



# KOMITETI SHQIPTAR I HELSINKIT ALBANIAN HELSINKI COMMITTEE

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## FINAL REPORT ON THE CONDUCT OF THE ELECTORAL PROCESS OF JUNE 21, 2015

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Kingdom of Sweden



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- **ABBREVIATIONS**

- AHC - Albanian Helsinki Committee
- CEC - Central Election Commission
- EC - Electoral Code
- ZEAC - Zonal Election Administration Commissions
- VCC - Voting Center Commissions
- VC - Voting Centers
- IEPD - Institutions for the Execution of Penal Decisions
- PDI - Pre-Trial Detention Institutions
- VCG - Vote-Counting Groups



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## I. Introduction

The Albanian Helsinki Committee (AHC) is a non-governmental non-profit organization founded on December 16, 1990, and then registered as an association based on the law “On non-profit organizations.”

*AHC’s mission is to contribute to the protection and promotion of human rights and freedoms and the strengthening of the rule of law.*

In this context, AHC has monitored all electoral processes conducted in Albania since 1996, evaluating the fulfillment of Copenhagen criteria, the constitutional right to elect and be elected, and has prepared and presented reports regarding its findings and recommendations on how to improve the situation in these directions.

In order to monitor the June 21, 2015, elections, AHC engaged about 90 long-term observers, its 7 district correspondents, and 8 staff members, all accredited according to law by the Central Election Commission (CEC). Observers were trained in advance with regard to the most important aspects of the Electoral Code (EC) as well as the methodology of monitoring to be applied for monitoring these elections for local government bodies. We made available to observers instruction materials, semi-structured questionnaires and other materials necessary for the realization and smooth conduct of the observation.

The monitoring of the electoral process covered all of its phases, starting with the preparatory period, the electoral campaign, voting day and partially the vote count. Monitoring also covered the activity of part of the electoral administration of all levels; the activity of public bodies tasked by law with duties for the preparation of elections; the activity of electoral subjects engaged in the elections; and the conduct of voters. We paid special importance to sensitizing and informing voters, particularly first-time voters, or belonging to vulnerable groups in order to urge them to participate in the voting and exercise their right to vote freely and not influenced. To sensitize and inform voters, we organized two civic forums with the participation of candidates for mayors and municipal councils, which were held in Elbasan and Gjirokastër.

On voting day, AHC **monitored about 600 voting centers**, in the country’s main 9 municipalities such as Tiranë, Durrës, Gjirokastër, Elbasan, Fier, Shkodër, Vlorë, Kukës, Korçë, etc., about 40% of ZEACs around the country and 10% of the VCs. **We also observed 8 vote-counting centers**, part of the ZEACs where monitored was conducted.

In this report, we have focused on some main aspects that related to the electoral process such as: announcement of preliminary and final voter lists; accessibility of voters to these lists; enabling the right to request the correction of voter lists; notifying voters in their residences about their inclusion in the lists and the center they should go to for voting; conduct of the electoral and informative campaign for voters; enabling communication and familiarization of voters with candidates on the lists; functioning of the CEC, ZEACs, and Voting Center Commissions (VCC); training of their members; conduct of the voting and vote-counting process; fulfillment of duties by different public bodies that the law has tasked competences in this regard, etc.



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This report is drafted mainly on the basis of data and information collected by AHC members; however, on some aspects, we have used information provided by media and other civil society organizations.

AHC wishes to thank all of its observers and correspondents in the country's 9 main municipalities for their professionalism, impartiality and dedication. Likewise, we thank the U.S. Embassy in Tirana and the Swedish organization Civil Rights Defenders (sub-contractor of the Kingdom of Sweden), which made possible our activities during this electoral process by funding our projects.

## II. Executive summary

Voting on June 21, 2015, was conducted for the election of **61 mayors** and **1,595 members of municipal councils**, according to the new administrative-territorial division, which went into effect in 2014. The **Assembly of Albania, although late, completed the number of CEC members and** approved some amendments to the EC, which consisted in establishing the criterion for equal representation between genders in the lists of candidates for members of municipal councils as well as some other amendments of a technical character. **Increasing the gender quota represents an important step that enabled the increase of the number of women by over 49% in municipal councils emerging from these elections.** However, **amendments to the EC were done late, without the appropriate transparency and involvement**, especially of voters' representatives. Also, these amendments did not include the OSCE/ODIHR recommendations made in the previous elections. Political forces of the majority and the opposition did not find consensus among them to realize in a timely manner the full review of the EC. As a result, amendments made to the electoral law delegated to the CEC a series of additional competences only for the electoral process of June 21, 2015 (*see item 3 of article 184 of the amended EC*). A total of **90 CEAZs** and **5,299 VCs** were established for the administration of these elections. Registration in these elections included **63 political parties** as electoral subjects and most of them were included in coalitions except for 11 of them that ran alone. Some independent candidates for mayors were also registered. The final voter list included a total of **3,370,206 voters** (according to the GDCR), of which **1,613,019 voted**, which is **47.86 %** of them.

Registration of electoral subjects and their candidates, as well as of independent candidates, was conducted within the deadlines envisaged in the EC, but the CEC and the Electoral College received many complaints regarding the process conducted by the ZEACs for this purpose. In the end, **about 36,250 candidates for municipal council members and 162 candidates for mayors were registered.** Political groups in the Assembly and representatives of international bodies accredited in the country presented the issue of "decriminalization" of lists of candidates and public power structures. However, reaction was confined to the level of political rhetoric and did not lead to improvement of legislation or concrete significant actions in this regard. With some rare exception, there were no interventions by electoral subjects to avoid candidates suspected of incrimination. Justice bodies did not provide information or proper assistance to clarify situations about concrete candidates and did not present facts in this regard. Voters were not fully informed regarding the names of concrete candidates suspected of being incriminated and the



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political forces that had included them in their lists. The process for the registration of candidates and members of municipal councils was the subject of opposition and decision-making by the CEC as well as in the Electoral College, but these bodies did not demonstrate consistency in arguing their decision-making. These bodies demonstrated problems in their reasoning and timely publication of their decisions, which harmed transparency before the public. Electoral legislation appears to have shortcomings with regard to the right to be elected and it allows incriminated candidates to run for office. However, it was significant that small political parties with their own lists of candidates as well as independent candidates ran participated in these elections, some of whom were clearly voted by voters. There were 16 female candidates for mayors, 9 of whom were declared winners.

**The electoral campaign began long before the legal deadline.** The CEC reacted about this, but did not punish electoral subjects that continued to campaign in violation of the law. In the pre-election period, the situation of security and order was calm, but the political environment was relatively tense because of mutual accusations by representatives of coalitions created in the context of these elections, who in some cases went beyond rules of social and political ethics. The larger political parties conducted intensive electoral meetings with voters, accompanied by large spending, which was particularly noticed in the ruling coalition. **There were claims regarding the lack of transparency of electoral subjects regarding the funding of their campaigns,** particularly the acceptance of funding from private individuals and businesses, alleging favors promised by candidates should they emerge as winners. This is an issue that should be verified persistently and carefully by relevant bodies as it relates directly to the realization of free and fair elections.

Candidates for mayors appeared before the public with concrete promises, but candidates for members of municipal councils were not introduced and did not communicate with voters, with few exceptions. As a result, it was not clear to see representation in lists of inhabitants of rural areas that are attached to the municipalities created after local government reform and merits or skills of candidates for council members were not made known to voters. There were again cases of the use of the administration and public means in the electoral campaign, although in a more limited number of cases than in previous elections.

It results that in these elections, **voter lists were of higher quality** than before. The extracts of electoral components generally were posted every month. However, in some cases, they were only posted in the last two months and in a way that did not enable full access of voters. It appears that requests to change electoral components in the preliminary lists were relatively scarce. The final voter lists **included 3.370.206** citizens with the right to vote, of which **1.613.019, or 47.86 %** of them voted.<sup>1</sup> The voter lists included about 1 million citizens who are in emigration abroad. About 7,000 Albanian citizens entered border crossing points to vote in the south of the country. **It is necessary to improve legislation in this regard, in order to really enable the right to vote for voters who live abroad and to perfect and unify legislation regarding the definition of the place of residence of citizens, which is the main element for the inclusion of citizens in the voter lists.** Notification of citizens in their residences in a written form, regarding

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<sup>1</sup> Data was taken from the official CEC website on 26.06.2015



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involvement in lists and the relevant voting center, as well as voter sensitization, left to be desired.

**The CEC coped well with the activity of administering the electoral process, being more efficacious and operative**, in the circumstances when electoral legislation was not improved in all aspects identified as needing improvement. There were cases of lack of consistency in arguments used for decision-making. We noticed that there were changes or replacements of CEAZ members before and after the voting process. This did not help their effective training and the proper functioning of these bodies. The performance of the second and third-level electoral administration (CEAZ and VCC) **did not show particularly good capacities in managing elections**. It appears that the quality of training and the frequent replacement of commission members were factors that influenced the lack of skills and knowledge on rules of election administration.

**The Election Day was generally calm and voters voted freely and without pressure**. There were claims, by all sides, regarding vote buying or pressure exerted on voters, but such cases were not reported to the prosecutor's office, except for cases of abusive addition of voters in Durrës, Kavajë and Vorë, which were reviewed or are being reviewed by competent authorities.

**The voting process generally took place in accordance with the law, however** the CEC did not guarantee that all electoral materials were prepared in the proper quantity and quality and did not realize their distribution within deadlines envisaged in the EC. In more than 50% of the VCs monitored by AHC, voting began late, starting 15-40 minutes late and in some cases even later. In some few VCCS, the organization of the Voting Centers was done in the wrong way and the secret booth did not guarantee the secrecy of the vote; however, in most cases, commissions accepted reservations made by observers and corrected the situation. We noticed symbols of political subjects in the vicinity of VCs, in violation of the law, which should have been removed before voting began. There was a decline in family voting compared to previous elections, but measures were not always taken to enable, according to law, the exercise of the right right to vote by voters with disabilities. In some special institutions such as regional hospitals, VCs were not established although the legal conditions regarding number of patients and duration of their stay in the institution were met. As a result, voters with health problems were not always able to vote.

The CEC accredited a large number of domestic and foreign observers. The VCCs were more open toward reservations fo observers, domestic and foreign, regarding violations noticed during voting, which were only partially made part of pertinent protocols according to law.

**Overall, the conclusion of the voting process was done at the time and in the manner prescribed by law**. The process of accompaniment of ballot boxes with VC documentation and the start of the counting process were generally done in respect of procdures envisaged in the EC, but in some CEAZs, counting did not begin at the time envisaged by law because counters were not appointed and because they were not trained on time. In general, we find that the counting process continued beyond the legal deadline. The process was interrupted, time after time, because VCG members asked for time to rest or other reasons.



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The public acceptance of results and congratulations by opposing candidates for winning ones in Tiranë, Shkodër, Fier, etc., showed emancipation and a rise in the democratic culture of these candidates.

State Police carried out its duties with professionalism and impartiality. It was on standby to preserve order and calm, overseeing VCs and the conduct of the electoral process, but maintaining adequate distance from it. However, the problem remains that the lack of legal provisions and the manner of organization of work of police **did not allow the exercise of the right to vote by a large number of State Police officers.**

The media extensively covered the electoral process, but there were also violations of time available for smaller electoral subjects or independent candidates. A problem remained for the media with the coverage of electoral events of the larger political parties through the use of material prepared by electoral subjects themselves. Some investigative media tried to shed light on incriminated candidates and gave the public the only scarce information in this regard.

**Electoral subjects made their contribution to the preservation of calm and the conduct of calm elections.** Political party leaders called on voters to vote and explained the importance of these elections, but in some cases, their representatives conveyed tension through the used language and by manifesting incorrect behavior. Political electoral subjects are the main responsible parties for the failure to clean up the lists of their candidates from incriminated persons. Overall, electoral silence was respected, but electoral subjects mobilized and sent numerous observers and militants to VCs, which caused confusion and concern among voters.

**The behavior of voters was best** among subjects involved in these elections. They voted calmly and generally respected rules of the process. they were more willing to publicly declare pressure and attempts for vote buying, but did not report these actions to competent justice bodies.

### **III. Measures for the preparation of elections and the electoral campaign**

The President of the Republic, by decree no. 8844, dated 15.12.2014, established June 21, 2015, as the day for holding the elections for local government bodies. **The electoral campaign began many days ahead of the legal deadline prescribed by article 77 of the EC.** The CEC reacted on this issue, albeit late, but did not demonstrate consistency to punish electoral subjects that continued to carry out their electoral campaigns in violation of the law.

During the pre-election period, as well as during the campaign for the introduction of candidates and their programs, the security and order situation in the country was generally calm, but the political environment, was relatively tense, due to mutual accusations between majority and opposition representatives in the Assembly and the lack of cooperation between them. In some cases, representatives of political subjects went beyond rules of social and political ethics, which had a negative impact on the public. The lack of consensus to undertake the necessary legislative and organizational initiatives about the electoral process also had a negative impact in this regard. There were also sporadic



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incidents, albeit without serious consequences, such as in Durrës, Lezhë, Peqin, Paskuqan, etc. AHC reacted publicly on the Durrës incident of May 2, 2015, whereby militants of opposing political forces intervened during the rally organized by the DP candidate for mayor.

Public calm and security had a positive impact on the conduct of the electoral campaign and on the taking of measures to prepare the elections and also enabled the proper environment for voting day.

The process for the registration of candidates and members of municipal councils was the subject of controversy and decision-making at the CEC, as well as in the Electoral College, but these bodies did not demonstrate consistency in their arguments for their decision-making. In some cases, the CEC manifested problems in the solution, reasoning and publication in a timely manner of its decision, which harmed transparency to the public. Some decisions were issued in the absence of a legal basis with the reasoning that the body had to provide solutions for all problems manifested during the electoral process. **Electoral legislation apparently does not provide equal regulation for independent candidates and those included in the lists of electoral subjects with regard to the constitutional right to be elected.** As a result, independent candidates faced greater difficulties than candidates on lists of political subjects in meeting legal requirements for registration as candidates. Also, legislation does not envisage the right of independent candidates for mayors to have the right to present their list of municipal councilors. In this regard, we found that in few cases, in large municipalities, where several ZEACs were established and therefore registration of candidates was done by the CEC, the relevant ZEACs did not have any information about registered candidates. This was encountered in Korçë ZEACs.

However, a significant indicator was the extensive participation of smaller political parties with their lists of candidates in these elections as well as of independent candidates, some of whom were evidently voted by voters. There were 16 female candidates for mayors, 9 of which emerged as winners, and the gender criterion was respected in the lists of candidates for councilors. This considerably increased women's participation in local government bodies.

The large political parties, represented mainly by their chairpersons, held intensive electoral meetings in different areas of the country. Their campaigns were accompanied by large spending, especially as seen in some of the political forces of the ruling coalition. Claims were made about the lack of transparency on the part of electoral subjects regarding campaign financing, especially funds donated by private individuals and businesses, alleging of favors promised by candidates if they emerged as winners. Although AHC was not able to find concrete evidence in this regard, we strongly raise the concern that this is an issue that should be verified carefully by relevant bodies. Clarifying the situation of financing obtained by electoral subjects for their campaigns would make the electoral process fairer and more credible and would prevent any illegal interference or influences on elected bodies.

Candidates for mayor made efforts to appear before voters during the campaign with concrete programs and informed the public about their personal qualities and achievements, but the presentation of candidates for councilors in most cases did not happen and the





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public didn't get to know them, didn't learn about their places of residence or the qualities they had. Heads of electoral subjects campaigned mainly with party programs and built their campaigns based on denigrating accusations against opposing political forces.

Electoral legislation regulates the way media airtime is divided between candidates of different electoral subjects. Based on the reports by the Media Monitoring Board, the CEC has fined some national and local outlets and has decided that they should make up for airtime in order to reach political balance.

Compared to past elections, there were fewer cases of the use of public administration employees or vehicles used in the electoral campaign. However, the use of the public administration, students and public services employees for campaign purposes should end; there was information from the media and some NPOs that investigated in the field on such cases; those responsible for ordering such instances should be held accountable according to law.

The above shortcomings were reflected also in media programs as they mainly reported campaigns through materials prepared by the electoral subjects themselves and therefore, voters, especially young ones but not only them, raised the concern that they did not receive adequate information about candidates.

#### **IV. Preliminary voter lists (extracts of electoral components) and final voter lists**

The final voter lists for the Local Elections of June 21, 2015, featured a total of **3.370.206** registered Albanian citizens eligible to vote, of which **1.613.019** voted, or 47.86 % of them. When assessing the degree of voter turnout, one should take into consideration the fact that the voter lists include about **1 million citizens who live abroad, in emigration**, and their possibility to participate in voting, without coming to Albania, has not been legally regulated. Nevertheless, it was reported that the last few days before voting day, about 7,000 Albanian citizens who are believed to have voted crossed through the southern border crossing points. The head of the Delegation from the Council of Europe's Congress of Local and Regional Authorities Stewart Dickson said, "*It is not normal that the voter list include 1 million voters who live out of Albania. Local issues should be determined by citizens who actually live together.*" Other subjects and experts have presented views about a revision of legal provisions that establish the criteria about the drafting of the voter list for local government elections, presenting not only the arguments outlined by the Constitutional Court by decision no. 40, of datë, 16.11.2007, but also the fact that the presence of the names of such a large group of voters who are highly unlikely to really participate in voting leaves room for abuse. In the mentioned decision, the Constitutional Court said "*...However, the right to vote is not absolute; it may be subject to limitations.*" In these circumstances, AHC is of the opinion that the issue deserves to be studied and addressed in order to find the best solutions without violating the right to vote beyond accepted standards and on the condition that any limitations on this right are scarce and within constitutional boundaries, without harming its essence,<sup>2</sup> because the right to vote is not a privilege that the state recognizes for citizens, but an instrument to select the manner and persons that will govern them. In fact, this has to do with the very essence of

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<sup>2</sup> Decisions of the European Court of Human Rights, *Matthews vs. the United Kingdom*, No. 24833/94, (1999); *Labita vs. Italy*, No. 26772/95, (2000).



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democracy. However, there appears to be a broad approach among democratic countries with regard to the relationship between the place of residence and the right to vote when it comes to the election of local government bodies. On this issue, the German Constitutional Court states, *“In this sense, the place of residence is the central point of a man’s vital relations. It is a legal requirement that the person has a main place of residence, within a given jurisdiction, in order to vote, be employed or expect other benefits within this jurisdiction. The condition to have the place of residence in the electoral area is one of the limitations of the right to vote, which together with the criterion of citizenship seek to establish a direct, albeit minimal, relationship between the voter and the final election result. That is the way to ensure the legitimacy of vote in a certain area.”*<sup>3</sup>

Based on our partial observations, it results that in these elections, **voter lists were drafted better and more accurately than in previous elections.**

Preliminary voter lists with the extracts of electoral components, in general, were posted every month. However, in some cases, their posting was only done in the last two months, or they were posted in such a way that did not enable full access of voters. Errors on the list were highlighted by the Civil Registry Offices themselves and more rarely based on voters’ complaints. The latter, according to information obtained from local government bodies and relevant civil registry offices, were relatively scarce. The encountered or referred errors were corrected before the posting of the final voter lists.

Political parties made allegations of fictive registration of voters in the Municipalities of Durrës, Kavajë and Vorë. The prosecutor’s office began criminal investigations into these allegations and the investigations were not complete before voting day and, as a result, these persons were allowed to vote in the VCs of cities where they had been recently registered. The fast and objective investigation of this issue would help resolve the truth, hold accountable those responsible and, therefore, make the electoral process more credible and fairer in these cities. **The investigation of these accusations should go to the very end, although elections are over, and if it results that certain officials enabled, in violation of the law, the inclusion into voter lists of the mentioned cities or allowed that other persons vote on behalf of voters living abroad, they should be punished according to the law.**

In some cases, the voter lists were posted in places that were not appropriate and not easily accessible by voters, too high to be seen with a plain eye, or were posted in public premises, mainly educational ones, which were closed in the afternoons and citizens could not consult them.

Until 12.06.2015, AHC found a very small number of requests by citizens to courts to enable them to exercise their right to vote, but they increased as voting day drew nearer. A request made by a citizen to the Korçë Judicial District Court **pointed to the issue of material competence for the review of such requests. The conflict of competence was presented for review to the High Court. The Tiranë Judicial District Court and other courts held a different position; they decided to review themselves the requests of voters to be enabled to exercise the right to vote, based on EC provisions.** Different Institutions for the Execution of Penal Decisions (IEPD) and Pre-Trial Detention

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<sup>3</sup> See decision of the Federal Constitutional Court of Germany BVerfGE 36, 139/142.



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Institutions (PDIs) informed us that persons deprived of their liberty, through the staffs of these institutions, presented a large number of requests to the relevant judicial district courts to request the right to exercise their vote because they had not been involved in the final voter lists.

In these elections, the General Directory of Prisons, in reference to article 18/1 of Law no. 10,129, dated 11.05.2009, “On civil registry offices,” asked the transfer of the place of residence of persons deprived of their liberty from the one where they had been living before starting to serve their terms to the territory of the administrative units where the IEPDs or pre-trial detention institutions are located, where the convict or detainee is accommodated. As a result, many convicts and detainees became part of the voter lists of VCs opened at the relevant IEPDs or pre-trial detention facilities.

**In the above case, AHC has found a conflict of legislation in force and, as a result, suspicions on the correct application of the law by relevant state institutions.** We emphasize that Law no. 10 129, dated 11.05.2009, “On the civil registry,” which has been applied by the General Directory of Prisons and the General Directory of the Civil Registry is in contravention of article 14 of the Civil Code, which stipulates that **the place where a prison term is served is the place of stay and not the place of residence of the person**, while article 18 of the Law “On the civil registry” enables the change of the place of residence if the person deprived of his liberty has been staying for over three months in a certain IEPD or pre-trial detention facility. On the other hand, articles 56/1 and 165 of the EC establish that eligible voters are included in the voter lists of the VCs **in the territory where their permanent place of residence is** and that they **vote to elect local government bodies of their permanent place of residence**. Thus, the basic criterion for the inclusion of eligible citizens in voter lists **is the place of residence**, but the Civil Code and Law no. 10 129, dated 11.05.2009 “On the civil registry,” have different definitions for this concept. Based on the principle of the hierarchy of legal norms (article 116 of the Constitution), the Civil Code has greater legal power. On the other hand, in its **Decision no. 40 of 16.11.2007, the Constitutional Court** argues that “...in the case of local elections, the right to vote is connected to the place of residence and that there should be a closer and more direct connection between the voter and the elected.” Further on, the Constitutional Court states, “...The Constitutional Court deems that conditioning the right to vote with the concept of the ‘place of residence’ in the contents of the provision of article 63/3 of the Electoral Code does not make it unconstitutional; to the contrary, it guarantees the direct expression of the voter’s will for the heads of the local unit he lives in.” which is difficult to prove in the case of persons deprived of their liberty and who while serving their term may change their place of stay through different penitentiary institutions, for a wide variety of reasons. The prison administration may decide on this on the basis of interests of the administration of prisoners; it may come as a result of approval of requests by prisoners; it may be the result of a judicial decision or out of the need for special treatment of the person deprived of his liberty, such as health treatment, etc. As a result, the place of stay of these citizens deprived of their liberty lacks stability. Therefore, **AHC is supportive of the revision of the situation of domestic legislation in this regard and suggests its improvement and unification as soon as possible, in order to avoid any misinterpretation or potential misuse of the right to vote of persons deprived of their liberty, in the context of local elections.**



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## V. Informing and sensitizing voters

Based on meetings with first-time voters in rural areas, but not only them, AHC has found **lack of information and sensitization of voters** regarding lists of extracts of electoral components as well as final voter lists or the importance and possibility to correct them. Different voters we contacted, especially those from the Roma community and the Serb-Montenegrin, Greek and Macedonian minorities **presented to us the concern that their notification in writing in the place of residence, regarding inclusion in the voter lists and the relevant voting center had not been done as prescribed by law** (article 51, EC). Nevertheless, we found that in some municipalities, this notification had been done properly, such as in Lushnje, Berat, Korçë, etc. **The Ministry of Interior did not allocate according to law the special funds for this purpose (article 50, EC)** and in the places where notification had been carried out, it had been covered by funds of the relevant municipalities.

In the pre-election process phase, media continued to remain focused mostly on debates of a political character and did not assist as much as they should have the sensitization and informing of voters about the voting process. Only a group of local NPOs, funded mainly by the U.S. Embassy in Tirana, conducted informing and sensitizing activities for voters, but in our opinion that is not sufficient to have a broad public impact. In the last days before the vote, the CEC prepared and aired in broadcast media some publicity spots and produced sensitizing posters about the manner of voting. It was also noticed that some heads of political subjects and their candidates in these elections, in the last days before the vote, called on voters to take part in the voting. It remains a duty for the election administration and public institutions to work more in this regard.

Political groups in the Assembly and representatives of international organizations accredited in the country raised the issue of “decriminalization” of lists of candidates or of structures of public power. However, the reaction of the main political subjects of the country remained at the level of political rhetoric and did not bring about improvements in legislation in this regard. With some rare exception, there were no concrete actions to avoid candidates suspected of being incriminated. Justice bodies did not provide any information or the proper assistance to clarify situations about concrete candidates and did not bring facts in this regard. **Voters remained completely uninformed with regard to the names of concrete candidates suspected of being incriminated and the political forces that had included them in their lists.** They expressed concern especially about the integrity of candidates because they did not wish for their vote to go in favor of incriminated candidates. This deficiency of the campaign, together with the failure until the end to clarify cases of incriminated candidates, kept voters from independently creating an inner conviction that would guide them in casting their vote.

## VI. Election administration

On the basis of the law, the administration of elections is carried out by the CEC, ZEAC, VCC and Vote-Counting Groups (VCGs). The activity of the electoral administration of the second and third level (ZEAC and VCC) sometimes showed poor capacities for election management. It appears that the quality of the training and the frequent replacement of



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commission members are factors that affected the lack of skills and knowledge about rules of election administration.

### *a) Central Election Commission (CEC)*

**AHC monitored partially the functioning of the CEC, whose meetings were open.** These meetings addressed all of the issues and took decisions, with proper transparency, regarding different aspects of the organization of the electoral process. AHC is of the opinion that **the CEC generally coped well with the activity of the election administration process, being more efficacious and operational than in the past.** It tried to provide solutions for the numerous problems it was presented with, manifesting initiative and “courage,” in the circumstances when electoral legislation was not improved in all of the directions where needs had been identified. However, the CEC did not ensure that all electoral materials were prepared in the proper quantity and with the proper quality and distributed them beyond deadlines envisaged in item 1, article 99 of the EC (*as in ZEAC no. 23, 29, 31, 35, 37, 39, 42, Tiranë Municipality, ZEAC no. 78, Gjirokastër Municipality, ZEAC no. 81-84, Vlorë Municipality, ZEAC no. 71 and 72, Korçë Municipality, etc.*).

In the functional aspect, with regard to the approval of decisions and instructions, the CEC performed better than in previous elections. However, CEC’s decision-making was not always convincing with regard to being based on legislation in force and in some case, members were not able to avoid the influences of the political forces that selected them. There were cases of lack of consistency in the arguments for decision-making by this body. AHC has reservations with regard to CEC’s decision-making that maintained contradictory positions for the cases of candidates for mayor in the Municipalities of Kurbin and Këlcyrë. In the first case, the CEC was strict in abiding by the legal procedure for the registration of candidates, according to the EC, while in the case of the de-registration of the candidate for mayor of Këlcyrë Municipality, the CEC in the absence of a clear legal basis.

### *b) Zonal Election Administration Commissions (ZEACs)*

**ZEACs were established late<sup>4</sup> due to delayed amendments to the EC.<sup>5</sup>** The creation of conditions for the smooth functioning and necessary transparency on the activity of these bodies of election administration left to be desired. AHC encountered lack of materials/logistics, inappropriate working premises, in some cases, ZEACs in the municipality building, in violation of article 93, item 2/b of the EC as in Përmet, Tepelenë, Korçë.

With rare exceptions, the ZEACs had not posted on their office door the composition of the commission, the working hours and agenda of planned meetings. This obstructed transparency over the activity and decision-making of these election administration bodies, making it difficult for AHC observers and others to obtain information regarding aspects of election administration.

**We noticed that there were changes or replacements of ZEAC members, both before**

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<sup>4</sup> See AHC statement “No delays in establishing ZEACs,” April 8, 2015

<sup>5</sup> See AHC statement “Delays have consequences on the electoral process,” February 13, 2015



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**and after the voting process. This fact did not help the effective training and smooth functioning of these bodies.** The best-known case is that of CEC's dismissal of the chairman and two members of ZEAC no. 15 (Kurbın Municipality). Their dismissal was done at 23:00 of 20.06.2015, just a few hours before the voting process began, although a new ZEAC chairperson was appointed.

Until the last days before voting day, we noticed a frequent change of ZEAC members, such as in ZEAC no. 01 (Malësi e Madhe Municipality), ZEAC no. 3, no. 04 (Shkodër Municipality), ZEAC no. 07 (Pukë Municipality), ZEAC no. 09 (Kukës), ZEAC no. 69 and no. 70 (Korçë), ZEAC no. 63 (Berat), ZEAC no. 18 (Dibër), ZEAC no. 56 and no. 57 (Fier), ZEAC no. 81, no. 85 and no. 86 (Vlorë), etc. Changes of members of ZEACs were also noticed during the vote-counting process as in ZEAC no. 7 (Shkodër Municipality), ZEAC no. 39 (Tiranë Municipality), ZEAC no. 55 (Lushnje Municipality), etc. This practice had been criticized also in past elections by the OSCE/ODIHR but still remains to be improved.

The CEC highlighted the fact of non-participation of ZEAC and VCC members in Shkodër, Gjirokastër and Sarandë in the training programs it had organized.<sup>6</sup> This shows the irresponsibility of these persons toward their duties and therefore, the electoral subjects that appointed them should not only make better choices in the future for persons they appoint to these duties, but also encourage and control them to participate in training programs organized by the CEC in order to build their capacities and skills to carry out their duties.

ZEACs did not possess data regarding the quality, characteristics, or place of residence of candidates for members of municipal councils. As a result, considering also that electoral subjects did not introduce them adequately during the campaign, it was not possible for interested voters to obtain sufficient information about them.

As underscored above, representatives of international organizations accredited in Albania raised the alarm that incriminated persons had been included in the lists of candidates. During our visits to the districts, voters expressed concern about this because they did not want to give their votes for these persons. For vote to be free, it is not enough that there is no interference in exercising it; it is just as important that voters vote after being sensitized and objectively convinced about the candidate of their choice.

With regard to the issue of electoral materials, we found that in VC no. 1459, Durrës Municipality, and VC no. 1266, Krujë Municipality, members of the pertinent ZEACs withdrew 100 unused ballots each, claiming they needed them for the VCs in institutions where criminal sentences are served. With regard to this action, it was not clear whether these persons were authorized by the CEC. Nevertheless, this is a fact that sheds light on the planning and distribution of materials not being done always in accordance with the needs of VCs.

### *c) Voting Center Commissions (VCCs)*

**The level of qualification of VCC members, with regard to knowledge of electoral process administration, was not always good. Their frequent replacement and lack of**

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<sup>6</sup> CEC statement, 15.06.2015



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**training for part of them had considerable impact on the quality of electoral process management by these structures.** This affected the process of opening VCs, the progress of the voting process and the conclusion of voting.

We deem it appropriate to mention some cases of behavior by VC members, in violation of the law, such as in VC no. 1853/1, VC no. 1885, VC no. 4398, Vlorë Municipality, or VC no. 4507/2, Gjirokastër, whereby **they wore clothes with party symbols or clear signs of political subjects**; their behavior in VC no. 1853/1 (Outpatient Clinic, Selitë), whereby the **AHC observer was not allowed to enter the VC until 08:15**, while there were observers of political electoral subjects inside those premises; cases of interevention by VCC members to fold the ballot or cast the ballot in the ballot box; inaction according to law in cases when the voter photographed his/her vote, failure to report in process-verbals cases of family voting, voting with support from another voter, etc.

There were also scarce cases when the VC member assigned to preserve the queue of voters did not carry out duties according to article 105, item 2, of the EC, which stipulates, *“one of the members assigned by VCC decision takes care of watching the order of voters.”* This was seen for instance in VC no. 1573/3, 4241, etc.

AHC observers referred cases of illegal behavior by commissioners who refused to obtain Written Remarks submitted by observers. In fact, in one case, in violation of article 6 of the EC, VCC members communicated harshly and tried to expel the observer. This was the case in VC no. 1691/1, “Ali Demi” 9-year school, Tiranë Municipality.

**The establishment of ZEACs and VCCs based on the proposals by parliamentary political parties influences the stances and actions that commissioners manifest in carrying out their duties, demonstrating political bias in favor of the political force that assigned them although this phenomenon was more limited in these elections.**

## VII. Registration of candidates

The lists of candidates for councilors and candidates for mayors were registered by the deadline and in the way prescribed by law. The increase of the gender quota by 50% in the closed lists of electoral subjects and the legal sanctioning of the right of the CEC to refuse the list for failure to meet this obligation represents an important step that enabled an increase in the participation of women in municipal councils emerging from these elections. However, it was not possible to find and obtain official information about candidates who were members of rural areas included in the newly configured municipalities that were created by the administrative reform, or information about candidates coming from minority groups. This deficiency was the result of the lack of legal prescription in the law that would force such information and making it public for those interested therein.

A new phenomenon was that of the resignation of candidates or the request by electoral subjects to remove candidates from its list. Because of this, it was noticed that relevant EC provisions did not include clear regulations about such initiatives; therefore, we suggest that the EC should be completed in this regard; at the same time, we think that it would be better that electoral subjects do not have the right to replace candidates after the legal



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deadline for the submission of their lists. If resignation or removal from the list of a candidate does occur, their places should remain vacant. We base this proposal on two arguments: **first**, because the law has a similar stance vis-à-vis voters, upon the announcement of the final voter list, except for a court ruling; and, **second**, this would force political subjects to better study their candidates and if they don't do so, they should suffer the consequences.

The process for the registration of candidates and members of municipal councils competing in the elections became the subject of controversy and decision-making in the CEC as well as in the Electoral College, but these bodies did not demonstrate consistency in arguing their decision-making. These senior election administration bodies also manifested problems in terms of the reasoning or publication on time of their decisions, which harmed transparency over the activity of these public bodies.

## VIII. Voting process

**Election Day was generally calm and voters turned out and voted freely, free from pressure in voting centers, although there we noticed activation of militants of all political forces to encourage voters or accompanied voters from their residences to the relevant VCs to vote.**

Some electoral subjects made claims about voter manipulation but they did not make any referrals and did not present evidences to competent bodies in this regard. There were also claims by the majority and the opposition, as well as by different NPOs, about vote buying, but these claims were not submitted to criminal prosecution bodies. On the other hand, no justice body appears to have initiated criminal prosecution or issued any decisions on such a criminal offense, according to prescriptions of the Criminal Code, because it was expected that justice bodies would act on their own initiative against these publicly made accusations.

**The voting process was generally conducted in accordance with the law, in the municipalities that AHC monitored. However, some problems were manifested with regard to the following issues:**

### *a) Materials*

The CEC did not make sure that all electoral materials were prepared in the required quantity and quality and distributed them beyond deadlines envisaged in the Electoral Code. **In the monitored ZEACs, it results that the materials were distributed to ZEACs late, in violation of the deadline envisaged by item 1, article 99, of the EC.** This was encountered in ZEAC no. 23, 29, 31, 35, 37, 39, 42, Tiranë Municipality, ZEAC no. 78, Gjirokastër Municipality, ZEAC no. 81-84, Vlorë Municipality, ZEAC no. 71 and 72, Korçë Municipality, etc.

As a result, these ZEACs distributed materials for relevant VCs late, a process that was concluded after 16:00 of June 20, 2015, in violation of item 1, article 100 of the EC, which stipulates a deadline of no later than 15 hours ahead of the start of the voting process.





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When voters appeared at the VCs to vote, in some cases, not both of their hands were checked to verify whether they had been marked, thus disrespecting article 105, item 1, letter b, of the EC that says, “*one of the members, assigned by decision of the VCC checks both hands of the voter when the voter appears at the VCC and before the voter gets the ballot, to see whether his thumb has been marked with the special ink.*” This was encountered in VC no. 1573, 1573/2, 1573/3, 1573/4, 1615, 1615/2, 1615/3, 1615/4, 1828, 3687/1, 1741/1, 1975, 1915, 4507/1, 1703, 1699, 1828, 1699, 1703, 1715/1, 1715, 1741/2, 3011, 3011/1, 3011/2, 3013/1, 3013, etc. It was also noticed that in some cases, the right hand had been marked, although the EC establishes that the *voter shall be marked in the left hand*. This was seen often in most VCs observed in Elbasan Municipality, VC no. 4491, 4961, 1741/1, 1980, 3011/1, 3013/1, 1830, 1741/1, 1975, etc.

In some VCs, the marking ink could be easily wiped off, in violation of article 105, item 1, letter dh) of the EC that stipulates that marking shall be done *done by special ink, visible at first sight and is not removed before 24 hours ...*” This was seen in some VCs of the Municipalities of Tiranë, Elbasan, and Korçë, e.g. VC no. 1875/1, QV no. 1875/2, VC no. 1876/1.

### *b) Respect for the opening time of the VC*

**In more than 50% of the VCs that AHC monitored, the voting process began late, with delays of 15 – 40 minutes and in some cases even later.** Some of the reported reasons for delays were: slow pace of work by commissione members in reviewing electoral materials and adjusting the VC; non-coordination and lack of information for VC members regarding the order of actions as well as the division of duties among them; disagreements between VC members over different reasons; absences or mistakes regarding materials; presence of political propaganda items at a distance of less than 150 from the VC; incorrect behavior by members, such as that of one who threw the stamp from the window; replacement of VCC members before the start of voting; failure of commissioners to show up on time, e.g. in VC no. 1573, 1804, 1615/1, 1853/1, 1949/1, 1853, 1875/2, 2000/1, 3648, 3675, 3706, 4264, 4278, 4283, 1828, 3675, 0652, 0650/1, 1438/1, 1440/1, 1433, 1432, 1432/1, 1433/1, 1430/1, 1430/2, 1430, 1428/1, 1428, 1427, 1428/2, 1410/1, 1838/1, 1840, QV nr.1699, 1757, 1977, 1977/1, 1838, 1840/1, 1841, 1841/1, 1839, 1767, 1741/1, 1748/1, 1731/1, 1731, 1730, 1986, 1986/1, 1989/1, 1989, 1939/1, 3030, 3023, 3023/1, 3004, 2998, 3088, etc.

Delays were also caused by errors on ballots in the Municipalities of Roskovec, Tepelenë and Devoll, which caused the long postponement of the start of the voting process in these municipalities.

### *c) Situation of order and lawfulness during the voting process in the VC*

In general, the VCs were placed in public and state institutions such as universities, schools, kindergartens, health or sports institutions and in some cases in private bars.



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AHC found that **in some cases, VCCs had organized VC premises in the wrong way, whereby the secret booth did not guarantee the secrecy of the vote**, which is in contravention of item 1, article 109, of the EC. This was encountered in three VCs in the Municipality of Tirana, namely VC no. 1890, VC no. 1883/1 and VC no. 1890. We stress that following reservations by AHC observers, commissioners took measures to correct the situation.

**We noticed symbols of political subjects in the vicinity of VCs, in violation of the law, which should have been removed before the start of the voting process**, encountered in VC no. 1974/1, VC no. 1703/1, VC no. 0271, VC no. 02711, 0272, 02721 and 0273, Municipality of Shkodër, VC no. 1804, 1804/1, 1805, 1806, 1806/1, 1807, Municipality of Tirana, etc.

We encountered cases of **voting by voters whose last name was different on the identification card and on the voter list**. Commissions allowed the voting by claiming that the voters, upon official marriage, had not prepared new IDs with the new family name after marriage, although Article 105, letter c) of the EC states that, *“the chairperson, after verifying that the identity data of the voter match those on the voter lists...”* This was encountered in VC no. 1828, 1699/1, 1757/1, 1709, 1989/1.

In some VCs, the voter's name was not crossed out after voting, contrary to the stipulation in article 105, letter c) of the EC, which states, *“the chairperson, after verifying that the identity data of the voter match the data on the voter list and that the voter is the same person as that on the identification document, notes on the voter list the type and serial number of identification document and crosses out the name of the voter on that list.”* This was encountered for instance in VC no. 1615/3, 1615/4, 1741, 1741/1, 1741/2, 1740/1, 1740, 3179, although we note that the voters who voted, always signed next to their name.

We encountered cases when **VCC members did not check the fingers of the voters**, a security measure to prohibit voting more than once by the same voter. (*Noticed in VC no. 1741/1 and VC no. 1975, VC no. 1915, VC no. 4507/1, VC no. 1703, VC no. 1699, VC no. 1828*).

Voting of voters by court ruling was conducted in accordance with the law. Voter data, in this case, were registered in a special register, with the court ruling attached, as stipulated in article 57, item 4, of the EC. By court decision, a large number of persons deprived of their liberty voted; their names were not on the voter lists of VCs established at penitentiary institutions.

In some cases, VCCs did not give copies of the Process-Verbal for the Conclusion of Voting to observers of parliamentary parties, as envisaged in article 113, item 6, of the EC, which says, *“copies of the Process-verbal for the Conclusion of Voting are given to VCC members and observers of parliamentary parties.”* This was encountered for instance in VC no. 1947, 3635.



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In some VCs, VCC members voted during the voting process, in violation of article 106, item 4, of the EC, according to which “*members and the secretary of the VCC vote after all voters present in the voting center before the closing deadline have voted.*” This was noticed in VC no. 1875, 1875/1, 1876/2, 2003/1, 2003, 3650, 3690, 3690/1, 3689, 3689/1, 4429, 4507/2, 4507, 4436, 3011, 3011/1, 3013/1, 3013, etc.

VCs no. 1883, 1883/1, 1910, 19101, 1911, 1911/1, 1912, 1912/1, 1912/2, 1914, 1914/1, 1915, 1915/1, 1916 and 1916/1 **followed an unlawful practice that is not envisaged by the EC**. Namely, in these VCs, after the voter was given a ballot, the chair of the commission announced the name, family name and number on the list to notify the observers of the electoral subjects who took down notes about the voters who voted. Commission members claimed that those were the CEC instructions. AHC finds that this procedure is not envisaged in article 105 of the EC, which presents the rules for the appearance of the voter in the voting center until the fulfillment of his right to vote. On the other hand, this behavior of VC commissioners is a violation of the voter’s privacy.

Photographing of the vote was encountered in VC no. 1728 in Tirana and the use of the mobile phone in VC no. 3011 of Fier.

### *d) Interruption of the voting process*

On Election Day, the voting process generally proceeded without interruptions. However, ZEACs responsible for the Municipalities of Roskovec, Tepelenë and Devoll temporarily interrupted the voting process due to errors on the ballots. The CEC decided to order these ZEACs to resume the voting process immediately in all voting centers of their jurisdiction and use those same ballots although with errors. In Himarë Municipality, VC no. 4591 stopped the voting and resumed it several times due to disagreements between observers and members of the VC. In some sporadic case, there were also interruptions due to the use of mobile phones to photograph the vote; or because VCC members voted during the process and not at its conclusion, as prescribed by law; or because the relevant Statement was not logged in the Protocol Book of VC Meetings, when a voter helped another voter who could not vote by himself; and to stop family voting, etc. These were encountered in VC no. 4278, 1804, 3706/1, 3707, 3709/1, 3706, 3687/1, 3695/2, 1828, 3655/1, 3690, 3690, 3690/1, 3689, 3689/1, 3689, 3691, 2000/1, 1615/1, 1853/1, 1876/1, 2115, 1876/1, 2002.

### *e) Family voting*

We encountered cases of family voting, in violation of article 106 of the EC that stipulates that *after taking the ballot, the voter enters the secret booth...* This was encountered in VC no. 1875/3, no. 1876/1, 1876/2, 2002, 7674/1, 3673/1, 3695, 3695/2, 1699/2, 1703, no. 2041/1 in Tiranë, no. 4278 in Municipality of Gjirokastër, VC no. 4591/1 of Himarë Municipality, VC no. 2504, no. 4590, no. 4590/1 of Elbasan Municipality, VC no. 4591/1 of Himarë Municipality, etc. However, the reported cases of family voting by AHC observers indicate that there is a decline in this phenomenon compared to previous elections. In some of these cases, the VCC has intervened to stop their voting in group, but sometimes tolerated it and did not make the right interventions to stop these illegal actions.



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We suggest that in the analysis of the activity of the June 21, 2015, elections the CEC address particularly this issue, to make a distinction between family voting and cases of assisted voting, when the voter is not able to vote by himself and, above all, analyze why VCCs did not take a legal stance in some cases toward family voting, although observers alerted them to it.

### **f) *Voting of persons with disabilities***

We found that many VCs were placed in inappropriate premises for voters with disabilities and that local government bodies and civil registry offices did not transfer the names of these voters to appropriate VCs before the announcement of the final voter list, as envisaged in the CEC instruction. During our monitoring, AHC observers encountered cases when voters with disabilities, or elderly, were not able to get up the stairs of buildings where VCs were located and Commission members had not taken measures to facilitate and help the movement of these voters. On the other hand, the promise of the VCC that voting by the blind would take place through special means appropriate for them was not realized. This did not create the conditions necessary for respect for the secrecy of the vote for these voters.

Voters who could not vote themselves due to physical disabilities, in most cases, were helped by their family members (spouses, children), neighbors, as envisioned in article 108 of the EC. This was encountered for instance in VCs no. 1573, 1573/1, 1573/2, 1432, 1430/1, 1427/1, 1427, 1428/2, 1429/1, 1429, 1410/1, 1411/1, 1699, 1699/2, 1699/1, 1703, 1757, 1709, 1709/1, 1708/1, 1838, 1838/1, 1840, 1840/1, 1841, 1841/1, 1839, 1767, 1885/2, 1894/1, 1895/1, 1748/1, 1748, 1741/2, 1740/1, 1740, 1731/1, 1730/1, 1730, 1728, 1986, 1987/3, 1986/1, 1989/1, 1989, 1939/1, 1940/1, 1936/1, 1931, 1936, 3030/1, 3032, 3031, 3028, 3023, 3023/1, 3023/2, 3025, 3028/1, 3000, 2999/1, 2984/1, 3011/1, 3011/2, 3013/1, 3013, 2986/1, 3179, 3178, 3178/1, 3176, 3177, 3004, 3005/2, 3005/1, 3022/2, 3022/1, 2994, 2997, 3048/1 – 2 cases, 3045/1, 3116, 3117, 3088. However, we noticed cases of deficiencies in the voting procedure of persons with disabilities, disregarding the criteria for the persons assisting them or not writing down per the law cases when assistance was offered to this category of voters. This was encountered in VC no. 2110, no. 2115, no. 1715, no. 1741/1, no. 1741/2, no. 1767, no. 1691, no. 1852/1, 1875/2, 1876/1, 1853/1, etc.

### **g) *Voting in special institutions***

According to the EC, “*Special institutions*” are prisons, detention facilities as well as hospitals and other health institutions that accept patients for more than three days. Special institutions represent a special voting center area when there are over 15 voters in one (article 62, EC).

AHC found that in special institutions such as regional hospitals in Shkodër, Vlorë, Korçë, Fier, Kukës, Gjirokastër, etc. no voting centers were established although they met the legal conditions. Tens of patients, hospitalized for over three days, were being treated there.



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Practice was different with prisons and detention institutions where VCs were opened. A part of persons deprived of their liberty accommodated in these institutions were registered in voter lists to vote in the institutions and for many others, the right to vote was exercised through judicial rulings although in some cases in violation of the law (*for more, see Chapter IV. Voter lists and the Courts*)

## *h) Conclusion of the voting process*

**The conclusion of the electoral process was generally conducted at the time and in the manner prescribed by law. The Electoral Code envisages that** the VC is closed after the last voter present in the VC at 19:00 has voted. However, there were also cases of violations of the law such as that of VC no. 1709 in Tirana, at “Mihal Grameno” school (ZEAC no. 32), whereby the VC was closed at 19:03 because there were no voters and it was reopened at 19:10 to enable two voters who arrived at that time to vote.

## **IX. Voting process**

### *a) Accompaniment of materials and ballot boxes*

The accompaniment of boxes with VC documentation was generally conducted regularly and the counting process did not begin until all materials had been delivered by all VCCs.

After the closing of voting centers, VCCs accompanied voting materials and ballot boxes to the respective ZEACs where the vote-count would take place. The first boxes arrived in the respective ZEACs starting at 20:00 of June 21, 2015, and the process was concluded generally in the first hours of the following day. Some VCs in remote locations from relevant VCG, also because of the queue of delivering materials, concluded delivery with delay, such as ZEAC no. 47, Elbasan Municipality. No case of damage of electoral materials during transportation was reported in the areas where our observers were present, while good measures had been taken in advance for receiving and officially accepting delivery of electoral materials at ZEACs.

### *b) Establishment of vote-counting commissions*

Upon officially accepting electoral materials, ZEACs began training of VCC members through CEC experts and then the vote count began.

### *c) Respect for deadline for starting counting*

In general, the vote-counting process was conducted without violations and for a much shorter time than previous elections. In most of the monitored ZEACs, the counting process began in the early hours of June 22, 2015, as in Korçë (ZEAC no. 72), Kukës (ZEAC no. 11), Elbasan (ZEAC no. 47), etc., due to failure to appoint counters and because of their delayed training. Thus, in ZEAC no. 84, Vlorë Municipality, counting did not begin at the right time because a political subject had not sent the list of names of its counters. Another reason for not starting counting was the failure of VCG members to show up on time; it was noticed that VCG members in ZEAC no. 4, Shkodër Municipality, were not trained by



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CEC experts. Likewise, in ZEAC no. 2 (Shkodër Municipality), voting began around midday on 22.06.2015.

## *d) Progress of counting*

Overall, we found that the counting process continued beyond the legal deadline, causing an extension of the counting although the process did proceed faster than in previous elections. In many cases, the counting process was interrupted several times as VCG members asked for rest time or other personal needs. In some VCCs, as in Shkodër, counting was interrupted several times and resumed again for unknown reasons.

Present in the counting premises were accredited persons, domestic or foreign observers, media representatives and in some cases, candidates and representatives of political parties. Outside the counting premises there were large numbers of supporters of candidates or certain political subjects.

AHC observed through a limited number of observers the vote-counting process, which was generally conducted in respect of procedures envisaged in the EC and without other violations. AHC observers were not obstructed to enter and monitor the counting process. Another violation our observers encountered is that the observers of the independent candidate for Mayor in Vlorë Municipality and three observers of some small parties were not allowed to enter and do their duties in ZEAC no. 83, where the vote-counting process was going on while the observers of the major political parties had been allowed. Such an action is not only in violation of the law and the rights of candidates participating in the race, but it also causes discriminatory treatment between observers and the candidates they represent.

## **X. Observers of the process and their written remarks**

**International and domestic observers**, including those of AHC, exercised their legal right to monitor the pre-election, election and vote-counting processes, including the activity of election administration bodies. **On a case by case basis, they communicated or presented written remarks to the CEC, ZEACs or VCCs about the violations they encountered. AHC observers presented more than 52 written remarks to VCCs, the majority of which were accepted by protocol and 14 were not.** Remarks relate to violations such as: allowing family voting; VCC members staying near the secret booth; communication with the voter inside the secret booth; failure to properly check the ink mark on thumbs; loud announcement of the identity and list number of the voters who were voting at that time, and other remarks related to violations presented in this report.

For the irregularities our observers encountered, AHC notified the CEC immediately as the highest state election administration body in order to take measures and prevent the recurrence of violations. Some of AHC's remarks were welcomed by VCCs; violations were corrected immediately and remarks were accepted by protocol as in VC no. 1699, 1703, 1699/1-(3 cases), 1703 - (3 cases), 1703/1- (2 cases), 1699/2- (2 cases), 1699 - (2



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cases), 1709, 1715, 1767- (2 cases), 1741/1- (3 cases), 1740/1, 1694/1, 1691, 1980, 3023, 3177, etc.

In general, observers were welcomed and assisted to carry out their duties, but there were also sporadic cases when there were obstacles to participating in certain parts of the electoral process, such as the opening of VCs.

## **XI. Performance of Courts, Prosecutor's Office and State Police**

### **a) Courts**

There was a higher number of requests to Judicial District Courts to request to exercise the right to vote and judicial bodies successfully coped with this flow of requests. However, we found that most of the requests were presented by persons deprived of their liberty (detained or convicts). Courts took measures to accept and adjudicate requests on time, but organizational measures were not adequate with regard to the notification of petitioners about the time of judicial hearings. Most requests were submitted in the courts 1-2 days ahead of voting day and the formulation of requests did not include fast contact information such as phone number, mobile phone number, e-mail, and court secretaries did not correct this shortcoming at the time requests were accepted. This made the courts wait to start adjudication for the time when the petitioner appeared before the court on his initiative. Usual means of notification of parties could not be effective in these cases because of the short period of time available to courts for reviewing these requests. Unlike in previous elections, not all courts prepared and made available to petitioners request forms, which are more complete and include necessary data about requesting to exercise the right to vote.

It is noticeable that most of the requests submitted by eligible voters were dropped while the requests of convicts and detainees were accepted. The courts accepted for review requests from many pre-trial detention and imprisonment institutions around the country, such as: *388 requests to the Kavajë Judicial District Court, 290 requests to the Durrës Judicial District Court, 518 requests to the Elbasan Judicial District Court, 46 requests to the Korçë Judicial District Court, 73 requests to the Fier Judicial District Court, etc.*

Many judicial decisions were reflected in the courts' electronic database lacking the arguments. Reading some of the decisions that were made public and included the arguments, we found very shallow judicial review about the requests and failure to consult the final voter list. We found that in some cases, the admission of requests was done in open violation of the law, namely item 2, article 57 of the Electoral Code, which stipulates, ***"if the voter changes his place of residence after the announcement of the final voter list and judicially requests authorization to vote in the new place of residence, the request is rejected."*** This happened mainly with requests presented by prisons and pre-trial detention institutions.

Also, AHC noticed the delayed publication of Decisions of the Electoral College on the official website of the Tiranë Court of Appeals, for which we intervened and officially requested the publication of these decisions, in accordance with previous OSCE/ODIHR recommendations.<sup>7</sup>

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<sup>7</sup> AHC letter no. 184, dated 12.06.2015, to the Tiranë Court of Appeals



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## *b) State Police*

AHC found that State Police, in general, carried out its duties professionally and impartially. It was on call to preserve order and calm, overseeing VCs and other sites of electoral administration as well as the smooth conduct of the electoral process, from the right distance and correctly. However, the problem remains that because of lack of provisions in the EC and the manner in which police work is organized, **it was not possible for a high number of police officers to exercise their right to vote**. They began their service before VCs were opened and concluded it after they were closed, while many of them were on duty away from their places of residence and the law does not envisage their possibility to vote in other VCs.

## *c) Prosecutor's office*

The Prosecutor's Office is not directly linked with electoral activity, except for cases when legal violations that represent criminal offenses take place during this process. However, it is our opinion that this body should have acted more quickly on pursuing and reviewing criminal referrals filed during this period and that made allegations about legal violations and criminal offenses related to the electoral process as well as on the verification of the truthfulness and level of incrimination of candidates for mayors and municipal councils.

## **XII. Conduct of electoral subjects**

**Electoral subjects made their contribution to the preservation of calm and the conduct of calm elections. They conducted a quieter electoral campaign than in previous elections.** In public appearances, the leaders of the main political parties called on voters to go out to vote and explained the importance of these elections.

However, there was still harsh and provocative language toward other contestants. In some cases, their representatives conveyed tension through the language they used and through some incorrect behavior in violation of standards for free and fair elections. Political electoral subjects are the main responsible parties for not cleaning up the lists of their candidates from incriminated persons, whose presence has been stated by international bodies, the Prosecutor General and investigative media.

In general, electoral silence was respected by electoral subjects and candidates, but there were also isolated cases of its violation by certain candidates.

Electoral subjects had mobilized and sent to VCs numerous observers and militants, causing confusion and concern among voters (VC no. 1615, 1615/1, 1615/2, 1615/3 and 1615/4 etc.). In rare cases, there were candidates or officials of political forces in VC premises, acting inside or around VCs, without any tasks to carry out electoral administration duties. Different citizens told civil society organizations about claims regarding pressure on them, by different political forces or officials of the local or central administration, but such claims were never filed with criminal prosecution bodies.

## **XIII. Conduct of citizens and the media**





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**The conduct of voters was best** among subjects involved in the process of these elections. They voted calmly, correctly and generally avoided provocations, temptations or concerns of electoral subjects or administration. We ran into sporadic, unlawful behavior by voters, such as the case of a voter in VC no. 1757 who tried to take the ballot with him, or voters who photographed their vote and even posted them online (VC no. 1728, Tiranë, etc.).

Although there were claims and facts about vote-buying presented by electoral subjects of both major coalitions, AHC did not encounter any such facts directly. Because the phenomenon is a serious violation of the freedom of vote and one that is claimed often even in past elections, justice bodies should have acted better to prove or reject suspicions so as to deter such behavior in the future.

Media provided extensive coverage of the electoral process, but there was also violation of time slots available for smaller electoral subjects or independent candidates. A problem remained for the media with the coverage of electoral events of the larger political parties through the use of material prepared by electoral subjects themselves. Some investigative media tried to shed light on incriminated candidates and gave the public the only scarce information in this regard.

## **XIV. Conclusions and recommendations**

Given that due to the lack of sufficient funding the reach of monitoring of these elections by AHC was relatively limited, **our conclusions are provided on the basis of information we obtained directly**. However, we think that with regard to the quality of the **June 21, 2015 elections, it may be said that in these elections a step forward was taken toward meeting the Copenhagen standards**, which allows us to consider that these elections, at least in some directions, **may be considered better than previous elections. improvements were noticed in the following aspects:**

- **The elections marked better standards with regard to the freedom of vote, creating better opportunities for citizens to exercise their right to vote.**
- **The elections generally met the standard for the secrecy of the vote and that of the equality of voters and their vote.**
- **Electoral subjects were given the opportunity to present, without discrimination, the lists of their candidates and carry out a campaign in support of them, freely expressing opinions and programs; however, it is still necessary to improve legislation in order to provide equal opportunities also to independent candidates.**
- **Voters demonstrated that they have increased their understanding of their role in the voting process; they appeared more aware of the free exercise of the right to vote.** Voter turnout was good, considering that over 1 million voters live outside the country.
- Voters were more willing to declare pressure on them for purposes of manipulation or vote-buying, although these statements were at the level of claims and were not denounced to competent bodies.
- Many of the **candidates demonstrated correct and calm behavior during the campaign**, distancing themselves from aggressive and offensive speech that was used sometimes by representatives of electoral subjects that had included them in their lists.



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- The language of **communication of representatives of political forces was somewhat calmer** than in previous elections and, therefore, **there were no cases of serious incidents between militants.**
- **Voter lists saw further improvement.**
- **The presence of domestic and foreign observers in VCs was generally welcomed and they were not obstructed in doing their jobs.**
- **State Police continued to do its job with professionalism** in these elections too.
- As a result of the establishment of a gender quota in the EC, **women's participation in local government bodies emerging from these elections grew considerably**, but greater care should be shown for the representation of minorities in candidates' lists.

In spite of the above results, during these elections we encountered also a series of problems, part of which have been manifested also in previous elections:

- **Amendments to the EC were not made on the basis of highlighted needs** and suggestions by OSCE/ODIHR or domestic observers. Scarce amendments were not only realized late, but also without adequate transparency or public involvement.
- Electoral legislation contains some problems that should be improved, e.g.: limitations on independent candidates, creating differences, or additional conditions for them, which do not exist for the candidates of political subjects; the EC is not clear about potential limitations on the exercise of the right to vote in elections for local government bodies, as the Constitutional Court has done in its decision no. 40 of 16.11.2007; the law does not envisage appropriate guarantees for voters to be able to be informed about the qualities of candidates, especially candidates for councilors; etc.
- Electoral administration, although to a lesser extent, demonstrated again that the assignment of members of election administration bodies only by parliamentary political parties leads to their party influence, bias and failure to rigorously implement the law. This form of selection of members of election administration bodies denies the right of voters as the main actors of the electoral process to be represented in these bodies.
- Transparency over the activity of ZEACs leaves still much to be desired because there are no clear legal prescriptions about the obligation of these bodies to make their activity public and to enable public participation during their decision-making.
- The electoral administration and electoral subjects did not do enough to provide complete information to voters regarding the qualities of candidates running for mayors and for members of municipal councils. **Claims about the criminalization of part of the candidates were not resolved and therefore voters were not given the opportunity to have proper information in this regard.**
- There are still problems with unifying judicial practice with regard to the review of cases on the right to vote and other relevant issues of the electoral process. Court rulings were not always made public and their arguments were not always provided.
- In some cases, there are problems with the quality of electoral materials made available to VCs on voting day.
- Some problems regarding the voting by voters living abroad, employees carrying out special duties away from places of residence on voting day (e.g. State Police), persons with disabilities or hospitalized in health institutions remained unresolved.



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- The results of the Local Elections were announced late this time too because the review of complaints by electoral subjects to the CEC and the Electoral College took a long time.
- Domestic and foreign donors, with the exception of the U.S. Department of State, did not support adequately independent monitors in the country.

## *Suggestions*

1. The Special Commission on Electoral Reform in the Assembly should be set up as soon as possible, possibly from September 2017 and start reviewing OSCE/ODIHR and civil society recommendations for improving the EC and legislation in general, in order to improve guarantees for exercising the right to elect and be elected as well as other needs to improve the electoral process.
2. Legislation should envisage more complete guarantees to not allow the manipulation of voters, the use of the public administration and funds, the right of local observers to make written remarks also during the vote-counting process, etc.
3. It is necessary to consider the possibility of depoliticizing election administration bodies and involve in them representatives of voters who are not politically engaged.
4. We suggest that the possibility be looked at to use an electronic voting system, even in a pilot form, and shorten deadlines for the review of complaints by the CEC and the Electoral College.
5. It is essential to start as soon as possible to draft a law on referendums, which we suggest should be a separate law. This provision assumes special significance in the context of local government reform and further democratization of the country's life and the increase of citizens' participation in the country's governance. The Venice Commission has made important remarks in this regard since 2004.  
Unify legislation with regard to the definition of permanent place of residence and the place of stay of citizens in order for the definition of the EC *that inclusion in voter lists of citizens eligible to vote is done on the basis of their place of residence* does not have differing interpretations. In this regard, we suggest that in respect of the hierarchy of norms, drafters should keep in mind the definitions of the Civil Code and the interpretation of the Decision of the Constitutional Court no. 40 of 16.11. 2007.
6. The EC should envisage clear procedures and accurate deadlines about the replacement of candidates in closed lists of electoral subjects after their submission to election administration bodies. A procedure should be clarified about the self-resignation of candidates from the list and there should be clear legal stipulations on whether the replacement of these candidates will be allowed and the deadlines for that. We suggest that for candidates removed from the list because they are incriminated, the electoral subject should not have the right to have another person run in his stead.
7. Add legal guarantees to prevent electoral subjects from conducting an electoral campaign before the time prescribed by law for this purpose.



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8. We suggest that the EC envisage limiting criteria for the candidacy of incriminated persons and establish more guarantees in this regard, stipulating even responsible bodies for running proper verifications, within the fastest possible deadlines, in this regard. Transparency of information obtained in this regard should be guaranteed.
9. The EC should sanction more clearly and more fully the right of voters to become familiar with candidates included in the lists of electoral subjects; on the other hand, the detailed introduction of candidates should be envisaged as an obligation for electoral subjects or other opportunities should be envisaged to make public the qualities of candidates and their moral and social cleanliness. The electoral campaign should provide more opportunities to voters for communication with candidates for MPs or those running for local office.
10. Review the EC chapter dealing with the preparation, change, and publication of voter lists in order to make it more accurate and adapt it to the new administrative-territorial organization.
11. We suggest that the Media Monitoring Board is elected by the Union of Journalists or other forums of journalists, in respect of some criteria that would guarantee professionalism and political neutrality, as prescribed by article 85/1 of the Electoral Code.
12. We suggest that the possibility be considered to include limitations on the EC regarding re-running, especially for the mayor's position, so as to expand the possibility of voters to run for this monocratic post.
13. The EC should be improved to better enable the empowerment of the voter's role in the electoral process, guaranteeing better inclusion in voter lists; familiarization with these lists; the possibility to communicate with the electoral administration and to request respect for the right to vote or to guarantee the exercise of the right to vote for voters with disabilities, particularly those in hospitals, those living abroad or who are far from their place of residence on voting day because of their duties.
14. Look at the possibility of voting by Albanian citizens eligible to vote who live in emigration, using known forms applied in democratic countries.
15. EC should define in a direct and more accurate manner public officials who should resign from their posts when running for MPs or local government bodies, as well as the tools to guarantee their real resignation (article 63/4).
16. Electoral legislation should be improved to avoid differences between procedures for candidates running independently and those included in the lists of electoral subjects.
17. Improvement of electoral legislation should be done by transparent and inclusive procedures, including active political forces and specialized civil society organizations.
18. Greater attention should be devoted to informing and educating voters about the right to vote.
19. Domestic and foreign observers should be guaranteed free airtime in the public media to inform the public about findings of their monitoring during the campaign and after the conclusion of elections.