



ENEMO EOM in Kosovo
Municipal elections 2009
Final report

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I. EXECUTIVE SUMMARY

In response to the invitation issued by the President of the Republic of Kosovo Mr. Fatmir Sejdiu to observe the Mayoral and Municipal elections 2009 the European Network of Election Monitoring Organizations (ENEMO) deployed an Election Observation Mission (EOM) to observe the Elections held on the 14th of November as well as the run-offs held on the 13th of December 2009.

ENEMO EOM observed the compliance of the Electoral process with the International standards of elections as well as the compliance of the process with the national legislation. In the course of the organization of the mission the ENEMO EOM was supported by a number of countries by joining forces with a number of governments. These Governments seconded observers coming from their respective ministries. Through this joint effort ENEMO formed an International Election Observation Mission (IEOM).

The four main competing political parties were PDK, LDK, AAK and AKR. These four parties conducted Western style campaigns and did recognize importance of focusing on local issues which are of the most significance to the people of the ground.

The Municipal and Mayoral Elections 2009 in the Republic of Kosovo met many of the International standards for elections; however, a complex political situation resulted in the inability of a portion of the electorate to exercise its right to vote in certain areas. Whilst the simplified process in the second round of the mayoral elections, together with efforts by the Central Election Commission (CEC), led to a slight improvement in the conduct of the voting procedure and, in particular, a more efficient counting and intake process, challenges in the administering of some very important segments of the elections, in particular, the complaints and appeals procedures challenged the confidence in the overall process.

It was nevertheless apparent that CEC is still dependent on external assistance. Several important activities were organized by IFES such as the Counting and Result Centre, the set-up of the mobile voting stations in the three northern Kosovo Serb municipalities and voter information campaigns. Also, OSCE was highly visible providing technical advice on central and local level.

Most of the minority community parties have expressed satisfaction with the election process although they suffer from lack of funding for any elaborate campaigning. The main focus in the run up to the elections has been on the participation of the Kosovo Serbs in the electoral process. 22 different Kosovo Serb entities registered for the elections but at the same time the calls for a boycott were strong from many sides including the Serb Orthodox Church, the Assembly of the Community of Municipalities of the Autonomous Province of Kosovo and

Metohija, the Serb National Council and the Government of Serbia. In favor of promoting Serb participation in elections Prime Minister Hashim Thaci accompanied by US Ambassador Christopher Dell visited Serbian families in Lipjan and urged them to vote during elections. Peter Feith also mentioned that he supports that if the voters with Serb IDs could vote at the elections. However, the turnout in Serb areas remained to be low with considerable improvement in run-offs.

The Central Election Commission endeavoured to create the necessary conditions for an efficient and positive conduct of the election process. This work was carried out in a transparent manner to overcome obstacles and challenges faced in the first elections since independence. Following the annulment by the CEC and the Election Complaints and Appeals Commission (ECAC) of several polling stations as a result of irregularities caused by the polling station staff in the first round, the CEC substituted a high number of Polling Station Committee (PSC) staff.

Despite efforts from the CEC to improve the voters list, discrepancies in the Civil Registry remain an obstacle to a qualitative list, thus leaving the door open to speculations of manipulation on both Election Days.

The late start-up of an important election process figurant, the Election Complaints and Appeals Commission (ECAC), introduced the possibility of diminishing trust in the electoral process. As the body responsible for adjudication of any complaints and appeals in relation to elections, in the period between the two rounds the Elections Complaints and Appeals Commission (ECAC) has received 340 complaints out of which 214 have been adjudicated. Most accepted complaints have resulted in ECAC's decisions to fine Political Entities for breaching the Code of Conduct during the campaign (pre-election) period.

The most significant decision was related to the invalidation of the results from 15 polling stations as a result of fraudulent actions of the polling staff connected with manipulation of voters' lists. ECAC did not exercise its power according to the Law on General Elections to direct the CEC to repeat the voting for these 15 polling stations for the first round of the elections. Thus the voters were denied their possibility to express their will due to the misbehavior of the polling staff.

This particular trend continued in the post run-offs period with an indecisive behavior of the Election Complaints and Appeals Commission (ECAC) creating a very unclear situation for possible re-runs in the Municipalities of Prizren, Gnjilan and Lipjan.

II. INTRODUCTION AND ACKNOWLEDGMENTS

In response to the invitation issued by the President of the Republic of Kosovo Mr. Fatmir Sejdiu to observe the Mayoral and Municipal elections 2009 the European Network of Election Monitoring Organizations (ENEMO) deployed an Election Observation Mission (EOM) to observe the Elections scheduled for the 14th of November as well as the run-offs scheduled for the 13th of December 2009. ENEMO EOM observed the compliance of the Electoral process with the International standards of elections as well as the compliance of the process with the national legislation. In the course of the organization of the mission the ENEMO EOM was supported by a number of countries by joining forces with a number of governments. These Governments seconded observers coming from their respective ministries. Through this joint effort ENEMO formed an International Election Observation Mission (IEOM).

The re-runs conducted in the Municipalities of Lipljan, Gjilan and Prizren were not part of monitoring. The ENEMO team based its findings in this regards on the interviews conducted through out the period of January 2010 – March 2010.

ENEMO wishes to issue its acknowledgments of highest appreciation to all of the above mentioned stakeholders, considering their role as crucial for the organization of the mission and the observation effort.

III. BACKGROUND

In 1998 Kosovo erupted into violent conflict. Fearing a return to the brutal Balkans wars of the 1990s, the North Atlantic Treaty Organization (NATO) intervened in 1999. Serbs fled the returning Kosovar Albanians and found refuge both in Serbia and Northern Kosovo. NATO secured cordons around ethnic communities to prevent further violence and conflict.

A peace agreement, brokered by the United Nations (UN) Security Council, was signed under the conditions outlined in Security Council Resolution 1244, giving administrative authority of Kosovo to the United Nations Mission in Kosovo (UNMIK). Provisional Institutions of Self Government (PISG) were established under UNMIK authority, providing limited self-government to Kosovars. UNMIK administered Kosovo up until the 2008 declaration of independence. While technically still empowered by resolution 1244, UNMIK no longer exercises any real authority.

In 2005, UN Secretary General Kofi Annan appointed a Special Envoy to find a resolution to Kosovo's stalemate status. Former Finnish President Martti Ahtisaari spent several months in 2006 meeting with actors in both Serbia and Kosovo to put together a comprehensive settlement of status proposal. In his report, Ahtisaari proposed conditions for independence which included linguistic, cultural, social, and political rights for minority communities, most notably Kosovar Serbs. Several attempts to broker agreement between Belgrade and Pristina failed, and in 2008 Pristina declared independence, committing to implement Ahtisaari's package. This commitment was mandated by many sovereign states as a condition for recognizing the Republic of Kosovo.

Kosovo has an established tradition of holding elections since 2000. Two Municipal elections (2000 and 2002) and two Assembly elections in (2001 and 2004) were prior to 2007. All of these elections were administered and organized by the International community.

The Local, Mayoral and General Elections were held on the 17th of November 2007 were organized and managed by the international community.

The current Local and Mayoral Elections 2009 are the first to be organized by the authorities of the Republic of Kosovo.

IV. THE LEGAL FRAMEWORK AND THE ELECTION SYSTEM

Since the declaration of independence on February 17, 2008, Kosovo has adopted the Constitution and several laws governing the conduct of elections. Article 57 of Kosovo Constitution follows the recommendations and obligations set out in the Comprehensive Settlement Proposal for Kosovo¹, which emphasises the rights and freedoms granted to minority communities living in Kosovo.

Although Kosovo is not a signatory to any human right treaty, it is according to Art. 22 in the Constitution obliged to give priority over Kosovo laws to several of the main treaties such as the Universal Declaration of Human Rights and for election standards essential International Covenant on Civil and Political Rights.

The principal election related laws are the Law on General Elections and Law on Local Elections in the Republic of Kosovo were both adopted in June 2008.

Other important legal acts for the 2009 local elections are the Law on Local Self-Government and the Law on Administrative Municipal Boundaries. The Law on General Elections leaves many important aspects of the electoral process to be described and decided by the Central Election Commission (CEC) through the adoption of Electoral Rules. For the 2009 local elections CEC has issued fourteen different Electoral Rules. These Electoral Laws elaborate upon voters' list verification, out-of-Kosovo voting, Special Needs Voting, Counting and Results Centre, Certification of Political Entities, polling and counting and campaign issues.

The election system for local elections used in Kosovo is an open party list system. Each municipality is considered a single electoral zone. Each Municipal Assembly and Mayor is directly elected by votes of the voters who are registered in the municipality where the vote is held. For Municipal Assembly elections political entities submit candidate lists for each municipality. Candidate lists should contain 30% of candidate of the other gender. The voter in Municipal Assembly elections votes for one certified political entity and one candidate from a list. Allocation of Assembly seats are held in accordance with D'Hondt method. Mayor is considered elected if he or she gathered 50% plus one vote.

Elections took place in 36 municipalities with six newly established in accordance with Ahtissari plan three of which are with the Serb majority. Territory of Novo Brdo was enlarged in order to place Serb majority within its boundaries. In two newly established municipalities Parte and Mitrovica North elections were not held, elections will take place there in May 2010.

¹ www.unosek.org

The Constitution, the main electoral laws and the CEC Rules describe different aspects of an election process while guaranteeing the basic fundamental rights and freedoms for democratic elections according to international standards. However, there are issues in the existing legislation and rules which need to be addressed.

The Law on General Elections in Art. 95 gives, the voter an opportunity to cast a conditional ballot if they cannot be found on the voters' list. Conditional balloting is a solution often used in post conflict environments to give voters the possibility to cast a ballot despite not being on the voters list where s(he) claims to be eligible to vote.

Conditional balloting has many drawbacks and unduly delays the announcement of count results and introduces a potential risk for decreased confidence in the whole process. There are also additional costs as strict voting and counting controls must be in place; security, transportation, and counting centre as examples.

The need to continue with the generalised and standardised conditional balloting should be discussed. Procedures similar to the special needs voting, for example, can be applied for remaining specific cases such as IDPs (Internally Displaced Persons).

As described in the Law on General Elections CEC is tasked to manage most aspects of political party registration and financial disclosure as well as political entity and candidate registration. Most of the electoral rules elaborated by the CEC are related to political entities and candidates. To reach more long-term, stable and transparent procedures separate laws regarding registration and operation of political parties, entities and candidates should be considered.

During the last weeks prior to the election voter identification documents were the subjects of great public discussion. The law describes among others valid passport and valid ID cards without specifying the origin of the documents. Concerns were raised specifically among minority communities about the use of valid identification from outside of Kosovo. Although CEC has provided a few verbal explanations, it failed to produce an official document to clarify the situation. In the Kosovo context it is especially important that voters, well in advance of the Election Day, have clear and understandable information regarding the acceptable valid identification documentation.

Out of country voting for local elections is not a common practice. Due to many technical and logistical challenges this procedure drained energy from the election administration. Best practices demonstrate that the Local elections are focussed on addressing local issues and are of major interest to the citizens residing in the country.

V. THE ELECTION ADMINISTRATION ELECTION-ADMINISTRATION BODIES AND ASSESSMENT OF THE ORGANIZATION OF ELECTIONS

The 2009 Local Municipal and Mayoral Elections are the first elections for which the Central Election Commission (CEC) was fully responsible for preparation and conduct of the elections. The CEC is supported by a Secretariat (CECS) and 36 Municipal Election Commissions (MEC) implementing CEC decisions and responsible for the administrative and logistical arrangements needed for an election. The CEC is comprised of 11 members with the chair appointed by the President of Kosovo from among the judges of the Supreme Court.

Constitution provides in the Article 139 that 6 members shall be appointed by the 6 largest parliamentary groups represented in the Assembly and the largest group or groups may appoint additional members. 1 member shall be appointed by the Assembly deputies holding seats reserved or guaranteed for Serb Community, and 3 members shall be appointed by the Assembly deputies holding seats guaranteed for other minorities.

CEC approves members of the Municipal Election Commissions (MEC) and trains them on election conduct. In each of the Municipalities where elections took place a Municipal Election Commission appointed by the CEC 15 days after announcement of the election. MECs should normally have 7 members selected from the Political Entities that have passed the threshold (5%) at the last Kosovo Assembly elections. The minority parties allocated reserved seats in the Assembly may also have members at MEC.

A Polling Station Committee composition reflects the composition of a MEC. In special cases the MEC increased the number of PSC members. Political Entities represented in the Municipal Assembly shall submit nominations for PSC members to the MEC which in turn forward the nominations to the CEC. In the first round CEC established 2256 PSCs and 746 Polling Centers and 494 Polling Centers and 1443 PSCs in run-off elections. Polling Centre (PC) – is a building in which are located one or more polling stations (PS).

CEC in general showed a high level of commitment during the preparations for the elections. There were isolated cases of commission members' resignation at both MECs and PSCs due to the fact that political parties nominated candidates without initial discussions with the latter. Following the annulment by the CEC and the Election Complaints and Appeals Commission (ECAC) of several polling stations as a result of irregularities caused by the polling station staff in the first round, the CEC substituted a high number of Polling Station Committee (PSC) staff. Numerous requests for change of polling staff were also made by different political entities.

The recruitment and training of election administration and polling staffs in non-Serbian areas, as well as material procurement were overall conducted as scheduled and met wide participation of election administrators, however the lack of practical knowledge was apparent especially at the vote counting stage. The distribution of sensitive and non-sensitive election material to the municipalities was well executed.

It was nevertheless apparent that CEC is still dependent on external assistance. Several important activities were organized by IFES such as the Counting and Result Centre, the set-up of the mobile voting stations in the three northern Kosovo Serb municipalities and voter information campaigns. SMS reporting system suggested by IFES was found to have some technical difficulties and was not deployed for the elections. Also, OSCE was highly visible providing technical advice on central and local level.

Throughout the electoral period CEC cooperated with various stakeholders in effecting their role as elections administrators and maintained constant and open channels of communication. ENEMO commends CEC for transparency even when there were problems. However, the low visibility of the voters' education campaign run by the CEC remains a fact.

Another concern to be raised is that voters (especially in areas with minority populations), were not informed in a timely or proper manner about where they would cast their votes, or what alternative arrangements were made. Alternate PCs were not established on time which led to a lack of time to inform voters properly about changes in PCs localities.

While the CEC held transparent meetings to which both international and domestic observers were admitted still some of the sessions were held behind the closed doors especially when discussion on technical areas with OSCE and IFES took place. This was not explained to observers properly and created an impression of selectivity on the issues to be made public. On the day of elections CEC held a series of press conferences to inform the public about the progress of elections in both rounds.

Appointment of MEC members, polling station staff and selection of polling locations in Kosovo Serb communities met with severe difficulties. Already appointed staff resigned and public buildings could not be used as polling stations. In the northern municipalities of Zvecan and Zubin Potok only one mobile polling station was opened. For security reasons no polling station was opened in the municipality of Leposavich.

Almost all stages of election process on elections day were administered in an appropriate and timely manner for the exception of the counting process. Packaging and handing over of the material has taken longer than expected. The lack of election officials' technical knowledge was noticeable which in the end resulted in wrongful fulfillment of results forms. Counting in Results Center has delayed reports on allocation of seats due to the fact that many of the CRFs and RRFs were ordered to be corrected and conditional ballots to be recounted.

VI. VOTER REGISTRATION AND VOTER REGISTER

The total number of registered voters for the 2009 elections was 1.563.741. Although the CEC has done a considerable job of cleaning the voters lists' it still remained a problem. The highly complex and long legal procedures for addition or deletion of data in the voters lists' remains a challenge.

The voter registration has been much debated and criticized for containing many names belonging to deceased or persons that for some reason have been erroneously included. There is no active voter registration; rather the voters list is an extract of the Kosovo civil registry which is part of the civil administration structure in each municipality.

CEC² registered officially 4538 in person visits, with 2788 persons confirming the data prior to the elections and 1550 requested a change of the voting location.

² Source: Central Election Commission of the Republic of Kosovo

VII. THE ELECTION CAMPAIGN

I round

In total 37 parties, 19 electoral associations and 2 coalitions nominated candidates. Also 16 independent candidates participated in elections. 205 candidates competed for the Mayor seats and 6052 candidates for the municipal level.

The four main competing political parties were PDK, LDK, AAK and AKR. These four parties conducted Western style campaigns and did recognize importance of focusing on local issues which are of the most significance to the people of the ground.

The campaign was conducted in a peaceful and dynamic manner only disturbed by isolated cases of misconduct in its last week. The unsubstantiated allegations of systematic fraud further affected the atmosphere of the election process.

The electoral campaign was generally calm with political actors focusing on door-to door activities.

The Pre-election period was marked with dynamic and active campaigning by candidates and political parties; from big rallies in large urban areas to the less formal gatherings and discussions with people on the streets, restaurants and other places where citizens gather. The official campaign period began on 15 October. The campaign environment was mostly calm, despite some violent incidents. Major political leaders traveled widely, holding rallies around the country. Local campaign offices were established in most regions. The campaign was rarely marred by harsh language against rivals. As campaigning was coming to its end candidates were organizing large meetings with concerts, which attracted the younger population. A negative aspect is that many underage people were actively engaged in the campaigns of candidates and parties, as activists and promoters of certain political options. It is notable that campaigning was more visible and more expensive in capital city and on national TV, much more than on local level and in door to door activities. Many different stakeholders expressed concern about respecting of spending limits during the campaign. It is important that CEC follows this issue closely, especially the Campaign financial disclosure reports. There were various cases of broken windows of party headquarters, cut tires (Gjilan) etc. Prime Minister Thaci's motorcade came under a hail of stones and eggs late Wednesday 11th of November as he left the western town of Decani after a rally organized by his Democratic Party of Kosovo, or PDK. Besides this example, there were other violent events the motives for which are not completely clear. It is expected that the appropriate institutions will act efficiently in addressing these cases. Based on the very active and visible campaigns the

conclusion is that voters had choice in both content and information, and that candidates provided detailed programs in the hopes of securing elected office.

II round

According to its mandate, 3 which allows the CEC to decide on the length of the campaign period for the second round, the CEC on 18 November decided that the electoral campaign for the second round would be limited to a seven-day period from 5 December to 11 December. While some actors felt that this was unnecessarily short, it also provided the CEC with time to declare the contestants in the second round, and other actors were happy to limit the campaign in order to also lessen the costs of campaigning. In the run-up to the campaign's commencement, most political activity was concentrated on forming alliances in the various municipalities in order to win over supporters of candidates no longer in the race. The agreements between the Democratic League of Kosovo (LDK) and the Alliance for the Future of Kosovo (AAK) to form alliances against the Democratic Party of Kosovo (PDK) in some municipalities led to a crisis in the governing coalition of Kosovo, and although the leaders of the two parties have since declared the coalition intact and said they will leave any restructuring until after the second round of mayoral elections, the crisis rumors certainly raised the temperature in the election campaign. Party leaders have been very active in traveling around Kosovo to support their local candidates at various rallies and meetings emphasizing the importance of the local elections for Kosovo's political future at national level. At the same time, the number of large-scale rallies and meetings decreased substantially from the first round and few new posters were seen on the billboards. The political stakeholders generally explained that they felt that their political programme was already familiar to voters and therefore concentrated on door-to-door campaigns and other smallscale visits with the electorate to encourage them to go out and vote. The misuse of public resources (a breach of one of the fundamental principles of the election law) already observed in the first round continued during the campaigns for the second round. Governmental or municipal vehicles were at times used for campaign meetings, as well as for distributing and posting campaign materials.

VIII. THE MEDIA

The European Network of Election Monitoring Organizations -ENEMO Mission has not carried out a full scale of media monitoring. All comments in this section are therefore based on ordinary observations and interviews with media actors, also referring the IMC and its reports on monitoring media during the electoral campaign between the two rounds of election. The Constitution provides for a free and pluralistic media in the Republic of Kosovo.

The media sector in Kosovo developed rapidly after the end of the conflict in 1999 and today people have a wide choice of TV, radio and newspapers. RTK (Kosovo radio television) is the only public television, although TV 21 and Koha Vision are private one but with national license. However the newspapers, although influential among the urban elites, have fairly small numbers of circulations and TV is become the main source of information for the public. Most media outlets have been dominated by the election campaign of both rounds of elections and apart from ordinary news coverage and numerous political advertisements. There have been a large number of political debates especially for the mayor's race giving all the candidates an equal opportunity to present their political programmes.

The election Media is monitored by the Independent Media Commission, IMC, a body set up through the constitution. IMC has published two biweekly reports, where the first biweekly report was published on time, although the second was published one month later. In its biweekly reports on the media for elections this institution concludes that media broadcasters have mostly acted in compliance with the Law on Elections. The main problem noted were some cases of non-identification of advertisements – a violation of article 49 in the Law of General Elections. During the period of electoral silence in second round of voting, MCD monitored media broadcasters in order to assess their compliance with the Law on Elections and Guideline No. 3 of the IMC. As a result of monitoring, IMC found violations by the following media broadcasters: TV Klan Kosova, TV Prizreni, Rrokum TV, TV Besa, TV Opinioni and TV Dukagjini. Based on monitoring reports, it was found that above mentioned media broadcasters have broadcasted, during the media silence period, press conferences of electoral headquarters of the political parties competing in elections or have broadcasted statements of candidates running in these elections or that can be associated with certain certified political entity. Based on the above mentioned, these media broadcasters are in violation of Article 52.1 of the Law on General Elections, and Guideline (3) of the IMC, which provides that:

“No person or media outlet shall broadcast or publish any material pertaining to campaign activity during the period commencing twenty-four (24) hours prior to the opening of the polling stations until the official close of polling stations.”

Monitoring of coverage of both rounds of elections has proven that media broadcasters have mainly acted in line with Chapter VIII of the Law on Elections “Media during election campaign”, by providing in general fair and correct information to the general public. Regarding the airtime provided to CPEs during the elections, three national TVs, have provided balanced coverage, in proportion with the number of municipalities in which CPEs have been competing. Coverage of the same by local TVs such as: TV Opinion, TV Besa, TV Men and TV Dukagjini was less balanced, with regard to the airtime provided to CPEs. Through conducting debates and interviews most of the TVs have provided political parties and independent candidates free of charge as well as paid airtime for political advertising. In most of the cases political advertising was properly identified and didn't exceed 2 minutes, as provided in the Law on Elections.

Despite the finding about difference in airtime provided to CPEs, the overall assessment on the coverage of the first and second round of 2009 local elections by monitored media broadcasters, including coverage of activities of political parties, civic initiatives and independent candidates, was fair and impartial, refraining from giving political comments or stances by reporters, thus reflecting neutrality of media broadcasters during this period. Furthermore, according to the sources of IMC, four official complaints about broadcast media have been submitted in the first round of elections. During the second round of electoral campaign no complaint was submitted to the IMC against media broadcasters. All the four complaints for the first round have been settled through clarifications issued by the media outlets to the petitioners. On Election Day of both rounds of elections, a number of party candidates and/or representatives were interviewed in the various debate programmes in the broadcasting media. While they were asked generally to comment on the process, they often took the opportunity not only to urge voters to go and vote but also to vote for their own parties, thus breaching the campaign silence.

In the printed media there is no regulator but instead a large number of newspapers have come together to form the Kosovo Press Council, to act as a self regulatory body for printed media. The Council has not addressed any matters regarding the election campaign in the newspapers. The daily newspapers were involved in the election campaign of both round of elections in a various number of articles in their pages during the campaign.

IX. PARTICIPATION OF NATIONAL MINORITIES

I round

In line with the concerns raised in the Ahtisaari plan, the constitution of the Republic of Kosovo has a separate chapter on the rights of Communities and their members. Contrary to the provisions for the Assembly of Kosovo, there are no provisions for set aside seats in the municipal assemblies for minority Communities. There are, however, other provisions aimed to guarantee the interests of the minority communities. All municipalities shall have a Communities Committee with a minimum of one representative from each of the minority Communities living in the municipality. Furthermore, in municipalities where at least ten per cent (10%) of the residents belong to Communities not in the majority in those municipalities there shall be a Vice President of the Municipal Assembly for Communities, (held by the non-majority community's candidate who received the most votes on the open list of candidates for election to the Municipal Assembly), and a deputy mayor for Communities elected by the municipal assembly. The electoral authorities on various levels should reflect the various Communities in the Assembly of Kosovo and if needed, the Municipal Election Commissions may increase their number of members to give access to representatives of minority Communities. An example of this is the MEC in Pristina where one member was added to include the Ashkali community. Out of the 74 entities certified to contest these elections, 40 represent the various minority communities in Kosovo as follows:

Kosovo Serb 22,

Kosovo Bosnian 7,

Kosovo Turkish 4,

Kosovo Ashkali 2,

Kosovo Montenegrin 2,

Kosovo Egyptian 1,

Kosovo Gorani 1,

Kosovo Roma 1.

The different communities have had access to various media outlets addressing their concerns and often in their languages. Most of these are local TV or radio stations and in some cases

local printed media, but the public broadcaster RTK also airs some 30 % of its news and information programmes in minority languages. Most of the minority community parties have expressed satisfaction with the election process although they suffer from lack of funding for any elaborate campaigning. The main focus in the run up to the elections has been on the participation of the Kosovo Serbs in the electoral process. As already noted, 22 different Kosovo Serb entities registered for the elections but at the same time the calls for a boycott were strong from many sides including the Serb Orthodox Church, the Assembly of the Community of Municipalities of the Autonomous Province of Kosovo and Metohija , the Serb National Council. From the Government in Belgrade the official comment was that “there were no conditions for Serbs to vote” and even if it was up to each person to decide for themselves, it was made clear that support for Kosovo institutions would mean no future support from the Serb so called parallel structures.

In favor of promoting Serb participation in elections Prime Minister Hasim Thaci accompanied by US Ambassador Christopher Dell visited Serbian families in Lipjan and urged them to vote during elections. Peter Feith also mentioned that he supports that if the voters with Serb IDs could vote at the elections.

II round

In line with the intentions of the Ahtisaari plan, the various communities in Kosovo elected their own leaders in some of the municipalities where elections were held for the first time. The Democratic Turkish Party of Kosovo (KDTP) secured the mayoral position and the majority of councillors in Mamushë/Mamuşa, while the Kosovar Serb community gained control in Gračanica/Graçanicë, Ranilug/Ranillugu, and Klokot/Klllokot. In Štrpce/Shtërpçë and Novobërdë/Novo Brdo, the results from the first round of elections were inconclusive and both municipalities went to a runoff. The preliminary information for the second round appears to indicate that there was considerable increase in the voter turnout within these municipalities.

X. PARTICIPATION OF WOMEN

Despite a legal framework promoting gender equality as “a fundamental value for the democratic development of the society”³, the participation of women in political and state institutions in Kosovo is very limited.

The Law on Local Elections calls for “at least 30% certified candidates of the other gender” (art 7.2) in the lists of candidates running for Municipal Assemblies and the seat allocation after elections must follow the same 30 % minimum even if votes on the open lists of candidates should produce a different result. This regulation has been followed during the certification of political entities. During the campaign there have also been cases of targeted debates and political meetings especially addressing the women in society.

However, in spite of these efforts the participation of women in many stages of the process has been low. Out of the 205 candidates running for mayors, only 11 are women. The absence of women is also very notable in the election authorities. Although chaired by a woman, the remaining ten members of the Central Election Commission are male. In the Municipal Election Commissions only 2 out of 33 functional⁴ MEC Executive Officers are women and only some 9 % of the members are female. Also in the Polling Station Committees the women are in clear minority. In the 563 Polling Stations visited by the mission observers, only some 14 % were female.

All of the 11 female candidates for mayor in the first round were defeated, and in the remaining 21 races, the contests were among 42 male candidates. The electoral administration continued to show a clear bias to male staff members as only 12% of the members of polling station committees observed were women.

The widespread cases of family voting (cases were observed in 26% of the polling stations visited in the second round) are not only against the law, but represent a serious breach of the important principle of the secrecy of the vote.

The apparent general acceptance of this breach by election authorities and political observers alike further consolidates the tradition of excluding women from an active role in society.

³ The Constitution of the Republic of Kosovo, art 7

⁴ The MECs in the 3 northern municipalities were at best appointed on paper while the work was carried out by IFES and the Mitrovica MEC

XI. DOMESTIC NON-PARTISAN OBSERVERS

The civil society is playing an important role within the electoral process. The motivation of voters, voters education and election observation are the segments that the civil society should actively participate in. In relation to that, it is also notable that there was no visible and structured motivation campaign, neither from the election administration nor from civil society organizations, which would influence voters to take a more active part in elections and turnout in bigger numbers at polling stations.

There was a total of 10 civil society organizations accredited by the CEC and within a total of 2560 domestic observers were accredited for the Local election 2009. However, there was no visible and structured “Get out the vote” campaign run by any of the stakeholders within the civil society.

The most visible domestic election observation group that accredited a total of 2131 observers was the umbrella of domestic NGO’s “Democracy in action”. Besides the E-day “Democracy in action” was following the process from its early stage and informed the public on its findings on weekly basis. Democracy in action held a series of press conferences in the course of the voting day and upon the closing of the voting.

The NGO “KIPRED” conducted a media monitoring on written and broadcasting media in the course of their campaign. KIPRED informed the public on its findings in a frequent manner. There were significant efforts to undermine the election turn out by a domestic group - Vetevendosje by calling the voters to boycott the elections.

The activities of civil society in the period between the first and second rounds of the municipal elections appear to have had very little impact on the process. As in the first round, civil society organizations maintained their election observation activities, but at a much lower intensity. Some non-governmental organizations (NGOs) ceased their activities in regards to the elections and there was no visible voter education activity for the second round.

The coalition “Democracy in Action” has been active on local level, visiting municipalities and sending messages for free and fair elections. “Democracy in Action” held one press conference a day before the election silence, evaluating the process after the first round. The coalition remained the organization with the largest number of accredited observers – 2,393,7 out of which 1448 observers were deployed in all of the municipalities where runoff elections were organized.

As an international network of NGOs, ENEMO still has the overall impression that civil society is not addressing important issues related to this process to the extent required and expected.

However, the post election period was marked by very intensive activities by the civil society, in the period between the re-runs of Lipljan and Prizren and the Municipality of Gjilan on February 18-19 the “Democracy in action” in cooperation with the National Democratic Institute – Kosovo organized a post election conference. This conference was marked by a series of open debates issuing recommendations for further improvement of the process.

XII. PRE-ELECTION COMPLAINTS AND APPEALS

The Election Complaints and Appeals Commission (ECAC) is the independent permanent body, with the mandate to adjudicate complaints and appeals related to the election process. ECAC is composed of 5 judges appointed by the President of the Supreme Court. The Law on General Elections states that the appointed ECAC members shall prioritize any ECAC related matter starting 60 days prior Election Day until certification of results and all Kosovo authorities shall assist ECAC during that period.

ECAC is a very important institution for maintaining and protecting the integrity, credibility, and transparency of the entire election process. It is therefore of concern that, although the judges were appointed in 2008, Kosovar authorities have not been able to release funding for a proper functioning of the ECAC in due time.

Only after intervention and support from international organizations ECAC was able to be operational the last weeks before Election Day. It is also of concern that none of the cases of criminal offences from 2007 elections that ECAC has forwarded to the appropriate courts has been prosecuted. As of November 19, 2009 ECAC received 167 complaints out of which 55 were regarding pre-election campaigning. Most of the complaints prior to the elections were in respect to violation of campaign silence or breach of the Code of Conduct signed between political entities. Most popular way of breaching the Code of Conduct was plastering candidate posters over the posters of an opponent or putting a poster on official buildings.

ECAC has turned down many complaints for the reason of applicants' violation of submission procedure such as wrongful completion of applications and failure to meet the deadlines. In several cases adjudication resulted in a penalty when all requirements for adjudicated complaint was intact and the case was considered. Prior to the elections PDK became a leader among political parties in terms of levied penalties. It became apparent that political parties fail to exhibit sufficient amount of legal skills to follow complaint procedure requirements as well as to initiate further consideration of complaints higher up the hierarchy of courts such as for example Supreme Court. The only exception was a case with candidate for Mayor for the Municipality of Gjakova coming from AKR where appeal was sent to courts of various levels.

XIII. VOTING AND COUNTING

I round

Election Day

On Election Day, 106 observers were deployed to follow opening, voting and counting procedures. Observers visited 563 polling stations in more than 500 of the 746 polling centers and followed the counting and transfer of results to all 36 MECs. The ENEMO observers completed some 700 observation forms. The voting process was assessed positively in 93 per cent of visited polling stations and voting procedures were generally adhered to; however, some procedural shortcomings were noted. In 4 per cent of visited polling stations, polling station committee members did not always check properly for ink and in 2 per cent of stations the ID of voters were not always controlled resulting in the opportunity for multiple and/or proxy voting. The secrecy of vote was not always observed. In particular, cases of group or family voting were observed in 34 per cent of stations, proxy voting in 7 per cent and attempts to influence voters in some 4 per cent. Unauthorized persons were present in 7 per cent of polling stations visited, and in 3 per cent of the polling stations persons without authorization were directing the work of commissions. The ENEMO observers reported some problems related to a lack of clear guidelines on which IDs were valid and in 26 cases observers assessed that voters were turned away for unjustified reasons. In areas where alternative polling stations had to be designated observers assessed that in 18 cases voters were not properly informed about the new location. Party observers or representatives were present in 92 per cent of polling stations visited by the ENEMO observers. Domestic observers were present in 87 per cent of visited polling stations, most frequently representing Democracy in Action (82 per cent of all polling stations). In general, counting was assessed positively in most polling stations visited. The ENEMO observers assessed that polling station committees did their best to follow procedures and minimize the risk of formal problems when delivering material to MECs. Isolated cases of non adherence to procedures were noted and in two cases the process was difficult to follow fully in polling stations unsuitably arranged. A presence of unauthorized person was reported in a handful of cases and in two polling stations an unauthorized person was directing the work of the PSC. While only 3 % of the votes cast for mayors in the polling stations visited were deemed invalid, a striking 11 per cent were rejected in the municipal assembly election possibly reflecting the new voting technique and the perceived lack of voter education. In 10 cases the polling station chairperson did not announce the provisional results nor was a copy of the result protocol posted at the entrance of the polling stations, as required by law. Domestic observers were present in most of polling stations visited by the ENEMO observers during counting and party observers or representatives were present in all but one. In two cases complaints were raised and noted in the poll book and one formal complaint to ECAC was filled in.

The irregularities spotted and stated by ENEMO refer to the fact that some commissioners within the polling stations have allowed a number of actions that defer from the international standards. The significant number of cases of family voting noted meant that the secrecy of vote was not preserved in this regard.

II Round

Election Day

On Election Day, 106 observers were deployed to witness the polling station opening, voting, and counting procedures. Observers made 538 total visits to polling stations in a majority of the 504 polling centers, and followed the counting and transfer of results to all 21 MECs. The ENEMO observers completed some 640 observation forms. In general, the elections were carried out in a peaceful atmosphere and, despite more challenging weather conditions compared to the first round, the electoral authorities managed to solve all logistical problems and most of the polling stations opened on time or with minor delays. Compared to the first round, a slight improvement in the conduct was noted during these visits and the voting process was assessed positively in 96 per cent of polling stations visited and stations generally adhered to voting procedures; however, some procedural shortcomings remained. In four per cent of polling stations visited, polling station committee members did not always check properly for ink and in three per cent of stations, voters' identification documents were not always controlled, resulting in the opportunity for multiple and/or proxy voting. The secrecy of vote was not always observed. In particular, cases of group or family voting were still observed in 26 per cent of stations, proxy voting in six per cent, and attempts to influence voters in some three per cent. Party representatives of the two contesting candidates in the respective municipalities were present as members in the PSCs in 91 per cent of polling stations visited by the ENEMO observers and in 89 per cent, the parties deployed observers. Domestic observers were present in 87 per cent of visited polling stations, most frequently representing Democracy in Action. The observations from the closing and counting procedures give the impression that efforts by the CEC to improve the process have had positive effects. The counting was generally carried out quickly and efficiently, and was assessed positively in all but one polling station visited. However, isolated cases of non-adherence to administrative procedures were noted and in three cases the ballots were not checked for the stamp on the reverse. In two cases, the polling station chairperson did not announce the provisional results and, in six cases, a copy of the result protocol was not posted at the entrance of the polling stations, as required by law. The many problems of the material delivered to the CRC in the first round were not witnessed in the polling stations visited this time, and the packing and sealing of material after counting was assessed by all observers as fully in line with the instructions. Domestic observers were present in most of polling stations visited by the ENEMO observers during counting and party observers or representatives were present in all

but one. The intake procedure at the MECs also appears to have gone much more smoothly than in the first round and was assessed positively by all observers. Out of the 798 polling stations observed during the intake, approximately nine percent had errors, mostly regarding gaps on the Result and Reconciliation Form or the way the material was packed, but generally, these shortcomings were addressed by the MECs in coordination with the PSCs.

XIV. ANNOUNCING OF FINAL RESULTS OF ELECTIONS

Tabulation, publishing and certification of results

The Central Election Commission has made significant efforts to conduct elections in line with international standards. Administrative and technical errors made at the polling stations (PS) and municipal election commissions (MEC) level became apparent during the long and arduous compilation of results process at the Count and Result Center (CRC). The process after the Election Day has revealed shortcomings:

Materials packing and transfer

The process of material transfers from the PSs to the MECs and then to the CRC took longer than expected and was not according to the originally planned schedule. Not all polling station staff had followed the packing procedures accurately and election materials required corrections or were missing which resulted in delays of counting as polling stations' materials had to be placed in quarantine waiting for further investigations.

Publishing of the results

To be able to publish early preliminary results the CEC decided to introduce a system where SMS messages would be sent from each polling station. The system did not work but the CEC managed nevertheless to publish preliminary results within two days based on tabulations made at the MEC level. These published preliminary results had however many inconsistencies due to missing polling station results and numerous calculation errors which caused misinterpretation and confusion among the stakeholders. Final results for Mayoral election were published on 27 November and certified on 4 December which was only one day before the start of the campaign period for the second round. Final Municipal Assembly results were published on 1 December.

The run-offs were with different dynamics and efficiency when the finalization of the results was considered. The CEC certified the results for 18 out of 21 Municipalities where run-off was organized. The Municipalities of Lipljan, Prizren and Gjilan were ordered for a re-run by the ECAC. The CEC further on confirmed the re-run for the January 31, 2010 in the Municipalities of Lipljan and Prizren and March 14, 2010 for the Municipality of Gjilan.

The results for the re-runs for Municipalities of Lipljan and Prizren held on the 31st of January 2010 were officialized on the February 11, 2010 on a session of the CEC.

The results for the re-run in the Municipality of Gjilan were confirmed by the CEC on a session on the March 18, 2010.

Level of tolerance

CEC raised considerably level of tolerance from 3 to 9 when it was apparent during all mistakes at the PSC level. It is questionable if it is the right approach. This gives a signal to PSC that they can be relaxed on the rules.

Seat allocation

As was already mentioned earlier seat allocation was done in accordance with the D'Hondt method. During the seat allocation majority of seats in municipalities were won by PDK and LDK parties. AKR was not happy with seat allocation. It was a fact that CEC representatives have experienced problems in seat allocation due to inconsistencies of the published results mentioned above as well as had a hard time understanding the system of seat allocation however problems were resolved due to IFES involvement.

XV. POST-ELECTION COMPLAINTS AND APPEALS

The total number of complaints and appeals resolved by ECAC (2009-2010) is 524. Elections Complaints and Appeals Commission (ECAC) has received 340 complaints up to date out of which 214 have been adjudicated. The most significant decision was related to the invalidation of the results from 15 polling stations as a result of fraudulent actions of the polling staff connected with manipulation of voters' lists.

It is important that these actions by the polling staff are regarded as a criminal offence and as such are pursued by the appropriate institutions. ECAC did not exercise its power according to the Law on General Elections to direct the CEC to repeat the voting for these 15 polling stations. Thus the voters were denied their possibility to express their will due to the misbehaviour of the polling staff.

ECAC received about 77 mayoral-run off day complaints for the second-round of elections, most of those concerning voting irregularities during the mayoral run-off election day. Out of 77, ECAC adjudicated 61 that have been submitted timely (within the 3 day period mandated by the ECAC Rules of Procedure), and dismissed the remaining 16 as being untimely. The result of those Election Day complaints was ECAC's direction to the CEC to order a revote in the Municipalities of Prizren, Gjilan, and Lipjan. ECAC has also received 3 appeal requests, concerning ECAC's former decisions. Total complaints received for the second round= 100.

The re-runs and the period after the conclusion of the second round represented a huge sit back in the efficiency of the work of the ECAC and drop a shadow over the entire process and the evident will of the Electoral institutions to organize the elections in accordance with the international standards. Namely, the ECAC enacted a series of decisions that were challenged by a lack of evidence and transparency in the process of decision making.

The biggest debate within the Kosovo society was provoked by the ECAC decision made on the December 19, 2009 by which the ECAC ordered the CEC to re-run the entire voting for the Municipalities of Lipjan, Prizren and Gjilan, On December 24, 2009 the CEC announced officially the results for 18 out of 21 Municipalities where the run-off was organized. The CEC decided to have re-run for the Municipalities of Lipjan and Prizren on January 31, 2010 and to order further investigations for the Municipality of Gjilan. None the less later on, on the February 18, 2010 the CEC made a decision to re-run the Municipality of Gjilan and the date was set for the March 14, 2010.

The ENEMO EOM underlines that the way the decisions were made on the level of ECAC and later on at the CEC may cast a shadow over the integrity of these institutions and the entire process in general.

Voting abstained on the level of a body such as CEC makes the entire process complicated and a consideration should be made to eliminate such an option.

XVI. REPEAT ELECTIONS, 31 JANUARY – 14 MARCH 2010

Due to the fact that the re-runs were not monitored on the ground the ENEMO EOM offers technical data within this section of the report. The ECAC on its session on the December 19⁵, 2009 accepted as valid the appeals and complaints on the voting in the Municipalities Lipljan, Prizren and Gjilan and took a decision to advise the CEC to order re-voting of the run-offs in these Municipalities followed by an advise for a change of all the commissioners, heavier presence of police forces during the E-day and bigger control by the CEC during the voting process. The CEC on its session on the December 29, 2009 took a decision to re-run the Municipalities of Ljipljan and Prizren and to order further investigations for the Municipality of Gjilan.

The re-runs in the Municipalities of Prizren and Lipljan took place on the 31st of January 2010.

On the February 18, 2010 the CEC made a decision to re-run the Municipality of Gjilan and the date was set for the March 14, 2010.

Re-run for the Municipality of Prizren

The Municipality of Prizren has 137,849 voters residing within the Municipality. The total number of polling centres is 60 obtaining a total of 198 Polling stations. The Polling stations were opened from 07.00 to 19.00 and the turn out was 41,78%. The candidate of PDK Ramadan Muja won by getting 30,720 votes or 53,34%. The runner up from LDK Hanefi Muharremi won 26,874 votes or 46,66%.

Re-run for the Municipality of Lipljan

The Municipality of Lipljan has 48,084 voters residing within the Municipality. The total number of polling centres is 26 obtaining a total of 71 Polling stations. The Polling stations were opened from 07.00 to 19.00 and the turn out was 55,56%. The candidate of PDK Shukri Buja won by getting 14,336 votes or 53,66%. The runner up from LDK Imri Ahmeti won 12,380 votes or 46,34%.

⁵ ECAC decision no. 508/2009 of the date December 19, 2009

Re-Run for the Municipality of Gjilan

The Municipality of Gjilan has 87,430 voters residing within the Municipality. The total number of polling centres is 31 obtaining a total of 127 Polling stations. The Polling stations were opened from 07.00 to 19.00 and the turn out was 40,64%. The candidate of PDK Qemaji Mustafa won by getting 20,471 votes or 58,25%. The runner up from LDK Fatmir Rexhepi won 14,671 votes or 41,75 %.

XVII. RECOMMENDATIONS

In the light of observed factors ENEMO proposes the following recommendations for improvement of election legislation and electoral process in general. These recommendations address separately various stakeholders in accordance with their powers.

Proposals for the CEC

Along with the importance of taking full ownership of the electoral process and assuming responsibility for qualitative implementation of elections we recommend the following areas of improvement:

Accreditation of observers

CEC should reconsider the sequential order of registering international observation missions. It is much easier first to register organization and then people.

Registration procedure for PEs

As described in the Law on General Elections CEC is tasked to manage most aspects of political party registration and financial disclosure as well as political entity and candidate registration. Most of the electoral rules elaborated by the CEC are related to political entities and candidates. To reach more long-term, stable and transparent procedures separate laws regarding registration and operation of political parties, entities and candidates should be considered; a special law should be created “law on political parties” to clarify the rule of registration.

Overall political appointments

There should be a greater emphasis on education and professionalism. Polling commissioners should be hired on a professional basis. Terms of reference should be developed for political parties in the legislation specifying requirements;

Complaints handling

A lot of complaints came to the Central Election Commission. It was not clear whether they have been answered properly at the CEC or was just passed on. We recommend therefore that each complaint should be given a thorough consideration and more transparency and feedback to whoever initiated those complaints, like for example placing a statistics and details of the complaints on CEC web site.

Level of tolerance

Considering the fact that CEC raised considerably level of tolerance from 3 to 9 sets a bad practice for PSC who gets a signal that they can be relaxed on the rules. We therefore recommend not increasing the level of tolerance and rather investing more time in education of PS members.

Better voter education

The obvious example of lack of voter education is a high number of invalid votes for Kosovo Municipal Assembly. Considerably higher for invalid votes and can be most likely attributed to lack of knowledge how to and for who to vote. We recommend therefore enhancing the voter education and beginning far in advance of elections.

Reporting procedures should be standardized

The reporting procedures throughout the whole electoral administration hierarchy and to the public should become a subject to standardization with specific timelines and structure.

Proposals for the Government

Voters lists should be updated

The VL is the extract from Civil Registry and CR should be managed better. A census is not an alternative for the voter lists.

Proposals for the Parliament

Clarification of ID issues

During the last weeks prior to the election voter identification documents were subjects of great public discussion. The law describes among others valid passport and valid ID cards without specifying the origin of the documents. Concerns were raised specifically among minority communities about the use of valid identification from outside of Kosovo. In the Kosovo context it is especially important that voters, well in advance of the Election Day, have clear and understandable information regarding the acceptable valid identification documentation.

Conditional Balloting

The Law on General Elections gives, in Art. 95, the voter an opportunity to cast a conditional ballot if they cannot be found on the voters list. Conditional balloting is a solution often used in post conflict environments to give voters the possibility to cast a ballot despite not being on the voters list where s(he) claims to be eligible to vote.

Conditional balloting has many drawbacks and unduly delays the announcement of count results and introduces a potential risk for decreased confidence in the whole process. There are also additional costs as strict voting and counting controls must be in place; security, transportation, and counting centre as examples.

The need to continue with the generalised and standardised conditional balloting should be discussed. Procedures similar to the special needs voting, for example, can be applied for remaining specific cases such as IDPs (Internally Displaced Persons).

Out of country voting

For local elections is not a common practice. Due to many technical and logistical challenges this procedure drained energy from the election administration. Best practices demonstrate that the Local elections are focussed on addressing local issues and are of major interest to the citizens residing in the country. This type of voting should not take place for local elections.

Unify all specific CEC rules in the Election law

Since there is very cumbersome process for CEC which includes the specific rules all specific CEC rules and regulations should be clearly outlined in the Law on General Elections and Law on Local Elections in the Republic of Kosovo.

Election complaints and appeals commission (ECAC)

The existence of this body should be re-considered for the next elections. Should it remains, it is expected, that the authorities would create all the necessary pre-conditions for this body to be convoked in a timely manner with appropriate supporting personnel, working premises and independent budget.

ABOUT THE ENEMO

The European Network of Election Monitoring Organizations (ENEMO) is a group of 22 leading civic organizations from 17 countries of Eastern and Central Europe and Central Asia. ENEMO member organizations have monitored more than 140 national elections and trained more than 190,000 observers. ENEMO seeks to support the international community's interest in and promotion of democracy in its region of engagement, to assess electoral processes and the political environment, and to offer accurate and impartial observation reports. ENEMO international observation missions evaluate the electoral process using international standards for democratic elections and benchmarks in the assessed country's legislation and constitution.

Following the invitation of the President of the Republic of Kosovo, PhD. Fatmir Sejdiu to observe the Municipal Elections 2009, on 12 October, 2009, ENEMO's Core Team arrived and prepared to deploy 12 long-term observers in 6 teams covering all territory of Kosovo to monitor the pre-election environment including the political campaign and activities of the election administration ahead of the 15 November.

For the Election Observation Mission in Kosovo, ENEMO observers were deployed by 16 organizations, members of ENEMO and additional 8 different states from Europe and Eurasia.

During two rounds of Elections in Kosovo, 212 ENEMO short term observers visited 1182 polling stations in all municipalities.

The ENEMO observation final report is based on observations of the long- and short-term observer's findings in reference to international standards and national election legislation.