boxes, recount ballots, and obtain other evidence in order to make a decision on an appeal and to ensure an honest count of the votes.

parties claimed that a review or recount of the ballots would substantiate their claims that votes for party lists in some zones had not been counted honestly.

The CEC did not consider seven of the 107 requests to invalidate elections, because they were not in the correct legal format.⁶⁴ Most cases were requests to invalidate results in specific zones, usually the single mandate contest. The CEC heard invalidation requests between 14 and 26 July. As for appeals against zone election results, many invalidation requests clearly lacked merit. Many parties or candidates simply used the provisions allowing for filing an invalidation request as a ‘second chance’ appeal process when the CEC had already rejected an appeal. In general, the CEC adjudicated invalidation requests fairly and did not show a bias towards or against any stakeholder. During the hearings, it summoned over half of all ZECs to Tirana for consultations. Most requests were rejected by a solid majority of CEC members.⁶⁵ However, as for appeals, the CEC decided against examining ballot papers or voter lists, as requested by some appellants.

In the few cases where the CEC upheld invalidation requests for single mandate contests, the results of 19 VCs in zone 2 and the entire election zone 64 were invalidated.⁶⁶ The Electoral College upheld an appeal and invalidated the result in zone 90. Repeat voting was ordered in the three zones. Concerning the party list election, most appellants were unable to provide evidence that the election had been manipulated to an extent that would have influenced the allocation of mandates. However, occasionally appellants did prove significant irregularities during voting, counting or tabulation. The CEC unanimously decided to invalidate the party list election in zone 92, 19 VCs in zone 2, and two VCs in zone 8. However, the elections were not repeated because the Code prevents repeating any part of the party list contest.

According to the Electoral Code, VCCs have to return three ‘ballot boxes’ to counting centres: one containing the ballot papers for the single seat contest, one containing the ballot papers for the party list contest, and one containing the ‘voting materials’, such as voter lists, unused ballot papers, stamps, etc. If declared ‘irregular’ by the ZEC under Art.109/2, ballot boxes containing ballot papers are neither opened nor counted and are sent to the CEC for consideration. For a concrete VCC, if only the ballot box containing ‘voting materials’ is considered invalid, then the counting of the votes contained in the two other ballot boxes can proceed, after ZEC decides on its regularity.⁶⁷

A particularly controversial case, the single seat contest in zone 73, is described in detail in Annex 2. This case showed *inter alia* that the 5/7 vote requirement might prove problematic when applied to CEC decisions to overturn ZEC decisions on results that are mere mathematical calculations. Further, in a case like in zone 73, when the margin between two candidates is extremely narrow and when seals are missing on some of the boxes returned, it is arguable that an invalidation and repeat election would provide an appropriate answer to the situation.

⁶⁴ Of the remaining 100 requests, 43 were filed by the Albanian Social Parties - Party of National Unity coalition (PSSH-PUK), 36 by the SP, ten by the DP, three by SMI, two by the HRUP, and one each by the NDP, the DAP, the Demo-Christian Party, the Labour Party, the Communist Party, and an independent candidate in zone 100.

⁶⁵ In two cases, the CEC voted in favour of invalidating the result was 3 to 4 (hearings in zones 15 and 37), with members voting on lines that favoured their political wing, and in one case (zone 90) where 4 members voted to invalidate the results of the single mandate contest, albeit less than the qualified majority required.

⁶⁶ In zone 2, the number of voters at VCs that had either not opened on 3 July or which had not been included in the tabulated results was sufficient to influence the allocation of the mandate. In zone 64, the number of votes that were not counted was greater than the margin between the two leading candidates.

⁶⁷ Art.109/3.6: “[...] If the ZEC or the LGEC confirms the inadequacy or the irregularity, it will reflect it in the Record of Findings. Only after recording the inaccuracy or irregularity in the Record of Findings will the ZEC or LGEC make a decision for the Counting Team to continue the vote counting procedures.

XVI. REPEAT ELECTIONS, 21 August 2005

The single mandate contests in zones 2, 64 and 90 were repeated on 21 August 2005. The completion of these elections had an importance beyond their own merit. Without completing the elections in these zones, the CEC was unable to allocate the 40 supplementary mandates as it could not apply the mandate allocation procedure until all 100 single seats were filled. Hence, the Parliament could not convene and grant a vote of confidence in the incoming government.

Following the 3 July election, the HRUP had decided to join the anticipated parliamentary majority coalition led by the DP. Thus, for the repeat elections, the DP and its allies had a majority on all ZECs, VCCs and CTs. The SP requested that the CEC replace HRUP nominated commissioners with nominees from another party. The request was rejected as the composition of election commissions is based on the 'parliamentary majority' and 'opposition' in the outgoing parliament. With the exception of the SP and DP candidates, other parties announced that they would not contest the repeat elections. However, because the candidates could not formally withdraw, all those who stood for election on 3 July remained on the ballot.

Prior to the repeat elections, the SP had threatened not to nominate some VCC members because of alleged intimidation, security concerns and pressure on the CEC. In zone 64, the SP candidate threatened to block the electoral process unless the location of three VCs was changed. Members of the three VCCs nominated by the SP did not collect the election material. However, on election day with the exception of 3 VCs in Lazarat commune, zone 90, and a few VCs in zone 2, VCC members nominated by the SP did participate on VCCs. Nevertheless, in all 3 zones parties delayed nominating members until the last possible moment. In zone 2, this complicated the delivery of election materials to 40 VCs located in mountainous communes. Due to the late appointment of members, VCC training was cursory.

In general, the repeat elections in the 3 zones marked an improvement compared to the 3 July contests. The CEC and its inspectors deserve much credit for this. The police also played a positive role and carried out their electoral responsibilities in an exemplary manner. In zone 2, almost all 70 VCs opened, although some with several hours' delay.⁶⁸ However, in all three zones voting procedures were once again not always respected. Specific problems included proxy and family voting, failure to use or check for ink applied to voters' fingers, failure to scrutinise voters' identity documents and a few unexplained deletions of voters' entries from voter lists. Two violent incidents marred the election in zone 90, where several persons including two journalists were physically assaulted.

The vote count was relatively swift and uncontroversial. No significant problems were noted. In zone 2 the count only started late, mostly due to logistical challenges. All three ZECs announced the results before the end of 22 August. DP candidates won all three zones by considerable margins. No parties or candidates filed appeals or invalidation requests.

XVII. RECOMMENDATIONS

The following recommendations are offered for consideration by the Albanian authorities, in further support of their efforts to conduct elections in line with OSCE commitments and other international standards for democratic elections.

⁶⁸ Nevertheless, two VCs did not open at all. Delays in opening were noted in others where the VCs did not come to collect the election material. In two polling stations the ballot boxes were broken and two polling stations were invalidated because the VCC Chairperson, nominated by the SP left the VC and retained the VCC stamp, thereby causing all ballots to be invalidated. Further incidents were also reported at a few other VCs.

A. POLITICAL PARTIES

1. Political parties should demonstrate political will for the conduct of democratic elections to a measure commensurate with the broad privileges granted to them by the law in regard to the conduct of elections.
2. To ensure that parties are able to compete with each other on an equal basis, as required by paragraph 7.6 of the OSCE Copenhagen Document, all provisions that discriminate against political parties should be removed from the Electoral Code.
3. Inconsistencies between articles 144 and 145/1 of the Electoral Code should be remedied to ensure further consistency in the campaign finance provisions. Additionally, parties' expenditure reports should be made public.
4. Parties and candidates need to demonstrate more respect for citizens' to express their fundamental civil and political rights. In this regard, parties should be held accountable for the actions of their candidates during the campaign.
5. Campaign violations such as the misuse of administrative resources for campaign purposes and vote buying should not be tolerated. Consideration should be given to measures for monitoring these violations and holding perpetrators accountable. Albanian NGOs may have a role to play in this regard.

B. ELECTION SYSTEM

6. If the current election system is retained:
 - The Electoral Code should be amended to ensure that the objective of proportionality to the closest possible extent in Article 64.2 of the Constitution can be realised more effectively.
 - Supplementary mandates should be allocated in accordance with a candidate's position on an electoral list as determined before election day; and
 - The Electoral Code should be amended to avoid a situation where the invalidation of a few polling stations in a single election zone could be repeated endlessly and lead to an unnecessary delay in convening the incoming parliament.
7. However, the Albanian authorities may wish to review the current election system in an inclusive and broadly consensual manner.

C. ELECTION ADMINISTRATION

8. If the current system for nomination and appointment of the election administration is retained, the Electoral Code should be amended to:
 - Ensure that the nomination and appointment of the CEC is fully compatible with the Constitution;
 - Provide for a more pluralistic and inclusive election administration i.e. one that is not controlled and dominated by the two main political parties; and,
 - Prevent nominating parties from arbitrarily removing their nominees. Parties should be entitled to replace commission members only in specific circumstances listed in an exhaustive manner. This would enhance stability, independence, impartiality and professionalism of the election administration.

9. If parties retain the right to nominate election officials, they should show a degree of responsibility commensurate to the considerable privileges they enjoy under the current arrangements. At a minimum, those parties entitled to appoint election commissioners at ZECs, CTs and VCCs should comply with legal deadlines for nominations. In case of failure to do so, existing provisions entitling other parties to make nominations should be applied without delay.
10. The role and competences of Regional Election Offices should be defined in the Electoral Code.

D. PARTY AND CANDIDATE REGISTRATION

11. The provision contained in Article 16 of the Electoral Code that allows parties to register a 'composed multi-name list' coalition agreement with the CEC, should be deleted. A party should appear on the ballot as either a party or member of a coalition, but not as both.
12. The possibility for 'members' of one party to stand as candidates of another party should be proscribed as it blurs distinction between individual parties, undermines the objectives of the election system and misleads voters.
13. The CEC should be required by law to adopt a decision on the criteria and method for reviewing signatures supporting applications to register candidates well in advance of the scrutiny period. If ZECs and the CEC are to fulfil this task effectively, more time should be available to scrutinise signatures.
14. Legal penalties should be applicable in cases where supporting signatures have clearly been fabricated. The CEC should be required to notify parties when a decision on their applications will be taken. All parties should be given time to rectify technical errors in their supporting documentation.
15. The Electoral Code should define a 'parliamentary party'. This might prevent an MP of one party from signing a declaration that they are a 'member' of another, non-parliamentary party, enabling that party to avoid the requirement to submit 7,000 supporting signatures.
16. The Electoral Code should grant election subjects the right to monitor the entire ballot printing process while simultaneously safeguarding the security of the process.

E. VOTER REGISTRATION AND VOTER IDENTIFICATION

17. To improve the accuracy of voter lists, an ongoing effort is required urgently to maintain and improve the accuracy of civil registers. Priority should be given to developing an address system for building and other real estate property. Other priorities include rectification of incorrectly spelled names, incomplete records, the so-called '999 entries' and possible multiple entries within and across local government units' administrative borders.
18. To this end, civil registry offices need the appropriate financial, technical and human resources. Work on updating civil registers and subsequently on voter lists will require a long term commitment if Albanian authorities want a fully functional system of civil

registration (and consequently of voter registration) to be in place for the 2009 parliamentary elections.

19. Serious consideration should be given to introducing a form of voter identification that is not open to abuse. If the government wishes to introduce new identity documents, a wide-ranging consultation process should take place before their introduction. For as long as 'birth certificates' are a permissible form of voter identification, the central authorities should ensure that civil registry offices keep accurate official records on certificates issued for all purposes, in particular for electoral ones, and that such data are publicly available.
20. The Code should clarify if voter lists can be updated for repeat elections.

F. MEDIA

21. Paid airtime should be available to all political parties on a non-discriminatory basis regardless of previous electoral strength.
22. Steps should be taken to improve the methodological basis and procedures of official media monitoring boards working at State and local levels during campaign periods and local monitors should be appointed in a timely manner.
23. Parties and the media should respect the official campaign silence period immediately prior to election day.

G. VOTING AND COUNTING

24. VCCs should be required to comply with the provisions concerning the use of ink to mark voters' fingers. Use of indelible visible ink could be considered.
25. The late deadline for appointment of counting teams should be reconsidered.
26. Consideration should be given on how the vote counting process can be completed in a timely manner. Possible means include increasing the number of CTs beyond the current maximum of five members, at least in zones with a large number of VCs or by permitting CTs to work in shifts. It may be practical to have a larger number of CTs with each having fewer members.
27. There is room for improvement of the transparency of the counting process. All election contestants should be allowed to observe counting on an equal basis. Substantial effort should be made to improve the possibility for observers to check the accuracy of the count.

H. COMPLAINTS AND APPEALS

The Electoral Code should be amended to ensure that:

28. Legal remedy is appropriate to the circumstances regardless of whether the candidate, party, or lawyer specifically requests a particular form of legal relief.
29. Effective remedy is available for violations of the law and to verify whether votes have been counted honestly. The CEC and Electoral College should not be unduly restricted in the type of evidence they may consider during appeal hearings.

30. The substance of a complaint is more important than its form. The failure to record an event on an official election form or in the ZEC Record Book does not conclusively establish that the event did not occur. Thus, an over-reliance on the ZEC "Record Book" should be avoided.
31. Any political party influence over the selection of judges for the Electoral College is eliminated.
32. Post election appeal deadlines are harmonised, so that a request to invalidate an election result and an appeal challenging a ZEC's tabulation of results are considered jointly. It is recommended that this deadline be three days after the completion of the tabulation of results by a ZEC.
33. There is more guidance on the actions the CEC should take concerning irregular ballot boxes sent by ZECs and greater clarity on the circumstances in which the CEC has the authority to undertake a 'first' count of ballots, whether or not the boxes were deemed irregular.
34. The CEC conducts a recount of votes or a re-evaluation of ballots where it has been established that irregularities occurred that could influence the allocation of a mandate. In all other cases, the decision to recount or re-evaluate ballots should remain discretionary.
35. There is guidance to district courts concerning which documents a citizen omitted from voter lists must provide to prove their eligibility to vote.

I. ELECTION OBSERVATION

36. Transparency could be further enhanced by allowing domestic observers to register earlier than 45 days before election day, as well as by reducing the deadline for submitting accreditation requests for individual domestic observers (currently 15 days prior to election day).
37. ZECs should be instructed that counting centres should be laid out in such a way that observers can follow the counting of votes properly e.g. the distance between the space reserved for observers and the counting tables should not be so great that meaningful observation becomes impossible.

J. PARTICIPATION OF WOMEN

38. A serious effort should be undertaken to increase the number of women elected to parliament. In particular, political parties should increase the presence of women candidates on party lists and in single mandate zones.
39. The government and parliament should explore ways to increase the participation of women in public life. The government should prepare an action plan to meet this objective and realise pre-existing commitments.
40. A genuine and continual effort is necessary to eradicate 'family voting'. The perceived tolerance for this practice runs counter to Albanian legislation and the secrecy of the ballot.

K. PARTICIPATION OF NATIONAL MINORITIES

41. The Albanian authorities should improve voter registration among national minority populations, particularly the Roma and Egyptian communities.
42. The Albanian authorities and parties should ensure that minority issues receive appropriate attention during the electoral campaign.
43. The practice of attempting to influence the vote through vote buying methods in vulnerable communities should be addressed at all levels with a view to eradicate it.

ANNEX 1: SUMMARY OF OFFICIAL RESULTS

On 1 September, after the expiry of all appeal deadlines, the CEC declared final election results and the candidates to whom the 40 supplementary mandates were allocated.

Table of Official Results for the 2005 Parliamentary Election

Party	Number of votes cast for party and coalition lists	% votes	Single seats won and % of all mandates	Supplementary mandates allocated	Total number of mandates	% of all mandates	Difference ⁶⁹ (% of mandates minus % of votes)
DP	104,796	7.67	56 (40.00)	0	56	40.00	+ 32.33
SP	121,412	8.89	42 (30.00)	0	42	30.00	+ 21.11
AFJW	457,143	33.46	0 (0.00)	18	18	12.86	- 20.60
SDP	174,103	12.74	0 (0.00)	7	7	5.00	- 7.74
SMI	114,798	8.40	1 (0.71)	4	5	3.57	- 4.83
EAP	89,635	6.56	0 (0.00)	4	4	2.86	- 3.70
DA	65,093	4.76	0 (0.00)	3	3	2.14	- 2.62
SDY	57,998	4.25	0 (0.00)	2	2	1.43	- 2.82
HRUP	56,403	4.13	0 (0.00)	2	2	1.43	- 2.70
<i>All Others</i>	<i>124,845</i>	<i>9.14</i>	<i>0 (0.00)</i>	<i>0</i>	<i>0</i>	<i>0.00</i>	
Indep.			1 (0.71)	0	1	0.71	
Total	1,366,226	100%	100 (71.43)	40	140	100	

Subsequently, President Moisiu called the constituent session of the newly elected Parliament for 2 September.

⁶⁹ An analysis of the impact of electoral strategies on the extent to which the objective of proportionality has been achieved is not included, as the OSCE/ODIHR is not in a position to predict voters' choices under different coalition modalities.

ANNEX 2: APPEAL PROCESS IN ZONE 73

In zone 73, the ZEC decided that the ballot boxes containing the ‘voting material’ of two VCs (n.3248 and 3260) were “irregular”. One box was missing some material, and the other one was missing spare seals. In ZEC Decision 115, the ZEC refused to count the votes of these two VCCs and declared “invalid” the boxes containing the ballot papers, although “invalidity” is only referred to in the Electoral Code, art.117, as a competence of the CEC. After counting votes for all VCs except the two in contention, the ZEC adopted a further Decision 116, declaring the single seat result. The DP candidate was leading by 34 votes.

The SP candidate appealed against ZEC Decision 115 to the CEC⁷⁰. It is worth noting that the CEC could overturn ZEC Decision 115 with a majority of four out of seven votes. Had the SP candidate appealed Decision 116 declaring the results, a qualified majority of five out of seven votes would have been required to overturn it. All boxes were sent to the CEC. The CEC decided by a four to three vote to open the boxes and to count the content after having examined the election materials. If legal and technical arguments were put forward during the discussion, the vote appeared to coincide with party lines. The minority argued that under the Electoral Code, the CEC had no authority to count ballots and that the Electoral Code, art.158/3, only foresaw a possibility to “recount” or “reevaluate” ballots which had already been counted. In addition, it showed that while the Electoral Code requires a qualified majority of five out of seven votes to overturn a ZEC declaration of results (ZEC Decision 116), this requirement does not apply when an intermediate decision as to what ballots will be counted (the material basis for the results, ZEC Decision 115), is overturned by the CEC with only a majority of four out of seven votes.

In a particularly acrimonious session, the votes from the two additional VCs were counted at the CEC. The CEC found that the number of ballots in these boxes did not match the number of signatures of voters, and one box had all spare seals missing. The CEC proceeded with the counting of the votes, which differed from the ZEC result, giving the SP candidate a lead of 35 votes. However, while a four to seven majority of CEC members voted to include these results of the two VCs in the final zone result, the qualified majority of five to seven, necessary to overturn the ZEC’s original declaration of results (Decision 116), could not be reached. Consequently, the ZEC declaration of results was upheld and the DP candidate declared the winner. The SP candidate appealed to the Electoral College, which eventually declared the SP candidate the winner since, after all ballot boxes had been counted, he was the one who obtained more votes.

⁷⁰ A week later the SP candidate filed a request for the invalidation of the results in the entire zone, which he eventually withdrew during the hearing of the request by the CEC. Pursuant to art.161/1 of the Code, the CEC decided not to continue the proceedings. This decision of the CEC was appealed by the DP candidate to the Electoral College, which rejected the appeal as art.161/1 of the Code grants the right to withdraw a claim to any party unless the “CEC considers that the proceedings are in the public interest”. The examination of the first appeal was suspended for the duration of the invalidation proceedings.

ABOUT THE OSCE/ODIHR

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

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

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

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

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

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The 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 ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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).