



KOMITETI SHQIPTARI HELSINKIT ALBANIAN HELSINKI COMMITTEE

FINAL REPORT

ON THE CONDUCT OF THE ELECTORAL PROCESS IN THE MAY 8, 2011 ELECTIONS FOR LOCAL GOVERNMENT BODIES

Introduction

The Albanian Helsinki Committee (AHC) is the first non-governmental organization established in democratic Albania. It was founded on December 16, 1990, and is registered properly with the Tirana Judicial District Court, on the basis of the law “On non-profit organizations.”

The mission of the organization is: *“To contribute to respect for human rights, strengthening of the rule of law, and the conduct of free and fair elections, in accordance with the constitution, ratified international acts and the legislation in force in the Republic of Albania.”*

AHC’s mandate, pursuant to fulfilling its mission, is to:

- monitor, lobby, and advocate proactively, together with other civil society actors, domestic and international organizations, for the fulfillment of standards for fundamental human rights and freedoms;
- sensitize Albanian citizens and all concerned actors about their rights and freedoms;
- help with the implementation of laws through building the capacities of the public administration;
- encourage accountability of the public administration on the correct enforcement of laws, through the public denouncement of violations and abuse of human rights;
- prepare alternative reports about the implementation of fundamental human rights and freedoms in Albania;
- offer legal critique and expertise on improving legislation, its alignment with the *acquis communautaire*, and its correct implementation in practice.

Based on its mission noted above, from the time of its creation, AHC has monitored almost all electoral processes that have been held in Albania and has publicized its reservations, suggestions, and recommendations in specific reports, which have been made to the public. AHC is also one of the subjects that has given assistance in drafting and amending legal provisions that concern the election system in Albania.



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This report seeks to make public our findings with regard to the conduct of the May 8, 2011 local elections. It was compiled on the basis of information obtained in the field by the staff, district correspondents, and observers that AHC engaged.

For the observation and monitoring of the May 8, 2011 elections, AHC **engaged 160 longterm observers**, which were appropriately accredited by the Central Election Commission (CEC). Upon accreditation, the observers were trained on important aspects of understanding and implementing the Electoral Code, other legal provisions applicable in this area, as well as the methodology of observation. AHC **monitored 800 voting centers in the country's main districts¹, particularly in the rural areas**. We also observed **25 vote counting centers** at the same ZEACs.

The monitoring of this election process was carried out in collaboration with several international monitors, belonging to counterparts such as Civil Rights Defenders (former Swedish Helsinki Committee), the Norwegian Helsinki Committee, and a representative from the Italian civil society. Throughout the monitoring process, AHC maintained continued communication with other monitoring groups belonging to the domestic civil society and international bodies, which we shared experiences and exchanged ideas and information with.

The target of our observation and monitoring included: general conduct of the pre-election process, preparation and announcement of the preliminary and final voter lists, as well as the verification of their accuracy; sensitizing voters with regard to the voter lists and the exercise of their right to vote; the exercise of the right to complain about irregularities in voter lists; the establishment of ZEACs, VCCs, and the VCGs, as well as their adequate training; the conduct of the voting process on May 8, 2011, and the general conduct of the vote counting process, including the taking of pertinent decisions for this purpose.

Acknowledgements

The Albanian Helsinki Committee wishes to thank all of its correspondents, staff, and observers in the country's 7 main districts for their professionalism, neutrality, and commitment in carrying out the task they took upon themselves. We also wish to thank the U.S. Embassy in Tirana and the Swedish organization Civil Rights Defenders who, through their financial support, made it possible for AHC to monitor the May 8, 2011 elections for local government bodies.

1. Introduction

The May 8, 2011 elections were prepared in unusual circumstances. Upon completion of the parliamentary elections of June 28, 2009, the political environment in the country became even tenser and it remained such up to the electoral campaign for the local government bodies. The SP, the largest opposition party in the country boycotted parliamentary proceedings for a relatively long time and demanded the establishment of a Parliamentary Committee of Inquiry that would investigate the parliamentary elections that had just been held. Regarding this situation, international institutions continuously

¹ The counties of Tirana (ZEACs 44 - 57), Gjirokastër, Elbasan, Fier, Durrës, Shkodër, Vlorë, Kukës and Korçë.



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suggested dialogue and compromise between the parties but the majority, with its votes in the Assembly, refused to establish the parliamentary committee of inquiry. After that, the opposition organized rallies against the government, throughout the country, and a group of its MPs entered into a hunger strike. In the January 21, 2011 demonstration, called by the opposition coalition, 4 persons were killed by fireweapons and many others were injured. The Prosecutor General's Office began investigations on the events and the government considered the demonstration "*a coup to overthrow the government.*" The Assembly, upon request by a group of majority MPs, a Parliamentary Committee of Inquiry was established to investigate the January 21, 2011 events. Its activity has not ended yet and no conclusions have been publicized.

In this situation, the majority and the opposition, holding opposite views and manifesting no real desire for dialogue, embarked upon the electoral process of May 8, 2011 without making any amendments to the Electoral Code in force, although OSCE/ODIHR and the country's political forces had highlighted the urgent need for such amendments.

2. Electoral Administration

As stipulated by law, the administration of elections involved the Central Election Commission (CEC), the Zonal Electoin Administration Commissions (ZEACs), the Voting Center Commissions (VCCs), and the Vote Counting Groups (VCGs). Below are our findings regarding the activity of each of these bodies.

a) The Central Election Commission (CEC)

AHC monitored the functioning of the CEC partially. It resulted from our monitoring that until April 2011, three CEC members proposed by the opposition did not take part in the meetings of this body or their participation was sporadic. This made the normal activity of the CEC difficult. During this time, the CEC approved numerous decisions. Some of them were approved by only 4 votes although, because of their nature, the law required that they should be approved by no less than 5 votes. On April 8, 2011, members appointed by the opposition began to attend CEC meetings regularly.

In these elections too, the CEC was divided along two party lines in its decision making on main and disputable issues; there was the majority line with 4 members and the opposition line with 3 members. With regard to such conduct in their job by CEC members, AHC has reacted publicly by underscoring that this body, although appointed by the governing majority and the opposition, is obliged to fulfill its duty by being led solely by the Constitution and legislation in force.² As arguments for this conclusion, it would suffice to mention, among other objections to be presented below, the fact that the Electoral College overturned two decisions of the CEC that had to do with the approval of the ballot model and the obligation of television stations to broadcast video materials prepared by the political parties, for the purpose of covering their electoral activities.

AHC is of the opinion that the CEC did not reflect properly on the reservations that OSCE/ODIHR had addressed to it in its report of February 14, 2009 on the June 28, 2009 elections. Part of these reservations had to do with elections for local government bodies.

² See statement "Respect freedom of hte media," April 27, 2011



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The report stressed that the CEC had maintained polarized positions, which had had a negative impact on the impartiality and efficiency of its work. Unfortunately, the same situation recurred in the May 8, 2011 elections.

b) *Zonal Election Administration Commissions (ZEACs)*

Based on our monitoring, it resulted that the ZEACs were established with delays because the SP and the HRUP did not submit their proposed candidates within the required deadline. The delayed constitution of the ZEACs also caused the delayed start of their training, which, for this reason, lacked the proper quality. On the other hand, it was noticed that some ZEACs did not function regularly according to the law. In many cases, their headquarters were closed and made it difficult to obtain information regarding aspects of election administration, both by AHC observers and other monitoring actors, domestic and international. For this finding, AHC reacted publicly at the time.³

c) *Voting Center Commissions (VCCs)*

With regard to the activity of VCCs, we found that in most of the 28 ZEACs that were monitored, until April 20, 2011, the VCCs had not been established yet, thus violating the obligations set forth in the Electoral Code, which stipulates that political parties should submit their proposals for VCC members and secretaries to the relevant ZEACs, 45 days in advance of the voting day. The delays are a responsibility of the political parties, in their capacity as electoral subjects, for failing to select and submit in a timely fashion their proposals for VCC members and secretaries.⁴

Our observers informed us that a considerable number of voting centers had been planned to be set up in private locations. While it is true that the law allows this, it also notes that this should happen only in special circumstances and upon approval of the CEC. During the monitoring, we found that some of these centers had been set up in privately-owned bars, whose owners had family or friendly relations with persons running in these elections, such as in Kamëz, etc. This was found and made public also by other monitoring actors and various media outlets. As a result, the CEC intervened and changed their locations.

d) *Vote Counting Groups (VCGs)*

The same situation was found with regard to the establishment and functioning of vote counting groups. Delays in setting up these groups, the frequent replacements of their members, did not allow for the timely and quality training of their members. This had a negative impact on their activity. AHC is of the opinion that some of the violations encountered in this electoral process also derive from inadequate knowledge of relevant provisions in the Electoral Code by VCG members.

VCGs began to function late in most of the ZEACs and in few cases only in the early hours of May 8, 2011. This occurred due to failure of political parties to submit in a timely manner the proposals for members of these groups or due to the failure of the approved

³ See AHC statement May 4, 2011

⁴ See AHC statement "Voting Center Commissions (VCCs) have not been established yet," dated 22.04.2011.



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members to present themselves. The phenomenon was mostly present in some ZEACs in Tirana (no. 53, no. 57), Vlorë (no. 61), Durrës (no. 8, no. 9), etc.

Considering the electoral process and the fulfillment of their duties by all election administration bodies as very important, AHC wishes to highlight as an urgent need the finding of juridical and political solutions in order for electoral subjects to stop any intervention in the activities of all kinds of commissions that operate during the electoral process. This is a negative and unlawful phenomenon that has been encountered in almost all elections held in the country these past 20 years and has harmed them considerably that has been encountered in almost all elections held in the country these past 20 years and has caused considerable harm to them by obstructing the fulfillment of democratic standards in this regard.

3. Voter Lists

- *Preliminary and final voter lists*

The preliminary and final voter lists, as basic documentation for citizens to exercise their right to vote, in the May 8, 2011 elections, in comparison to previous elections, marked improvement. Their contents were more complete and more accurate. Based on information that we obtained from local government units, it resulted that voters' requests and complaints for interventions in the preliminary voter lists to improve them were relatively less than in previous elections. Nonetheless, it is worth mentioning that the voter lists were posted late, beyond the final deadline set forth by the Electoral Code. Local government units did not notify voters about their inclusion in these lists as determined in article 50 of the Electoral Code. During this phase, there were no awareness activities for voters, encouraging them to verify the presence of their names in the preliminary and final voter lists. Most voters confirmed this in contacts with our observers.

With regard to the voter lists, the opposition electoral subjects claimed that they included, arbitrarily, names of persons who did not appear in the relevant records of citizens, or names of persons formally transferred to the city of Tirana. According to their claims, this was done for the purpose of having them vote in favor of the governing majority, although they did not plan to become effective inhabitants of the city. AHC observers did not have the possibility to verify these claims.

Regarding the posting of the final voter lists, the monitoring of the situation in 710 voting centers showed that they were not only posted late in most of them, but even after the posting, in some cases, they were in inappropriate and not easily accessible by voters. The final voter lists had either been posted too high to be seen easily, or they were within public premises, mainly educational institutions, that were closed in the afternoon hours. In some cases, there were also damaged or completely torn voter lists due to the weather or actions by individuals. On these issues and others related to the voter lists, AHC reacted through press statements.⁵

- *Legal education of voters and their awareness*

⁵ See AHC statement on "More attention and control on the final voter lists," Tirana, April 18, 2011



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Legal education for voters and their awareness were relatively scarce. Besides, the CEC, pursuant to article 21 of the Electoral Code, should have paid special attention to the approval of programs for the citizens' electoral education, which was not done properly or was done for very limited periods of time, such as 3 or 4 days before voting day. Albanian voters were not informed about the legal tools at their disposal to contest the lists when they did not find their names on them or about the right to address the court of the judicial district⁶ to pursue their right to vote.

On the basis of information obtained by AHC observers, it results that citizens' requests to the district courts were relatively less⁷ in these last elections compared to previous elections. In this case, we certainly take note of the fact that in general, the contents of the voter lists were more complete and more accurate than in previous elections. AHC is of the opinion that the lack of sensitization for voters, nevertheless, had a negative impact on the exercise of the right to vote because some voters did not find their names in the relevant voter lists or because members of the same family appeared registered in the voter lists belonging to different voting centers, with some distance between them.

4. Election Campaign

Our monitoring began in the first days of March 2011 when the electoral campaign, although unofficially, had started. This electoral campaign, from its very start, was accompanied by incidents, minor and serious, between supporters and militants of the three main subjects: DP, SP, and LSI. In some cases, the incidents occurred due to the posting or removal of propaganda materials. Such conduct was encountered mainly in Tirana, Lushnje, Berat, Korçë, Lezhë, Durrës, Gjirokastër, etc. As a result of these clashes between political militants, police conducted some accompaniments, detainment, of individuals to Police Commissariat premises.⁸

The mentioned incidents, which continued up to very few days before voting day, had a negative impact on the electoral environment, and their impact on voters is not excluded. We do not take upon ourselves to draw conclusions on the real motives of these violent incidents as that is the duty of justice bodies, but we do think that, in this regard, hate speech used by political party leaders had a negative impact, and involved mutual accusations, lack of dialogue and constructive debate between them.

During the campaign, some of the candidates presented their alternatives in a relatively satisfactory manner. Initially, there were quiet and constructive meetings with voters, particularly in Tirana. However, the promises were quite exaggerated; sometimes they were not related to competences of the local government and, as a result, did not spur trust among the public that they could be implemented in practice. Spending by electoral

⁶ Ibid, see footnote 5

⁷ Judicial District Court of Tirana – 27 requests, Durrës - 88 (from Durrës pre-trial detention), Vlorë - 24, Shkodër - 30, Elbasan - 8, Kukës - 3, Gjirokastër no requests, Fier – 3, and Korçë – requests.

⁸ AHC reacted through two public statements, "Election campaign incidents aggravate election environment," dated April 15, 2011; and "Take measures to prevent further conflicts during the electoral campaign," dated April 4, 2011.



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subjects and their candidates during the campaign was very large while there is yet no clear information by relevant bodies about the amounts and their source.

There was pressure on the public administration and students to force them to participate in rallies organized by the political parties in power and intrusion into citizens' privacy through the dispatch of mobile phone messages and private internet addresses.

5. State Police

One of our objectives was the evaluation of the conduct and role to be played by State Police, before and during voting day, in the process of transferring ballot boxes to the vote counting centers, as well as during the vote count. As a conclusion, we can declare that these bodies carried out their duties in accordance with the law. They only intervened when asked to through decisions of election commissions that asked them. In the premises observed by AHC, we encountered no instances of biased conduct by State Police officers or arbitrary interventions during the electoral process. Nevertheless, we must underscore that the massive presence of public order police forces at Vote Counting Centers created panic among citizens and the impression that something was not going according to the law.

6. VOTING PROCESS

The voting process was conducted generally well in all districts monitored by AHC. The tense political environment of the campaign was not reflected on voting day among citizens; on the contrary, the day was characterized by civilized conduct by citizens who, unlike the political class, exercised their right peacefully.

a) Opening of voting centers and conditions for their normal functioning

- Respect for opening hour*

Commissioners, in a good part of the centers, appeared on duty at 6 am; however, there were also cases of delays. What observers noticed was the fact that many members of the voting center commissions were unclear about their duties they had to carry out and the order of work to be pursued. This was the result of lack of proper training for them. On the other hand, in some centers, it caused delays in the start of the voting process.

The voting began at the required time (7 am) or a few minutes thereafter in a considerable number of monitored VCs such as in Tirana, Durrës, Shkodër, Gjirokastër, Kukës, Vlorë, Elbasan, Korçë and Fier. However, delays of between half an hour and one hour were encountered in many VCs of Tirana, Fier, Gjirokastër, Vlorë, Korçë and Shkodër.⁹ In

⁹ Delays of 20 to 40 minutes were encountered at voting centers in Tirana (VC 1949/1; VC 1963; VC 1963/1; VC 1879; VC 1877; VC 1829/1; VC 1829; VC 18328/1; VC 1828; VC 1885/1; VC 1895; VC 1889; VC 1885; VC 1888/1; VC 1888; VC 1899; VC 1927/1; VC 1928; VC 1166/1; VC 1747; VC 1750; VC 1749; VC 1754; VC 1751; VC 1755; VC 1785/1; VC 1703; VC 1566 Kamzë; VC 1568 Kamzë; VC 1919; VC 1721; VC 1763; VC 1777; VC 1766; VC 1765; VC 1764; VC 1810/1; VC 1838/1; VC 1840; VC 1876/1; VC 1957/1); Durrës (VC 1428/1; VC 1428; VC 1429/1; VC 1490; VC 1032; VC 1457/1; VC 1452/1; VC 1462; VC 1420/1); Kukës (VC 634); Elbasan (VC 2346); Fier (VC 3005; VC 3006; VC 3015; VC 3087; VC 3005/2); Vlorë (VC 4499); Korçë (VC 3660; VC 3692; VC 3640). Delays of 40 minutes to



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Tirana, we encountered delays over 1 hour, namely in VCs 1910, 1911, 1844/2, 1752, 1849 and 1999.

Delays were caused for different reasons such as lack of materials (lack of different process-verbals, marking ink, number of ballots, etc.); absences of some members of voting center commission members; lack of organization in VCs, etc.

- ***Conditions of VCs***

In general, VCs were located in clean, well-lit premises that had the proper space, in conformity with legal requirements. However, the scheme for the organization of their functioning, in some cases, left to be desired. Oftentimes, this caused a slowdown of the voting process, created premises for the violation of the secrecy of the vote for voters, and did not grant observers full access for carrying out their duties. This was encountered in Tiranë, Vlorë, Fier, Korçë, Shkodër, Elbasan.

- ***Materials***

Based on monitoring conducted on May 5 and 6, it resulted that generally, the ZEACs had distributed electoral materials properly to relevant VCCs. However, from the morning of voting day, there were claims by some citizens about the quality of the marking ink. Such claims were manifested in Tiranë (VC 2044, 2044/1, 2045/1, 2045/2, 2044).

The most serious problem was that encountered in VC Papër, Elbasan, where ballots had been printed wrongly; the party coalitions supporting the candidates were wrong. A similar defect was noted in VC 3690 in Korçë where the pile of ballots included ballots from the Fier County. Regarding the above violations, AHC observers submitted written reservations to the pertinent ZEACs and AHC notified the CEC immediately about this situation.

In some VCs in Tirana and some other districts, there was a lack of documentation and electoral tools, such as process-verbals, seal pads, shortage of ballots, of the marking ink, envelopes for materials, lists for VCC members, etc.¹⁰

- ***Stability of commission makeup***

There were sporadic cases of replacing members in VCs in Tiranë, Korçë, and Gjirokastër. The replacements occurred due to interruptions in the voting process and its slowing down.

- ***Interruptions of the voting process***

¹⁰ Such deficiencies were encountered in the districts of Tiranë, Durrës, Shkodër, (VC 271, 272, 273, 1741, 1741/1, 1742, 2355/1, 1890/2, 1844/2, 2041, 2041/1, 2041/2, 1880/1, 2044, 2044/1, 2044/2, 2045/1, 2045/2, 1563, 1514)

1 hour were encountered in Tiranë (VC 1880/2, VC 1879/1, VC 1797, VC 1912, VC 1883, VC 1887/1, VC 1868/1, VC 1688, VC 1766/1, VC 1875, VC 1876); Durrës (VC Institution for the Execution of Penal Decisions); Gjirokastër (VC 4247, VC 4241, VC 4238, VC 4246, VC 4251), and Shkodër (VC 0272, VC 0271, VC 0273).



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The voting process generally proceeded without interruptions. However, there were cases of interruptions for a variety of reasons, varying from organizational reasons, to lack of materials, to failure of voters to maintain calm and order, or due to disagreements between commission members.¹¹ Problems were encountered at VC 1992 in Tirana, where commission members did not allow disabled persons to vote with assistance from their relatives, although their names were on the voter lists, as required by law. Such situations caused blocking of the voting and, in some cases, violated the right of disabled persons to vote. For these reasons, the chairman of the VC was dismissed through a decision of the pertinent ZEAC.

There were sporadic cases of voters, due to long queues created by reasons such as those mentioned above, upset and tired from waiting, left without voting.

- ***Family voting***

Family voting, underscored as one of the greatest deficiencies of the previous electoral process, was very widespread in these elections as well. In almost all monitored ZEACs, it was noticed that VCC members did not react or act to prevent this from happening.¹² The phenomenon was manifested most frequently in VCs of the rural areas, or small towns, where voting commission members are acquainted with the voters of the area and, as a result, were inclined to tolerate this phenomenon with the justification that they knew the persons and did not understand that family voting violates the secrecy and freedom of the vote.

It was also noticed that commission members did not have the adequate knowledge to help assist disabled persons to vote themselves. Thus, at *VCs no. 1850 2040, 2040/1, 2044, 2044/1, 2044/2, 2045, 2045/1 2045/2, 1879 and 1879/1, 1705, 2017/1, Roma*, illiterate voters were all assisted by the same person, or by the commission members, which is in contravention of the law. AHC filed their reservations about this phenomenon with the respective VCCs.

- ***Voting by disabled persons***

In general, persons with disabilities were granted proper access to exercise their right to vote; however, there were cases of the limitation of this right. In some of the monitored VCs, it was noticed that commissioners did not have adequate legal knowledge to address the situation; in fact, in some cases, they said *the law does not allow persons with disabilities to vote*. Furthermore, in few cases, requests by disabled persons to receive assistance from their family members were turned down by the commission members. These were encountered at VC 1992 in Tirana, which was mentioned above, at VC 3005/2

¹¹ Such cases were encountered in some VCs in Tiranë, Shkodër, Durrës, Vlorë, etc. (VC 216, 1735, 1765, 1765/1, 1768, 1818, 1880, 2001, 2017, 4436, 4490/1, 3646, 4246, 1411/1, 1992,).

¹² This phenomenon was noticed in some Voting Centers of the following cities: Durrës (1420, 1457, 1987/1, 1442/1, 1409, 1411, 1450, 1523; Sukth VC 1523); Korçë (3691, 3692); Tirana (1869/1, 1919, 1877/1, 2001, 1457, 1786/1, 1785/1, 1555 Vorë,; 2010, 1879, 1896, 1703, 1699/2, 1839, 1555/1, 1685/1, 1839, 1718, 1721, 1876/1 1555/1, 1570, 1987, 1699/2, 1703/2, 1803; 1570 Kamzë, 1524, 1802, 1850/1, 1747, 1901, 2010/1, 1850); Kukës (663, 623); Shkodër (285, 215, 313, 313/1, 309, 310 group voting was encountered in rare cases); Vlorë (4513); Korçë (3646, 3645, 3648, 3699, 3695).



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in Fier, where commission members had taken a ‘verbal’ decision to not allow disabled persons to vote, on the justification that if they received assistance from family members that would be tantamount to family voting. Another instance was the one at VC 1687 in Tirana, where commission members did not allow some disabled persons because the relevant process-verbals were finished, where they would report the special situation of voting with the assistance of other persons.

Even when this category of voters was allowed to vote, with the assistance of other persons, it was noticed that, in some cases, procedures provided for by the Electoral Code for this purpose were not respected; for instance, there were cases when they were assisted, contrary to the law, by commissioners, observers, or the same person. This was noticed in some VCs in Tirana, Durrës, Vlorë, Fier, Korçë, etc.¹³

- ***Problems with identity documents of voters***

AHC is of the opinion that the CEC should have addressed, through special instructions, the issue of identity documents that could be used by voters to vote, given that it is common knowledge that there are several such documents in the Republic of Albania. In that regard, the Electoral Code contains two legal provisions, article 105 and article 179; yet, there was a need for a more detailed interpretation by the CEC, on this issue, to adapt to the current situation. As a result of unclarity, but also because of news offered by the local media regarding the circulation of some fake IDs, there were debates in some VCs, among members, on whether persons possessing valid, non-biometric, passports should be allowed to vote. This occurred in Shkodër (Shllak and Bushat), Tiranë, etc. As a result of consensus among VC members and the lack of instructions by the CEC, voters possessing these documents were not allowed to vote in some VCs in the mentioned cities. Furthermore, in few cases, there were noticed voters holding fake IDs who were not allowed to vote.

- ***Calmness and orderliness of the voting process***

The situation at Voting Centers monitored by AHC was generally calm. Of concern for voters were long lines, which forced them to wait to vote for hours. This was noticed particularly during the first part of the voting day and recurred in the evening, before the VCs closed. This phenomenon was particularly evident in Tiranë¹⁴ and Shkodër. As mentioned above, this situation was also the result of poor organization of VCs, the lack of knowledge of commissioners about responsibilities, or due to disagreements among them, which, in some cases, led to interruptions of the process and, therefore, an increase in waiting lines.

There were a few cases of pressure on journalists, observing the process in the districts, such as in Tiranë and Shkodër. There were also sporadic cases of pressure on various observers as well as voters, such as in Vlorë, Korçë, Fier and Elbasan.

We noticed the presence of unauthorized persons as a problem in some VCs (Tiranë, VC 2019, 2044/1 Paskuqan).

¹³ VC 1950, 1948, 1868/1, 1895, 1755, 1696/1, 16911, 1733, 1700, 1449/1, 4448, 4499, 4471, 3116,

¹⁴ VC 1704, VC 1704/1, VC 272 and VC 315.



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Other irregularities manifested during the voting process had to do with the application of procedures envisioned in the Electoral Code for the identification of voters, controlling finger ink, marking fingers, and the crossing out of the names of voters who were voting.

Concretely, irregularities related to finger marking were encountered in some VCs in Durrës, such as VC 1449/1, in which the commission member tasked with this duty almost never marked the voters' fingers, as well as in VC 393 in Shkodër, and in Durrës (VC 1522, 1447). In some VCs, we found the ink was removed from the finger, such as in Tiranë VC 1960, 1896, 1005, 2044, 1691, 1863, 1991, Shkodër VC 272, Fier VC 2985/1.

- ***Procedures for closing the voting***

Overall, procedures for ending the voting process were applied well in all VCs that we monitored. However, in some VCs, voting was ended after 19.00 due to long waiting lines; this happened in Tiranë,¹⁵ Durrës, Kukës, and Korçë. In other districts, voting was stopped even later. During procedures to end the voting, there were cases of failure to take relevant decisions to end the voting and refusal of voters to hand over their IDs so the number of voters waiting in line after the official deadline. There were also cases when, contrary to the law, by decision of the VCC or relevant ZEACs, voting time was extended beyond what the law allows.

- ***Escorting of boxes***

The accompaniment of boxes with relevant documentation from VCs to the vote counting centers was conducted generally well although there were a few cases of delays in the arrival of boxes with electoral documentation although distances were not large. This was encountered in Korçë, Vlorë, Durrës, etc. There were no reports or contestations regarding the integrity of the transported ballot boxes.

7. VOTE COUNTING PROCESS

- ***Compliance with the starting time for the counting***

The counting process began late in most of the ZEACs that AHC monitored. This happened due to the delayed establishment of VCGs as well as due to the conduct of their training only in the early hours of the morning. The majority of VCGs started counting only in the early morning hours of the day after the voting day. This was encountered in (ZEAC 18, 34); Durërës (ZEAC 8), Vlorë (ZEAC 63, 62); Tiranë (ZEACs 47, 48, 49, 50, 53, 54, 55, 57); Gjirokastër (ZEAC 25), Korçë (ZEAC 20) etc.

- ***Conduct of the vote counting process***

The vote counting process and the issuance of the voting results is generally as being conducted calmly and in accordance with the law, but with numerous delays. The situation

¹⁵ VC 1785/1, 1740, 1740/1, 1747, 1741, 1741/1, 1742, 1746, 1748, 1797, 1736 and 1736/1, 1842, 1566/1, 1704/1, 1818, 1849/1, 1706, 1705, 1910, 1911, 1912, 1912/1, 1987/1, 1919, 1930, 2004/1, 1961/1, 1951, 1963, 1830, 1894, 1928, 1925, 1857, 1187, 1704/1, 1975, 1974, 1973, 1702, 1718, VC 1490, 1457/1, VC 635, VC 3648



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was not good in ZEACs of some of the country's larger cities such as Tirana, Elbasan, Durrës, Korçë, Vlorë, Shkodër, Gjirokastër, Fier, which also featured problems. On the other hand, the CEC did not always act correctly and in conformity with the law in issuing preliminary results and making them public.

ZEAC-të morrën, rregullisht, dokumentacionin e krijuar nga GNV dhe hartuan procesverbalet ku pasqyroheshin rezultatet e votimit për zonat e tyre, të cilat iu përcollën CEC për procedim të mëtejshëm, sipas ligjit.

CEC did the calculations and announcement of results for the local government units. This is what the CEC also did initially with documentation accumulated for the voting of the Tirana Mayor but the process halted at ZEAC no. 49 (Unit no. 5) and the tabulation of the preliminary results for this unit was not processed further, at the time when tabulations compiled by the ZEACs, particularly the counting of votes in ZEAC no. 49 showed a slim lead by the candidate for Tirana Mayor mr. E. Rama who was supported by the opposition coalition. At this moment, most of the members at ZEAC no. 49 refused to sign the tabulation, presenting contestations regarding the evaluation of ballots cast in the wrong box. The case was passed on for review and a decision, according to law, to the CEC, which in its capacity as a Tirana ZEAC (The Electoral Code in force does not provide for the existence of ZEAC for Tirana Municipality, as a unit in its entirety) should have drafted the collective tabulation for ZEAC no. 49 and, after that, announce the preliminary results for the winner of the post of the Mayor, based on the collective tabulations of all 11 ZEACs of Tirana. The CEC jumped over phases of the process to issue the results of the voting and confused the competences of its two functions. In breach of the law and without taking a decision, upon request of some members of Tirana ZEACs, which were not electoral subjects and could not challenge the result of collective tabulations that were approved and made public, the CEC ordered the opening of contested ballot boxes and the counting of ballots cast in the wrong boxes. The decision that justified and offered reasons this act was taken later and only with the favorable votes of 4 CEC members.

After the opening of the boxes and the counting of miscast ballots, the CEC, correcting the collective tabulations of the 11 ZEACs of Tirana, publicized the collective tabulation and announced as a winner the candidate for Tirana Mayor of the majority coalition, Mr. L. Basha, by 81 votes.

The mutual objections by electoral subjects with regard to the evaluation of miscast ballots and the solution provided by the CEC, caused tension with regard to the results of vote counting for Tirana Municipality, which led to even more delays in this process. This decision of the CEC was appealed at the Electoral College, which ordered the opening of boxes and counting of miscast ballots also in the other ballot boxes in Tirana, as well as the specification by the CEC of the number of voters who participated in the voting and the number of ballots cast in the boxes.

In almost all monitored ZEACs, the vote counting process continued beyond the legal deadline; this phenomenon was particularly evident in the Tirana Municipality. In some ZEACs, although the counting process began normally and on time, it continued at a slow pace and with numerous interruptions, thus causing its procrastination, particularly in



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Tiranë (ZEAC 49, 51, and 54),¹⁶ Kamëz, Kukës, Vlorë, Durrës, Shkodër, Gjirokastër, Elbasan, Fier and Korçë.

Reasons presented by VCG members for the delays and interruptions were claims of exhaustion; contestations for declaring a vote invalid; mismatch in the number of votes and the voter lists; or because observes protested when they could not clearly tell on screen the marks noted by voters on the ballots.

Debates and high tension among vote counting group members led to the counting process to be suspended time after time. In some cases, to calm down the situation, the State Police was convened.

The CEC, during the vote counting process, dismissed ZEAC and vote counting group members who had caused the interruption of the counting process and the procrastination of this process.

In the premises where votes were counted, there were cases of unauthorized and unidentified persons being present, such as at ZEAC 28 in Korçë, ZEAC 51 and 54 in Tirana, as well as, in few cases, authorized observers being obstructed to do their jobs, such as in Tiranë, Vlorë, and Durrës.¹⁷ Obstruction was justified with the claims that the name of the observer was not on the list distributed by the relevant ZEAC and which the police officer at the door possessed, although the accreditation of these observers had been conducted properly and according to the law, by the CEC.

8. On miscast ballots

In all parliamentary and local government elections, miscast ballots have been considered invalid (that is, they have not been factored in the election result). The CEC itself, even in the context of the May 8, 2011 elections, issued instructions that such votes be considered invalid.

Casting of ballots in the wrong boxes occurred particularly in Tirana where, due to the structure of the local government that has two levels, voting was conducted using four ballots, which referred to the mayor, the municipal unit chairperson, the municipal council, and the municipal unit council. Ballots for every body should be cast in four different boxes. Such a phenomenon was never a major concern in the past and therefore has not been addressed in detail by the law and sub-legal acts. For instance, the Electoral Code envisions the manner in which the voter makes marks on the ballot or damages it out of the secret booth, but does not make a definition on the evaluation for the vote that is cast in the wrong box. On the other hand, referring to the amendments that the Electoral Code has been subjected to through the years, we find that in the provisions of its version of 2000 and 2003, it is sanctioned that: “...***the voter shall cast the ballot in the ballot box,***” but

¹⁶ (ZEACs 45, 48, 47, 49, 51, 52, 53, 54)

¹⁷ At ZEAC no. 8 in Durrës, the AHC observer was not allowed to enter the premises of this ZEAC by the police officer on duty, under the pretext that she did not possess proper accreditation and her name was not on the list that he possessed and given by the ZEAC (time 14:13).



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with the changes to the Code in 2005, 2007, and October 2008, the above phrase was changed and reformulated to read: “***the ballot box should be cast in the pertinent box.***”

We are of the opinion that the lawmaker, with the words “***pertinent box***,” intended to sanction that the vote cast not in the pertinent box would not be considered valid.

It is true that the voter that would vote with 4 ballots, with similar colors, could err and not cast them in the pertinent box. To minimize this possibility, the CEC, as the responsible body for the organization of elections, should have taken, preliminarily, the necessary technical-administrative measures to this end. Furthermore, it should have also evaluated with greater attention the reservation made by OSCE/ODIHR, in its report of June 5, 2007, which, among other things, stresses that, “*In Tirana, ballots papers of somewhat similar colours were used for the different contests. This led to confusion and may have resulted in a considerable number of ballots inserted in the wrong ballot boxes and thus rendered invalid.*”¹⁸ Unfortunately, the CEC did not take any such preventive measures for the June 2009 elections or the recent ones, held on May 8, 2011.

9. Monitoring the CEC activity

The role of the CEC for the organization and holding of elections is very important. Above in this report, we mentioned some considerations on the manner in which this body functioned and fulfilled its duties. Representatives of the AHC staff followed and monitored the meetings and decisions taken by this body and its influence on the activity of the lower-level electoral bodies. AHC has maintained regular communication with the CEC and has conveyed to it, in writing or orally, all encountered concerns, which called for solutions or interventions by it.

The issuance of the collective tabulation of election results by the relevant ZEACs and the publication of election results by the CEC are provided for in the articles 122 and 123 of the Electoral Code, as one of the main duties for finalizing election results.

AHC is of the opinion that the CEC did not comply with the Electoral Code and the practice pursued in previous elections, according to which miscast ballots are considered invalid. If the CEC was of the opinion that the Electoral Code had a vacuum and did not contain the necessary provisions for resolving certain situations, it was not legitimized to create them itself, assuming the attributes of legislative power, which would violate the principle of the division and balances of powers. On the other hand, changing the rules in a process by the CEC, while that process is going on, and the approval of acts of a normative character, in contravention with article 24/1/d of the Electoral Code, by a majority smaller than the one provided for therein, violate the process of due legal process, sanctioned by the Constitution. Other observers, domestic and international, have also expressed reservations about these actions of the CEC.

The CEC took decisions, with the votes of 4 members, to issue the preliminary result for the mayor of Tirana Municipality; for the approval of decision no. 709, which was a normative act in its character; as well as for the approval of collective tabulations for Tirana, unlike what the Electoral Code provides for.

¹⁸ See page 18 of the OSCE/ODIHR final report on the February 18, 2007 elections



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The above actions of the CEC caused loss of confidence in the correctness of the vote count and the issuance of voting results among part of the voters in Tirana and beyond.

In spite of the counting of miscast ballots in Tirana, many issues and claims that were raised remained unclarified by the CEC, for instance, the discrepancy between the number of voters and the number of votes found in the counted ballot boxes, in various voting centers, which the CEC had received orders to do also by decision no. 67, dated 13.06.2011 of the Electoral College; no reasons were provided for why some norms were violated in relation to the principle of due legal process in procedures applied by the CEC; reasons for changes in the security codes of some of the ballot boxes that were opened for counting miscast ballots, etc.

10. Election Standards

Based on the above report and comparing the findings with democratic election standards, we will provide below our evaluation on the May 8, 2011 elections for the local government. First, we have listed concisely the findings, positive and negative, based on the monitoring that AHC conducted.

In the May 8, 2011 local government elections, we **found these positive achievements:**

- The voter lists were more complete and more accurate in comparison to previous elections. This was seen in the scarce number of complaints that citizens filed with the courts to object to the contents of the lists and to pursue the exercise of the right to vote.
- State Police, in these elections as well, carried out its duties in accordance with the law and its competences. Its interventions only occurred when requested by decision of electoral commissions and within the limits imposed by the situation. There was no instance of biased conduct or arbitrary intervention by State Police.
- The preparation and distribution of electoral materials was generally conducted well and on time, with rare exceptions, which were mentioned in this report.
- The voting process took place generally well, in all districts monitored by hac, with some deficiencies mentioned in the report.
- The tense environment of the electoral campaign was not reflected among citizens on voting day. To the contrary, voting day was characterized by a civilized conduct of voters.

Negative aspects encountered during the process and the electoral campaign:

- The electoral campaign was accompanied by minor and serious incidents between supporters and militants of three main electoral subjects: DP, SP, and LSI. The situations were encouraged also by hate speech used by the leaders and candidates of political parties competing in the elections, the mutual accusations, and the lack of dialogue and constructive debate between them.
- Promises made by candidates competing in the elections, or by party leaders, in some cases, were quite exaggerated and had nothing to do with the competences of the local government, or the country's real possibilities.



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- Spending during the electoral campaign by the electoral subjects and their candidates were too large while no clear information has been provided on the source of these funds.
- The preliminary and final voter lists were announced late, beyond the legal deadline stipulated by the Electoral Code.
- Local government units did not notify voters about their inclusion in the voter lists, as stipulated by article 50 of the electoral College. The lists, in many cases, were posted in inappropriate and not easily accessible places for voters.
- Legal education of voters and their sensitization was scarce. As a result, voters were poorly informed, not just about the voter lists but also about how to vote.
- There was pressure on the public administration and students to force them to participate in rallies organized by the political parties in government and intrusion into citizens' privacy through the dispatch of mobile phone messages and private internet addresses.
- Election commissions, of all levels (ZEAC, VCC, and VCG) were established late and their training was delayed and of poor quality.
- Organization of work at voting centers left much to be desired. That caused long lines of voters waiting for hours to exercise their right to vote.
- During the voting process, often there was family voting.
- In some instances, disabled persons were obstructed in exercising their right to vote as commissioners lacked proper knowledge on the application of legal procedures in such cases.
- In some cases, the CEC surpassed its competences; took decisions that openly reflected the political affiliation of the majority of its voters, circumventing the law; failed to respect a qualified majority required for specific decisions, as described in the report; ordered the opening of ballot boxes in the absence of legal grounds, counting and evaluation of miscast votes; failed to fulfill all orders by the Electoral College on the investigation and clarification of the cause of the disparity between the number of voters and the number of ballots found in the pertinent boxes.
- The CEC failed to clarify many problems encountered during the vote count.

The mentioned facts point out that the May 8, 2001 elections marked achievements, but also highlighted some key problems, many of which recurring as in past elections. In particular, it is noticeable that problems and concerns increased at the end of the vote counting phase, particularly after May 14, 2011. Although these problems were manifested mainly in Tirana, this does not minimize the concern because: first, the vote count is the essence of an electoral process and the most important guarantee in exercising the right to vote; second, about 1/3 of the country's voters voted in Tirana; and, third, Tirana is the capital and as such it has a major impact on the process of the country's democratic developments.

As a conclusion, based on the above facts and analysis, AHC deems that in the May 8, 2011 elections, standards for free and democratic elections of the CoE and the EU, those sanctioned in the United Nations Charter, and the Copenhagen Document of 1990, principles contained in the Code of Election Practice, approved in 2002 by the Venice Commission, **were not met**.