



**KOMITETI SHQIPTAR I HELSINKIT
ALBANIAN HELSINKI COMMITTEE**

FINAL REPORT

**ON THE FINDINGS AND CONCLUSIONS OF THE MONITORING OF THE 25
JUNE PARLIAMENTARY ELECTIONS**

Tirana, June 2017



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1. Introduction

The Albanian Helsinki Committee (AHC) is a non-profit organization, established on 16 December 1990. The AHC mission is to contribute to the respect for human rights, strengthening the rule of law, and to the conduct of free and fair elections, in line with the Constitution, Electoral Code and international acts applicable in the Republic of Albania.

Since 1996, the AHC has monitored all parliamentary and local government elections held in the country, to raise awareness of among the public and responsible institutions (at executive, legislative and election administration level), on the importance of the constitutional rights to vote and stand for elections.

The AHC also monitored the last Parliamentary Elections in Republic of Albania, held on 25 June 2017. The AHC monitoring covered the pre-election period, the voting, and the ballot counting stages. This monitoring was partial. It covered a total 154 Voting Centres and 11 CEAZs, located in the municipalities of Tirana, Durrës, Elbasan, Shkodra, Kukës, Korça, Vlora, Fier and Gjirokastra.

To this end, the AHC trained a total of 160 observers (most of them lawyers) on the legal aspects and monitoring methodology. The observers received accreditation from the Central Election Commission. The AHC also cooperated with the Albanian Disability Rights Foundation to monitor the respect of the right to vote for this category of citizens.

The scope of the AHC observation included the main aspects of the pre-election and electoral process, such as the periodic publication of preliminary and final voter lists, the voter notification to their residency regarding their inclusion in the lists, the functioning of the Central Election Commission (CEC), the establishment and functioning of the Commissions of Electoral Administration Zones (CEAZs), of the Voting Centre Commissions (VCCs), the voting process and the ballot counting process, as well as other issues which were key for the smooth running of these elections.

The goal of this monitoring of the AHC was to provide a modest contribution at ensuring free and fair elections which are in line with international standards, through a strict implementation of the Electoral Code. This monitoring, though partial, served us to verify in practice the effectiveness of the implementation of the law and CEC guidelines, while at the same time creating the possibility of providing recommendations for further improvement of the electoral legislation. In line with the AHC mission, in addition to monitoring, work has been done to raise awareness of voters, by raising their interest on freely exercising their right to vote. The AHC published an awareness video both on its website and social networks, calling on voters to vote in a free and fair manner, and refrain from becoming part of illicit influences or vote-buying.

The AHC is grateful to all observers and correspondents in the above 9 municipalities for their professionalism, impartiality, and dedication. We also would like to thank the Swedish Civil Rights Defenders Organization and Open Society Promotion Foundation (FPOS),



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which financially supported our activities for sensitizing and monitoring this election process.

2. Executive Summary

Although the Ad Hoc Parliamentary Committee on Electoral Reform has been established since December 2015¹, his term was extended several times. The activity of this committee has not been effective, since it did not manage to review and consequently reflect to the Electoral Code the amendments required by the OSCE/ ODIHR recommendations, provided during the 2015 elections, as well as in the previous election reports. It was observed that the electoral reform failed to successful complete, because of the primacy of party interests over the public one, lack of constructive dialogue between political parties, and failure to involve experts of the field in the process.

By Decree of the President of the Republic of Albania no. 9883 of the 05.12.2016, the general parliamentary elections were scheduled for 18 June 2017. But the non-participation of the opposition party in parliament complicated the preliminary preparations of the electoral process, while the reviewing of the OSCE/ODIHR recommendations was halted.

Elections were approaching while the political stalemate continued. To overcome such a stalemate and revive the opposition trust that free and fair elections would be guaranteed, on 18 May 2017 an agreement was reached between the majority and the opposition, while the President of the Republic called parliamentary elections for 25 June 2017². The AHC considers that the positive effects of this agreement were obvious as it unstrained the created situation, made the opposition to accept participation in the elections and accordingly register as an electoral contestant and return to the Parliament, which also enabled the voting of the *Ad hoc* parliamentary committees for the implementing the *Vetting Law*.

The AHC, albeit aware of the emergency situation created, and the impact that the majority-opposition agreement had on unlocking the political stalemate, considers that some issues of a legal nature should have been stipulated in the law, especially with regard to the need to introduce additional deadlines in the Electoral Code. Priority was given to the political agreement, which despite the intention, is a practice that fails to adhere to the rule of law principles. Some of the changes made to the laws on political Parties and media, which were approved by a majority vote, were not in harmony with the Electoral Code, as an act adopted by a qualified majority, which regulates also the issue of advertising broadcasting and financing of political parties. The AHC considers that the adoption in a short time of this these legal changes violated the principle of inclusiveness, which is an important factor in the area of law-making, in accordance with constitutional principles³.

¹ Decision of the Parliament of Albanian no. 110/2015, “On the Establishment of the Ad Hoc Parliamentary Committee on the Electoral Reform”, as amended

² By Decree no. 10351 of 21.05.2017, “On an amendment to Decree no. 9883, of 15.12.2016 “On Designating the Parliamentary Election Day”.

³ <http://www.ahc.org.al/wp-content/uploads/2017/06/Raport-me-Gjetje-dhe-Konkluzione-per-Monitorimin-Parazjedhor-i-KSHH-14.06.2017.pdf>



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The monitoring performed in some of the country's main municipalities⁴ showed that, in some cases, the voter list extracts were not published periodically every month until the final voter list was published, and besides, they even did not allow access to voters, due to place of publication or because the premises were closed during afternoon hours. During this observation, it was also found that Article 52 of the Electoral Code on written voter notification regarding their voting centre and ordinal number assigned on the voter list was not implemented. In some cases, notifications were made with human and financial resources of local governments also because they did not have available the respective spending fund to be provided by the Ministry of Internal Affairs (*which was delivered belatedly*).

Verifications carried out in some penitentiary institutions, namely, Peqin and Lezha Penitentiary Institutions (Prisons), showed that there were convicted persons who did not have a biometric data identification document (passport/identity card). Having such a document is a legal requirement to be able to exercise the right to vote. On this fact, the AHC has informed both the General Directorate of Prisons and the CEC.

The Electoral Code prohibits the use of state funds, means, as well as human and logistical resources during the electoral process (*such violations were established in previous elections, and highlighted in the OSCE / ODIHR reports*). The Council of Ministers adopted a special sub-legal act aimed at prohibiting the use of state human, financial, and logistical resources during the electoral process, as well as preventing the performance of acts or giving promises, favours in exchange of providing support to specific electoral contestants⁵.

Some electoral contestants started their political activities of an electoral nature before the legal date (18 May 2017, referring to the election date of 18 June 2017). Like in the previous elections, a partial monitoring of the media indicated that the inauguration of public works or investments performed by the central or local government, was used for propaganda purposes. This placed the electoral contestants representing the majority on an unequal footing with other electoral contestants.

The MMB reported daily on the election campaign coverage by radio-television operators. On its suggestion, the CEC requested for compensation of broadcast time to some electoral contestants. However, we believe the Electoral Code should explicitly include moral and professional integrity criteria for the selection of the MMB members, that is currently being regulated by a sub-legal act of the CEC. These criteria need to be further strengthened. In addition, we suggest that the selection of the MMB members should not be a competence of the CEC members, who may be biased, based on the current CEC composition.

The AHC considers that for verifying the integrity of candidates for MPs in accordance with Law no. 138/2015 "On Guaranteeing the Integrity of Persons Elected, Appointed or Exercising Public Functions" (*Law on decriminalization*), inadequate deadlines have been imposed on the CEC for it to qualitatively verify the forms submitted by the electoral

⁴ Municipalities of Tirana, Kukës, Shkodra, Elbasan, Fier, Vlora, Gjirokastra and Korça

⁵ DoCM no. 473 of 1.6.2017, "On Adopting Measures and Monitoring the Activity, Behavior or Use of Human, Financial and Logistical Resources of the State Administration, during the Parliamentary Election Process of 2017"



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contestants. Moreover, the deadlines for the verification of candidates' data by the General Prosecution Office and the CEC, are insufficient. The AHC suggests that this issue can be addressed by making the necessary amendments to the Electoral Code, so that during the implementation of the Law on Decriminalization by the CEC, any formalism can be avoided.

The AHC concernedly observed the delayed and last-minute nominations by the electoral contestants of several second and third- level commissioners (CEAZs, VCCs, BCTs), a phenomenon that has been more present and visible during these last elections. The frequent replacements and late nominations of their members, lead to an expeditious and inadequate training of the latter. Such delays and replacements also caused an inappropriate implementation of the Electoral Code during the voting and counting, and blocking of the voting process without legal reasons⁶.

The general atmosphere on the election day was overall peaceful. The media reported isolated incidents, for which the prosecution bodies started investigations.

The media made public some allegations of electoral contestants on some vote-buying instances. The vote-buying is a criminal offence but the AHC considers that this requires the citizens' awareness to denounce and prevent this phenomenon. Political parties (electoral contestants) during the election campaign should make the electorate aware to distance themselves from any vote-buying practice. Compared to the previous elections, it is positive step that there was an increase of the number of reported cases of electoral crimes, which enables a full and effective investigation by the prosecutorial body.

We consider that the repeated statements of some of the party leaders addressed to the electorate during the election day, although not direct election propaganda, did violate the electoral silence. In that respect, the AHC believes that the CEC should play a more proactive role in taking measures, in accordance with the Electoral Code.

During the election day, the State Police intervened at the request of VCCs or CEAZs. The AHC observers reported that the behaviour of police officers was correct and in accordance with the law.

During the monitoring of the counting process it was noted that it was mostly transparent, and the AHC observers were provided access to monitoring this process. Also, the ballot boxes and election materials arrived by the legal deadline, with some exceptions, and ballot counting procedures were respected, and disputes between BCTs members and CEAZs were minimal.

The fatigue of the BCTs members, the inadequate conditions of BCCs facilities, lack of proper training of commissioners, due to their late appointment or frequent replacement, the added presence of unauthorized persons in or around BCCs, etc., influenced on the dragging of the process in some cases. However, overall, compared to election processes held in the past, it is positive step that in these elections the counting process and the tabulation of the results for each electoral zone was completed within a short time by the CEAZs,

⁶ In some voting centres in Kavaja Municipality



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respectively, two days after the closure of the voting (on 27.06.2017). This outcome was also influenced by the behaviour of the electoral contestants, which, compared to previous elections, demonstrated a higher level of responsibility and reduced the number of their disputes during this process. Consequently, significant improvements were noted regarding the speed and efficiency of the counting process.

The AHC assesses positively the work of the CEC as the highest body of election administration, although it operated in unfavourable conditions by addressing important issues. The CEC open sessions were generally dominated by the spirit of collegiality. Unlike past elections, only in sporadic cases during the pre-election administration process, CEC members positioned themselves on important issues, such as the debate on the deadline for the registration of candidate lists, according to the positions and opinions of their respective nominating majority or opposition parties. The AHC considers that, in some cases, the CEC could have been proactive in cases of violation of electoral silence, or with regard to overseeing the legal activity of the lower commissions. The AHC also believes that the CEC should have considered the AHC's signals on the obstacles they were created in some cases to our observers by the VCCs and to intervene to ensure respect of Article 7 of the Electoral Code, providing for the observers' rights.

Despite irregularities regarding some electoral standards and some isolated incidents, the parliamentary election process of 25 June 2017, did guarantee the will of the voters at all the stages, and increased their trust in the election administration.

According to the CEC data⁷, during these elections, 1,613,087 voters or 46.72% of the total number participated in the voting. This voter turnout rate and the extension of the voting closing time by the CEC showed a slightly lower turnout compared to previous elections, namely, a 53.47% voter turnout rate during the 2013 Parliamentary Elections, and a 47.83% voter turnout rate during the 2015 local governments elections. This was also influenced by the fact that the date of the elections was an official holiday, but also by a drop of the citizens' trust in electoral contestants.

3. Pre-election process

3.1 Voter lists

As mentioned above, the AHC monitored the publication of the voter lists extracts, which, according to the law, should have been published on a monthly basis, till the publication of the final voter list, starting from 5 January 2017.

Our verification in the monitored municipalities showed that extracts of the voter lists were not published by the set deadline. The AHC observers found that they were dated one or two months ago, or even carried the date of their first publication (31.12.2016). It was also observed that the extracts were published at the civil status offices or in public premises, failing to clearly provide guidance to the voters as to where to check their name on the list.

⁷ CEC press release of 27.06.2017



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Under Article 51, paragraph 4 of the Electoral Code in force, the publication of the voter lists for all voters shall be done at the **premises of the civil status offices or in premises nearby, with free public access**, as two alternative ways for their publication, without specifying which one has priority. In cases where election extracts were displayed in schools, kindergartens etc., they could only be accessed during official working hours or were displayed in public places where they could be damaged by external factors.

Following the call of the General Directorate of Civil Status, under the Ministry of Internal Affairs⁸, for the suspension of the fine regarding the declaration of residency by the citizens, during the process of publication of these lists, changes of citizen's residency addresses were reported, changes which were reflected further, into the Civil Status Register as well as in the election extracts.

From the data obtained from the Civil Status Offices, in the above-mentioned municipalities it was observed that there were no administrative complaints regarding the correction of the lists and there was little interest of the voters to get acquainted with the voter lists. Also, based on our partial surveys, no cases of voters addressing the court when their names did not appear on the final voter lists, were observed.

Based on the official communication with the General Directorate of Prisons, the number of persons sentenced to imprisonment (by a final decision) who have been removed their right to vote, pursuant to Law no. 138/2015 "On Guaranteeing the Integrity of Persons Elected, Appointed or Exercising Public Functions" is 2169 persons⁹. The application of the AHC to the Constitutional Court for the abrogation of certain provisions in the Law on Decriminalization on this matter was not accepted by this court. Currently, the possibility of sending the case to the European Court of Human Rights (Strasbourg) is being considered, as we have already received the authorizations from some convicts.

Also, out of an observation performed in the Penitentiary Institution of Peqin, on 5 June 2017, the AHC found that 66 prisoners on the voter list of this prison did not have an identity card to exercise their right to vote.

3.2 Written voter notification

Until 6 March 2017¹⁰, Mayors should have taken measures so that each voter was notified in writing at his/her residency, as to the voting centre where he/she should vote and his/her number in the voter list.

As mentioned above, the AHC observers found that the written notification of the voters

⁸ <http://www.punetebrendshme.gov.al/al/te-rejat/lajme/dpgjc-njofton-deklarimi-i-ndryshimit-te-vendbanimit-falas-deri-ne-28-korrik-2017>

⁹ Respectively in the Penitentiary Institution of Peqin -465 persons; the Penitentiary Institution of Fushë-Kruja -162 persons; the Penitentiary Institution of Lezha -344 persons; the Penitentiary Institution of Korça- 220 persons; the Penitentiary Institution of Rrogozhina- 153 persons; the Penitentiary Institution of Lushnja- 121 persons; the Penitentiary Institution of Fier -465 persons; the Penitentiary Institution of Kruja- 68 persons.

¹⁰ Article 52, of the Electoral Code



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included in the extract of the voter lists was not carried out within the legal deadline, i.e. 5 March 2017. Also, such notification was not delivered to all voters in the country.

Most respondents asked by the AHC in different municipalities¹¹, stated not to have received any written notification from the local government where they live. On the other hand, employees of the Civil Status Offices or municipalities have claimed that this legal obligation has been complied with, even after the legal deadline. Some notifications were made at the initiative of the local governments, although they did not have the funds to do that.

The AHC officially informed the Ministry of Internal Affairs¹², since only on 1 March 2017 (*five days before the legal deadline*), this institution announced that it had allocated a total of ALL 13.8 million to local governments for this process.

3.3 Registration of electoral contestants

Political parties, except those of the opposition, respected the legal obligation to register as electoral contestant with the CEC¹³ within the legal deadline, i.e. 8 April 2017¹⁴. Unlike previous elections, no electoral contestants were registered as an election coalition during this election. No candidate nominated by a group of voters ran for office in this parliamentary election.

Referring to the Electoral Code¹⁵, political parties submit their multi-name list no later than 50 days before the election date. The decision for their approval by the CEC was based on Article 73, paragraph 2 of the Electoral Code, but was contested by some members of the CEC.

The orientation plan adopted by the CEC, which also includes the respective deadlines for the pre-election process, including also 29 April 2017 for the registration of multi-name candidate lists, was unanimously approved by all members. The different positions among CEC members regarding such a deadline, highlighted the alignment of the CEC members with the position of the parliamentary majority or opposition that has nominating them as members of this body.

¹¹ The Municipalities of Kukës, Shkodra, Elbasan, Fier, Vlora, Gjirokastra and Korça

¹² By Official Letter no. 135, of 3 Mars 2017, "On the Written Voter Notification at their Residency according to the Electoral Code"

¹³ Registered by the CEC on 15.03.2017, 20.03.2017 and 03.04.2017

¹⁴ 15 electoral contestants were registered for the 2017 Parliamentary Elections, with a total of 2180 MP candidates out of which 41.70 % were females

¹⁵ Article 67, paragraph 1, of the Electoral Code



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3.4 Central Election Commission¹⁶

The AHC positively assesses the work of the CEC as the highest body for the election administration, which although operated under unfavourable conditions, managed to address important issues.

Unlike past elections, only in sporadic cases, during the process of pre-election administration, positioning of the CEC members on important issues was observed, as underlined in the previous/ paragraph. Although at a lower degree, this position again highlighted the need to depoliticize this important central election administration institution.

In the CEC's public sessions, a spirit of collegiality did prevail overall. Yet, the AHC considers that in some cases the CEC could have been proactive in overseeing the legal activity of the lower-level election commissions. In addition, the CEC, already informed on the obstacles placed on some of our observers by the VCCs and some CEAZs, should have interfered to avoid them. We find it necessary to mention that the AHC observers were qualitatively trained, fulfilled the tasks set out in Article 7 of the Electoral Code and guidelines of the VCC and, as appropriate, submitted written observations to the VCCs and CEAZs.

3.5 Establishment and functioning of the CEAZs and VCCs

The legal deadline for the political parties to nominate their respective candidates for members to the Commission of Electoral Administration Zone (CEAZ) was not respected by all parties. Consequently, also the legal deadline for the establishment of the CEAZs was not respected, since the decision on the approval of their establishment by the CEC was taken a few days later, namely on 03.04.2017.

During the pre-election period, the CEAZs we monitored, did not function in accordance with the Electoral Code. For the most part, these CEAZs failed to meet regularly during working hours, did not receive any training, did not take any decisions, and failed to regularly display the final voter lists or the decree designating the election date, etc. In these CEAZs, there were no requests from voters to be provided with certificates due to their non-inclusion in the final voter list. The sporadic monitoring that we have carried out showed that the AHC observers were unable to contact CEAZs members during the morning hours¹⁷. This hampered the collection of information by our observers on the progress of the work of these commissions, but at the same time it highlighted the negligence or lack of responsibility in performing important tasks assigned to them by the Electoral Code during the pre-election phase. After complaints brought by electoral contestants, the CEC drew the

¹⁶ CEAZ no. 56 and 57

¹⁷ EAZ no. 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 and 40, Tirana district, EAZ no. 21, 22, 23, 24 and 25, Durrës District, EAZ no. 56 and 57, Fier district, EAZ no. 2, 3 and 4, Shkodër District. In EAZ 47, 48, 49, 50, Elbasan district, ZAZ 78, Gjirokastra district, in EAZ no. 71 and 72, Korça District, ZAZ no. 11, Kukës district.



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attention of the CEAZs to remain in their offices and to respect working hours, namely, from 8:00-13:00 and from 16:00- 20:00 p.m.

The AHC has called on the heads of state institutions do not cause any obstacle to their employees, since their engagement as a CEAZ member is lawful.

On 7 June 2017, the CEC held the first training of the CEAZs commissioners after all vacancies were filled, with members nominated by the two opposition parties. This training took place about two months after the CEAZs was established, which influenced on a reduced quality and efficiency of the electoral administration by these commissions in their respective areas. Moreover, that was also negatively affected by the periodic and partial replacement of the CEAZs members by the CEC, even one day before elections, i.e. 24 June 2017.

The AHC considers the long and unjustified delay of the CEAZs in appointing the voting centres commissioners, due to the electoral contestants' failure to submit the nominations within the deadlines, or beyond the deadlines, as unacceptable. Until the 19.06.2017 or 6 days before the Election Day, a total of 30 CEAZs¹⁸ had not yet completed the appointment of the VCCs members. This situation created uncertainty in terms of the progress of the administration of the voting centres by these commissions. This situation prompted the CEC to request the political parties to immediately submit their nominations for the VCCs members.

The AHC reacted publicly by pointing out that any delay in the nomination of the VCCs and BTCs members by the electoral contestants leads to formalism in verifying the relevant documentation, and was detrimental to their training. We have suggested to the parliamentary political parties that, except for extraordinary and motivated cases, they should refrain from asking for changes in the composition of VCCs and BCTs.

By not submitting their nominations on time, the electoral contestants have shown negligence and violated the Electoral Code. These delays lead to an inadequate quality of the trainings, which was also performed with a long delay, questioning the credibility and capacities of these commissions to implement the Electoral Code.

In conclusion, the very delayed completion of the appointment of the CEAZs and VCCs members and their frequent and unmotivated replacement till the last minute before the election day, hindered or delayed their training and reduced the quality of the administration of the electoral process by these commissions.

3.6 Election campaign

Some electoral contestants initially started their electoral political activities before the legal deadline (18 May 2017, referring to the election date 18 June 2017). As in the previous elections, partial monitoring of the media showed that the inauguration of public works or

¹⁸ CEAZ no. 2, 3, 4, 5, 12, 13, 14, 15, 21, 22, 23, 24, 25, 31, 32, 33, 34, 36, 39, 40, 46, 47, 48, 49, 50, 56, 67, 75, in the districts of Lezha, Shkodra, Durrës, Tirana, Elbasan, Fier, Korça and Gjirokastra



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investments, carried out by central or local government, was used for propaganda purposes. This placed the electoral contestants representing the ruling majority in superiority standing compared to other electoral contestants. We consider that this is an issue to be further addressed in the Electoral Code.

Overall, the election campaign was conducted peacefully, although allegations of violence against members of several electoral contestants were reported by the media. In these cases, the AHC suggested that¹⁹ the electoral contestants and, particularly, their representatives conduct a legitimate propaganda in accordance with Article 78 of the Electoral Code, and avoid the use of hate speech.

The observance of the legal criteria²⁰ on the display of propaganda material had an impact on the depoliticization of the electoral atmosphere in general and at the same time, on the development of a more emancipated, peaceful and acceptable propaganda campaign for the public.

4. Voting process

4.1 Electoral silence

Pursuant to Article 77, paragraph 2, of the Electoral Code, the day before the election day and the election day, to the end of the voting process, is the period of the electoral silence. The electronic media did provide announcements about some statement of propaganda nature, in particular by the leaders of the political parties registered as electoral contestants, which violated Article 77 of the Electoral Code. Even the repeated calls of these representatives addressed to voters, encouraging and fostering them to exercise the right to vote, we believe were not justified, and to some extent violated the electoral silence, on a day when the politics should have remained silent, and fully distance itself from the process and show maturity. The AHC considers that, in some cases, the CEC could have been proactive when electoral silence was breached.

On the election day, the AHC found cases where propaganda materials were placed within the distance prohibited by law, which were not removed by the VCCs during the conduct of the preliminary actions, or voting centres that were located very close (20-30 m ways) to electoral offices of an electoral contestant.

In the Municipality of Vlora, at the EAZ no. 84, VC no. 4492, the voting was interrupted because there were people conducting electoral propaganda. In VCs no. 1724/1, 1724/2, 1726 and 1726/1 of EAZ no. 32 in Tirana, unauthorized persons, engaged to influence the voters in their vote, were found to be present in the corridors of these centres. The presence of these persons was a violation of the CEC decision²¹, and in some instances, it was the

¹⁹ AHC press release of 19.06.2017

²⁰ Guideline no. 1, of 31.05.2017, "On the Use of Propagandistic Materials and Places to display them during the electoral campaign"

²¹ Decision no. 498, of 24.06.2017, "On Designation of Persons to be allowed to be present in the election premises where the voting centres have been placed"



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cause of partial blocking of the voting process. According to the information supplied by the observers, the VCCs were passive in putting order in the VC premises.

4.2 Preliminary actions in opening of the voting centres

The AHC observers found a number of violations and shortcomings in the conduct of the preliminary actions for the opening of VCs, in completing the work documentation of the VCCs, in observing the procedures prescribed in the Electoral Code on voting and in the assistance to disabled people.

Thus, in 40.4% of the total VCs monitored by the AHC, it was found that the voting was not opened at 07.00 a.m. There were different reasons to that, for example, delays in appearance by the VCCs members, late finalization of the preliminary actions for the opening of voting centres, due to lack of knowledge or uncertainty about the legal procedures, any of the VCCs members receiving authorization at the last minute, etc..

4.3 AHC observers access during the voting

Transparency towards the CEC accredited observers by the side on the election administration bodies at local level was not fully ensured. In some instances, the AHC observers were obstructed from exercising their right to monitor all stages of the voting process (at the opening, during the process, and at its closing) without hindrance.

In another instance, an AHC observer was pressured of being kicked out of the voting centre if he would continue to make further written observations. The AHC observers submitted 86 written observations to the VCCs about the respect of the voting procedure²². Apparently, some monitored VCCs not only were not familiar with the rights and duties of the observers, (Article 7 of the Electoral Code) but also failed to appreciate their monitoring role.

4.4 Respect of the legal procedures during voting

In 1.3% of the total VCs monitored by the AHC, no task allocation was observed among VCCs members as regards the conduct of the voting process, while in 10.1% of them, it resulted that the member in charge of keeping the voters line in the VC failed to perform his or her tasks.

In 11% of the total VCs monitored by the AHC, it was observed that voters were not checked at both hands for traces of ink, whereas in 6.3% of them voters were not inked at all on their left hand.

In 6% of the total VCs monitored by the AHC, it was found that the name of the voter was

²² AHC observers presented also a written observation to the CEAZ on irregularities during the ballot counting process



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not crossed out in the voter list before the voter signed. Following the observations made by the AHC observers, this practice was corrected by the VCC.

In 22.7% of the total VCs monitored by the AHC, it was found that the VCCs members voted before the closing of the electoral process and in some cases, the VCCs members went to vote at the voting centre where they were registered, in violation of Article 58, paragraph 1 of the Electoral Code²³.

Although in 99% of the total VCs monitored by the AHC voter identification documents were checked, there were some sporadic cases when the voter was allowed to vote without a biometric document or was allowed to vote with a birth certificate in violation of the Electoral Code. For all these violations, observers submitted written observations to the VCCs, which in some cases were accepted and recorded (protooled). Number of instances of voting based on a final court decision was insignificant.

The principle of the secrecy of vote was sporadically violated by the voters themselves, but cases were recorded when this principle was violated by the VCCs members. In 2.7% of the total monitored VCs, voters did not enter the voting booth alone. In those cases, they tried to enter the voting booth together with their family members. In 28.8% of the total VCs monitored by the AHC, family voting attempts were reported, which is a concerning issue as it relates to the application of the principle of secrecy of the vote. These attempts were interrupted due to the intervention of the VCCs or following the AHC observations. Compared to the previous elections, the number of voters who tried to do family voting has decreased.

In 10.3% of the total VCs monitored by the AHC, few instances of ballot papers spoilt were found. In these cases, the voter was given another ballot paper and the spoilt ballot paper was placed in the "Spoilt ballot paper" envelope. We found an isolated case at a voting centre where the voter photographed the ballot paper, but the VCC did not consider that ballot paper as being spoilt. Concerning this issue, it is notable that, although the recent amendments to the Criminal Code criminalized the ballot paper photographing, still, according to the Electoral Code, when this occurs, the voter shall be given another ballot paper. The AHC thinks that this should be taken into account when further amendments will be introduced to this Code. Moreover, we consider that criminalizing these acts is a very harsh measure, which can be instead administratively prevented or sanctioned (by a fine).

4.5 Voters with disabilities

None of the legally required measures to provide persons with disabilities with the necessary opportunities and facilities to exercise their right to vote were observed. Regardless of a correct and facilitating attitude of the VCCs, in some cases it was observed that the VCs were placed on the 1st floor of buildings, which made the voting for the

²³ Article 58, paragraph 1, of the Electoral Code, provides that: "VCCs members shall vote at the VC where they are appointed as commissioners, regardless of whether they are included in the voter list of that voting centre ...", and Article 106, paragraph 4 of the Electoral Code: "Members and secretary of the VCC shall vote after all voters, present in the voting centre within the voting hours, have voted.. ...".



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disabled people difficult, as they were objectively unable to access and move in these environments, which also from the infrastructural point of view, created difficulties and were not adjusted. Observers reported a flagrant case when the voter could not go up to vote due to the infrastructure of the building.

The observers reported other cases where the VCs, even though they were located in ground floors, again there were difficulties to access them due to the stairs at the entrance of the voting centre or inside the building. In some other cases, it was found that the local government unit had assigned aiding staff for voters with disabilities.

Only in 8 monitored cases, the voting centres had special means for the voting of people with sight disability. In 3% of the monitored VCs, persons with disabilities were helped to exercise their right to vote in the voting booth, by their family members or other voters in that voting centre. In some cases when the VCC members attempted to assist these voters, our observers made a written observation as this is was violation of the Electoral Code. In many cases the observers noticed that the legal procedure provided for in the Electoral Code for providing assistance to these persons was not respected. In a case published in the media at the "Hasan Prishtina" School in Tirana, a disabled voter was not allowed by the chairman of the VCC to be assisted by his family member on the grounds that this is not foreseen in the Electoral Code, while the Electoral Code does recognize this opportunity for them.

4.6 Closing of the Voting Centres

The Electoral Code stipulates that the VCs shall be closed at 19:00 hrs, unless there are still voters waiting in queue at the voting centre at this hour. By a motivated decision, the CEC extended the voting by an additional hour, to 20:00, for all VCs, although from a formal legal point of view, extension of such a deadline is done case by case, only for the above mentions reasons.

In general, the closing of the voting centres was carried out at 20.00 hrs. However, our observers found that a part of the VCs closed before this hour. According to the observers but also the media, the closure before this time came as a result of lack of a timely knowledge about the CEC decision or because no voters who had shown up prior to this hour were present. The extension of the deadline by the CEC, despite good intentions, caused unclarity, lack of information, and some confusion among VCCs, which also claimed that the process was difficult to administer beyond the legal deadline (19:00 hrs) due to fatigue of their members.

In general, we found that the procedures for closing the voting centres were respected, except for cases where the VCC members were not familiar with the closing procedure due to the lack of training.



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5. Ballot counting process

The AHC monitored the ballot counting process at the Ballot Counting Centres (BCCs), located at 11 EAZs in the above-mentioned municipalities²⁴. The AHC's monitoring includes the counting of more than 10% of all country VCs in these EAZs, which lasted until 19:00 on 26 June 2017.

5.1 Preliminary actions and commencement of the counting

In general, the ballot boxes and election materials arrived by the legal deadline with some exceptions²⁵. In EAZ no. 2 and 5, at the Shkodra District, election materials from remote areas arrived at about 04:30, on 26 June 2017. The causes of delays beyond the legal deadline for the submission of election materials to the respective CEAZs, apart from the distance of the VCs location, were also related to the extension of the voting hours by the CEC, and to a large number of VCs in certain EAZs, especially in the Tirana district.

Although the transfer of materials from the VCs to the BCCs was assessed positively, in some EAZs, the counting process did not begin immediately after all materials were received. The causes of the delays were numerous and came mostly due to the debates between the BCT members and observers of the electoral contestants on launching the counting process²⁶, the fatigue of the BCT members²⁷, training of BCT members after receiving the ballot boxes and election materials²⁸, or delays of members of the BCT to appear with several hours²⁹. Until the early hours of 26 June 2017, the counting process had not started at EAZ no. 24, Durres district, since the electoral contestant had not nominated any BCT member.

Keeping the minutes after receiving the ballot boxes and election materials by the delivery teams of the CEAZs, lack of objections or irregularities during their delivery, adoption of decisions by the CEAZs on the commencement of the counting process, indicated an overall respect of the procedures on starting the ballot counting. However, at EAZ no. 35, district of Tirana, the AHC observer noted that during the delivery, one of the election material boxes security seal was damaged, but that was not considered as an irregular box, and no minutes were kept according to the legal requirements, although the observer submitted a written warning which was acceptance by the CEAZ.

²⁴ EAZ no. 5, Shkodra district, EAZ no. 35 and EAZ no. 37, Tirana district, EAZ no. 11, Kukës district, EAZ no. 84, Vlora district, EAZ no. 72, Korça district, EAZ no. 58, Fier district, EAZ no. 78, Gjirokastra district, EAZ no. 23, Durrës district, and EAZ no. 50, Elbasan district

²⁵ CEAZ no. 2 and 5, Shkodra district, CEAZ no. 35 and 37, Tirana district, CCEAZ no. 24, Durrës district, CEAZ no. 58, Fier district

²⁶ In EAZ no. 84, Vlora district

²⁷ In EAZ no. 47, 48, 49, 50, Elbasan district

²⁸ In EAZ 78, Gjirokastra district

²⁹ In EAZ no. 35, Tirana district



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5.2 Access of AHC observers during counting

For the AHC observers the counting process was more transparent than the voting, as they mostly had full access to counting sites and to observe the relevant procedures. Exceptionally, at EAZ no. 50, district of Elbasan, on 26 June 2017, observers of the electoral contestants and others accredited, including AHC observers were kicked out of the VC, arguing that with the need to re-check the documentation that authorizes the monitoring of the process, but later were allowed to resume observation. In other cases, the CEAZ members expressed readiness to provide verbal information or provide copies of documentation to observers.

5.3 Respect of the legal procedures during the counting

In the EAZs monitored by the AHC, it was found that members of the BCCs nominated very belatedly by the political parties did not possess the legal knowledge at the required level.

In general, the ballot counting procedures were respected and disputes between members of the BCCs and CEAZs were minimal and were quickly resolved among them. Ballot counting according to the legally prescribed procedures, matching of the number of ballots with the lists of voters who voted, the overall positive assessment regarding the way how ballots were considered valid or invalid, the keeping of the minutes in cases of disputed votes, and the absence of problems that could hinder the continuation, had an impact on the normal conduct of the counting process in the monitored BCCs.

However, during the monitoring process, the AHC observers found some irregularities with regard to respect of the ballot counting procedures. Transparency was not ensured in every case. This because in some EAZs, for example. EAZs no. 35, no. 41, in Tirana district, EAZ no. 58, in Fier district and EAZ no. 84, in Vlora district, it was reported that the ballot papers were quickly displayed on the screen. Following the observations of the observers, the CEAZs ordered the BCTs to slowdown. In this aspect, also other factors had a negative impact, such as placing the non-party observers away from the screen, the large number of people presents at the BCC premises, or blurriness of the screens. In some cases, these factors triggered debates among BCTs members and observers of the electoral contestants, which were ultimately resolved without significantly hampering the process.

In some cases, e.g. in EAZ no. 78, Gjirokastra district, the interruption of the process was requested several times by the members of the BCTs to get a break, but that did not impact the overall performance of the ballot counting. It is worth mentioning that the interruption of the ballot counting process immediately after the counting of the first box, at EAZ no. 50, at Elbasan district, due to the added presence of representatives of electoral contestants, who exercised pressure against the members of the BCTs.



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5.4 Atmosphere inside the counting premises

The AHC observers noticed the presence of unauthorized persons at EAZ no. 50, Elbasan district, EAZ no. 58, Fier district and EAZ no. 35, Tirana district. Moreover, in Elbasan, on 27 June 2017, there was an increase in the number of Rapid Response Police Forces in the coffee shops in the vicinity of EAZ no. 50, due to the situation created by the high and intimidating presence of supporters of some electoral contestant.

In EAZ 37, the Tirana district, all people present in the BCC facility did have authorization, but their high number created discomfort and objective inability of the independent observers to monitor the process without hindrance. At EAZ no. 35, the Tirana district, the many people present at the BCC caused confusion and unclarity among members of the election administration, by interfering and having an impact on the delay of the ballot counting process. In this EAZ, the communication among members of the BCTs, CEAZs and observers of electoral contestants was of a political and non-legal nature, which, to some extent, created obstacles to the normal performance of the counting process.

5.5 Respect of the counting closing procedures

The counting closing procedures were respected in the BCCs monitored by AHC, with the exception of some BCCs in the monitored CEAZs in Fier, Korca and Vlora districts. In these CEAZs, the legal deadline for closing the counting process was surpassed, due to late commencement of the process, inadequate conditions of the premises, and breaks requested by the members of the BCTs, or even late appointment of them by the CEAZs.

In general, the legal requirements with regard to the filling out and submitting the original tables of the voting results for each voting centre from the BCTs to the CEAZs, were respected, providing a copy of the table of results to each member of the BCTs and observer of the electoral contestants, writing down their observations on the table of results in the Protocol Book, signing of the table of results by all the members of BCTs, and lack of objections as regards the compiling of the table of results. No issue or controversy resulted in the filling out of the final table of the electoral zone in the monitored CEAZs.

Referring to the published CEC data³⁰, the process of vote counting and tabulation of the result was closed at 19:00, on 27 June 2017, i.e. within 47 hours from the closing of the vote. Despite the surpassing of the legal deadline for completing the counting process and tabulating the result³¹, with about 20 hours, this election marked a significant improvement with regard to the speed and efficiency of the counting process.

However, the process was cramped due to delays in the delivery of the election materials by the CEAZs to the CEC, since as of 29 June 2017, a total of 23 CEAZs³² had to submit their respective election materials, in order to enable the CEC to come up with the voting result

³⁰ CEC press release of 27.06.2017

³¹ Article 22, paragraph 1 of the Electoral Code in force

³² CEC press release of 29.06.2017



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as soon as possible. These delays had a domino effect on the process of verifying and extracting results for each electoral zone by the CEC³³, which continued until the 05 July 2017.³⁴

6. Recommendations

In April 2016, the AHC submitted to the Ad hoc Parliamentary Committee on the Electoral Reform, 32 suggestions, which consideration could serve to further improve the Electoral Code, but for known reasons this Committee did not work.

Although the OSCE/ODIHR has not yet published its final report on the 25 June 2017 elections, where the relevant recommendations will be provided too, based on its monitoring of this last election, the AHC, we would like to present the following suggestions:

1. The electoral reform that will take place in our country, as appropriate, could be modelled after the justice system reform. The process of this reform should be guided by the principles of transparency, inclusiveness, and reliance on the contribution of the best expertise of local and international organizations and in particular on that of OSCE/ODIHR. In this way, amendments to the Electoral Code, to the relevant laws affecting various aspects of the electoral process, including the Criminal Code, as well as amendments to the in the Constitution of the Republic of Albania, will be oriented towards achieving international standards that require the conduct of free and fair elections.
2. The current election system, among other things, does not guarantee the implementation of the principle of equality of vote. The previous proportional-adjusted majority system seems to be more suitable to our country's conditions. This of course would require amending the Constitution and consequently the Electoral Code too. If this option would be accepted, we would suggest that the number of MPs was reduced to 120, which we consider is in proportion to the relatively small number of the population of our country.
3. To prevent inaugurations organized in different areas of the public sector that were exploited for electoral purposes by the executive and local government bodies, we would suggest that:
 - a. The Electoral Code forbids any inauguration during the electoral campaign, or;
 - b. The CEC strictly applies administrative sanctions against the relevant electoral contestants, as foreseen in cases of a breach of electoral silence (Article 174 of the Electoral Code).

³³ Article 123 of the Electoral Code

³⁴ CEC press release of 04.07.2017



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4. We encourage and support the depoliticization of election administration bodies at all levels, in line with the OSCE / ODIHR recommendation. If this recommendation is not implemented, we consider that replacements of the members of CEAZs, VCCs and BCTs should be allowed only in exceptional and motivated cases. In other cases, the CEC should have the right to reject such requests and have the right to appoint other members not nominated by the electoral contestants. To implement this provision, we suggest for the CEC to issue the relevant guideline.
5. The rights of the observers during the voting and ballot counting process should be in line with Article 7 of the Electoral Code, and no distinctions should be in place between observers of the electoral contestants and domestic observers of the non-governmental organizations. On the basis of Articles 168 and 171, the CEC shall implement administrative measures where the respective election commissions hinder or refuse the observers to exercise their rights under Article 7 of the Electoral Code.
6. With regard to the electoral silence, we consider that there is a need for a more detailed regulation in Article 77, paragraph 2 of the Electoral Code, which prohibits, *inter alia*, the campaigning through media outlets, and the conduct of rallies or other electoral activities electoral contestants during the electoral silence period. The electoral silence was breached on several occasions by various representatives of the political forces, which were registered as electoral contestants. The breach came as a result of their media statements, which had a propagandistic nature, but according to the meaning of the current Article 77, paragraph 2, such statements could not necessarily be interpreted as campaigning or other electoral activities of the election contestants. Instances of such of declarations should be punished by an administrative measure imposed on the electoral contestant to which the person making such statement belongs to or represents. A recommendation could be that the CEC itself is given the possibility to issue a more detailed guideline for the implementation of this article, clarifying what would constitute a breach the electoral silence.
7. The Electoral Code in force, prohibits the use of a mobile phone in the voting centre and neither in the voting booth, if the voter attempts to photograph the ballot paper. In this case, according to the Electoral Code, the voter shall be handed over another ballot paper (see Articles 109 and 107 of the Electoral Code). We believe that this provision should be revised, since according to the amendments introduced to Article 327 of the Criminal Code, the photographing of the ballot paper by the voter is considered a criminal offense and is punishable to 3 months to 3 years imprisonment (Law of 27 May 2017). Criminalizing such action is a harsh measure, considering that it could also be addressed by imposing an administrative fine against the voter or by not allowing him/her to vote for the second time.
8. The practice has shown that the presence of candidates during the ballot counting process (Article 121 of the Electoral Code) has in some cases lead to interferences, conflicts, or interruption and delays in obtaining the results. To prevent this, we suggest that candidates are not present during the ballot counting, also due to the fact



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that electoral contestants' observers are also present during such process, and they have the right to submit written observations that are reflected in the respective protocol.

9. Since during the monitoring it was found that the training of the commissioners was not qualitative, which also negatively affected a strict implementation of the law, we suggest that the Electoral Code specifically stipulates training deadlines and their certification. Particularly for members of the VCCs and BCTs, the training shall be conducted no later than 5 days before the election day, and no later than 3 days before the ballot counting, respectively.
10. Delayed nominations of members of CEAZs, VCCs and VCTs had a negative impact on their training in terms of late timing and poor quality. In these cases, we suggest that the CEC fines them, in accordance with Article 171, paragraph 5 of the Electoral Code. However, we consider that this provision needs to have a clearer wording to specifically make the electoral contestants responsible and punishable by administrative fines, in case they violate the legal obligations on nomination of the lists, nomination of the second and third level commissioners, and any obligation that impacts the progress of the electoral process. We note that the wording of Article 171 as a whole, is of a general nature, as regards circle of parties that can be administratively fined. Meanwhile, other paragraphs of this article, explicitly provide for the sole responsibility of the election commissions members, persons in charge with the preparation and approval of voter lists, etc.
11. We suggest for a revision of Article 95 of the Electoral Code which states that members of the counting teams must meet the conditions and criteria of Articles 30, 31 of this Code. Article 31 of this Code stipulates that the CEAZ member should have completed higher education and the secretary has a legal background. This criterion is hardly implementable with regard to the members of ballot counting teams.
12. Given the importance of the implementation of Law No.138/2015 "On Guaranteeing the Integrity of Persons Elected, Appointed or Exercising Public Functions", the CEC should be imposed a longer deadline for verifying the forms submitted by the candidates, also because it may need to send them to the General Prosecution Office for a more in-depth and comprehensive verification.
13. The Electoral Code should explicitly include criteria on the moral and professional integrity for the selection of members of the Media Monitoring Board (MMB), which is currently regulated by a sub-legal act of the CEC. These criteria need to be further strengthened, in order to ensure the selection of unbiased and professional journalists in its ranks. We also believe that the election of the MMB members is not within the competence of CEC members, since they can be biased. This recommendation is based on the current CEC composition.
14. Article 52 of the Code in force concerning the written voter notification, was either not implemented or partially implemented in the last month or days before the



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election day. The voting notification costs are covered by the Ministry that is responsible for the civil status service. This fund was allocated belatedly or was not sufficient, that's why we suggest that the fund for this purpose is allocated to local governments within 30 days from the publication of the voter list extract. The CEC should impose administrative sanctions if this provision is not applied or when it is established that the written notification is not served to each voter.

15. To revise Article 108, paragraph 6, of the Electoral Code concerning voters who cannot vote themselves within the voter list review period, and their request for registration submitted to the mayor, accompanied with the official document proving the type and category of the disability. The practice has shown that the implementation of this provision is difficult to accomplish, therefore we suggest that the local governments are assigned this legal duty, first of all, to avoid that these people are burdened with searching and submitting the required documentation, and to ensure them all the conditions to exercise their right to vote.
16. The Electoral Code sets out the criteria and conditions for being members of CEAZs, VCCs and BCTs. The short legal deadlines for verifying these criteria make this process only formal. Therefore, there is a need for the CEC and CEAZs to have a longer deadline.
17. According to the Electoral Code, decisions of the Electoral College are final and cannot be appealed against. We suggest that an exception is provided with regard to complaints on violation of the principle of due process of law, to be reviewed by the Constitutional Court. We mention this here because the Constitutional Court in 2011 refused to review such a request with the reasoning that the Electoral Code provides that the decisions of the electoral college are final. The OSCE / ODIHR report has observed that the violation of such a principle should be under the review scope of the Constitutional Court.
18. The Electoral Code should clearly specify the place where inmates and pre-detainees should vote, distinguishing between general and local elections. In this regard, we think that the Civil Code should be taken into account with regard to the concept of permanent or temporary residency, and the decision of the Constitutional Court that has dealt with such issue some years ago.
19. The Electoral Code should clearly define who shall preliminarily prepare the voter lists of convicts, pre-detainees, which are sent to local governments bodies. We suggest that this task is assigned to the head of the institution, while the relevant civil status office must verify its accuracy.