



Office for Democratic Institutions and Human Rights

# REPUBLIC OF ALBANIA

## PARLIAMENTARY ELECTIONS

23 June 2013

OSCE/ODIHR Election Observation Mission  
Final Report



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**REPUBLIC OF ALBANIA**  
**PARLIAMENTARY ELECTIONS**  
**23 JUNE 2013**

**OSCE/ODIHR Election Observation Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Permanent Mission of the Republic of Albania to the OSCE, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 15 May for the 23 June 2013 parliamentary elections. The OSCE/ODIHR assessed the electoral process for compliance with OSCE commitments, other international standards for democratic elections, as well as national legislation. For election day observation, the OSCE/ODIHR EOM joined efforts with observer delegations from the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE).

The 23 June elections were competitive with active citizen participation throughout the campaign and genuine respect for fundamental freedoms. However, the atmosphere of distrust between the two main political forces tainted the electoral environment and challenged the administration of the entire electoral process.

The Electoral Code was extensively amended in July 2012, which improved the electoral framework overall. These changes addressed a number of previous recommendations of the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission). The legal framework regulating the parliamentary elections generally provides a sound basis for the conduct of democratic elections. Some key aspects of the law would benefit from further improvement. However, public confidence in the electoral process suffered because implementation and enforcement by all main stakeholders fell short in a number of respects.

In the absence of a decision of the Central Election Commission (CEC) on seat distribution in four electoral districts, the parliament's subsequent decision on the matter challenged the principle of due process and equality of the vote due to the application of outdated population distribution statistics. The Constitutional Court denied jurisdiction in a complaint challenging the parliament's decision.

Sixty-six political parties and two independent candidates were registered as contestants in a largely inclusive process that offered voters a genuine choice. The majority of registered political parties joined one of two electoral coalitions led by the Democratic Party (DP) or the Socialist Party (SP).

Technical preparations for the elections were adequate, despite some noted shortcomings, in particular in not meeting a number of legal deadlines. With opposition parties boycotting the CEC following a controversial dismissal of one of the members, the CEC conducted the remainder of its work without the quorum necessary to adopt regulations and undertake key decisions. Even prior to the CEC operating with a reduced number of members, it failed to

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in Albanian.

adopt regulations necessary to supplement the Electoral Code. The impression that the CEC acted politically was compounded by its decision to recompose lower-level election commissions by replacing all members of the 89 Commissions of Electoral Administration Zones (CEAZs) nominated by the second largest opposition party and lacked sound legal justification.

There was a late calling of sessions and an incomplete uploading of decisions on the CEC website, in contravention of the law. However, parties and media were informed and present in CEC sessions, which were open to the public and streamed online, and the CEC was fully co-operative with international observers.

The Electoral Code stipulated that the CEC pilot two election technology systems: electronic counting and electronic voter verification. However, the CEC missed a number of legal deadlines and did not adopt necessary regulations thus making successful implementation infeasible. The CEC officially cancelled both system pilots the week before election day.

Overall, there was confidence in the quality of voter lists, with some concerns expressed primarily by smaller political parties. Some 139 mayors were fined for not fully meeting their legal obligation to inform the CEC of the number of voters and locations of voting centres.

The campaign environment was peaceful overall, with only a few isolated incidents of violence. Candidates actively engaged in a vibrant campaign, although the number of direct debates between candidates or party leaders was limited. Mutual accusations between the two largest parties at times detracted from the substance of the campaign.

The largest parties, on occasion, used public vehicles and official buildings for campaign purposes, which is prohibited by law. A number of government events were accompanied by the governing party's campaign advertising, which blurred the lines between state institutions and party interests challenging paragraph 5.4 of the 1990 OSCE Copenhagen Document. Pressure on public servants to campaign or vote a certain way and politically-motivated dismissals tainted the campaign. Allegations of vote-buying intensified closer to election day, with a few arrests by law enforcement officials.

Political parties could finance their campaigns with contributions from public funds, private donations and loans. Independent candidates were not entitled to public funding. The legal framework does not provide for sufficient transparency in campaign finance reporting as there are no disclosure requirements prior to election day.

The broadcast media generally offered sufficient coverage of the major political parties, thus enabling voters to be informed of the main political positions. However, editorial independence was hampered by political influence. The CEC adopted a controversial decision implying a requirement for broadcasters to air tapes prepared by contestants in newscasts, impinging on editorial freedom. The public broadcaster granted larger parties equitable news coverage, but was more positive in tone towards the ruling party. The media monitored by the OSCE/ODIHR EOM did not meet their obligation to provide smaller parties with the specified amount of news coverage and exceeded the limit of paid political advertising for the two major parties. The Media Monitoring Board's late establishment and lack of collegiality lowered its effectiveness. The CEC did not effectively enforce media-related regulations.

Women candidates received marginal news coverage reflecting continuing issues with women's participation in political life. The gender quota requirement for candidate lists was not met by the DP, SP and the Socialist Movement for Integration (SMI) in a number of electoral districts, which resulted in fines, although non-compliant lists were registered. While political parties fulfilled their legal requirement to nominate at least 30 per cent of each gender in the overall membership of CEAZs, women's representation on Voting Centre Commissions was noted by observers on election day at 14 per cent.

Effective legal remedy and due process to resolve election-related grievances were not adequately guaranteed nor provided to electoral stakeholders. In key cases, adjudicative bodies declined consideration of complaints or exceeded their jurisdiction. In some instances, the Electoral College improperly assumed the CEC's administrative responsibilities and discretionary powers. Electoral contestants rarely used available dispute resolution mechanisms due to a purported lack of confidence in the legal system and a culture of opting for political deals. Voters and civil society groups as a rule could not challenge administrative decisions by electoral commissions.

Election day was generally peaceful and conducted in an orderly manner, although, a fatal incident in Lac negatively impacted the start of the elections. A significant number of voting centres opened with delays, mainly due to a lack of organization. Instances of group/family voting and inconsistent implementation of some procedures impacted the overall assessment of voting negatively. Closing procedures and ballot box intake at ballot counting centres (BCCs) were assessed in more positive terms.

Counting was delayed in many BCCs due to disorganization, including the late appointment of counting officials, and obstruction by certain counting officials proposed by the governing party. Once counting proceeded, it was generally orderly, albeit slow, and was assessed positively. With notable exceptions, the CEAZs generally aggregated the results in a satisfactory manner. The presence of citizen and party observers throughout election day generally enhanced transparency, although in some cases, partisan observers were seen directing or interfering in the voting or counting processes.

The CEC began uploading preliminary results on the morning after the elections though it approved most district results past legal deadlines. The CEC received some 40 complaints challenging the results in a number of districts, most claiming that political opponents misappropriated votes during counting.

Although the CEC in its reduced composition should not have considered complaints against results, in practice it claimed such legal authority. While complaints lodged by smaller parties were routinely dismissed, the CEC accepted and adjudicated complaints submitted by the larger parties against the results in three districts (Lezhe, Shkoder and Kukes) where a narrow margin of votes separated the leading candidates. Recounts performed on CEC decision generally revealed insignificant discrepancies that did not affect the mandate distribution.

Following the elections, the Electoral College satisfied an appeal challenging the lawfulness of CEC actions arguing that any CEC session on appeals against the results requires a five-member quorum. The Electoral College subsequently satisfied a number of requests to declare CEC decisions on appeals and recounts null and void on procedural grounds, but also ordered recounts in specific voting centres in Kukes and Lezhe. Both recounts largely confirmed the tabled results and the court ordered the CEC to amend its decisions accordingly.

On 2 August, the Electoral College assumed the legal powers of the CEC and allocated mandates in all 12 districts as a result of an appeal against the CEC's failure to take a decision due its lack of a quorum. Subsequently, on 6 August, the CEC announced the final results for the elections.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Permanent Mission of the Republic of Albania to the OSCE, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 15 May to observe the parliamentary elections. Led by Conny McCormack, the mission comprised a core team of 15 experts based in Tirana and 30 long-term observers (LTOs) deployed throughout the country.

For election-day observation, the OSCE/ODIHR joined efforts with observer delegations from the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE). Roberto Battelli was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term OSCE observer mission. The PACE delegation was led by Luca Volontè; João Soares headed the OSCE PA delegation.

On election day, 387 observers from 43 countries were deployed, including 316 observers from the OSCE/ODIHR, as well as 48 parliamentarians and staff from the OSCE PA and 23 from the PACE. Voting was observed in 1,297 of the 5,508 voting centres, counting was observed in 84 of 89 ballot counting centres (BCCs), and tabulation was observed in 25 BCCs.

The elections were assessed for their compliance with the OSCE commitments and other international standards for democratic elections, as well as national legislation. This final report follows a Statement of Preliminary Findings and Conclusions released at a press conference in Tirana on 24 June.<sup>2</sup> Four mayoral by-elections took place in parallel with the parliamentary elections. The OSCE/ODIHR followed these elections only to the extent that they affected the conduct of the parliamentary elections.

The OSCE/ODIHR EOM wishes to thank the authorities of Albania for the invitation to observe the elections, as well as the Central Election Commission (CEC), the Ministry of Foreign Affairs, the Parliament of Albania, the Constitutional Court, the Electoral College, and other state and local authorities for their assistance and co-operation. It also expresses its gratitude to the representatives of political parties, media, civil society, and other interlocutors for sharing their views. The OSCE/ODIHR also wishes to express appreciation to the OSCE Presence in Albania, the European Union Delegation in Albania and to diplomatic representations of OSCE participating States and international organizations for their co-operation throughout the course of the mission.

## III. BACKGROUND

The 23 June parliamentary elections were widely viewed as an important test for Albania's democratic development and its aspirations towards European Union accession. The political

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<sup>2</sup> For all previous OSCE/ODIHR reports on Albania see <http://www.osce.org/odihr/elections/albania>.

environment had been tense since the last parliamentary elections in 2009 that resulted in near equal representation of the coalitions led by the Democratic Party (DP) under Prime Minister Sali Berisha and the Socialist Party (SP) led by Edi Rama. The DP subsequently formed a coalition government with the Socialist Movement for Integration (SMI), headed by Ilir Meta.

Following the departure of the SMI from the governing coalition in March 2013, the parliament dismissed the SMI-proposed member of the CEC who was replaced with a representative of the Republican Party (RP), as it became the second largest party of the governing coalition. The legal basis for the dismissal was questionable and was widely perceived as having been politically motivated.<sup>3</sup> It also led to the resignation of the three opposition-proposed CEC members nominated by the SP and the Human Rights Union Party (HRUP). The parliament did not approve their resignations as required by law, with the DP maintaining that the opposition must propose replacements before the parliament can act on the notification from the CEC.<sup>4</sup> The opposition refrained from proposing replacements claiming the dismissal was illegal. As a consequence, the CEC functioned with only four members from mid-April.

The political climate was characterized by longstanding polarization between the DP and SP and mistrust of other parties towards them. Smaller parties objected to the current electoral system, which they claimed favour the two major political parties. The vast majority of registered political parties joined one of two coalitions for the elections: 25 parties were in the Alliance for Employment, Prosperity and Integration, led by the DP, and 37 parties joined the Alliance for European Albania, led by the SP.

#### IV. ELECTORAL SYSTEM

The 140-member unicameral Assembly (parliament) is elected for a four-year term under a regional proportional system within 12 multi-member electoral districts that correspond to the country's administrative regions or counties. Political parties, coalitions and independent candidates could contest the elections, with closed candidate lists submitted by parties for each district. Parties that receive at least three per cent and coalitions that receive at least five per cent of valid votes in a district qualify for seat allocation.

The number of seats in each district ranges from 4 to 32. Based on current population distribution statistics submitted by the Ministry of Interior (MoI), the CEC is required to calculate the number of seats per district and submit the proposal to parliament for approval.<sup>5</sup> While it is a technical calculation, the CEC was politically divided and unable to agree on the seat distribution. In the absence of a CEC proposal, parliament took the decision and based the seat distribution on the 2009 (rather than the 2013) population statistics, which

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<sup>3</sup> Article 18 of the Electoral Code provides an exhaustive list of reasons for early termination of the mandate of CEC members, which does not include re-composition of the governing coalition and opposition. While the official reasoning in the parliament's dismissal was new information about the ineligibility due to the CEC member's past dismissal from a public position, the SMI was not invited to replace this member suggesting political motivation due to SMI's departure from the governing coalition.

<sup>4</sup> Article 18.2 of the Electoral Code requires parliament to approve resignations upon notification from the CEC, though no deadline is provided; Article 19.3 requires parliament to reappoint new members within 48 hours of the vacancy.

<sup>5</sup> According to Article 75 of the Electoral Code, the number of seats assigned to the districts must be determined in proportion to the number of citizens in each district, and each seat is to represent an approximately equal number of citizens.

undermined the principles of due process and equality of the vote.<sup>6</sup> This is at odds with paragraph 7.3 of the 1990 OSCE Copenhagen Document whereby participating States commit to guarantee their citizens equal suffrage.

*To ensure equality of the vote, seat distribution among electoral districts should be based on current population distribution statistics, as required by law.*

## V. LEGAL FRAMEWORK

The legal framework generally provides a sound basis for the conduct of democratic elections. However, public confidence in the electoral process suffered because of implementation and enforcement by all main stakeholders that fell short in a number of respects.

The elections were regulated by a comprehensive legal framework, primarily consisting of the Constitution, most recently amended in 2008, and the 2008 Electoral Code, amended in 2012. The Constitution guarantees the fundamental rights and freedoms thus creating the necessary basis for democratic elections. Other relevant legislation includes the Law on Political Parties, the Law on Demonstrations, and the Criminal Code.<sup>7</sup> The Administrative Procedures Code and Civil Procedures Code are applicable to proceedings of election commissions and courts, respectively. The Law on Gender Equality in Society includes provisions on ensuring equal gender representation in election administration bodies and parliament. Legislation is supplemented by regulations and decisions adopted by the CEC and the MoI.

Following a broadly inclusive consultation process, the Electoral Code was extensively and substantively amended in July 2012 and supported by the major political parties. The changes improved the electoral framework overall. The reform process was primarily informed by previous recommendations of the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission). The amendments addressed a number of the recommendations, such as key revisions to the selection process for election commissioners, a revised process for voter list compilation, a simplified process for candidate registration, and more equitable access to media and public campaign funds. The Criminal Code was amended in March 2012 establishing new electoral offences and strengthening penalties for existing offences. While the repeal of prison terms for defamation and libel is a positive development, they remain criminal offences and are subject to potentially high fines, inconsistent with official positions of expert bodies.<sup>8</sup>

*It is recommended that criminal provisions on libel and defamation be fully repealed and replaced with civil defamation provisions so as not to unduly restrict the right to freedom of expression.*

Some revisions to the Electoral Code weakened the legal framework, including less strict enforcement mechanisms for non-compliance with gender quotas for candidate lists and a

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<sup>6</sup> Two seats should have shifted districts under the current population statistics: Berat and Korce districts should have one seat less and Durres and Tirana districts one additional seat each.

<sup>7</sup> The Law on Political Parties regulates the registration of political parties by the courts and political party finance; amendments in February 2011 established the CEC's authority to oversee political party finance.

<sup>8</sup> See the Joint Declarations of the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression of 30 November 2000, 10 December 2002, and 4 February 2010.



more lenient provision on the involvement of public servants in campaigning.<sup>9</sup> A new requirement for the automatic removal of voters over 100 years old from voter lists was also included. Moreover, a number of previous recommendations remain unaddressed, including measures to enhance the impartiality of election commissions, campaign finance transparency, the counting and tabulation process, and effective electoral dispute resolution. In line with OSCE commitments, the law provides for the right of independent candidates to stand for election; however, they lack equal rights in the electoral process.<sup>10</sup>

The framework fails to detail a comprehensive system of sanctions for misuse of administrative resources, including public servants, involvement of schoolchildren in campaigning, and misappropriation of public official position and government events, for campaign purposes.<sup>11</sup> Even when a worker or student campaigns during office or school hours it does not constitute an administrative or criminal offence unless the person was forced to conduct the campaigning.

*It is recommended that the Electoral Code be revised to address existing shortcomings noted in this and previous OSCE/ODIHR reports, including provisions to ensure equal rights for independent candidates.*

## VI. ELECTION ADMINISTRATION

The elections were administered by a three-tiered election administration, comprising the CEC, 89 Commissions of Electoral Administration Zones (CEAZs) and 5,508 Voting Center Commissions (VCCs).<sup>12</sup> The CEC has seven members, all appointed by parliament. Three members are nominated by the parliamentary majority and three members by the opposition. CEC members serve six-year terms, while the chairperson is appointed for a four-year term from nominations submitted by parliamentary parties following an open recruitment process. Two members of the CEC were women, including the chairperson.

After the ensuing resignation of the three opposition-nominated CEC members in mid-April following the SMI-nominated member's dismissal, the CEC operated with only four members.<sup>13</sup> Parliament and political parties failed to find a solution to resolve the situation, which challenged the administration of the entire electoral process and the ability of the CEC to fully exercise its authority over its subordinate bodies.

The manner in which the CEC operated resulted in the impression that it acted politically. This perception was compounded by the CEC's decision to recompose lower-level election commissions. After initially establishing the CEAZs on 25 March, the CEC replaced all members of the 89 CEAZs nominated by the second largest opposition party, the HRUP, with nominees of the RP "due to the new circumstances created in the composition of the groups of

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<sup>9</sup> The broad prohibition in Article 88 on "use" of the state's human resources for campaign purposes within work hours was changed to the more lenient prohibition of "forced use" of human resources.

<sup>10</sup> The Electoral Code does not provide independent candidates with rights to appoint a legal representative to the CEC, obtain free media access, or receive public campaign funding.

<sup>11</sup> See Election Campaign Section.

<sup>12</sup> To administer the elections, the 12 districts were divided into 89 EAZs, each administered by a CEAZ.

<sup>13</sup> Both the SP and SMI utilized their legal right to appoint non-voting representatives to the CEC with their representatives actively taking part in CEC proceedings.

parliamentary majority and opposition”. This justification is not included in the exhaustive list of legal reasons for dismissal under Article 32 of the Electoral Code.

***The institutional independence of the CEC should be ensured. To this end, stakeholders should act in a commensurate manner concerning their role in CEC activities and election officials should refrain from basing actions and decisions on political considerations.***

The CEC did not adopt all regulations necessary for transparent and consistent implementation of elections or make the necessary amendments to existing regulations following recent amendments to the Electoral Code.<sup>14</sup> The CEC’s reduced composition prevented it from regulating aspects of the electoral process in a procedurally legal manner as normative acts and some decisions required adoption by a qualified majority of five votes.<sup>15</sup> The CEC initially disregarded legal obstacles to its activities and either adopted normative acts by simple majority in contravention of the law<sup>16</sup> or avoided adopting decisions necessary to amend outdated acts.<sup>17</sup> The definition of a normative act in the Electoral Code differs from the definition given in the 2012 Law on Administrative Courts.

A controversial CEC decision in both procedure and substance was the adoption of rules for the drawing the lots for assigning the order of contestants on the ballot. The decision required a qualified majority, but was decided with four votes. Furthermore, the CEC amended the rules several days later allowing it to change the order of parties on the ballot after the lottery, in contravention of Article 98.3 of the Electoral Code.<sup>18</sup>

In addition, a number of CEC decisions did not include sufficient legal reasoning, and in some cases, the CEC exceeded its regulatory powers.<sup>19</sup> Even with its full composition, the CEC failed to adopt regulations necessary to supplement the Electoral Code, including the division of EAZs and its own rules of procedures. In general, it was difficult to determine which CEC regulations were in force.

***Consideration should be given to clarify the provisions of the Electoral Code defining normative and other acts that may be adopted only by a qualified majority and to duly harmonize the applied definitions with the Law on Administrative Courts. Additionally, all electoral regulations and amendments should be adopted and published in a timely manner.***

The technical preparations for the elections were adequate, despite some noted shortcomings, in particular in not meeting a number of legal deadlines. There was a late calling of CEC sessions and an incomplete uploading of decisions on the CEC website, in contravention of the law.<sup>20</sup> However, political parties and media were informed and present during CEC

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<sup>14</sup> As required by Article 23.4 of the Electoral Code.

<sup>15</sup> See articles 24, 61, 62, 94, 95, 98, 101, 103 and 179 of the Electoral Code.

<sup>16</sup> For instance, CEC decisions no. 426 of 17 May, no. 445 and 446 of 20 May and no. 621 of 21 June. Only the 21 June decision was formally challenged and overturned by court as it was a normative act and not adopted by the required five votes.

<sup>17</sup> For example, CEC Instruction no. 4 of 9 March 2009 on the organization and function of VCCs considers the particular political landscape and legal framework of the 2009 parliamentary elections.

<sup>18</sup> Other CEC decisions that required five votes included approval of ballot layout and the ballot counting order in locations where both the parliamentary elections and municipal by-elections took place.

<sup>19</sup> See Media Section.

<sup>20</sup> The OSCE/ODIHR EOM noted that at least 159 CEC decisions were not uploaded.

sessions, which were open to the public and streamed online. In addition, the CEC was fully co-operative with international observers.

The CEAZs are appointed by the CEC for each election, comprising seven members and a non-voting secretary.<sup>21</sup> While the CEAZs generally enjoyed the confidence of electoral stakeholders and worked in a collegial manner, a number of CEAZs were split along political lines in their decision-making on contentious issues. Furthermore, political parties replaced a large number of CEAZ members at will. They continued this practice up until and including on election day after commissions had already been trained. These continued replacements raised doubts regarding the impartiality of the CEAZs and potentially reduced their effectiveness.<sup>22</sup>

Voting was administered by VCCs consisting of seven members appointed by the CEAZs. Their composition was based on political nominations and reflected the composition of CEAZs. In half of the VCCs, chairpersons were nominated by the parliamentary majority and in the other half by the opposition. Counting took place at BCCs administered by counting teams consisting of four members appointed by the CEAZs.<sup>23</sup>

Political parties fulfilled their legal requirement to nominate at least 30 per cent of each gender to the overall CEAZ membership. However, women's representation on VCCs, as noted by observers on election day was significantly less, at 14 per cent, with 16 per cent of VCCs chaired by a woman.<sup>24</sup>

***Consideration could be given to introducing a gender quota for VCCs and counting teams within the election administration to coincide with other national legislation.***

Determining some voting centre (VCs) and BCC locations, especially in private buildings, extended beyond the deadline due to late or incomplete proposal submissions by mayors. In addition, there were challenges against several VC locations.<sup>25</sup> In contravention of the law, the CEC relocated some 90 VCs, moreover, after voter notifications had already been sent out.<sup>26</sup>

All entitled political parties submitted VCC nominations well past legal deadlines, apparently in order to circumvent the provision prohibiting discretionary recall of VCC members as introduced in the 2012 Electoral Code revision. Also, counting teams were generally established past legal deadlines. Such delays caused uncertainty and disruptions in preparations.

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<sup>21</sup> The nomination formula for CEAZ members mirrors that of the CEC, with the exception that in one half of CEAZs, the chairperson is nominated by the largest majority party, and in the other half, by the largest opposition party. The deputy chairperson and the secretary belong to the main political party that is not chairing the respective CEAZ.

<sup>22</sup> Some 173 replacements to CEAZ members represented some 24 per cent of their total number. The OSCE/ODIHR previously recommended to repeal allowing political parties to recall CEAZ members. However, in 2012 only a provision on the recall of VCC members was repealed in the Electoral Code.

<sup>23</sup> Parties forming the parliamentary majority and opposition each have two members on counting teams.

<sup>24</sup> The Law on Gender Equality in Society sets a 30 per cent benchmark for gender representation at all levels of election administration bodies; however, the Electoral Code does not include a gender quota for VCCs or counting teams.

<sup>25</sup> Two CEC decisions, one establishing three VCs in a private building and another designating a BCC location, were overturned by court on grounds that the locations did not comply with legal requirements.

<sup>26</sup> See Article 62.4 of the Electoral Code. Two complaints challenging the late changes of VC locations were filed to court. One was upheld and the other dismissed.

*Amendments to the Electoral Code could be enacted to prohibit discretionary replacement of CEAZ members by political parties. The legal deadlines for VCC and counting team nominations should be strictly abided by. Consideration could also be given to introducing mechanisms to appoint outstanding VCC and counting team members, similar to those in place when political parties fail to nominate their candidates to CEAZs.*

The CEC provided trainings for election officials, which the OSCE/ODIHR EOM assessed positively, although their effectiveness was often limited due to late nominations and changes in the lower-level election administration bodies.

## VII. NEW VOTING TECHNOLOGIES

The Electoral Code stipulated that the CEC pilot two new voting technologies: an electronic counting system (ECS) in Fier District and an electronic voter verification system (EVS) in Tirana District. The CEC was mandated to begin preparations for the implementation of both projects by 23 August 2012 and to complete all procurement procedures by 23 December 2012. It was also obliged to develop and approve an action plan for the implementation of the new technologies, adopt associated regulations, and issue guidelines to the election administration.

Preparation for both pilots extended past legal deadlines making successful implementation infeasible.<sup>27</sup> Furthermore, the CEC failed to adopt all required regulations necessary for system testing and implementation. The CEC decision to maintain the portrait-style layout of the ballot, in conjunction with the large number of contestants on the ballot, rendered the implementation of the ECS impossible with the hardware specified. The ECS pilot was officially cancelled on 17 June. In addition, EVS preparations were marred by a lack of clear test success criteria, as demonstrated in a public test. On 18 June, the CEC also officially cancelled the implementation of the EVS owing to a number of unforeseen shortcomings identified during testing related to system security and possible voting delays.<sup>28</sup> Detailed and timely project planning, stakeholder collaboration and voter education required to procure, test, train on and implement such complex systems were lacking throughout the process.

*It is recommended that any implementation of the legally mandated EVS and ECS pilots be started well ahead of the next elections, including essential preparations such as enactment of detailed regulations and system testing.*

## VIII. VOTER REGISTRATION

Albania has a passive voter registration system. Voter lists (VLs) for each election are extracted from the database of the National Civil Status Register (NCSR) maintained by the General Directorate of Civil Status of the MoI. While civil status offices of local government units are responsible for VL content, mayors certify their accuracy and inform the CEC on voter numbers and VC locations. The CEC supervises the overall VL compilation process and

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<sup>27</sup> Procurement contracts for the ECS and EVS were signed on 16 and 25 March, respectively. The ECS testing took place on 13 April, 20 days after the stipulated deadline.

<sup>28</sup> On 20 June, the SP requested the Prosecutor's Office to criminally charge the four CEC members and responsible CEC employees under Article 248 of the Criminal Code for abuse of public functions in the handling and cancellation of the EVS pilot. In July, the Prosecutor's Office opened an investigation.

can also impose sanctions on the heads of the relevant institutions. The CEC fined 139 mayors for failure to submit or for submitting late or incomplete information about the number of voters and VC locations.

According to CEC data, based on the information from the mayors, 3,271,885 voters were included on VLs.<sup>29</sup> Voters residing abroad remained on VLs at their last registered address. Some 20 VCs were established in prisons and detention centres. In the 40 days before election day, a voter could be added to a VL only by a court decision; the OSCE/ODIHR EOM noted that relatively few such requests were filed.

Overall, there was confidence in the quality of VLs, with some concerns expressed primarily by smaller political parties. Various measures were undertaken to improve the accuracy of the state population register and the VLs. The MoI informed the OSCE/ODIHR EOM that the number of suspected duplicate records was reduced from 7,674 in December 2012 to 1,139 in May 2013. In a combined effort, the General Directorate of Civil Status and the Urban Planning Office reduced the number of voters without a complete address code by some 35 per cent from 542,808 to 348,346 between February and May, which furthered VL quality.<sup>30</sup>

***Collaboration between central and local authorities on measures to reduce suspected duplicate records and the number of voters without a complete address code should continue and intensify in order to resolve the remaining issues with the accuracy of voter data.***

Updated VLs were published on a monthly basis beginning in January. Although VLs were posted for public display, observers often noted either late display or placement in inaccessible locations. In addition, voters could check their details online. However, the effectiveness of these measures could have been enhanced through more extensive voter information. In half of the EAZs, the OSCE/ODIHR EOM noted that voters were not notified about their VC location and the number on the VL, as required by law.

Citizens aged 18 years or older by election day, except those declared mentally incompetent by a court, are eligible to vote. The law required the MoI to remove all 1,130 voters over the age of 100 from VLs as a measure to deal with potentially deceased voters and obliged them to apply for re-inclusion; some 380 did so. This practice discriminated on the basis of age, at odds with paragraph 5.9 of the 1990 OSCE Copenhagen commitments.

***Consideration could be given to discontinue the practice of removing voters over the age of 100 from VLs and introduce non-discriminatory measures to eliminate deceased voters.***

Contestants used their right to obtain copies of VLs and some assisted voters to verify their data. As required by law, the CEC appointed two auditors (proposed by the DP and SP) to verify VL quality. Their separate findings and recommendations were presented to the CEC and sent to the MoI. However, this was done too late to have an impact on VL accuracy.

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<sup>29</sup> The CEC reported 949 more voters compared to numbers released by the MoI.

<sup>30</sup> Voters are identified through a 10-digit number (first three digits indicate the municipality, the next four indicate the voting centre, and the last three indicate the address code). When the last three digits are unknown, they are indicated with 888, 999 or 000.

## IX. CANDIDATE REGISTRATION

Sixty-six political parties and two independent candidates were registered as contestants in a largely inclusive process that offered voters a genuine choice. The CEC initially registered 64 political parties and 2 independent candidates, while 6 parties and 5 independent candidates were denied registration. Of the six parties that appealed, two had appeals satisfied and were registered by the court.<sup>31</sup> None of the prospective independent candidates appealed the denial of registration.

Political parties registered according to the Law on Political Parties, as well as independent candidates could apply for registration as electoral subjects.<sup>32</sup> Candidate lists of non-parliamentary parties running individually, or of coalitions that had fewer seats in the outgoing parliament than the number of parties in the coalition, had to be supported by the signatures of 5,000 or 7,000 registered voters, respectively, collected nationwide. Independent candidates needed the signature support of at least one per cent of voters (but no more than 3,000 voters) registered in the respective district. After providing parties an opportunity to make corrections, the CEC approved all candidate lists with a total of 7,149 candidates, including 2,753 women. Not all candidates holding high-level public posts stepped down prior to registration as required by law.<sup>33</sup>

Each candidate list should legally include at least one male and one female among the top three positions and must consist of at least 30 per cent of each gender. To meet the gender quota, many parties included women at the bottom of the lists in unwinnable positions. Moreover, the three largest parliamentary parties (DP, SP, and SMI) failed to comply with the gender quota in four, six, and four districts, respectively. Although the CEC provided the parties an opportunity to rectify the gender quota breaches, the parties did not do so. The non-compliant lists were registered, and the CEC subsequently imposed fines on the parties.<sup>34</sup> The provision that obliged the CEC to deny registration of non-compliant lists was repealed in 2012. In addition, there were diverging interpretations among stakeholders regarding Article 175.2 of the Electoral Code, that ostensibly obliges the CEC to reorder candidate lists to ensure that at least one of the top three spots include each gender. Civil society groups were critical of the CEC's failure to do so.

***Consideration should be given to further promote women candidates. The existing provision allowing the CEC to reorder candidate lists could be enforced as well as considering other possible sanctions for non-compliance. The Electoral Code could also be amended to require more balanced and consistent positioning of women candidates throughout party lists.***

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<sup>31</sup> In the two cases overturned by the court, the CEC applied document requirements, which were outside the legal criteria for registration. In another case, the CEC denied registration for not having an official acronym, though not required. On appeal, the court upheld the CEC's decision. The remaining cases of denied registration appeared to have a sound legal basis.

<sup>32</sup> Electoral subjects are defined in the Electoral Code as registered political parties, coalitions, candidates proposed by a group of voters, and mayoral candidates.

<sup>33</sup> The head of the General Directorate for Prisons, a high-level official of the public administration, was a candidate on the DP list in Tirana and only stepped down on 19 June.

<sup>34</sup> In 2012, the fine for a non-compliant list was increased from Albanian Lek (ALL) 30,000 (approximately EUR 215) to ALL 1 million (approximately EUR 7,120) (approximately 1 EUR = 140 ALL). The Christian Democratic People's Party was fined for too many women on eight of its candidate lists; the fines were revoked by the court on grounds that the CEC had not provided the party an opportunity to correct the lists.

## X. ELECTION CAMPAIGN

Candidates actively engaged in a vibrant campaign. Fundamental freedoms were respected and all contestants were able to campaign freely. The campaign environment was peaceful overall, with only a few isolated incidents of violence.<sup>35</sup> Two campaign offices were vandalized.<sup>36</sup>

Political parties began campaigning actively before the official campaign started on 24 May with leading political figures and top government officials touring to present candidates at large-scale rallies. Parties represented in the outgoing parliament organized rallies and concerts and used posters and banners extensively. Other parties held smaller-scale meetings and distributed leaflets only in areas where they expected support. Most parties used social media extensively throughout the campaign. The number of direct debates between candidates or party leaders was limited and lacked prominent figures.

Most parties promoted similar platform goals: economic development, employment opportunities, the fight against corruption, and European integration. Issues most prominently featured in the public debate were social security and taxation. While the DP noted government achievements, the SP promised a new beginning. The SMI criticized the government and focused on job creation and joining European structures. Mutual accusations between the two largest parties and their leaders at times detracted attention from the substance of the campaign.

While some mayors fulfilled their legal obligation to allocate advertising space to the political parties by a formal decision, others did not, or agreed only to divide the space among the larger parties.<sup>37</sup> The OSCE/ODIHR EOM noted the use of public vehicles and official buildings for campaign purposes by the largest parties, which is prohibited by law. In Tirana, some public sector vehicles were at times used to display DP flags, and party flags were observed on public buses in Kamez (DP), Gjirokaster (SP) and Delvine (the Party for Justice, Integration and Unity (PJIU)). Local municipal buildings were used during rallies by the DP and PJIU in Kruje and Durres, and by the SP in Gramsh and Librazhd. On 13 May, the prime minister issued an order obliging high-level public officials to prevent the use of resources for campaign purposes, which reinforced existing legal provisions.

A number of official government events, such as opening of roads and factories, as well as renovated schools and hospitals, were accompanied by the governing party's campaign advertising and speeches. There was also campaign coverage on the prime minister's official government website. These instances of continued blurring between state and party interests challenged paragraph 5.4 of the 1990 OSCE Copenhagen Document.

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<sup>35</sup> Incidents included an attempted shooting of a local commission chairperson (DP) in Shtiqen (Kukes); the detonation of an explosive device outside the residence of a DP candidate in Vlore; and the beatings of an NDS candidate in Fier and of a SP-nominated VCC member in Berat.

<sup>36</sup> The DP office in Vlore was broken into on 27 May, and SP office in Tirana was vandalized on 1 June.

<sup>37</sup> See Article 79 of Electoral Code. The Mayor of Tirana informed the OSCE/ODIHR EOM that they took no formal decision on allocation of campaign space, but relied on the self-regulation of political parties; the municipality would only intervene in case of problems or disturbance of public order. In Vlore, the mayor refused to provide an independent candidate and the Red and Black Alliance with information about allocated space and venues for campaign purposes. The New Democratic Spirit raised similar claims in Shkoder.

***The abuse of state resources, including human resources, for campaign purposes could be more effectively prevented through improved enforcement and by holding those in violation accountable.***

Widespread allegations that public-sector workers were required by superiors to attend rallies or gather support for the governing party negatively affected the pre-election environment.<sup>38</sup> The SP requested the Prosecutor General to establish a national task force to investigate these and other campaign-related criminal acts. The request was officially denied.

The OSCE/ODIHR EOM noted specific instances of schools being closed during daytime rallies, with teachers and students compelled to attend.<sup>39</sup> At these and other such events, the OSCE/ODIHR EOM noted that up to 30 per cent of those present were schoolchildren.

The SP claimed that their activists and supporters, including VCC members from past elections or their family members were dismissed from public sector jobs on political grounds. In some instances, OSCE/ODIHR EOM observers met with a number of dismissed individuals and assessed these claims as credible.<sup>40</sup> Such actions contravene paragraph 7.7 of the 1990 OSCE Copenhagen Document.<sup>41</sup>

***Authorities and political parties could consider more resolute steps to ensure that pressure is not applied on public-sector employees, political activists or others to attend campaign events or vote in a particular way. Any such pressure should be investigated and perpetrators brought to justice in accordance with the law.***

Allegations of vote-buying, including by the two largest political parties against each other and against SMI, intensified in the lead up to election day and tainted the electoral environment.<sup>42</sup> Many of the vote-buying allegations concerned vulnerable groups, in particular the Roma and Egyptian population or rural communities.

***Law enforcement bodies could increase efforts of identifying, investigating and prosecuting instances of vote-buying.***

## **XI. CAMPAIGN FINANCE**

Political parties may finance their electoral campaign with contributions from public funds and private donations as well as loans. Independent candidates are not entitled to public funding. Political parties receive their share of public funding based on the number of valid

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<sup>38</sup> In Lac, a school director was dismissed for reportedly not following the request of her supervisor to compel teachers to attend a DP rally. The SP filed a criminal report alleging that a director in the Ministry of Economy, Trade and Energy ordered employees to collect information of committed DP voters.

<sup>39</sup> This was noted during the DP rally in Kukes on 23 May and the SP rally in Divjake on 8 June.

<sup>40</sup> See also Complaints and Appeals Section.

<sup>41</sup> Paragraph 7.7 provides for the conduct of the campaign in an atmosphere where voters may cast their vote free of fear of retribution.

<sup>42</sup> The OSCE/ODIHR EOM received multiple reports of vote-buying from at least seven districts and was made aware of at least two arrests. A DP candidate was recorded buying votes in Tirana in a hidden camera TV show aired on 11 June, on which the SP filed a report to the Prosecutor of Tirana. On 21 June, the police in Tropoje arrested a man in Lekbibaj on charges of vote-buying and issued a press release asking local citizens to report attempts to buy their votes. OSCE/ODIHR EOM LTOs in Kukes confirmed an attempt of vote-buying of local university students.



votes they received in the previous election; 95 per cent of the fund is distributed among parties that received more than 0.5 per cent of valid votes. The remaining five per cent is distributed to parties that received less than 0.5 per cent of votes, and parties that did not participate in the last election; 53 parties were in this category. The decision to distribute advanced funds for campaigning came 11 days after the start of the official campaign due to a late decision of the parliament.<sup>43</sup>

Private campaign donations are allowed with a limit on individual donations of ALL 1 million and an overall spending limit of no more than ten times the highest amount granted from the state budget to an elected subject. Contestants had to maintain a registry of private donors and donations, but campaign income and expenditures were only to be reported to auditors appointed by the CEC after the announcement of the final results. The CEC is also responsible for receiving and publishing annual reports on regular political party financing outside of the election period.<sup>44</sup> The legal framework does not provide for sufficient transparency in campaign finance reporting, as there are no disclosure requirements before election day. After the election, the CEC is required to publish only the audit reports as well as information on donors who contributed more than ALL 100,000.

*To enhance transparency of campaign financing, it is recommended to oblige contestants to regularly report to the CEC all income and expenditures for campaign purposes and to require the CEC to publish preliminary campaign finance reports prior to election day.*

## **XII. MEDIA**

### **A. MEDIA ENVIRONMENT**

A wide range of media outlets operates in Albania. According to the Audiovisual Media Authority (AMA), there are 3 national television (TV) channels (public channel *TVSH*, *TV Klan* and *Top Channel*), 71 local TV channels, 83 cable TV channels and 59 radio stations.<sup>45</sup> Print media are numerous, although circulation and impact are limited. Internet provides an open sphere for public discourse.<sup>46</sup> TV has the highest share of advertising market and is considered the primary source of information due to its wide geographical coverage.

### **B. LEGAL FRAMEWORK**

The Constitution provides for freedom of expression and freedom of the media without censorship. Broadcast media is mainly regulated by the media law.<sup>47</sup> The AMA is responsible for implementing the law, issuing licenses, monitoring the media, and reallocating the frequencies after the digital switchover. The management boards of AMA and the public broadcaster *RTSH* have seven and eleven members, respectively, and are elected by the

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<sup>43</sup> Parliament allocated ALL 65 million to the public fund for electoral campaigns.

<sup>44</sup> On 27 June, the Group of States against Corruption (GRECO) of the Council of Europe issued a report addressing the issue of political party financing, and assessed in generally positive terms the measures undertaken by the Albanian authorities to increase transparency in this area.

<sup>45</sup> The AMA is the new name of the National Council of Radio and Television, which serves as the national regulatory and licensing authority.

<sup>46</sup> According to the Postal and Electronic Communications Authority, as of early 2012, there were some 175,000 households with broadband subscription.

<sup>47</sup> The 1998 law on Public and Private Radio and Television was most recently amended on 4 March 2013.

parliament. OSCE/ODIHR EOM interlocutors expressed concern that their appointment mechanisms challenge the independence of the two bodies from the parliamentary majority.<sup>48</sup>

The Electoral Code constitutes a comprehensive legal basis for the media coverage of the elections; it stipulates rules for free airtime, news coverage and paid advertising. Its provisions apply to all broadcast media during the official campaign period. Public and private media must allocate equal news coverage to the large political parties, double the airtime compared to other parliamentary parties. News coverage of non-parliamentary parties is at the discretion of the editors. Any propaganda by journalists is prohibited during news editions. News stories about public institutions promoting their achievements are considered campaign-related, thus counted as airtime of the party associated with the head of the institution.

The Electoral Code obliges *TVSH* to provide free airtime to all political parties according to their representation in parliament. The CEC instructed it to allocate 60 minutes to parties with more than 20 per cent of seats in the parliament, 30 minutes to the remaining parliamentary parties, 10 minutes to the non-parliamentary parties, and 5 minutes to independent candidates.<sup>49</sup>

Paid political advertising is allowed on private media during the official campaign period, but limited to 90 minutes on each broadcast media. By law, the media must submit the fees of the advertising five days before the official campaign. However, the CEC prolonged the legal deadline by three days and the list of fees published on the CEC website was incomplete.<sup>50</sup>

The Media Monitoring Board (MMB), the body tasked to monitor media compliance with the Electoral Code, was established by the CEC on 21 May, 37 days after the legal deadline. Each CEC member nominates an MMB member based on proposals by non-profit media organizations. However, delays in the process and inaccuracies in the list of organizations provided by the District Court of Tirana jeopardized the appointment mechanism.<sup>51</sup> MMB members were often divided along political lines, thus failing to act independently and objectively. The late establishment of the MMB and its lack of collegiality reduced its effectiveness.

***Consideration could be given to enforcing the timely appointment of MMB members and to ensuring the process is inclusive of all the non-profit media organizations in order to identify suitable media professionals.***

The MMB did not provide the CEC with daily reports, as required by law, and submitted only three weekly reports containing a number of inaccuracies.<sup>52</sup> In addition, while legally required

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<sup>48</sup> In the Regular Report to the Permanent Council of 13 June 2013, the OSCE Representative on Freedom of the Media indicated that the law falls short of requiring politically inclusive governing bodies for the national broadcast regulator and the public broadcaster, therefore risking that both institutions would remain political instruments of the parliamentary majority. See: <http://www.osce.org/fom/102651>.

<sup>49</sup> The order of appearance was decided by lottery on 21 May. A gap in the Electoral Code for provision of free airtime to independent candidates led the CEC to adopt a decision requiring the public broadcaster to provide airtime to independent candidates.

<sup>50</sup> For instance, the two private TV channels with national license, *Top Channel* and *TV Klan*, are not included in the list of fees although they broadcast numerous paid political ads during the campaign.

<sup>51</sup> Only 14 of 54 non-profit organizations received the CEC notice and only eight proposed candidates.

<sup>52</sup> The first MMB weekly report contained statistics by coalition instead of by political party and omitted the airtime devoted to local government activities. In addition, the MMB calculation of compensatory airtime

to examine MMB reports at least once a week and to rule on the proposals made by the MMB or its individual members, the CEC examined only two weekly reports and did not consider requests submitted by the opposition-nominated MMB members. The CEC decisions for airtime compensation were not enforced effectively; hence the biases were not corrected by all the broadcasters. However, no formal complaints were lodged on media-related issues.

***Consideration could be made to further defining MMB duties and responsibilities, including procedures for dealing with complaints, and to increase training of media monitoring staff.***

Pre-recorded campaign material prepared by political parties can be broadcast in the newscasts but the law requires that it be clearly identifiable as propaganda in accordance with CEC instructions.<sup>53</sup>

On 3 June, the CEC adopted a controversial decision that implied a requirement for broadcasters to air tapes prepared by electoral subjects in their newscasts, disregarding a 2011 court ruling that overturned a previous CEC decision on the same matter. The 3 June decision hampered the editorial freedom of the media, exceeded CEC's regulatory power, and is inconsistent with OSCE commitments and Council of Europe standards.<sup>54</sup> It gave political parties an undue influence over editorial freedom of broadcasters, limiting viewer access to independent reporting. The People's Advocate (Ombudsperson) recommended the CEC to repeal its decision; however, the CEC did not respond before the end of the campaign.<sup>55</sup>

***Consideration could be given to amending Article 84.1 of the Electoral Code, to further clarify that any campaign material prepared by electoral subjects be marked as propagandistic material and to not oblige broadcasters to air such pre-recorded material in newscasts.***

### C. MEDIA MONITORING RESULTS



The OSCE/ODIHR EOM media monitoring findings showed that the media devoted extensive coverage to the elections.<sup>56</sup> The 6 monitored TV channels offered over 387 hours of airtime on election-related issues, within different types of programmes, including newscasts, free and paid airtime, information programmes, and debates. Broadcasters generally offered sufficient coverage of the major political parties, informing voters of the various political positions.

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to correct unbalanced media coverage of the small parliamentary parties was inaccurate as they are entitled to receive half of the amount of news coverage devoted to the large parties.

<sup>53</sup> CEC instructions merely required that the material be identified as belonging to the particular political party.

<sup>54</sup> See paragraph 9.1 of the 1990 OSCE Copenhagen Document, paragraph 26 of the 1991 Moscow Meeting Document, and paragraph I.3 of the Council of Europe Recommendation CM/Rec (2007), which states that "Regulatory frameworks on media coverage of elections should respect the editorial independence of the media."

<sup>55</sup> The recommendation was delivered to the CEC on 11 June. By law, the CEC had 30 days to respond. On 6 August, the CEC rejected the request of the People's Advocate to invalidate its decision. The delayed answer after the elections points to a lack of timely and effective resolution.

<sup>56</sup> The OSCE/ODIHR EOM monitored primetime (18:00-24:00) political coverage of six TV channels (TVSH, Top Channel, TV Klan, Vizion Plus, News 24 and Ora News), and four daily newspapers (Panorama, Shqip, Mapo and Shqiptarja.com) throughout the official election campaign period (24 May – 23 June).

The public broadcaster *TVSH* granted all contestants free airtime and the major political parties with equitable news coverage (40 per cent to the DP, 6 per cent to the government, 41 per cent to SP). However, it did not meet its legal obligation of impartiality in the news editions, providing the DP and the government with coverage in a more positive tone (45 per cent for the DP compared to less than 1 per cent for the SP). All other political parties received less news coverage, amounting to a total of only 13 per cent.

The monitored media also did not meet their obligations to provide parliamentary parties with less than 20 per cent of seats in the parliament half of the time guaranteed to the largest parties. Although at the discretion of the editors, media devoted very limited news coverage to the new contestants. The two major parties greatly exceeded the 90-minute limit of paid advertising, but the competent authorities did not detect or react to the violation.<sup>57</sup>

The private broadcasters varied in their coverage. *TV Klan* favored the DP, with 53 per cent of mostly positive news coverage, compared to the SP, with 28 per cent of often negative news coverage. *Top Channel* and *Vizion Plus* were more balanced in their coverage, even if a more negative tone was noted towards the government. The news channels *News 24* and *Ora News* provided wide and generally neutral coverage of the major parties. The print media showed some polarization, with *Shqip* and *Shqiptarja.com* mainly aligned with the opposition, and *Mapo* and *Panorama* with the ruling party.

Women candidates received marginal news coverage reflecting continuing issues with women's participation in political life. *TVSH* devoted only four per cent of its news coverage to women candidates. Private media showed a similar pattern.<sup>58</sup>

***To increase women's participation and campaign visibility, the public broadcaster could consider actively promoting women's participation by providing women candidates with greater news coverage, while the MMB could include a gender component in its media monitoring methodology.***

### **XIII. COMPLAINTS AND APPEALS**

Effective legal remedy and due process to resolve election-related grievances were not adequately guaranteed nor provided to electoral stakeholders, which went against paragraph 5.10 of the 1990 OSCE Copenhagen Document and paragraph II.3.3 of the Venice Commission's Code of Good Practice in Electoral Matters. The legal framework lacks clarity on an effective process for electoral dispute resolution. In key cases, the CEC, Electoral College, and Constitutional Court refused consideration of complaints or exceeded their jurisdiction. Electoral subjects rarely used available dispute resolution mechanisms, including for a reported lack of confidence in the election administration, courts, and law enforcement bodies, and due to the apparent practice of seeking political deals.

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<sup>57</sup> The OSCE/ODIHR EOM media monitoring revealed that the DP exceeded the 90-minutes legal limit on *TV Klan* (187 minutes), *Vizion Plus* (235 minutes), *News 24* (204 minutes), *Ora News* (226 minutes). SP exceeded the legal limit on *Klan TV* (148 minutes), *Top Channel* (148 minutes), *Vizion Plus* (161 minutes), *News 24* (125 minutes), *Ora News* (111 minutes).

<sup>58</sup> Article 4.1 of the United Nation Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) notes the possible use of "temporary special measures aimed at accelerating de facto equality between men and women."

Complaints against CEAZ decisions can be appealed to the CEC, although none were lodged in the pre-electoral period. CEC decisions can be challenged in the Electoral College.<sup>59</sup> The Electoral College adjudicated 15 complaints in the pre-election period; 8 related to party registration, 6 to the administration of the election, and 1 challenging a gender-quota fine. The Electoral College has ten days to adjudicate cases, which is an unduly lengthy deadline in a pre-election period.<sup>60</sup> According to some political parties, this protracted deadline deterred their filing of complaints in efforts not to stall the electoral process. According to Article 158.5 of the Electoral Code, decisions of the Electoral College are final. This is inconsistent with Article 43 of the Constitution, which guarantees the right to appeal a judicial decision to a higher court.

***Consideration could be given to reducing the deadline for the Electoral College to adjudicate pre-election day cases to three to five days (and not later than election day), to provide a right to judicial appeal, and to publish all Electoral College decisions.***

Moreover, the Constitutional Court is mandated under Article 131.f of the Constitution to decide on the final adjudication of the complaints of individuals for the violation of their constitutional rights to due process. However, the court refused jurisdiction to review such Electoral College decisions of due process adherence.<sup>61</sup> In addition, there are no deadlines for adjudication of due process adherence cases, even those related to the electoral process.

The SP appealed to the Constitutional Court challenging the constitutionality of the parliament's decision on seat distribution to the electoral districts. It argued that the parliament was not legally mandated to take a decision without the CEC's proposal and that its failure to apply the current population distribution statistics violated the equality of the vote. The Court refused jurisdiction over the case without sound legal basis, ruling that the claimant had not exhausted its legal remedies.<sup>62</sup> As decisions of the parliament are not reviewable by the Electoral College or any other court, other than the Constitutional Court, the claimant was denied access to legal remedy.

***The Constitutional Court should refrain from unduly refusing its jurisdiction to review Electoral College decisions and parliament's decisions for violation of constitutional due process guarantees; expedited deadlines for filing and adjudication of election-related complaints in the Constitutional Court should be provided in the law.***

Under the Electoral Code, only electoral contestants have the right to file complaints against election administration bodies. Voters and civil society groups could not challenge administrative decisions or other actions that impact their voting or public electoral rights, apart from for narrow exceptions.<sup>63</sup> Even the CEC's enforcement of gender quota provisions and regulations of media broadcaster obligations could not be challenged. Moreover, the

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<sup>59</sup> The Electoral College is comprised of eight judges selected by lottery among Court of Appeal judges prior to each national election. The right of political parties to each veto one Electoral College judge following their selection was repealed in 2012, increasing the body's independence. Its mandate is limited to hearing complaints against the CEC.

<sup>60</sup> See paragraph II.3.3.g of the Venice Commission's Code of Good Practice in Electoral Matters: "time-limits for lodging and deciding appeals must be short (three to five days for each at first instance)."

<sup>61</sup> Constitutional Court decision no. 53, issued 7 May 2013, is related to the 2011 municipal elections and is binding.

<sup>62</sup> Constitutional Court decision no. 35, issued 7 March 2013.

<sup>63</sup> Voters may only appeal against exclusion from the voter register and civil society groups may only appeal against decisions denying them accreditation as election observers.

public could not lodge administrative complaints of campaign misconduct. Such restrictions disregard the public interest in the electoral process.

***The Electoral Code should guarantee the rights of all interested parties to lodge administrative complaints against decisions and actions of election commissions, campaign misconduct, election day irregularities, and results.***

The CEC's failure to adopt a decision on the number of EAZs was challenged in the Electoral College. In its decision, the Electoral College established the number of EAZs, in contravention of the law, which requires it to order the CEC to make the decision.<sup>64</sup> In addition, in two cases involving the CEC's unlawful designation of a VC and BCC location, the Electoral College selected new locations instead of referring the matter back to the CEC. In these cases, the Electoral College assumed the administrative responsibilities and discretionary powers of the CEC.<sup>65</sup>

***The Electoral College should act within its jurisdiction, and compel the CEC to adopt required decisions. Any CEC decision with a discretionary component should be referred back to the CEC with an order to take a (new) decision. In the event that the CEC is ultimately not able to adopt such decisions, alternative mechanisms to address such impasses could be explored through an inclusive process.***

The Ombudsperson established a working group on election-related matters for the first time and urged civil servants under pressure to campaign or vote a certain way to file complaints, though very few did so. According to the Ombudsperson, citizens risk losing jobs or other repercussions if they file or support such claims.

The CEC is mandated to ensure adherence to the Electoral Code, including administrative prohibitions on the misuse of the state's material and human resources, adjudication of related complaints, imposition of administrative sanctions, and referral of criminal cases to law enforcement bodies.<sup>66</sup> However, when the SP legal representative to the CEC raised a complaint on the dismissal of two teachers for refusal to participate in DP campaigning, the CEC chairperson refused to open a discussion on the matter, labelling it as political.

The legal framework on the jurisdiction and process for handling of campaign-related administrative complaints is unclear, in particular, whether CEAZs (or only the CEC) have jurisdiction to adjudicate campaign-related complaints and the deadlines for their filing and adjudication. In addition, the jurisdiction of the CEAZs to handle complaints against VCCs and counting teams relating to conduct of voting and counting is unclear.<sup>67</sup>

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<sup>64</sup> Article 145.2 states, in part: "Electoral subjects have the right to appeal to the Electoral College against the CEC's failure to make a decision by the legal deadline. In this case, the Electoral College shall not judge the case on its merits and, if it accepts the request, shall compel the CEC to make a decision." Article 158.4 requires a maximum 10-day deadline be set by the Electoral College for the CEC to adopt its decision.

<sup>65</sup> In addition, in the two cases in which the Electoral College upheld complaints against the CEC's refusal to register political parties it registered the parties itself instead of ordering the CEC to do so.

<sup>66</sup> Article 21 of the Electoral Code establishes these competencies of the CEC.

<sup>67</sup> Article 33 of the Electoral Code provides that the CEAZs register claims from electoral subjects in the district and verify them, on a case-by-case basis. No complaints were filed to CEAZs during the pre-election period.

*The CEC could consider adopting regulations to develop a framework to file and adjudicate campaign-related complaints for electoral commissions at all levels, including clear jurisdiction and timelines.*

#### **XIV. PARTICIPATION OF NATIONAL MINORITIES**

National minorities are guaranteed equal rights under the Constitution and their rights were generally respected. While no reliable official data on minorities was available, it is assessed that the Greek and Roma communities are the largest. Smaller minorities include ethnic Macedonians, Bulgarians, Serbs, Montenegrins, Bosniaks, and Vlachs.

The law does not permit languages other than Albanian on TV advertising, which was interpreted by a local TV station to include election campaign spots.<sup>68</sup> Otherwise, electoral subjects campaigned freely in their preferred language. The CEC produced voter information material in minority languages, which was distributed to VCs in locations where Greeks, Vlachs, Montenegrins, Serbs, and ethnic Macedonians are concentrated.

Minority issues featured prominently in campaigns of only five parties, which focused on minority communities.<sup>69</sup> Few parties included minority representatives on their candidate lists. Disadvantaged communities, such as Roma or Egyptian, were reportedly more frequently targeted by illegal practices, including vote-buying, exacerbated by the widespread practice of block voting in these communities. Some local community leaders informed the OSCE/ODIHR EOM that a number of their members were disenfranchised due to the lack of proper ID cards.

#### **XV. CITIZEN AND INTERNATIONAL OBSERVERS**

The Electoral Code provides for citizen and international observation. Observers have the right to observe all aspects of the electoral process. In an inclusive process, the CEC accredited 8,504 observers from 28 NGOs and 17 media organizations, 615 observers from 9 international organizations, 125 observers from 15 diplomatic representations in Albania, 21 observers from six international media organizations, and 32 representatives of foreign election-management bodies. In addition, CEAZs accredited a large number of observers representing electoral subjects.

Citizen observers are nominated by domestic non-partisan NGOs. Political parties competing individually and independent candidates could appoint one observer per VC and counting table. Coalitions could appoint three observers per VC and counting table; however, a party that is a member of a coalition may not appoint observers independently. Citizen observers did not have the right to obtain copies of the record of closing of polls and the aggregate table of counting results or to file election-related complaints. Local and international media

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<sup>68</sup> In contravention of paragraph 32.5 of the 1990 OSCE Copenhagen Document: “persons belonging to national minorities have the right [...] to disseminate, have access to and exchange information in their mother tongue”.

<sup>69</sup> The HRUP and the Greek Ethnic Minority for the Future mainly targeted the vote of the Greek minority, while the Macedonian Alliance for European Integration and the National Tolerance Party focused on the ethnic Macedonian and the Roma and Egyptian minority vote, respectively. The Alliance for the Equality and European Justice targeted the vote of the Vlach community.

representatives had the right to access VCs and BCCs as observers; however, the Electoral Code lacks details on their rights and responsibilities.

*Amendments to the Electoral Code could provide for the accreditation of media representatives as such rather than as observers, and to afford citizen observers the same rights as partisan observers.*

A number of citizen observer groups reported on the preparations and conduct of the elections, and fielded observers on election day to VCs and BCCs across the country.

## **XVI. VOTING AND COUNTING**

### **A. ELECTION DAY**

Election day was generally peaceful and conducted in an orderly manner. However, a violent clash in the morning outside a VC in Lac resulted in the death of one party supporter and injuries to two others, including one candidate. While this and other isolated cases of violence negatively impacted the start to the elections, election day generally progressed peacefully.

On election day, International Election Observation Mission (IEOM) observers followed the opening of 124 VCs, voting in 1,297 VCs, the closing and transfer of material in 104 VCs, and the counting of 998 ballot boxes in 84 of 89 BCCs. The tabulation of results was observed in 25 BCCs. Voting was observed in 10 prisons and 8 hospitals, and 42 per cent of observed VCs were in rural areas and 58 per cent in urban.

The CEC announced an overall turnout of 53.50 per cent, with notable regional variations from 41.99 per cent in Vlore District to 61.55 per cent in Kukes. The CEC did not release preliminary turnout figures during election day citing problems in receiving full information on voter participation from lower-level commissions.

IEOM observers assessed opening procedures positively in 84 per cent of VCs observed, and negatively in 16 per cent, which is noted as significant. Delays in opening were noted in 71 per cent of VCs, for reasons including a lack of organization, arguments over procedures, the late arrival of VCC members or missing material.<sup>70</sup> Delays of more than half an hour were reported in 15 cases. In 12 cases observed, the record of sealing was not deposited in ballot boxes prior to the start of voting. In 24 VCs, individuals other than VCC members were interfering in the opening process. For unknown reasons, one VC in EAZ 88 Saranda (Vlore District) did not open for voting on election day.<sup>71</sup>

While voting was orderly and well-organized in 94 per cent of observations, observers assessed it negatively in 6 per cent, mainly because of undue influence in the process and some procedural irregularities. Observers gave a more negative overall assessment of voting in rural areas (10 per cent) compared to urban areas (3 per cent). Indications of possible ballot

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<sup>70</sup> In VC 2547 in EAZ 46 Cerrik, no ballots were present at the opening. Reserve ballots arrived only at 12:30 hrs. after which voting began. In VC 2178 in EAZ 42 Kavaje, a missing stamp delayed opening until 9:45 hrs. Most voting centres in EAZ 66 Otlak opened with a delay due to the late receipt of the voter list.

<sup>71</sup> IEOM observers noted the handover of unused election material from VC 4722 at the BCC in EAZ 88.



box stuffing were observed in three VCs.<sup>72</sup> In a few instances, voters were observed taking photos of their ballot inside the voting booth.<sup>73</sup> Instances of group/family voting were observed in 13 per cent of VCs, and more frequently in rural areas.<sup>74</sup> Ink-verification, one of several safeguards against multiple-voting, was not done consistently in some 28 per cent of VCs observed and was among the most frequently observed irregularities.

Proxy voting was observed in five per cent of VCs. In three per cent of VCs observed, one person was observed assisting multiple voters and one person attempting to influence voters for whom to vote. Multiple voting was observed in 13 VCs.<sup>75</sup> Voters IDs were checked consistently in 99 per cent of observations. Voters who were not on the list or lacked proper ID were generally not allowed to vote.

Necessary voter information material was present in most VCs and VCs were generally on display. Some 630 VCs (44 per cent) were assessed as not readily accessible for voters with disabilities, which is significant given the absence of provisions for homebound voting. Generally, the circumstances inside VCs provided for a transparent process. Overcrowding and tension was noted in seven and four per cent of VCs observed, respectively.

Partisan observers were noted present in some 88 per cent of VCs visited during opening, 89 per cent of VCs during voting, and 98 per cent of BCCs. Citizen observers were noted present in 35 per cent of VCs observed during opening, 22 per cent of VCs during voting and in two-thirds of BCCs observed. While the presence of observers added to transparency overall, partisan observers were observed at times directing or interfering in the process. This was observed in some 15 per cent of VCs visited during the opening and closing and at 8 per cent of voting observations. Those directing or interfering in the work of the VCC equally represented both the DP-led and SP-led coalitions.

***All stakeholders should respect a clear separation between partisan observation and the work of the election administration, and comply with the legal provisions.***

## **B. VOTE COUNTING**

The closing of polls and transfer of materials was observed in 93 cases and assessed as good or very good in 84 cases, and as bad or very bad in 9 cases. Most VCs closed on time with only ten closing with a delay of more than 15 minutes; three for more than an hour. Some irregularities were noted, mainly due to uncertainty over procedures. The numbers of the ballot box seals were not properly recorded in 10 cases and copies of the record of closing were not always given to those entitled (15 cases observed). In all but nine observed cases, materials arrived to the BCCs as prescribed within three hours, and accompanied by police.

Based on reports from 84 BCCs, observers assessed material intake as good or very good in all cases, but one. The process was generally transparent, although activities were at times

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<sup>72</sup> Non-randomly stacked ballots were observed in ballot boxes in VC 4190 in EAZ 77 Permet, VC 1942 in EAZ 37 Tirana, and VC 3192 in EAZ 59 Fier.

<sup>73</sup> Observed in Fier EAZ 60, VC 2998 and Vlore EAZ 86, VC 4601.

<sup>74</sup> IEOM observers noted that many instances of group/family voting were in fact assisted voting, which had not been requested as such by the voter or not recorded as such by the VCC, as required by law.

<sup>75</sup> In VC 2955, EAZ 57 Lushnje some 15 instances of multiple voting were observed.

affected by overcrowding, which was observed in 15 cases. Only one ballot box was observed being declared by the CEAZ as 'irregular' upon arrival.<sup>76</sup>

Ballot counting began with significant delays due either to lack of organization or deliberate obstruction by counting team members, mainly representing the ruling party.<sup>77</sup> In a number of BCCs, counting teams were not yet established or were still receiving training during the intake of ballot boxes.<sup>78</sup> Subsequent delays in the counting process were noted in locations where counting teams took extended breaks (noted in nearly half of BCCs observed). Counting teams were rarely observed working in shifts, as required by law.

The general environment for counting was positive in 84 per cent of cases observed and negatively assessed in 16 per cent. The presence inside the BCCs of an excessive number of authorized observers and unauthorized persons, who at times were observed interfering or directing processes, contributed to a negative assessment.<sup>79</sup> Based on 491 BCC observation reports throughout counting, observers noted tension between counting team members and observers (100 observations), and overcrowding (75 observations). In 15 per cent of BCCs followed, observers were placed too far from counting tables for meaningful observation, thus detracting from overall transparency. In 12 per cent of observations, premises were assessed by observers as inadequate for counting. The non-enforcement of the smoking ban inside most BCCs was noted by many observers as problematic, which hindered their observation.

***BCC layout should allow observers to properly follow all aspects of counting and results tabulation. While ensuring full and effective access, consideration could be given to limit numbers of partisan observers to reduce overcrowding.***

Ballot counting was generally an orderly, albeit slow process, and overall received a positive assessment. IEOM observers assessed the counting positively in 92 per cent and negatively in 8 per cent of observations, indicating some problems. Procedures for ballot validation were generally followed, and results were consistently recorded in the aggregate table of results.<sup>80</sup> In 32 per cent of observations, the ballot was not openly shown to contain two stamps and in 10 per cent of observations the total number of ballots was not established, contrary to the law. Observers noted in BCCs the presence of an average of 30 per cent women members of CEAZs, in line with the gender quota requirement, however generally few women were represented on the counting teams and among observers.

Only partisan observers are entitled to a copy of the VC results table. In some 10 per cent of observations they did not receive a copy upon request. At the end of the counting, in only half of IEOM observations did the CEAZs complete the aggregate table of results immediately, as required, detracting from transparency.

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<sup>76</sup> A ballot box in VC 3289 in EAZ 66 Otlak (Berat) was declared irregular due to improper sealing.

<sup>77</sup> IEOM observers noted disruptions of counting caused by the departure of counting team members proposed by DP *en bloc* in the BCCs in EAZ 37 Tirana and EAZ 77 Permet.

<sup>78</sup> Observations from BCCs in EAZ 17, 23, 31, 33, 35, 38 and 39. In BCCs in EAZ 2, 78, 79 and 89 counting teams only arrived after 06:00 hrs. on 24 June.

<sup>79</sup> Legal limits on the number of accredited observers from each coalition allowed in the BCC at any one time were not adhered to in a significant number of BCCs.

<sup>80</sup> An argument over 40 ballots cast for a party in the DP-coalition consistently marked with a second mark rose in EAZ 35. In the end they were accepted as valid and the second mark disregarded.

*Amendments to the Electoral Code could provide all accredited observers equal access to copies of the aggregated table of results of VCs and EAZs.*

The CEC began uploading preliminary results by VC on the early morning after the election. This enhanced transparency and helped to build trust in the integrity of the results.

## **XVII. POST-ELECTION DAY DEVELOPMENTS**

### **A. POST-ELECTION DAY DEVELOPMENTS**

All 89 CEAZs submitted aggregated tables of results to the CEC past the legal deadline on 24 June. Similarly, the CEC approved the aggregated table of results of most districts past the 48-hour deadline that applies after the CEC received all result tables from a district. Delays were mainly due to the CEC allowing political parties to review the results tables and negotiate matters prior to the tabulation of results, rather than the parties filing complaints against the tabulation of results after their approval, as required by law.

With notable exceptions, the CEAZs aggregated the tables of results in a satisfactory manner. In a few cases, where the CEAZs adopted unauthorized decisions not to count regular ballot boxes due to discrepancies revealed during counting, including indications of ballot box stuffing, the CEC ordered them to count the boxes.<sup>81</sup> The law does not provide a mechanism for CEAZs to inform the CEC of serious irregularities discovered during the counting process and to require the CEC to examine the materials and render an appropriate decision.

From 10 VCs in Lezhe (EAZ 13) the CEC received only photocopies of the aggregate table of results.<sup>82</sup> In all 10 cases the results tables displayed clear evidence of tampering prior to being copied. Article 123.3 of the Electoral Code stipulates that the CEC must base its decision on the results of the original VC tables of results. However, in contradiction of law and exceeding its powers, the CEC approved the aggregate table of results for Lezhe based on the preliminary results as transmitted electronically on election night.<sup>83</sup> The CEC decision was appealed by the DP.

### **B. POST-ELECTION DAY COMPLAINTS AND APPEALS**

The post-election complaints process is highly centralized. All appeals against results at any level must first be lodged with the CEC, and only after the CEC has approved the aggregate table of results for the relevant district. By law, the CEC in its four-member composition did not have authority to consider complaints against results, as it requires a qualified majority of five votes.<sup>84</sup> However, the CEC claimed it had legal authority to decide such complaints and undertook their adjudication. At the same time, the Electoral College does not have authority to assume the legal responsibility of the CEC to adjudicate in the first instance complaints

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<sup>81</sup> In line with the law, the CEC on 26 June ordered the counting of two ballot boxes of VCs 4709 and 4719, EAZ 89 Vlore, and on 1 July one ballot box of VC 3410, EAZ 80 Gjirokaster, in the CEC premises.

<sup>82</sup> The CEC provided the OSCE/ODIHR EOM with access to assess the photocopied result tables from EAZ 13 VC 0705/1, 0708, 0708/1, 0725, 0762, 0763, 0764, 0765, 0769, and 0770.

<sup>83</sup> See CEC decision 701 of 10 July 2013. The CEC stated that the CEAZ claimed not to have the original tables of results.

<sup>84</sup> As stipulated in Article 24.1.b of the Electoral Code.

against results, even in cases in which the CEC is unable to do so.<sup>85</sup> However, the court assumed such authority and adjudicated post-election day complaints in the first instance.

Some electoral subjects mistakenly filed complaints against results with the CEAZs during counting or to the CEC prior to its approval.<sup>86</sup> In addition, a significant number of complaints were returned by the CEC for lack of technical filing requirements. Delays in the complaint process occurred when the CEC disregarded legal deadlines by granting parties additional time to compile evidence to substantiate their complaints against the results.

The CEC received some 40 complaints challenging the results in some or all of the 12 districts, most filed by electoral subjects who claimed their votes had been misappropriated by other political parties during the count. Most complaints against the results, in particular those lodged by smaller parties, were routinely and perfunctorily dismissed for lack of evidence. Notable complaints were submitted by the DP and SP against the result of Lezhe District, by the RP against the result of Shkoder District, and by the SMI against the result of Kukes District; in all three districts only a narrow margin of votes separated the expected allocation of mandates.

In relation to Lezhe District, the CEC granted the DP's request to recount ten ballot boxes from EAZ 13; the recount confirmed tampering with the results.<sup>87</sup> Consequently, on its own initiative, the CEC ordered an administrative investigation (effectively a recount) of the remaining 248 ballot boxes from the district. The SP appealed the CEC's decisions in this case to the Electoral College on procedural grounds arguing that any CEC session on a complaint against the results requires a five-member quorum.<sup>88</sup> The Electoral College overturned the CEC's decisions and granted a recount of only the 10 initial boxes in question. The recount only slightly changed the results and the difference did not affect the allocation of seats.

In relation to Shkoder District, based on the RP's alleged irregularities in 79 VCs, the CEC initiated a recount of all 417 ballot boxes from the district. The recount revealed minor discrepancies in the results but did not change the allocation of seats. On appeal by the SP, the Electoral College overturned the CEC's decision to recount the entire Shkoder District on grounds that the CEC did not have the required five-member quorum to make a decision in the case.

In relation to Kukes District, the CEC dismissed the SMI's appeal after refusing to accept submitted video footage as valid evidence to support the claim. On appeal, the Electoral College accepted the video footage as evidence and satisfied the SMI request to recount ballot material from 15 VCs. The recount largely confirmed the approved results and did not affect

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<sup>85</sup> As stipulated in Article 145.2 of the Electoral Code.

<sup>86</sup> In breach of the law, the CEC adjudicated one such complaint prior to adopting the district result; the HRUP complaint alleged unlawful decisions of CEAZ 89 to abstain from counting two ballot boxes due to identified discrepancies; the CEC upheld the complaint and ordered the CEAZ to count the ballot boxes. In its decision, the complaint was improperly referred to as an "administrative request".

<sup>87</sup> On 9 August, the CEC voted to recommend criminal charges be laid against 7 commissioners, the secretary, and some 30 ballot counters of CEAZ no. 13 of Lezhe District for having falsified documents and manipulated the data on election results, and five commissioners of CEAZ no. 15 of the same region, for having abandoned their place of duty and taken with them the VCC stamps.

<sup>88</sup> Article 22.5 of the Electoral Code provides that CEC sessions are valid when at least four members participate except when decisions that require a qualified majority under Article 24 are being made.

the allocation of mandates, and the court ordered the CEC to amend its decision on the district results with the figures established in the recount.<sup>89</sup>

A number of appeals by smaller electoral subjects against CEC's decisions to dismiss their claims against the results were rejected by the Electoral College for various reasons.<sup>90</sup>

*Consideration should be given to establishing a more effective legal process for resolution of disputes on results, with a first instance court review and a right to judicial appeal. The CEC should examine in substance all relevant evidence in adjudicating post-election day complaints. The CEC could better inform electoral subjects of the legal process and of the technical requirements to resolve results-related disputes.*

### C. ANNOUNCEMENT OF RESULTS

On 2 August, the Electoral College assumed the legal powers of the CEC and allocated the mandates in all 12 districts as a result of the SP's appeal against the CEC's failure to take a decision to allocate the mandates due its lack of a five-member quorum.<sup>91</sup> Subsequently, on 6 August, the CEC announced the final results for the parliamentary elections. Of the 140 deputies elected to parliament, 25 are women (18 per cent). This falls short of the 30 per cent benchmark envisaged by the Law on Gender Equality and underscores the need for further action to achieve a balanced gender representation in the legislature.<sup>92</sup>

## XVIII. RECOMMENDATIONS

These recommendations as contained throughout the text are offered with a view to enhance the conduct of elections in Albania and bring them fully in line with OSCE commitments and other international standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. OSCE/ODIHR stands ready to assist the authorities of Albania to further improve the electoral process and in following up on the recommendations contained in this and previous reports.

### A. PRIORITY RECOMMENDATIONS

1. Consideration should be given to clarify the provisions of the Electoral Code defining normative and other acts that may be adopted only by a qualified majority and to duly harmonize the applied definitions with the Law on Administrative Courts.

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<sup>89</sup> In the process, the court accepted the counting of two ballot boxes though there was a discrepancy between the seal numbers on the boxes and the seal numbers recorded in the record book.

<sup>90</sup> The CEC rejected appeals by the independent candidate in Fier and the People's Demo-Christian Party against the results in Fier and the Movement for National Development against the results in Vlore for lack of evidence and by the Christian Democratic People's Party and the Albanian Pensioners' Union Party against results in all 12 districts for failing to meet the legal deadline for filing appeals

<sup>91</sup> Article 145.2 of the Electoral Code prohibits the Electoral College from allocating the mandates if the CEC fails to do so.

<sup>92</sup> Article 15 of the Law on Gender Equality in Society sets a 30 per cent benchmark for representation of both genders in parliament. It further requires political parties to "define methods and measures" to comply with this requirement and stipulates that they must pay a fine of up to one tenth of the state funds allocated to their campaign if they violate the provision and "until they undo the violation."

Additionally, all electoral regulations and amendments should be adopted and published in a timely manner.

2. To ensure equality of the vote, seat distribution among electoral districts should be based on current population distribution statistics, as required by law.
3. Amendments to the Electoral Code could be enacted to prohibit discretionary replacement of CEAZ members by political parties. Additionally, the legal deadlines for VCC and counting team nominations should be strictly abided by. Consideration could be given to introduce alternative appointment mechanisms, similar to those in place for CEAZs, when political parties fail to nominate their candidates for VCCs and counting teams by established deadlines.
4. Authorities and political parties could consider more resolute steps to ensure that pressure is not applied on public-sector employees, political activists or others to attend campaign events or vote in a particular way. Any such pressure should be investigated with perpetrators brought to justice in accordance with the law.
5. Consideration could be given to amending Article 84.1 of the Electoral Code, to further clarify that any campaign material prepared by electoral subjects be marked as propagandistic material and to not oblige broadcasters to air such pre-recorded material in newscasts.
6. The Electoral Code should guarantee the rights of all interested parties to lodge administrative complaints against decisions and actions of election commissions, campaign misconduct, election day irregularities, and results.
7. The Electoral College should act within its jurisdiction, and compel the CEC to adopt required decisions. Any CEC decision with a discretionary component should be referred back to the CEC with an order to take a (new) decision. In the event that the CEC is ultimately not able to adopt such decisions, alternative mechanisms to address such impasses could be explored through an inclusive process.
8. BCC layout should allow observers to properly follow all aspects of counting and results tabulation. While ensuring full and effective access, consideration could be given to limit numbers of partisan observers to reduce overcrowding.
9. Amendments to the Electoral Code could provide all accredited observers equal access to copies of the aggregated table of results of VCs and EAZs.

## **B. OTHER RECOMMENDATIONS**

### **Legal Framework**

10. It is recommended that criminal provisions on libel and defamation be fully repealed and replaced with civil defamation provisions so as not to unduly restrict the right to freedom of expression.

11. It is recommended that the Electoral Code be revised to address existing shortcomings noted in this and previous OSCE/ODIHR reports, including provisions to ensure equal rights for independent candidates.

### **Election Administration**

12. Institutional independence of the CEC should be ensured. To this end, stakeholders should act in a commensurate manner concerning their role in CEC activities and election officials should refrain from basing actions and decisions on political considerations.
13. Consideration could be given to introducing a gender quota for VCCs and counting teams within the election administration to coincide with other national legislation.

### **New Voting Technologies**

14. It is recommended that any implementation of the legally mandated EVS and ECS pilots be started well ahead of the next elections, including essential preparations such as enactment of detailed regulations and system testing.

### **Voter Registration**

15. Collaboration between central and local authorities on measures to reduce suspected duplicate records and the number of voters without a complete address code should continue and intensify in order to resolve the remaining issues with the accuracy of voter data.
16. Consideration could be given to discontinue the practice of removing voters over the age of 100 from VLs and introduce non-discriminatory measures to eliminate deceased voters.

### **Candidate Registration**

17. Consideration should be given to further promote women candidates. The existing provision allowing the CEC to reorder candidate lists could be enforced as well as considering other possible sanctions for non-compliance. The Electoral Code could also be amended to require more balanced and consistent positioning of women candidates throughout party lists.

### **Election Campaign**

18. The abuse of state resources, including human resources, for campaign purposes could be more effectively prevented through improved enforcement and by holding those in violation accountable.
19. Law enforcement bodies could increase efforts of identifying, investigating and prosecuting instances of vote-buying.

## **Campaign Finance**

20. To enhance transparency of campaign financing, it is recommended to oblige contestants to regularly report to the CEC all income and expenditures for campaign purposes and to require the CEC to publish preliminary campaign finance reports prior to election day.

## **Media**

21. Consideration could be given to enforcing the timely appointment of MMB members and to ensuring the process is inclusive of all the non-profit media organizations in order to identify suitable media professionals.
22. Consideration could be made to further defining MMB duties and responsibilities, including procedures for dealing with complaints, and to increase training of media monitoring staff.
23. To increase women's participation and campaign visibility, the public broadcaster could consider actively promoting women's participation by providing women candidates with greater news coverage, while the MMB could include a gender component in its media monitoring methodology.

## **Complaints and Appeals**

24. Consideration could be given to reduce the deadline for the Electoral College to adjudicate pre-election day cases to three to five days (and not later than election day), to provide a right to judicial appeal, and to publish all Electoral College decisions.
25. The Constitutional Court should refrain from unduly refusing its jurisdiction to review Electoral College decisions and parliament's decisions for violation of constitutional due process guarantees; expedited deadlines for filing and adjudication of election-related complaints in the Constitutional Court should be provided in the law.
26. The CEC could consider adopting regulations to develop a framework to file and adjudicate campaign-related complaints for electoral commissions at all levels, including clear jurisdiction and timelines.

## **Citizen and International Observers**

27. Amendments to the Electoral Code could provide for the accreditation of media representatives as such rather than as observers, and to afford citizen observers the same rights as partisan observers.

## **Voting and Counting**

28. All stakeholders should respect a clear separation of partisan observation and the work of the election administration, and comply with the legal provisions.



## Post-Election Day Developments

29. Consideration should be given to establishing a more effective legal process for resolution of disputes against results, with a first instance court review and a right to judicial appeal. The CEC should examine in substance all relevant evidence in adjudicating post-election day complaints. The CEC could better inform electoral subjects of the legal process and of the technical requirements to resolve results-related disputes.

**ANNEX: FINAL RESULTS**

Total number of voters on voter lists	3,271,885
Number of voters who voted	1,749,358
Percentage of voters who voted	53.46
Number of valid ballot papers	1,724,779
Number of invalid ballots	24,279
Percentage of invalid ballot papers	1.41

	<b>Electoral Subjects</b>		<b>Votes</b>	<b>%</b>	<b>Seats</b>
1	League for Justice and Progress	LDP	1,068	0.06	0
2	Christian Democratic People's Party of Albania	PPKDSH	416	0.02	0
<b>Alliance for European Albania</b>					
3	People's Alliance	AP	8,927	0.52	0
4	Liberal Right Ideas Party	MDL	1,210	0.07	0
5	Albanian Workers Party	PPSH	955	0.06	0
6	Human Rights and Unity Party	PBDNJ	14,722	0.85	1
7	Law and Justice	LiDr	2,489	0.14	0
8	National Unity Party	PUK	513	0.03	0
9	True Socialist Party 91	PSV 91	6,135	0.36	0
10	Party G 99	G99	2,977	0.17	0
11	Albanian Homeland Party	PSHA	555	0.03	0
12	National Reconciliation Party	PPK	545	0.03	0
13	Albanian Communist Party	PKSH	901	0.05	0
14	Green Party	PGJ	2,084	0.12	0
15	Albanian Workers Party Re-organized	PPSHR	623	0.04	0
16	Albanian Republican Union Party	PBR	489	0.03	0
17	Way of Freedom Party	PRRL	808	0.05	0
18	National Arbor Alliance	AAK	3,575	0.21	0
19	Social Democracy Party	PDS	11,891	0.69	0
20	Albanian Christian Democratic Party	PKDSH	7,993	0.46	1
21	Alliance for European equality and justice	ABDE	728	0.04	0
22	Environment Party	PA	452	0.03	0
23	Albanian Issues Party	PÇSH	476	0.03	0
24	Albanian Democratic Reforms Party	PRDSH	1,371	0.08	0
25	Albanian Communist Party 8 November	PKSH 8 Nëntori	1,352	0.08	0
26	Socialist Movement for Integration	LSI	180,470	10.46	16
27	Albanian Social-workers Party	PSP	2,174	0.13	0
28	Democratic Party for Integration and Prosperity	PDIP	4,550	0.26	0
29	Socialist Party of Albania	PS	71,3407	41.36	65
30	Party for Protection of Emigrant Rights	PMDE	2,275	0.13	0
31	Justice Movement of Albania	LDSH	508	0.03	0
32	People's with disability Party	PPAK	459	0.03	0
33	Demo-Christian Party of Albania	PLPSH	905	0.05	0
34	Workers Movement Party of Albania	PLPSH	316	0.02	0
35	Social-democratic Party of Albania	PSD	10,220	0.59	0
36	Albanian Future Party	PASH	2,284	0.13	0
37	New Tolerance Party of Albania	PTR e Shqipërisë	287	0.02	0
38	Moderated Socialist Party	PSM	3,119	0.18	0
39	Democratic Movement for Change Party	PLDN	1159	0.07	0
	<b>Subtotal</b>		<b>993,904</b>	<b>57.63</b>	<b>83</b>

<b>Alliance for Employment, Prosperity and Integration</b>					
40	Alliance for Democracy and Solidarity	ADS	1,065	0.06	0
41	New European Democracy	PDRE	970	0.05	0
42	Democratic Alliance	AD	1,384	0.08	0
43	Albanian Emigration Party	PESH	2,325	0.13	0
44	Democratic Party	PD	528,373	30.63	50
45	Republican Party of Albania	PR	52,168	3.02	3
46	Greek Minority for the Future Party	MEGA	3,305	0.19	0
47	Party of Denied Rights	PDM	554	0.03	0
48	The Hour of Albania Party	POSH	770	0.04	0
49	National Movement for Development	LZHK	5,429	0.31	0
50	Justice, Integration and Unity Party	PDIU	44,957	2.61	4
51	Democratic National Front	PBKD	2,242	0.13	0
52	New Party of Denied Rights	PDM e Re	550	0.03	0
53	Legality Movement Party	PLL	6,089	0.35	0
54	Demo-Christian Party of Albania	PDK	13,288	0.77	0
55	True Albanian Way Party	PRVSH	635	0.04	0
56	New Albanian Movement Party	PLSHR	2,320	0.13	0
57	National Front Party	PBK	4,868	0.28	0
58	Liberal-Democratic Union	BLD	2,681	0.16	0
59	People's Retirees Union Party	PBPPSH	406	0.02	0
60	Conservative Party	KONS	633	0.04	0
61	Albanian Demo-Christian League Party	LDK	1,190	0.07	0
62	Agrarian Environment Party of Albania	PAA	2,640	0.15	0
63	Alliance of Macedonians for European Integration	AMIE	1,229	0.07	0
64	Albanian Democratic Union Party	PBD	606	0.04	0
	<b>Subtotal</b>		<b>680,677</b>	<b>39.46</b>	<b>57</b>
65	Red and Black Alliance	AK	10,196	0.59	0
66	New Democratic Spirit	FRD	29,310	1.70	0
67	Arben Qamil Malaj	AQM	3,044	0.18	0
68	Dritan Vlash Prifti	DVP	6,164	0.36	0
<b>Total</b>			<b>1,724,779</b>	<b>100</b>	<b>140</b>

## ABOUT THE OSCE/ODIHR

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

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

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

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

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

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

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

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

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