

# **MONITORING OF THE ELECTIONS FOR LOCAL GOVERNMENT ORGANS, OCTOBER 2003<sup>1</sup>**

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<sup>1</sup> This report is based on the monitoring carried out by AHC's observers during the elections for the local government organs, 12 October 2003. The monitoring of the elections are made possible through the financial support provided by the Public Affairs sector, Democracy Commission US Embassy in Tirana

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## FEW WORDS ABOUT THE ALBANIAN HELSINKI COMMITTEE AND ITS MISSION

The Albanian Helsinki Committee is the first non-governmental organization operating in the field of human rights protection in Albania. It was founded on 19 December 1990, under the name of Human Rights Forum and it was immediately after registered with the Ministry of Justice, under the decision no 17/1, dated 01.12.1991. Later on, this Committee was registered with Tirana Court District, in accordance with the law. The objective of this organization is to monitor, raise the awareness of and educate the public for a better domestic observation of human fundamental rights and freedoms.

On March of 1992, The International Helsinki Federation on Human Rights acknowledged and accepted this organization as its full member, giving it its current name.

The Albanian Helsinki Committee Mission is to:

1. *Monitor* the observation of fundamental human rights and freedoms in different fields.
2. *Raise the awareness of and educate* the public opinion on its political, social, civil and cultural rights; protect these rights and follow the appropriate procedures in case of their violation.
3. *React* against infringement of relevant domestic and international legal acts, making use of the print and electronic media, as well as through direct contacts or reports addressed to relevant authorities in order to reverse the situation and vindicate the violated rights.
4. *Recommend* amendments to the legal framework and work practices in the human rights field, in compliance with the Constitution of the Albanian Republic and international standards.
5. *Advise* governmental institutions to observe and improve the domestic situation of human rights.
6. *Publish* reports on the situation of human rights in Albania; information contained in leaflets, legal charters, brochures, guides, etc; newsletters and quarterly reports.
7. *Maintain* a database of legal materials on human rights as well as data on human rights violations in general and in specific fields.

Based on its mission, AHC possesses a qualified methodology of work. Its monitoring missions, the results of which have been published and have positively affected in preventing violations of human rights, make the foundation for the work of this organization. Besides monitoring, AHC also informs the responsible organs on identified violations of human rights and recommends to the representatives of various

governmental institutions respective measures to be taken in order for the violated rights to be vindicated.

Activities on improving practices used for better observation of human rights (such as letters addressed to state institutions, recommendations, contestations, information exchange, etc.), and activities intended to raise the public awareness (such as workshops, round tables, awareness building campaigns, public reactions in the print and electronic media), as well as help given in order to consolidate the legal environment through contestations, expert meetings, trainings, better public information through such methods as: workshops, media coverage, various publication, meetings and personal contact with the people and addressing of letters and complains submitted, as well as legal assistance and the protection they offer.

# 1

## **ELECTIONS ON 12<sup>TH</sup> OF OCTOBER 2003 AND THE POLITICAL SITUATION IN ALBANIA**

On 12<sup>th</sup> of October 2003 the local government elections were conducted, in order to elect the mayors and commissioners in 65 municipalities, 11 municipal units in Tirana and 308 communes in the entire territory of the Republic of Albania. These elections were the fourth of their kind conducted after the 1991-s.

The elections were held at a moment of a leveled political situation in Albania, due to the consensus spirit existing between the two major parties, the incumbents and the opposition. This period of political consensus, noted with the election of the consensual president of the Republic in June 2002, contributed to the improvement of the domestic political life.

In January 2003, the European Union opened negotiations for signing the Agreement of Stabilization and Association with Albania, and the Albanian government, in compliance with this agreement, came up with a strategy on institutional reforms in combating corruption and organized crime as well as on local government decentralization.

A bipartisan commission was set up and operated during the period of May-April 2003. This commission, in close cooperation with experts from OSCE, worked to amend the Electoral Code of the Republic of Albania, based on the recommendation made in the final report of OSCE/ODIHR on 2001 elections.

On July 2003, the two major parties of the country began negotiations with the minor political parties of their spectrum, in order to form alliances for the upcoming local government elections. Joint candidates in some of the levels of local government, were the result of these agreements reached between the parties, while the majority of political parties of the left and right spectrum announced they would run alone in the upcoming elections.

# 2

## THE LEGAL FRAMEWORK

The elections of 12<sup>th</sup> of October 2003 on local government were conducted upon the new Electoral Code, ratified on 19 June 2003 in the Parliament of the Republic of Albania. As it is already mentioned in the introduction of this report, amendments made to the former Electoral Code aimed at improving it by taking into consideration recommendations made in the final report of OSCE/ODIHR on 2001 elections. These amendments were approved with the consensus reached amidst the members of the bipartisan commission. The new electoral code was fully supported by both major parties, the Socialist and the Democratic Party.

Despite of the existing willingness to improve various aspects of the former electoral code, AHC, in its analysis to the new electoral code, has voiced several problems and shortcomings, which it has made known in few official letters addressed to CEC<sup>1</sup>.

In this part of the report we will focus only in those modifications in the new electoral Code, which AHC considers as positive, such as:

1. The Electoral Code (Article 51) prescribes the bodies responsible for voters' lists compilation, which are the civil registry offices. Based on this provision: "Possible modifications in the voters lists are made only by the respective body responsible for the compilation and approving of the voters' lists."
2. Troops, which cannot be used during the electoral campaign, are: commando troops, other army forces and employees of the Albanian Intelligence Service structures, as prescribed in Article 116 of the Electoral Code.
3. The Electoral Code (Articles 136-140) defines in details the duties of and criteria to be met by the public and private radio television channels during the electoral campaign, etc. Another positive development was the establishment of the Media Monitoring Board in accordance with Article 142 of this Code. This board monitored the observance of abovementioned

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<sup>1</sup> For more information regarding problems and gaps in the new Electoral Code, please read the part "*Conclusions and suggestions on amending the Electoral Code and electoral process performance, October 2003*", in this final report.

- provisions regarding the duties of public and private radio television channels during the electoral campaign.
4. Regarding the issue of formal claims submission near a court, AHC judges as fair the approval of provisions giving court districts the power to address only those claims regarding modifications in the voters' lists and according to the Constitution their verdicts are decree absolute.
  5. AHC appraises the establishment of the Electoral Tribunal near the Courts of Appeals in Tirana<sup>2</sup> and its power to make decisions of a decree absolute form, as defined in the Electoral Code.
  6. The institutionalization of claims challenging decisions taken by electoral commissions, as regulated by the Electoral Code, is considered by AHC a step forward in the improvement of the electoral legislation (Articles 146-161). This is a means to discipline the way issues are being addressed, and ensure they are comprehensively tackled and that their objective results in a more transparent electoral process, etc.
  7. AHC is of the opinion that the thirteenth part of the Electoral Code, on responsibilities and sanctions, it is not only quite clear and detailed but it also defines the criteria concerning fines.
  8. AHC considers as positive steps in the new Electoral Code other issues as well, such as: subjects pertaining to the principles of unimpaired election, (Article 4 of this Code); banning the utilization of resources in support of candidates, political parties or coalitions (Article 5) as well as the appointment and duties of the liaison public servant/officer (Article 6), despite few ambiguities in these provisions.

Since speaking about modifications made in the legal framework, we should also mention that on 1<sup>st</sup> of October 2003, the Council of Ministers issued a normative act, modifying the law on "State Police", increasing the number of police forces groups which would be used one day before the elections; during the election day and after the polling stations would close.

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<sup>2</sup> Remarks on this issue can be found in the part "*Conclusions and suggestions on amending the Electoral Code and electoral process performance, October 2003*", in this final report.

# 3

## COMPOSITION OF CEC, LGEC, VCC AND ELECTORAL COLLEGE

The electoral administration is composed of the Central Electoral Commission, (CEC, 385 local government electoral commissions (LGEC) in every municipality and commune and by 4688 voting center commissions (VCC) in every polling station.

CEC members are elected based on the formulae to be found in items no1, 2 and 3, Article 22 of the Electoral Code. According to this formulae, two members of this Commission are to be elected by the Parliament of Albania, based on the relevant proposals of its left and right political spectrums, as constituted, excluding here the major party of each political spectrum. The President of the Republic appoints two CEC members, based on the relevant proposals made by the two major parties pertaining to the opposition and incumbents. The High Council of Justice (HCJ) elects three CEC members who have gained 2/3 of the votes. In case this required majority of votes is not met, then a second round of voting takes place between candidates who have received the majority of votes in the first round election. However, only three commission members are elected as prescribed in the new Electoral Code. The other members are mandated based on the former legislation. The President of Albania and the Parliament appointed one new member each. The High Council of Justice elected the third member of CEC. The election of this member by HCJ triggered many debates and was contested by many political parties of the right spectrum, especially the Democratic Party. This party claimed infringement of the political agreement reached between the Socialist and the Democratic Party on members of electoral commissions, which ruined the balance of political representation in CEC. The Albanian Helsinki Committee, respecting its mandate as an independent monitoring organization, did not participate in the political interpretations of this debate, nevertheless it is of the opinion that in electing the third member of CEC, HCJ observed Article no 22 and 20 of the Electoral Code.

All political parties are entitled to send one representative, with no right to vote, in the meetings held by CEC, which might be attended also by local observers and the media.

As for LGEC-s and VCC-s, 7 members appointed according the formulae defined in the new Electoral Code constitute them. The new Electoral Code requires a political balance (Article 40/1, letters a) and b) of the Electoral Code). In the LGEC-s, two seats are given to the major parties, the Socialist and Democratic Party, a third one is reserved to the Socialist Party throughout half of Albania, and in the other half of the country this third seat is reserved to the Democratic Party. The rest of the seats are



distributed to other parties based on their results in the general local government elections held in 2000. According to Article 45 of the Electoral Code, the same formula is also applied in the constitution of VCC-s. Political parties, coalitions and candidates running in the local government election race and who have no members in the LGEC-s and VCC-s, based on Article 41 and 45/7 of the Electoral Code, might appoint a representative with no right to vote. Articles 40/2 and 45/2 of the Electoral Code define that secretaries of these commissions should be lawyers.

AHC considers as a positive step the fact that the new Electoral Code foresees the establishment of the Electoral Tribunal/College near the Court of Appeals, a structure which addresses litigations/claims disputing decisions made by CEC. The decisions taken by this court are decree absolute.

## **CEC PERFORMANCE DURING THE LOCAL GOVERNMENT BODIES ELECTORAL PROCESS**

The Albanian Helsinki Committee is of the opinion that CEC general performance in election management, in comparison to previous election processes, has been good. It has also taken account of several remarks made in this respect in the final report of OSCE/ODIHR in 2001, and it has made use of them in the formulation of few provisions of the new Electoral Code, such as the Article 29 (on CEC powers), Article 30 (on CEC meetings and decision-making), Article 31 (CEC acts and their empowerment) as well as heading 12 of chapter "Litigations/Claims", on procedures to be followed in addressing CEC issues, etc.

While operating, this organ has generally demonstrated professionalism, transparency and objectivity, nevertheless there have been cases of hesitation on CEC part. Obvious improvements have been made in the organisation of following-up and controlling specific issues regarding transparency of scheduled meetings, and in guidelines issuing. CEC has justly acted even in establishing the deadlines for the submission of proposals on LGEC-s and VCC-s members, by political parties, although these deadlines have not been met/respected often. Consequently, LGEC-s and partly of VCC-s have not been established within the law defined deadlines, which has in turn created difficulties in training their members despite the continuous intervention of CEC.

AHC considers as positive the citizens' election education programme applied by CEC, which has been quite uncomplete in the past. The programme on raising the awareness of and educating citizens on the electoral process has been equally offered by the public and private radio stations channels, printed media, in the internet and through a free-of-charge telephone number available for the citizens. This awareness-building process started long ago and continued up to 2-3 days before the election process (as in former election processes). This campaign covered various aspects of electoral process.

AHC is of the opinion that CEC performance has been obstructed/ hindered by inappropriate interventions of various political parties representatives with no right to

vote in this commission. Political pressure exerted on this organ has been present throughout the entire electoral process, but became more obvious especially in the run-up to elections, when CEC would formally announce the decision on final results of the general local government elections, based on the results announced by respective LGEC-s<sup>3</sup>.

## CEC GUIDELINES AND AHC SUGGESTIONS ABOUT THEM

The Albanian Helsinki Committee has carefully studied all CEC guidelines on election process and considers them as a precious contribution to a better and just observance of the law. Besides appreciating these guidelines, AHC has forwarded to CEC the following remarks or suggestions:

- a) Guideline no.7, dated 3.IX.2003, says that VCC members must not be individuals who have to carry a gun due to their employment. In fact, this is a new norm, which cannot be regulated through a guideline, because this is not a criterion prescribed in Article 458 of the Electoral Code.
- b) Guideline no.7, dated 13.IX.2003, states that the political party which has suggested the member for the post of deputy leader in the VCC of relevant municipality/commune, is entitled to also propose the person for the post of the secretary in every polling station of this municipality/community. Given this opportunity, we have expressed our opinion that this right should not be enjoyed by any political party, not only because the law provides as such, but because of the fact that the secretary enjoys the status of a member with no right to vote and performs only administrative functions.
- c) Regarding guideline no. 8, dated 15.IX.2003, "On administrative procedures for appeals and litigation...", we voiced our opinion that the law has been repeated in many items of this guideline. In our view, a guideline is issued to further the understanding and observance of a law.
- d) We have opposed a part of Guideline no 5, dated 03.IX.2003, on revising procedures of preliminary voters' lists (voters draft lists), where it is said: "In case the voter submits no personal request to change his/her polling station, then the respective VCEV sends his general information to the relevant civil registry office in order to establish the elector's address of permanent residence". This part contradicts item 3, Article 58 of the Electoral Code (see also letter dh), item 1 of Article 58), where it is said that electors' personal requests should be attached to requests presented by political parties or electoral subjects and other interested institutions.

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<sup>3</sup> In relation to this argument, AHC is of the opinion that LGEC-s are responsible for delays in announcing the final election results, especially in the district of Tirana, and that under these circumstances, based on the law, CEC could have intervened more efficiently in order to prevent these significant delays which had their consequences.

The Albanian Helsinki Committee has signalized CEC concerning other issues as well based on information gathered by our monitors during the run-up to election as well as during elections day<sup>4</sup>.

## LITIGATIONS/CLAIMS

Although the Albanian Helsinki Committee did not monitor this process, we can say that for the first time litigations/claims addressing procedures contained in the Electoral Code are more complete and clearer. According to CEC data, there has been a relatively great number of litigations/claims. Our observers have assisted in several cases addressed in CEC and had the impression that procedures foreseen in the Code were generally justly observed. Nevertheless, AHC does not consider as normal the inappropriate intrusion of various representatives of political parties through replications and frenzied debates.

The subject of appeals and complains submitted near CEC and Electoral Tribunal near the Court of Appeals has been various. The majority of appeals/litigations submitted near CEC have been accepted in order to be addressed, while in very few cases, the claimant party has retreated its claim. 56 litigations/claims were submitted near the Court of Appeals challenging CEC decisions.

As a conclusion of what it was said above and despite the political statements and criticism addressed by different subjects towards the electoral commission, in this election process, CEC has generally followed the established procedures on appeals contained in the Electoral Code, although there have been individuals who have not approved the decisions made by CEC or the Election College of the Court of Appeals.

AHC considers as unjustifiable the delays of electoral commissions in announcing the results of elections held in Tirana municipality. We are of the opinion that these delays are a result of disputes between members of electoral commissions, political influence exerted on commission members and negligence shown in the observance of the Electoral Code.

In several occasions AHC has required various information from CEC on appeals submitted by electoral subjects. We would like to take advantage of this opportunity to underline the fact that CEC has in each case timely supplied AHC with full, transparent information based on AHC official request submitted near this commission.

## LGEC AND VCC PERFORMANCE AND PROBLEMS IDENTIFIED BY AHC OBSERVERS

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<sup>4</sup> For more information regarding the official communication between AHC and CEC, please read appendix no.3 in this report.

AHC has closely monitored the establishment process of VCC-s, performance of LGEC-s and VCC-s, training of commission members as well as communication between members of local government commissions. AHC has noticed delays in LGEC-s and VCC-s establishment. The main reason was not meeting the legal deadlines foreseen in the Electoral Code, within which respective political parties had to present their proposals for members of these commissions. According to an official report of CEC spokesman, only around 70 per cent of VCC-s were established at a national level up to 2nd of October (legal deadline prescribed in the Electoral Code on VCC-s establishment) and delays in the establishment of the rest of VCC-s were a result of delays in submission of proposals by the political parties.

Regarding the documentation of candidates for VCC members, submitted near respective LGEC by the political subject, AHC has noticed a general effort by the LGEC-s commissioners to verify the documentation of candidates running for members of VCC-s as required in the Electoral Code (Article 45, item 2-6). AHC observers have also reported cases of incomplete documentation; such as it was the case of some municipal units in Tirana and districts where AHC closely monitored this process. In few cases, the all there was included in the documentation was a list of names of candidates running for VCC members, without the required documentation attached as prescribed in the abovementioned provision.

LGEC members, responsible for addressing and completing this documentation, were satisfied with the good faith of political parties non-observing thus requirement of Article 45 of the Electoral Code.

The Albanian Helsinki Committee has concluded that the relevant political parties, which have the right to propose candidates for members of LGEC-s and VCC-s, have not paid the necessary attention to a qualitative selection. This has had a negative impact in the correct application of the Electoral Code and CEC guidelines, which was in turn reflected in various aspects of the electoral process.

LGEC-s composition has been generally made in accordance with the law, but in some of the areas observed by AHC, it has been noticed that the criteria set for LGEC-s members were not met, such as the criterion on higher education being completed by a LGEC member and the profession of the secretary being that of a lawyer.

Delays in the establishment of LGEC-s and VCC-s have negatively affected also the commissioners' training. According to the information supplied by CEC, this structure organized 4 intensive trainings for the LGEC-s members and 1 training for the VCC-s members, only two days before the elections day on 12<sup>th</sup> of October 2003. The Albanian Helsinki Committee has voiced its concerns to CEC regarding the scarce training and the short time available for their completion especially by the VCC-s members.

Another problem worth to be mentioned regarding LGEC-s and VCC-s commissioners is the withdrawal of a number of these commission members who had to be replaced respectively by CEC and LGEC-s. According to CEC statement, after 12<sup>th</sup> October 2003, the political parties have required to CEC 923 replacements of members of local commission, bringing in these commissions individuals who did not undergo the necessary training.

## RELATIONS BETWEEN LGEC AND VCC MEMBERS DURING THE ELECTORAL PROCESS

AHC observers have informed of disputes between members in some LGEC-s, motivated by narrow party interests or based on party guidelines. The announcement of final results of elections held in some electoral precincts sharpened the differences between members of some LGEC-s. According to Article 110 of Electoral Code, the LGEC should announce the final results no later than two days after the elections day, and this announcement should be made in the presence of all commission members, representatives of electoral subjects and accredited foreign and local observers.

Some of these LGEC-s preferred to make use of the legal right of not taking decisions when five members give a negative vote, while in some other LGEC-s, such as the one of Durres city, although it made full use of this right, delayed the transfer of its materials near CEC (the decision on the candidate of Durres city CEC was taken by CEC on 20<sup>th</sup> of October).

Tirana LGEC, much delayed in transferring the relevant materials to CEC, sent them only on 23<sup>rd</sup> of October 2003. We have been informed through the print and electronic media about the atmosphere existing between the members of this commission, where both parties blamed each other, despite warnings issued by CEC to unblock the process. It is worth mentioning that the electoral commission, including also the LGEC should not make political or emotive statements or give such interviews, before performing the duty charged to them by law.

It is regrettable that specific members of Tirana LGEC continued for a long time to make public comments as political adversaries and not as members who apply the provisions of the Electoral Code and who should act under the spirit of this Code. In cases when any LGEC verifies legal infringements, such as absence of relevant materials in the ballot boxes, lack of documentation, etc, Article 110 of the Electoral Code should be applied. This means that all identified irregularities should be pinpointed and noted down in the relevant electoral minutes as well as the contestations of any LGEC member or present representative of political forces, etc.

Shortcomings during the elections day and during the announcement process of final election results by LGEC-s, reported by our observers tell of a poor knowledge of/on the law on the part of VCC and LGEC members, and also of party influences exerted on representatives of political parties in these commissions.

# 4

## **CANDIDATES REGISTRATION PROCESS FOR THE LOCAL GOVERNMENT BODIES ELECTION AND PROBLEMS IDENTIFIED DURING AHC MONITORING ACTIVITIES**

Upon Article 78 of the Electoral Code, the documentation for the presentation of candidates for the post of Municipality Mayor or Chief of a Commune, or for the municipal council or commune, should be submitted near LGEC no later than 32 days before the elections day. Relevant commissions should complete the verification process of the documentation submitted no later than 30 days before the Election Day. Based on the observations carried out by AHC observers it has resulted that candidates' registration for the post of Municipality Mayor or Chief of the Commune, or as a member for the municipality or commune council, has been generally completed within the set deadlines.

In some monitored areas however, there have been cases of incomplete or incorrect submitted documentation that has been afterwards retrieved by respective candidates in order to be completed as required by LGEC. There has been a case of the same candidate being registered by two different electoral subjects, such as was the case in Fier town, which it was later corrected.

Except for the withdrawal of a candidate belonging to the local branch of the Reformed Democrat Party in Elbasan, AHC observers have not reported on any other case of withdrawal by candidates running for Municipality or Commune Mayors or for members of Municipality or Commune Councils in observed areas.

# 5

## PRELIMINARY VOTERS' LISTS, THEIR REVISION AND PROBLEMS IDENTIFIED DURING AHC OBSERVATIONS

### ELECTORAL CODE ON VOTERS' LISTS

Voters' lists are official documents of voters' registration for each electoral precinct of the polling station, in accordance with the Electoral Code. According to Article 50 of the Code, in the voters lists for each polling station, there are registered those voters whose permanent residence is within the area covered by the polling station of the local government unit as well as voters whose permanent residence is within the electoral precinct of the respective polling station of the local government unit.

Based on letter b), item 1), Article 50 of the Electoral Code, voters should be already registered near the civil registration office or during the process of voters' lists drafting, should provide proof of their temporary residence in the respective electoral precinct of the polling station.

Another request of the Electoral Code (item 2, Article 50) is that voters with temporary residence in a certain electoral precinct will be included in the voters lists of the polling station in the electoral precinct of their temporary residence, after their name has been removed from the voters' lists in the polling station in the electoral precinct of their permanent residence.

Voters' lists, according to Article 51 of the Electoral Code, are to be compiled by civil registry offices based on the documentation available in the main registers in the civil registry offices as well as on the registers on temporary residents in respective electoral precincts. Based on Article 55 of the Electoral Code, this information is then sent to the National Registry of the civil registration and in the Voters' National Registry, where the data undergo the necessary processes. After this elaboration, municipalities and communes are required to remove from their voters' lists of permanent residences the ones that are registered as temporary residents.

After this step, the municipalities, municipal units and communes approve and sign the preliminary voters' list. It is these lists that are administered by respective

LGEC-s. This is the procedure of compilation and approval of the preliminary voters' lists.

After the promulgation of the preliminary voters lists, according to item 2, Article 57 of the Electoral Code, every elector is entitled to request corrections to be made in the voters' lists in cases when an elector dies, or has lost the right to vote, or is registered in more than one list, has changed his/her permanent or temporary residence, proves that his general identification data are not correct, or he/she has been registered in the wrong polling stations. Voters' lists revision, according to Article 58 (item 2) of the Electoral Code is done upon the decision of the body responsible for drafting the lists based on submitted documents.

According to item 2, Article 57 of the Electoral Code, the request is submitted near LGEC and it contains the reason why should the change in the voters' list be made; the documents that prove this reason, name, father's name, last name, birthday and elector's identity number, according to the model approved by CEC. LGEC decides on this request within 7 days from the submission of this request. Regarding electors whose permanent residence is in other local units, the decision is taken after the elector is being removed from the voters' lists in the polling station within the electoral precinct of his permanent residence.

#### **PROBLEMS WITH VOTERS' LISTS IDENTIFIED DURING AHC OBSERVATIONS**

AHC observers have reported on few inaccuracies in the voters' lists such as cases of individuals whose names were not included in the lists, or whose names were registered in a polling station other than their own, or cases of members of the same family being registered in different polling stations without being informed upfront on the transfer to another polling station or cases of electors finding their names in the published lists but not being able to find again their name in the lists within the polling stations.

These irregularities of course distressed especially those electors who were willing to make use of their right to vote. The reasons for these confusions could be numerous, but in our opinion the main ones are the following:

**Firstly**, after the publication of the preliminary and final voters' lists, according to the law, LGEC-s, in cooperation with the municipality and commune should had arranged to notify each elector on his/her polling station, its location and their number in the voters' lists in their polling station (Article 56 of the Electoral Code). It seems this provision of the Electoral Code has not been properly observed by the LGEC-s. On the other hand, the Albanian Helsinki Committee is of the opinion that CEC has worked intensively in order to inform the public on the voters lists using in a more organized way the print and electronic media, the television announcement, the internet as well as a free-of-charge telephone number available for the public.

**Secondly**, after the publication of the preliminary voters' lists, part of the electors, due to their negligence or because they were quite convinced their name had



to be in the lists, did not check in person in order to find their names. There have been electors who although could not find their names in the voters' lists they did not address their concern to the respective LGEC (a requirement prescribed in Article 57 of the Electoral Code).

**Thirdly**, according to Article 58 of the Electoral Code, the political parties have the right to address LGEC-s regarding changes in the preliminary voters' lists. Their complaints have been partly covered by the media as well or have been voiced in press conferences and partly near LGEC-s, but in no case were they accompanied by the personal requests made by the electors, which delayed and made difficult carrying out the necessary verifications.

**Fourthly**, LGEC-s have not shown proper care and have not addressed on time the complaints submitted to them while their decisions have not often been made public.

**Fifthly**, the voters' lists, after the final approval, underwent other changes upon the requests of some political parties.

Despite the abovementioned reasons, of a subjective character, the Albanian Helsinki Committee, is of the opinion that similar irregularities to various extents, will continue as long as the civil registries are not accurate and according to the law, as long as there is no computerized data system where to verify this information. This is an opinion long expressed by AHC even during previous election processes in the country.

AHC is of the opinion that part of these irregularities could have been prevented if the electors themselves showed greater care to electoral subjects as well (especially the two major parties in the country). Shortcomings would have been curbed if respective LGEC-s had applied the provisions of the Electoral Code.

The Albanian Helsinki Committee considers as important to discuss the right of political parties, electoral subject and other institutions to request modifications in the preliminary voters' lists, as provided in the Electoral Code. Thus, in item 3, Article 58 of the Electoral Code it is said that: "The right to request modifications in the preliminary voters' lists is given also to political parties, electoral subjects and other intending institutions. In any case, these requests should be accompanied by the relevant documentation...", while when the abovementioned subjects request modifications of permanent or temporary residence, when voters' personal information is incorrect or in case the elector is registered in the wrong polling station, the "personal elector's request" should be attached to this request. We are of the opinion that item 3 of Article 58 of the Electoral Code is quite debatable, and especially due to the fact that its application might have affected in the confusions<sup>5</sup> verified in the voters' lists for the elections held on 12<sup>th</sup> of October 2003.

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<sup>5</sup> For a detailed addressing of the right that the Electoral Code gives to the political parties in the revision process of the preliminarily voters' lists, please see "*Conclusions and suggestions regarding amendments to the Electoral Code and electoral process performance, October 2003*" in this report.

Regarding irregularities in the voters' lists we deem it necessary to emphasize that AHC monitors the observation of the requests in the Electoral Code and it does not take part in political comments. In monitoring the election process in compliance with the law, we conclude only based on the law and verifiable information gathered by our observers. If the irregularities verified in the voters' lists are intentional as claimed by various political forces, it is not the duty of AHC to deny or affirm such a thing. There are specific organs who have the power to deal with such issues and reach the relevant conclusions.

# 6

## FEW ISSUES RELATED TO THE ELECTORAL CAMPAIGN AND THE MEDIA

According to Article 133 of the Electoral Code, the electoral campaign commences 30 days before the elections and ends 24 hours before the voting process starts. The two major parties of the opposition and the incumbents, counter to this disposition commenced their electoral campaign respectively on 30<sup>th</sup> of September and on 1<sup>st</sup> of October 2003. This move was followed by other parties as well.

The run-up to elections was generally quiet, especially the electoral propaganda of candidates running for municipality and chief of communes. A positive fact was that candidates held meetings and took part together in different electoral debates organized by television channels. The range of problems they covered in their campaign was closer to the one distressing the electors, although there were baseless promises made as well.

AHC is of the opinion that the language used by the leader of the Socialist and Democratic Party sometimes has not been quite politically correct. They have exchanged accusations on implications in criminal activities and in some cases they have also breached each-others privacy. In few cities such as in Durrës, Korçë, Shkodër etc., there were complaints about locations for posting the propaganda materials not being specified as well as of tearing up of the posted materials, which goes counter to Article 135 of the Electoral Code where it is said: "The Local Government bodies should justly and impartially define the public locations for the posting of propaganda materials". Non-enforcement of this law has mostly affected the minor parties. Calling for the application of this law, CEC issued also guideline no 10, dated 27.IX.2003, but in the opinion of AHC, this move was made somewhat late.

Another issue worth mentioning in relation to the election campaign is that of financing of political parties for the local government election process. The public funds for the electoral campaign were approved by the Parliament of the Republic of Albania only on 23 of September 2003, three weeks after the beginning of the electoral campaign. AHC thinks this fund should have been approved long before.

As for the media coverage of the electoral campaign, AHC thinks there has been a generally balanced coverage of the campaign. AHC is of the opinion that the language used by the printed media of the two major parties in the country, i.e. the incumbents and the opposition, the daily "Zëri i popullit" and "Rilindja demokratike",

has been aggressive in some respects, partly accusative and offensive, letting alone the journalistic ethics.

Regarding the excesses or partialities shown by the public and various private television channels while covering the electoral campaign, based on what AHC has been able to watch, it is of the opinion that the electronic media has generally correctly reflected the development of the elections campaign, although there have been few complains especially by the minor political parties.

Apart from covering the electoral campaign, the print media has also addressed the following issues:

- ☞ The election of a CEC member
- ☞ Delays in the financing of the electoral campaign
- ☞ Amendments in the law “On Police” and the normative act approved by the Council of Ministers “On Guaranteeing the Election Process on Election Day.”

In addressing these issues, attention was focused more to the political aspects of these issues rather than the legal one. Thus, for example, the HCJ decision was criticized claiming its decision was made under the political influence of the majority.

Regarding the delays in approving the public funding of the electoral campaign, the print media criticized the government arguing this delay had negatively affected especially the electoral campaign of the minor political parties. The print media considered as illegal the approval of the normative act since in its view it aimed at rigging up the elections, etc

AHC is of the opinion that positive impacts have had the provisions foreseen in the Electoral Code on monitoring of the electoral campaign and on the establishment of the monitoring board for the media.

## THE VOTING PROCESS

The entire voting process on 12<sup>th</sup> of October 2003, was generally held in a calm atmosphere, without incidents in all the electoral precincts monitored by AHC. In the following paragraphs there is a summary of the problems identified in electoral precincts monitored by AHC observers:

### PROCEDURES BEFORE BEGINNING THE POLL

Based on Article 97 of the Electoral Code, one hour before opening the polling stations, i.e. at 06:00 a.m. on 12<sup>th</sup> of October, the VCC, under the direction of the chairperson and the deputy chairman of this commission and in the presence of the representatives of the electoral subjects and observers, carries out several duties as foreseen in the same article (letter a-dh), Article 97 of the Electoral Code). Regarding the preparatory work of VCC-s members, AHC observers have reported that polling stations were generally opened at the hour as established by law.

However, there have been also cases of delays in opening the polling stations due to the absence of one of the VCC-s members or of the secretary. This phenomenon has been generally noticed in the districts of Durrës, Vlorë, Kukës (1 VC), Gjirokastër (4 VC), Fier (6 VC), Elbasan, Korçë and Shkodër (5 VC). The absence of the secretaries has been mostly a result of their replacement in the last hours of the day prior to elections.

Regarding the regularity of the polling stations, based on observations made we can say that generally nothing has been out of order.

During the entire procedures followed before opening the voting center, VCC-s members and representatives of electoral subjects generally have been present, there were, however, cases of absences on the part of VCC-s members or some political party representative, such as in the districts of Tirana (in 7 VC, Durrës (in 5 VC), in few VC-s in Vlorë, Kukës (1 VC), Gjirokastër (3 VC), Fier (2 VC), Elbasan (3 VC), Korçë (3 VC) and Shkodër (2 VC).

Ballot boxes and voting materials were checked by VCC members in all those polling stations where AHC observers have been present. The minute has been generally signed by all authorised individuals as foreseen by the law with the exception of 5 polling stations in Tirana, 1 in Gjirokastër and 1 in Durrës, where the minute was not signed by member of the commission or representatives who were absent during the election day.

Voting instructions were posted in an appropriate place, a requirement expressed in letter c), Article 97 of the Electoral Code. This requirement has been generally met except for in 5 voting centers in Tirana, 3 in Vlorë and 2 voting center in Kamëz, where the instructions were not posted at all.

The presence of propaganda materials within 150 m range from the polling stations is in contradiction with the law, which has been the case near 13 voting centers in Tirana, 3 in Kamëz, 1 Kukës, 2 in Gjirokastrë, 2 in Fier, 3 in Shkodër, 2 in Elbasan, 3 in Korçë, 3 in Vlorë and 6 voting centers in Durrës, infringing thus letter b), Article 97, of the Electoral Code.

## OPENING OF POLLS AND PROCEDURES DURING THE VOTING PROCESS

Delays in opening some of the polling stations and in the preliminary preparation of the voting materials, have in turn delayed the beginning of the voting process. Similar cases were noted by AHC observers in 2 voting centers in Tirana, 9 in Durrës, 2 in Vlorë, 1 in Kukës, 1 in Gjirokastrë, 4 in Fier, 1 in Shkodër, 3 in Korçë and 1 in Kamëz.

Electors would generally show his/her identification documents before casting the ballot. An exception to this generalisation makes one voting center in Kukës and some other cases in Vlorë. Almost in all voting centers monitored by AHC, there have been cases of voters casting their ballot after showing only their voter's card, according to the CEC guidelines, the voter's card is not listed in the identification documents required in order to vote. CEC has established in its guidelines three identification documents to be used by voters: the passport, identification document, ID, and a birth certificate with a picture of the individual attached. Voters have been confused when their voter's card has not been accepted as a valid identification document.

It is worth mentioning that this confusion amidst VCC members regarding the acceptance of voter's card as an identification document resulted from the contradictory information offered to VCC members in their Training Manual where the voter's card is included in the list of identification documents, contradicting CEC guidelines.

In all cases, the ballot was given to the voter after being stamped by the VCC secretary.

Another problem identified during the voting process has been the malfunctioning of ultra violet rays identifying lamps or their misuse, such as thumb marking of voters before verifying their names in the lists.

There have been no armed individuals within the polling stations monitored by AHC. VCC have had no need to call the police to reestablish order in the polling stations except for in one voting center in the eight-year school "Vasil Shanto" in Shkodra where police was called after the ballot box was stolen.

Based on Article 103 of the Electoral Code, "voters who due to physical conditions are unable to carry out themselves the voting procedures, might ask for the help of a family member or another voter who is in the voters lists of the same polling station in the same electoral precinct". This legal provision has been generally observed in all stations monitored by AHC, but there have been cases such as in few polling stations in Elbasan, where the electoral minute has not been held as foreseen in Article 103 of

the Electoral Code. In this Article it is said: "Before marking the ballot, the person helping the other voters, should make a statement in the electoral minute that he/she will vote based on the electoral instructions and that he/she will not influence the judgement of the other voters, that he/she will not disclose the vote and that he/she has not personally voted for the account of another voter".

There have been cases of VCC members helping individuals unable to cast their ballot themselves, such as in 2 polling stations in the district of Vlorë, violating thus item 4, Article 103 of the Electoral Code, as well as some cases in Tirana where a person has helped more than one voter unable to cast their ballot for themselves, violating thus item 2, Article 103 of the Electoral Code.

Almost in all electoral precincts monitored by AHC there have been cases of voters not being able to cast their ballot although their names appeared to be in the preliminary lists<sup>6</sup>. This has been a general problem in all observed polling stations. The main reason for this has been names with no entry in the final voters' list, inaccuracies in registering the name or cases of names registered in different polling stations without the voter being notified about the change. Other reasons for this have been rare and of a technical character (identification documents with no photography of the individual, etc).

Voters, whose name were not in the voters' list, have been often advised to address this issue to the District Courts, such as in Korçë, Kukës, Fier, Tiranë etc. These instructions on the part of VCC-s has been disorientating and confusing for the voters because it is known that based on item 6, Article 57 of the Electoral Code: "One could dispute a decision of LGEC-s decision near the respective District Court within 48 hours from the moment of publication of this decision. A court panel of three members will make a decision within two days. The verdict of the District Court is final". Thus, a decision should had been made before by the respective LGEC-s on the personal voters' requests on the revision of the preliminary voters' lists and then, this decision could be disputed by the voter in case he/she does not agree with the decision of respective LGEC-s. Now the voter has 48 hours to dispute the decision taken by the respective LGEC near the respective District Court. The suggestion made to voters on 12<sup>th</sup> of October 2003 to address their District Court is baseless in the Electoral Code and has caused further confusion amidst these voters.

Also changes made in the location of few polling stations on the eve of elections day, observed by AHC in several electoral precincts, as well as the fact that voters seemed to be ignorant of these last minute changes, further confused the voters.

Unfortunately, the abovementioned phenomena have distracted voters and almost all our observers in nine electoral precincts monitored by AHC have raised this question.

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<sup>6</sup> For more information, this issue has been treated at length in the part "*Voters' preliminary lists, their revision and problems identified during AHC monitoring mission*" in this report.

A great influx of voters in few centers in Tirana, 1 in Gjirokaštër, 2 in Fier and Shkodër has caused great difficulties within the polling stations. The fact that the interior space in some of these locations was very limited, should be kept in mind.

Ballot boxes were quickly filled in the majority of monitored polling stations, due to the great size of the ballot paper. AHC, briefed CEC on this problem after the first hours of the election process on 12<sup>th</sup> of October 2003. But CEC, despite the great efforts it made to send other boxes where needed, it should have foreseen and avoided such a problem. However, our observers have not received information that the overflowing of boxes hindered the voting process or made voters leave without casting their ballot first.

There have been no cases in which voters have not been equipped with the ballot paper. Also in general there have been no cases of doubts over the true identity of a voter. Cases of voters presenting court verdicts have been rare in the observed electoral precincts, nevertheless in those few cases voters have cast their ballot normally.

In the observed electoral precincts, there have been noted cases of families of voters who would simultaneously vote in the secret room and also some cases of voters being accompanied by their family members or commissioners. There have been cases of couples voting together simultaneously in the secret room. The abovementioned cases have been discerned in few districts, such as in Tirana, Kamëz, Elbasan, Kukës and Vlorë.

In the AHC observed electoral precincts, there have been no cases of pressure exerted on VCC-s, except 2 cases in Vlorë, in two polling stations and 1 in Tirana, where one of the candidates running for the post of Municipality Mayor in Tirana district has made attempts to influence the VCC members and representatives of the candidate's political party which led to the temporary suspension of the voting process. There have been no reports of pressure exerted on voters either.

## SCRUTINY PROCEDURES

As for the scrutiny procedures following the closing of polling, it results that in the observed electoral precincts everything has proceeded calmly and in compliance with the law. The majority of the polling stations closed at 19:00 hours. Only in 2 polling centers in Gjirokaštër, 1 in Shkodër, Elbasan and Fier, as well as 3 other polling stations in Korçë, were closed few minutes after 19:00 hours due to the voters waiting to cast their ballots. As for the polling stations in Tirana Municipality, CEC decided polling stations to be closed at 20:00 hours, which was observed in almost all polling stations except for one which it closed at 19:40 hours, thus before the hour foreseen by CEC.

In the reports of AHC observers it has been highlighted that procedures clearly defined in Article 109 of the Electoral Code were generally well observed in the ballot counting process by VCC-s. These procedures were monitored by representatives of the political parties and observers, as foreseen in the Electoral Code.



A calm atmosphere prevailed during the ballot counting in most of the polling stations, however, in few polling stations in Tirana, in 1 in Gjirokastrë, 1 in Fier, 3 in Shkodër, 3 in Korçë and in few polling centers in Elbasan, VCC members have debated on the technical issues, on ballot counting, and ballot papers verification, etc.

In the majority of the observed polling stations, without few exceptions, generally there were no disagreements between VCC commissioners about filling the tally sheet of the votes. As for the exceptions we can mention that out of the polling stations observed in Tirana, in 4 of them not all members signed the tally sheet.

In Tirana and Durrës, all persons present in the VC, as foreseen in Article 105 of the Electoral Code, were given a copy of the tally sheet. Nevertheless, in one polling center in Tirana and in another in Korçë, AHC observers were not given a similar copy due to their limited number and because the VCC members did not recognize the right of observers, ensured in letter f), Article 109 of the Electoral Code, to be equipped with a copy of this sheet.

In those polling stations observed by AHC throughout the country, except for one in Kukes, VCC-s respective commissioners administered the election materials in compliance with the law, after finishing the ballot counting and tabulation of votes. The ballot boxes were all sealed in the polling station monitored by AHC, with the only exception in the polling station of Kukes. Our observers did not notice pressure being exerted on VCC members when outside the polling stations.

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## OTHER ISSUES

It is worth mentioning that in their reports, AHC observers have highlighted the fact that VCC and LGEC members monitored during the run-up to election process, the Election Day and after the election process have in many instances appreciated the observer role of AHC. They have also welcomed the written remarks of AHC observers, especially during the Election Day. This appreciation is not only related to AHC good reputation, but also with the fact that the observers of this Committee have correctly performed the duties defined in the Electoral Code.

AHC<sup>7</sup> has continuously kept in touch with CEC on the obstacles, difficulties and law violations, identified during the electoral process and in some cases has publicly declared them<sup>8</sup>. We are pleased to note this body not has welcomed AHC suggestions but has also taken measures to improve the situation when such a move has been necessary.

This conclusion, seen from a wider perspective, is quite positive. The Albanian society in general and the central structures and the local ones responsible for the administration of local government elections conducted in October 2003 in particular, are becoming more aware of the modest but very necessary help given by the actors of the civil society, such as the help given by AHC in the role of the domestic observer in the local elections of October 2003.

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<sup>7</sup> For more information on the official communication between AHC and CEC, please read appendix no.3 in this report.

<sup>8</sup> For more information on AHC public statements, please read appendix no. 2.

# 9

## CONCLUSIONS AND SUGGESTIONS ON AMENDING THE ELECTORAL CODE<sup>9</sup> AND ELECTORAL PROCESS PERFORMANCE, OCTOBER 2003

### CONCLUSIONS

AHC, based on its observations in relation to the Electoral Code application during the electoral process in October 2003, presents the following conclusions:

1. The new Electoral Code <sup>10</sup> marks a positive step toward the amendment of the abrogated Electoral Code, nevertheless, the new Law leaves much to be desired in certain respects.
2. CEC has performed better and in a more professional way its duties, defined in the Electoral Code. This fact was noticed in its normal, public and transparent operation and especially in the application of the legal procedures while addressing the submitted claims, although in the post-election period, (for example, the declaration of final results of the October 2003 polls) it has hesitated to act more quickly in order to solve the created situation.
3. The Electoral Code demands political balancing in CEC, LGEC, and VCC, which generated problems of a various natures, such as delays or blocking of the process of final declaration of polls.

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<sup>9</sup> Regarding the Electoral Code and its amendment, AHC has other thoughts as well, but which require a detailed research in order to come out with real proposals. Maybe the opinion of a broader circle of specialists would be necessary and especially those with previous experience in the field.

<sup>10</sup> As for remarks and suggestions on modifications in the Electoral Code, please keep reading in this section of this chapter.

4. Political pressure on the electoral management bodies, such as CEC, LGEC and VCC-s, has been present and sometimes enormous which has delayed and blocked several electoral processes.
5. There have been delays in establishing the LGEC-s and VCC-s. This happened due to delays in the submission of list of candidates selected to stand for election by respective political parties.
6. Poor training of LGEC and VCC members due to delays in starting this process, resulted in insufficient knowledge of the electoral legislation by the commissioners.
7. Replacement of a considerable number of commissioners few hours before the elections day resulted in the malfunctioning of the local electoral commissions, noted especially during the process of the announcement of the final election results.
8. Numerous shortcomings were noticed in the voters' lists, which confused voters on election day. These irregularities also affected voters' willingness to exercise their right to vote, by making them leave without casting their ballot.
9. Voters showed unconcern and negligence in following the procedures foreseen in the Electoral Code, which required them to verify if their name was entered in the voters' lists.
10. The electoral campaign was calmly conducted and generally there were no incidents recorded.
11. Media coverage of the electoral campaign has been generally balanced, although few issues treated in the print media have had more of a political than a legal character.
12. There were delays in allocating the public funding for the expenses of electoral campaign of political parties.
13. Situation during the voting process was calm and generally without incidents in the electoral precincts observed by AHC.
14. A number of irregularities were noticed during the procedures followed in opening the polling stations, during the electoral process as well as in the declaration of polls by VCCs as well as the final results to be announced by relevant LGECs.
15. During the election day, there was confusion amidst voters who could not find their names in the voters' lists. They were advised to address the respective District Courts or the political party electoral headquarters in order to be informed in which voters' list there were to find their names.
16. CEC had not properly foreseen the ballot boxes issue, which was quickly filled due to the size of the ballot paper.
17. The last minute changes in the location of several polling stations before the elections day, resulted in the voters confusion during the election day.
18. The process of closing the polling stations in the electoral precincts observed by AHC has been calm and in compliance with the law. However,

in few cases, during the vote tabulating procedures, VCC commissioners debated over technical matters.

19. State Police forces have observed the provisions contained in the Electoral Code by successfully performing their duty during the electoral process.
20. The electoral management body for the local elections conducted on October 2003, appreciated the modest and necessary contribution of the domestic observers in general, and of AHC observers in particular, which is a positive development.

## SUGGESTIONS REGARDING THE ELECTORAL CODE<sup>11</sup>

The experience earned in the local government elections demands that the New Electoral Code undergo several changes in the future. The following issues deserve to become object of discussion and debate:

1. CEC, VCC and LGEC-s should not be composed based on the proposals made by the relevant political parties, but other more appropriate options should be discussed in order to ensure their impartiality and independence. One of these options might be testing the candidates based on professional criteria as in the case of public servants. While the proposals of electoral subject might be accepted for the composition of the VCC-s (considering the great number of members needed for these commissions and the great expenses that might be needed), however, their competences and procedures to be followed should be revised.
2. After publishing the preliminary voters' lists, the right to request their correction (due to inaccuracies, shortcomings, etc) should be given only to the voters and not to political parties, electoral subjects and other interested institutions, as mentioned in item 3, Article 58 of the Electoral Code. We are for the abrogation of this provision, because its application might have harmful consequences especially in cases when the LGEC-s decide to partially or completely reject their requests. We highlight this also due to the fact that only the voters have the right to address a litigation in the District Court.
3. The constitutionality of item 2 of Article 23 of the Electoral Code should be taken into consideration, where it is said that the Constitutional Court should be notified in case of detention or arrest of the CEC members, because it is in the power of this court to make the necessary verdict. This competence of the Constitutional Court is not defined in the Constitution, therefore it cannot be regulated by a special law.

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<sup>11</sup> Soon AHC plans to initiate a round-table of experts in the field to exchange opinions regarding some important issues of the Electoral Code and its application in practice.

Also, items 1 and 3 of Article 24 of the Electoral Code, on the dismissal of CEC members by the approval of 2/3 of the Parliament, should be revised (because this issue it is not treated in the Constitution). This is in violation with Article 87 of the Constitution, and with what it is said in Article 25 of the Electoral Code on the early termination of the term of a CEC member (because this issue is not treated in the Constitution) and the Constitutional Court has made known in a similar occasion, that this issue could be regulated by law.

4. Regarding the renewal of CEC composition, in Article 154 of the Constitution it is said: "Constitution of the Central Election Commission will be renewed every three years according to the procedure defined by law". This detailed procedure was defined in Article 25 of the abrogated Electoral Code, while it is not in the new one. This is a constitutional obligation and could not be avoided.
5. We think that it should be revised the requirement in the New Electoral Code, according to which in order to make a decision on some issues, five members should vote in favor. The experience of local elections of 12<sup>th</sup> October proved that application of such requirement caused delays in solving issues and in announcing elections results.
6. We suggest that the amended Electoral Code invests CEC with the right to announce partial results as well upon the completion of administrative procedures for claims submitted near the Electoral Tribunal. We also suggest that the 7-day deadline for addressing issues submitted to the Electoral Tribunal near the Court of Appeals be reduced to 5-days deadline.
7. In the Electoral Law it should be established more clearly that the voter who has submitted a claim near LGEC requiring the correction of the preliminary published voters' lists, should be officially notified on the decision made by LGEC in this respect. It should also be emphasized that even when the voter's claim has been accepted but his/her name still does not appear in the final voters' lists, the voter has the right to complain near the court (if the case is not solved in the administrative manner).
8. In order to make possible better and more complete the compilation of voters' lists, it would be necessary to revise and observe the by-laws on the civil registry. Apart from this, computerization becomes a necessity as well as the creation of mechanisms to control the accuracy of these registers, which in turn would allow the creation of a civil registry database with a higher degree of accuracy. Without taking these measures it will be difficult to avoid cases of voters not being able to cast their ballot.
9. In the Electoral Code (item 3 of Article 33) it is said that representatives of seven political parties enjoy a permanent status near CEC and have the right to participate in all CEC meetings, even when not in electoral period. We suggest for this provision to be revised because after registering near CEC, the political party takes the attributions of an electoral subject and after the announcement of the final elections results, it would be absurd for

its representative to have a permanent status and take part in CEC meetings even when not during electoral periods.

10. It would be a step forward for transitory dispositions to be foreseen in the new Electoral Code. These dispositions could regulate among other issues, also the term of already elected individuals, which would prevent the early termination of their term due to changes in the Electoral Code. It should especially provide of CEC members.
11. In Article 167 of the Electoral Code it is said that the judge of the Electoral Tribunal cannot undergo a disciplinary proceeding during the period of Electoral Tribunal operation. We suggest for this provision to be revised because if based on the violations verified he/she should undergo a disciplinary proceeding, likewise other judges, then there is no reason why he or she should be privileged.
12. AHC does not share the opinion that what is said in Article 140 of the Electoral Code, and in concrete terms when it is about the right of CEC to order NCRT (National Council of Radio and Television) to execute its decisions, is a righteous thing. We mentioned this because the NCRT is an independent body elected by the Parliament and not a body tasked with decision execution.

## OTHER SUGGESTIONS

Based on observations made during the local elections process in October 2003, AHC makes the following suggestions:

1. CEC should take measures in order to better and qualitatively organize trainings for VCC and LGEC member, which will equip commissioners with a better knowledge of the Electoral Code and ensure its correct application during the different aspects of the electoral processes in the future.
2. LGEC-s in cooperation with the relevant municipality and commune, should take measures in order to notify each and every voter on the polling station location as well as on the number his name carries in the voters' list posted in the respective polling station.
3. Delays in the allocation of funds to political parties for the conduct of their electoral campaign should be avoided.
4. CEC should take measures to avoid certain problems regarding elections infrastructure, such as it was the case with the ballot boxes.
5. Domestic observers should keep up the good practice noticed especially during this last electoral process, by enhancing in the future their role as election observers.

## Appendix NO. 1

### ON AHC ACTIVITY IN THE FRAMEWORK OF LOCAL GOVERNMENT ELECTIONS HELD IN OCTOBER 2003

During the period August-October 2003, AHC took part in the implementation of the project: "Legal education for the voters and monitoring of local government elections 2003", funded by the Democracy Commission, USA Embassy in Tirana.

The Albanian Helsinki Committee considers it as its own responsibility to take an active part in the monitoring of the political rights observation, such as it is the exercising of the right to vote by the Albanian citizens, as well as monitoring the preparations and the local government elections conduct for 2003. It is worth mentioning that from the 1990s, AHC has monitored the general elections and local government ones. Based on its reach experience built gained through activities held in the framework of this project, the Albanian Helsinki Committee contributed in:

- Raising the level of general public awareness on their rights and duties during the electoral process;
- Raising the degree of awareness amidst heads of order forces in general and amidst police stations in particular on their duties and rights before, during and after the election day based on the Electoral Code;
- Better observation of the political rights and especially in exercising the right to vote by simple Albanian citizens;
- Conduct of free, fair and democratic elections through its job as a monitor and educator during the conduct of local government elections in 2003;
- Consolidations of its role as a domestic observer of the electoral process.

In the following paragraphs we will briefly present the activities carried out by AHC in the framework of this project, which contributed in the achievement of the abovementioned objectives.



## OBSERVERS' SELECTION AND THEIR ACCREDITATION

AHC paid careful attention to observers' selection. In this process, this Committee considered the nature of its activities, Electoral Code requirements as well as CEC guidelines on the right to appoint observers. AHC selected 106 observers, among whom a part had previous experience in the observation of election processes or in other AHC monitoring missions. Based on the official AHC requirements, on 4<sup>th</sup> of September 2003, CEC accredited 106 long-term observers.

## OBSERVERS' TRAINING

On **September, 5 and 6, 2003**, AHC organized a two-day training of its observers. The aim of this training was to introduce its observers to the new Electoral Code (EC) and local government election process. In this training there were clarified in detail and analyzed the provisions of this Code as well as the observation methodology and reporting manners near AHC on the electoral campaign, submission of candidates' documentation, preliminary voters' lists and procedures followed in order to correct them, procedures in VCC-s and LGEC-s, the voting process and scrutiny procedures after the election day, the claiming procedures, etc. Special attention was paid to the role of the domestic observer in this process.

AHC qualified staff conducted this training. Useful materials were prepared in order for the trainees to better understand and analyze the abovementioned issues.

Also, AHC project staff, has continuously held meetings with its observers in order to clarify the objective of observation on each monitoring mission, as well as to inform and analyze the guidelines issued by CEC during the run-up to elections as well as to address all other issues arising during the observation mission.

## AHC CONTRIBUTION IN POLICE TRAINING

Based on the role of State Police in the electoral process, on **23-25 September 2003**, the General Directory of State Police, in cooperation with AHC, organized training workshop with high representatives of the Ministry of Public Order, chiefs of police stations from all over the country.,

The main objective of this seminar was a better knowledge of the Electoral Code, State Police role and responsibilities before, during and after the elections day, etc. Representatives of the Ministry of Public Order, CEC, State Police Directory, Parliamentary Committee on Order and the Albanian Informative Service (SHISH) as well as representatives of foreign police forces discussed on the role and special importance of the State Police as an non-political structure in holding a free, fair and democratic election process.

AHC offered this training in order to make an introduction and achieve a better understanding of the Electoral Code so that the State Police could exercise its right to vote as well as the duties appointed in this process.

## AHC AWARENESS-BUILDING PUBLICATIONS

AHC paid special attention to the issue of raising the level of general public awareness on its rights and obligations during the electoral process through the leaflet and brochure “The Electoral Code on local government elections in 2003”.

The language of this leaflet was simple and it served to introduce voters with some important processes during the run-up, such as revision of the preliminary voters’ list and relevant procedures in cases of correction, as well as legal deadlines for the completion of these procedures. This leaflet also served to introduce voters with important aspects of the voting process and their right to appeal.

Besides the leaflets, AHC also prepared the quiz brochures “The Electoral Code on local government election, October 2003”. This brochure was very helpful for the voters, observers as well as AHC activists, and other interested people in order to have a better understanding of the legal election regulations as well as the rights of each voter in order to freely exercise his/her right of choice. The language used in this publication was also simple and understandable.

The leaflet and brochure were disseminated to the first-time voters, the elderly ones and other voters’ groups by AHC observers in the districts they operated.

## ELECTION PROCESS MONITORING

AHC observers for the local government elections, October 2003, monitored few aspects during the run up, such as: the electoral campaign, publication of preliminary voters’ lists, lists revision, VCC-s and LGEC-s establishment, commissioners’ training, etc, as well as the voting process during the election day. The monitoring of these electoral processes was conducted respectively in Kukës, Gjirokastrë, Vlorë, Shkodër, Elbasan, Korçë, Fier, Durrës and Tiranë.

## PRESS CONFERENCE

**On 13 October 2003**, AHC gave a press conference where it read a preliminary report on few preliminary results of its observations made during the local elections in October 2003. This report was based on the reports sent in by AHC observers. This conference was attended by high representatives of OSCE/ODIHR in Tirana, Local Observers Forum, as well as representative of the print and electronic media.

## **AHC COOPERATION WITH LOCAL AND FOREIGN ORGANIZATIONS**

During the electoral process, ACH coordinated its work with other monitoring organizations as well as international bodies operating in Albania, which were active in the monitoring of the local elections in October 2003.

In the framework of this cooperation, on 26<sup>th</sup> of September 2003, AHC, together with few other non-profit organizations, signed a statement where it expressed its commitment to observe the electoral legislation, to be impartial, non-political, objective, transparent and accountable during the monitoring of this electoral process.

With this final official report on the conduct of local government elections of October 2003, AHC finalizes its activities carried out in the framework of this project.

## Appendix NO. 2

### PUBLIC STATEMENT OF THE AHC

#### TRAINING OF THE LOCAL GOVERNMENT COMMISSIONS IS A LEGAL OBLIGATION

Albanian Helsinki Committee followed attentively the statement of the date August 23 released from Mr. Ilirjan Celibashi, head of the CEC, in which he highlights that there are gaps in the organized workshops for the trainings of LGEC-s. AHC considers this declaration as a rightful and distressing one. Related to this, it is worth mentioning that the final report that AHC has designed for the monitoring of the parliamentary elections of 2001, pointed out among other things that one of the gaps was the delayed, incomplete unqualified training of the electoral commission members. What is more worse, this phenomenon, although at a reduced level, is still persisting in these elections.

It is a fact, that the provisions of the Electoral Code impose on the Local Government Zone Commissions (LGEC) to verify the set of documents for the registration, the preliminary announcement of the voters lists, the examination of the applications for changes in these lists, etc. Non accomplishment of these tasks endangers the normal proceedings of the elections, as well as the citizen's rights. Members of LGEC-s who avoid training unreasonably, or due to different reasons can not execute these tasks imposed by law.

This is why AHC considers as necessary to suggest to the Central Electoral Committee (CEC), that based on the article 42 of the Electoral Code , not to be hesitant to make a decision depending on the case, about the dismissal of those LGEC-s that do not execute the defined tasks, by replacing them with other members. In the above suggestion, AHC takes into account the fact that LGEC-s are created according to the political parties proposals that their training is a legal obligation and under CEC's responsibility.

*Tirana, 25.08.2003*

## POTENTIAL ERRORS IN THE VOTERS LISTS CAN BE CORRECTED

Right after the announcement of the preliminary voters lists, there are lots of remarks and criticism addressed to the competent bodies about gaps in these lists.

Being unbiased either about the afore-mentioned criticism or the potential responsibility of the relevant bodies (which must be certified), Albanian Helsinki Committee after the announcement of the preliminary voters lists considers the voters interest as a decisive factor in their correction. Getting acquainted with the announced lists enables them to confirm whether they are included in the lists or not, if their identity is accurate or not.

The voter is entitled to address the LGEC within the time terms prescribed in the law for the correction in the list, or depending on the case to appeal against the LGEC decisions in the court.

AHC also considers that a valuable contribution in the correction of the proclaimed lists can be given by the electoral subjects registered in CEC, to whom the voters lists are made available at their request.

AHC as a specialized organization committed in the field of rights with all its means will modestly contribute in raising voters awareness to exercise the right of election granted by the Constitution as well as in the monitoring process of the revision of the preliminary lists with the aim of accurate enforcement of the provisions of the Electoral Code and also of the relevant CEC guideline.

*Tirana, 28.08.2003*

## NO HINDRANCE TO THE ELECTORAL PROPAGANDA

In yesterday's press it was reported that the supporters of the candidate of the Reformed Democratic Party for the Municipality of Durrës, Ferdinand Xhaferri, while they were bill-posting posters of this candidate they were threatened by Krenar Koka, the SP candidate's brother for the mayor of the Municipality in Durrës. It is stated that the relevant suit is filed for prosecution.

AHC unbiased about the proceedings of the claimed case, a fact to be clarified by the relevant competent bodies, deems as necessary to attract attention on the right of the electoral subject to organize electoral propaganda using any legal means without being hindered and threatened by anyone. In this perspective in application of the law 135 of the Electoral Code, the local government bodies are bound to fairly and impartially locate the public places for the bill-posting of their propaganda materials.

AHC reminds the afore mentioned bodies about the fact that there were lost of complaints raised from the minority parties about the non-application of this provision in the previous elections.

AHC has considered that in the local government elections of this year there is estimated that 50 political parties are registered as electoral subjects. All of them are

entitled to holding their electoral campaign, whereas the local government bodies must give access to bill-posting of their propaganda materials in the settled places.

On this occasion we suggest to CEC that to attend and control through its own structures the implementation of the provisions related to the electoral campaign.

*Tirana, September 15, 2003*

## **MORE EFFORTS FOR THE CORRECTION OF THE VOTERS LISTS**

In the daily press and the press releases of some of the leaders of the political parties, there are reports about several inaccuracies in the voters lists and especially about hundreds and even thousands of people not identified in the announced lists.

AHC is unbiased about the accuracy and the abundance of this data. However at a time when there are only a few days left from the expiration of the legal deadline for the examination of the preliminary lists, taking advantage of the legal options for their correction is considered as indispensable and urgent.

AHC considers that the voter interested in the exercise of the right to vote, shall be acquainted with the lists when necessary, shall address the relevant LGEC-s about their correction. Alongside this, according to article 58 of the Electoral Code, the right to ask for changes in the preliminary lists belongs to the political parties, electoral subjects and other intending institutions.

Regarding this, AHC assesses the CEC instructions related to this issue, as well as the scheduled initiative to raise public awareness through the print and electronic media.

AHC considers that besides the difficulties and the witnessed limitations, there are alternatives that the announced lists be filled in and corrected with the aim of reassuring the voters that their name is on the respective voters list.

*Tirana, 17.09.2003*

## **APPEAL OF THE ALBANIAN HELSINKI COMMITTEE**

On October 12, 2003 the local government elections will be held nationwide. This is a significant event for the entire Albanian society aiming to be integrated in the European family.

Albanian Helsinki Committee, the first non-governmental and non-partisan organization, member of the International Helsinki Federation, observer in the previous elections as well, appeals to all the voters, regardless of their political convictions, preference or party-affiliation, to exercise their right of voting in the elections of October 12, 2003 thus demonstrating their own free will about the alternative they wish for.

AHC considers the participation of any voter in the elections as a significant emancipating element that reveals the maturity of the electors and their active participation in the course of upgrading democracy, enhancing their participation in governing the country. The entire Albanian society and the political parties, as conveyors of the special opinions within this society, are entirely interested in a wider participation in these elections.

The democratic development of Albania is an on-going process. It is not only important but also complex as a process. The periodic parliamentary elections and the local power elections aim at further deepening this process for the integration of the country in the Euro-Atlantic bodies. The bodies that will emerge from the elections of October 12 of this year, in the new conditions of decentralization and local autonomy, will feel more responsibility versus their citizens.

On this occasion, AHC appeals not only to the electors, but to all political forces to contribute in holding free, fair, democratic and uncontestable elections.

Likewise, AHC appeals to VCC-s commissioners that while accomplishing their duty not only significant, but delicate, to consider law and nothing but the law, as the most supreme authority.

AHC conveys the belief that during this important electoral process, the political forces will keep away from close interests and political passions and will respect only the Constitution of the Republic of Albania and the law. The stable atmosphere will positively influence the free expression of the electors' free will.

*Tirana, 10.10.2003*

## Appendix NO. 3

### OFFICIAL COMMUNICATION BETWEEN AHC AND CEC

1. Violations of the deadline for the beginning of the electoral campaign, date 2.09.2003.
2. AHC's letter on the CEC instructions regarding the reviewing procedures of the preliminary voter's lists date 12.09.2003.
3. AHC's letter regarding CEC's instruction no. 7 dated 13.09.2003 on the appointment of the members, Deputy Head and Secretary of the VCC, date 18.09.2003.
4. AHC's letter to CEC in relation with the electoral propaganda carried out by the Greek Counsellor in Lefteheror, Delvina, Gjirokastra, date 25.09.2003.
5. AHC's letter regarding the failure to apply requirements of Article 45 of the Electoral Code on the proposals for VCC members in Elbasan, date 2.10.2003.
6. AHC's letter on violations of foreseen deadlines in the Electoral Code regarding the proposals for VCC members coming from political subjects in Shkodra, date 3.10.2003.



## Appendix NO. 4

### ABBREVIATIONS

AHC	Albanian Helsinki Committee
CEC	Central Electoral Commission
DP	Democratic Party
EC	Electoral Code
EU	European Union
HCJ	High Council of Justice
LGEC	Local Government Electoral Commission
NCRT	National Council of Radio-Television
OSCE	Organization for Security and Cooperation in Europe
RDP	Reformed Democratic Party
SP	Socialist Party
VCC	Voting Center Commission