



# EUROPEAN UNION ELECTION OBSERVATION MISSION (EU EOM)

KOSOVO,\* SECOND ROUND MUNICIPAL ELECTIONS, 1 DECEMBER 2013

## PRELIMINARY STATEMENT

### Positive Trend Confirmed in the Second Round

Pristina, 3 December 2013

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#### SUMMARY

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- The 1 December second round Mayoral elections in 25 municipalities took place in a calm environment in most municipalities, and contenders were able to campaign without hindrance. However, in some places tensions were noted, including in some Serb-majority municipalities, where there were allegations of pressure on voters. In contrast to the first round, the anti-election campaign in the northern municipalities was not visible.
- As in the first round, the OSCE Mission in Kosovo continued to play its facilitation role for the elections in the northern municipalities and for out-of-Kosovo voting.
- In most cases, the first round results were not publicly questioned, although political entities did raise several concerns, including the high number of invalid ballots, inaccuracies in the voters list, and the length of time it took for the tabulation and announcement of the results.
- Following the certification of the Mayoral results, the Central Election Commission (CEC) announced that the official campaign for the second round would run from 25-29 November. Before then, campaigning was subdued, but it picked up in the last week before the second round.
- The scale, complexity and length of the tabulation operation at the Count and Results Centre (CRC), and the limited information made available, meant that the transparency of the process was somewhat limited and the operation was difficult for observers to follow.
- Following the incidents in North Mitrovica/Mitrovicë on 3 November, the voting in the four northern municipalities ended early. Nonetheless, the CEC decided to announce the results for three municipalities, (Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok). Voters who would have voted after the early closure of the polling stations (PSs) were unable to vote.
- Polling was repeated in 27 PSs in North Mitrovica/Mitrovicë on 17 November. The voting passed without incident, with a heavy security presence. Due to security concerns, counting was conducted at the CRC near Pristina, rather than at the PSs.
- More than half of ballots sent from out of Kosovo were rejected for not containing a copy of a valid ID. However, according to the CEC's voter information leaflet in Serbian, a note with their name and other personal data was also acceptable. Voters who chose that option were therefore unduly disenfranchised. The technical implementation of the process of out-of-Kosovo voting was thus unsuccessful, despite the various efforts to facilitate it.
- The media coverage of the campaign gained in momentum during the last week, through extensive news reporting, candidates' debates and advertising spots. The media enabled contenders to convey their messages freely.
- The Elections Complaints and Appeals Panel (ECAP) mostly adopted a formalistic approach in processing complaints after the first round, usually without investigating the evidence, and rejecting the majority of them.
- Voting and counting passed calmly throughout most of Kosovo, and people were able to cast their ballots freely and without hindrance. The EU EOM assessed the process positively in nearly all observed PSs. In one serious incident, in Parteš/Partesh municipality, people broke into a Polling Centre and stole or destroyed ballot boxes and election materials.

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\* This designation is without prejudice to positions on status, and is in line with Security Council resolution 1244 (1999) and the International Court of Justice Opinion on the Kosovo declaration of independence.

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## PRELIMINARY FINDINGS

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### BACKGROUND

On 5 November, the EU EOM published a Preliminary Statement of its findings and conclusions on the first round of voting which occurred on 3 November. This statement addresses developments since then, and it should be read in conjunction with the Statement issued after the first round.

### POLITICAL DEVELOPMENTS AND THE CAMPAIGN

The political environment in most of Kosovo following the first-round elections on 3 November was calm, with some tension and strong political rhetoric noted in a few municipalities which had tightly contested second-round runoffs. All contestants were able to campaign freely. In the northern Serb-majority municipalities, in contrast to the campaign period before the first round, the anti-election campaign was not visible. However tension was noted in some Serb-majority municipalities, including allegations of pressure on voters, mainly by the Citizens' Initiative 'G.I. Srpska'. There were minor violent incidents in Štrpce/Shtërpce.

On 20 November, the CEC formally certified the results of the Mayoral elections for 37 municipalities (all except Zvečan/Zveçan, where the elections were repeated in three PSs on 1 December), and confirmed that on 1 December runoff elections would take place in 25 municipalities. Of the nine women running for Mayor in the first round (out of a total 224 candidates), only one went through to the second-round runoff, in Gjakovë/Djakovica (and, according to preliminary results, was elected).

In most cases, the first round Mayoral results were not publicly questioned, although political entities did raise a range of concerns, including the high number of invalid ballots and inaccuracies in the voters list, as well as the length of time it took for the tabulation and announcement of the results.

Unlike for the first round, the law does not specify the duration of the election campaign for the second round. In line with the CEC Election Regulations, on 20 November, the CEC announced that the official campaign for the second round would run from 25-29 November. There is no legal prohibition on political entities campaigning outside of the official campaign period. Nevertheless, before then, campaigning was subdued, mainly involving door-to-door campaigning and direct contact with voters. Contenders also made extensive use of social media. Most of the political entities were more focused on negotiating alliances for the run-off races (a process that was complicated by the fact that the results for the Municipal Assembly elections, and thus the relative local strengths of the political entities, were not yet known). In general, such alliances were concluded at local level, according to the preferences of political entities' branches. In the last week before Election Day, campaigning picked up somewhat, including larger-scale rallies in some places.

As before the first round, the EU EOM received widespread allegations of vote-buying. In Parteš/Partesh, a 'G.I. Srpska' activist was detained by police for allegedly offering money to voters. Shortly before the second round, three 'G.I. Srpska' members in Štrpce/Shtërpce were questioned by police for allegedly pressurising voters.

Two mayors elected in the first round, for Skenderaj/Srbica and Glllogoc/Glogovac, had been indicted for war crimes. Furthermore, several candidates running in the second round of the Mayoral elections are indicted or under investigation for criminal offences, including abuse of power, corruption and war crimes. The Law on General Elections does not bar from standing candidates involved in criminal procedures who have not been found guilty by a court.

## ELECTION ADMINISTRATION

Following the 3 November Municipal Elections, the election administration bodies focused their work on the tabulation of results and the preparations for runoff Mayoral elections. While the CEC met regularly, supervising the work of the CRC, the administrative preparations at the municipal level intensified only in the last two weeks before the elections. There were changes in the composition of Polling Station Commissions (PSCs) in all municipalities with runoffs. The commission members were replaced either due to poor performance in the first round or because the parties that nominated them were not interested in the runoffs. The Municipal Election Commissions (MECs) held training sessions across Kosovo, mostly addressing procedural weaknesses exposed in the first round. However, in some areas new commission members did not receive adequate training. The OSCE Mission continued to play its facilitation role for the elections in the northern municipalities and for out-of-Kosovo voting.

The CEC certified the results for the Mayoral elections on 20 November. Results for conditional, special-needs and postal ballots were added to the results for municipalities without any information about how many were rejected (due to ineligibility) or how many were valid or invalid, or how many of the accepted votes were cast for each candidate. This led to a lack of accountability regarding the inclusion of such ballots. On 2 December, the results for the Municipal Assembly elections were announced by the CEC, for all municipalities except Zvečan/Zveçan.

The tabulation of results at the CRC proceeded slowly, and the transparency of this process was somewhat limited. While observers had access to all stages of the tabulation, the scale, complexity and length of this operation made it difficult to follow, and there was limited information available regarding the accuracy of the election material and the tabulated results. Many stakeholders, including most political entities, expressed dissatisfaction with the late announcement of the first-round results, and limited confidence in the work of the CRC and its transparency.

After the 3 November elections, the CRC received the election materials from nearly all PSs across Kosovo. Some 530 ballot boxes were put in quarantine during intake due to various irregularities. For a week after the elections, the CRC staff verified these boxes and qualified most of them as regular because the irregularities were not very significant and there was no sign of tampering with the recorded data. However, in 61 PSs, the CEC ordered a recount and the results from three PSs in Prizren were excluded due to missing voters' lists (in addition to the annulled PSs in the north – see below). On 12 November, some staff members of the CRC were questioned by the police due to an alleged attempt at election fraud in favour of one candidate for mayor.

Following the early end to voting at PSs in the four northern municipalities on 3 November, due to the incidents that occurred at three voting centres in North Mitrovica/Mitrovicë, most of the election materials and ballot boxes from there were brought to the CRC for counting. The CEC decided to accept and count the ballots from Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok, and announced the results for these municipalities despite the fact that votes from five PSs (three in Leposavić/Leposaviq and two in Zvečan/Zveçan) had to be excluded due to missing voters lists. In North Mitrovica/Mitrovicë, the CEC decided to accept the results from six PSs and repeat voting in the remaining 27 (located in the three voting centres where the incidents took place) on 17 November. Later on, following an ECAP ruling, the CEC decided to repeat elections in three PSs in Zvečan/Zveçan. The voting in the three PSs in Leposavić/Leposaviq was not repeated. In those PSs in the north where voting was not repeated, despite the fact that they had closed early following the incidents in North Mitrovica/Mitrovicë, voters who would have come later were denied the right to vote.

Only about 14 per cent of the persons who initially expressed their interest in registering to vote by mail from out of Kosovo successfully cast their ballots in the 3 November elections. Before the first round, the CEC received around 11,700 envelopes with ballots, the overwhelming majority from Serbia. After the initial verification process, the CEC accepted only 5,600 of them and rejected over

6,000 for not containing a copy of a valid voter's ID. However, the CEC's voter information leaflet in Serbian misled voters as it instructed them to attach a copy of their valid ID or a note with their name and other personal data. Those who chose the latter option were therefore unduly disenfranchised by the CEC. The technical implementation of the process of out-of-Kosovo voting was thus unsuccessful, despite the various efforts to facilitate it.

One issue of general concern after the first round was the very high number of invalid votes – 11 per cent of all ballots cast for the Municipal Assembly elections, according to the preliminary results. While most of the invalid votes could likely be attributed to voters' poor understanding of ballot marking requirements, many votes may also have been invalidated by inadequately trained PSCs, leading to the disenfranchisement of many voters. The CEC is planning to analyse these invalid votes, identify the reasons and address the problem before next year's elections.

### **RERUN ELECTIONS IN NORTH MITROVICA/MITROVICË**

In advance of the 17 November rerun elections in North Mitrovica/Mitrovicë, some Belgrade officials called upon people to vote for 'G.I. Srpska', stressing that only by voting could they ensure that a Serb candidate would be elected as mayor. In many cases, employees of public institutions and their families were required to go to vote, reportedly in an organised way. Such compulsion is not in line with principles for democratic elections, and contravenes Article 25 of the International Covenant on Civil and Political Rights (1966).

The voting on 17 November passed without incident. There was a heavy security presence, including Kosovo Police, EULEX and KFOR. People were able to vote without hindrance. The EU EOM deployed one Long-Term Observer (LTO) team, which observed 13 of the 27 PSs where voting took place. They assessed the conduct of the voting positively in all observed PSs, although procedural errors were observed in some. On the recommendation of the OSCE Mission, made on security grounds, following the closing of the PSs the CEC announced that the voting materials would be transferred to the CRC for counting, although the Law on General Elections states that counting should take place at the PSs. The count was carried out by the PSCs and OSCE staff. The EU EOM assessed that it was carried out in a very organised manner, with procedures strictly followed.

The results for the reruns in North Mitrovica/Mitrovicë showed that a runoff would be required between the two leading mayoral candidates on 1 December. The 'G.I. Srpska' candidate disputed the results, claiming that ballots may have been tampered with following the closing of the PSs. This allegation was categorically refuted by the OSCE.

### **MEDIA**

Overall, the media enabled candidates to convey their messages to the electorate, with the reporting concentrated on the official campaign period from 25 November.

The media coverage of the elections during the first three weeks after the first round saw a significant drop-off in comparison with the period before the first round. This approach was primarily due to the limited activities of the contestants. Nevertheless, some broadcasters, such as *Klan Kosova* and *KTV*, aired several debates in the weeks before the official campaign. The public television station *RTKI* aired a debate between the Pristina candidates, including the leader of the Democratic League of Kosovo (LDK), Isa Mustafa, who had not previously participated in any debate. Shortly before the official campaign, *TV21* began a series of debates, including also experts and potential Municipal Assembly members elected on 3 November.

Prior to the start of the official campaign, broadcast media's news coverage was dominated by rather extensive reporting on the activities of official bodies. The private *TV21* dedicated the highest proportion of its news coverage to the Government, mostly neutral in its tone. The public *RTKI* and private *KTV* also gave quite high coverage to the Government. While the majority of *KTV's* coverage was neutral, *RTKI's* coverage was mostly neutral and positive. The private

broadcaster *Klan Kosova* focused even before the start of the official campaign on the two contesting entities that were competing in the highest number of runoffs, the LDK and the Democratic Party of Kosovo (PDK), devoting comparable levels of coverage to each, both in time and tone.

The campaign became clearly visible after its official start. Similarly to the first round campaign, media coverage reflected the activity of the political entities, with the LDK being the most covered entity in the majority of monitored media in Albanian language. During the official campaign period, considerable media attention was given to a video recording which allegedly showed LDK members pressurising a Vetëvendosje activist to join the LDK. The LDK disputed the allegation. The media reporting on this video resulted in increased attention to the LDK in the last days of the campaign, notably from KTV, which gave critical coverage in relation to the video. The public *RTKI* presented all the parties in a mainly positive and neutral manner, and its coverage of the LDK was also somewhat marked by the video. *Klan Kosova* presented equitable approach to the main contestants. ‘G.I. Srpska’ dominated political news coverage in all monitored Serbian-language TV channels, with the highest proportion on *TV Most*. This media coverage was influenced by the significant airtime dedicated to official political representatives from Serbia who endorsed the ‘G.I. Srpska’ list. Media devoted much attention to certain municipalities, in particular Pristina and Gjakovë/Djakovica. Of the monitored media, *RTKI* covered the campaign in the highest number of municipalities.

The Independent Media Commission (IMC) failed to take up its legal responsibility to oversee media performance and to review and adjudicate media-related complaints. The EU EOM learned about more than 10 complaints on various aspects of the media coverage related to both rounds of elections. The EOM was not provided with copies of the complaints, with the explanation that the procedures were ongoing. However, the IMC did not hold any official session to discuss election-related matters before the 1 December elections.

## **ELECTORAL DISPUTES**

Following the first round elections, the Elections Complaints and Appeals Panel (ECAP) received 173 complaints related to Election Day and 322 related to counting and tabulation, including 69 received after the announcement of the results for the Mayoral elections. There were six complaints related to campaigning for the second round. As with the first round, most were related to the distribution of election materials and the placement of posters. Deadlines for lodging complaints and for the ECAP to decide on them are tight. Complaints related to the voting process need to be lodged within 24 hours of the closure of the PS. Complaints related to counting and tabulation must be filed within 24 hours of the alleged violation. In each case, the ECAP has 72 hours from the receipt of the complaint to reach a decision. As a result, it was challenging for the complainants to prepare their complaints and for the ECAP fully to consider the complaints within such short timeframes. Therefore the right to effective remedy was not always respected.

A complainant can be any person, natural or legal, that has a legal interest in the matter, or whose rights concerning the electoral process are thought to have been violated. In general however, it has been the larger political entities that have made the most use of the possibility to complain. Overall, the ECAP has acted in an organised manner and met deadlines. As permitted by the law, the Panel consolidated similar complaints from the same municipality, and treated them as one. All ECAP decisions that were monitored by the EU EOM were taken by consensus after discussion among panel members. However, in considering complaints, the ECAP mostly adopted a formalistic approach, often without investigating the evidence. Of the 173 complaints from Election Day, only 11 were granted. Moreover, none of these were related to voting, but concerned breaches of the prohibition on campaigning on Election Day. Of those related to counting and tabulation, only two were granted. On those two occasions the ECAP directed the CEC either to repeat elections or to recount the ballots, ordering reruns in three PSs in Zvečan/Zveçan (see Election Administration

section) and recounts in 12 PSs in Klinë/Klina. Of the rejected complaints, 24 were appealed to the Supreme Court. In 23 of these cases, the Supreme Court upheld the ECAP's decision, and in one case it asked the ECAP to revise it.

In reaching its decisions on complaints, the ECAP did not initiate investigations or hold hearings. While the law does not oblige the Panel to do this in every case, when it is suspected that a complaint may involve fraudulent activities concerning election materials, the ECAP can appoint a member of the secretariat to lead an investigation. The Panel should then consider this official's findings, and make an informed decision. However, the Panel did not utilise this possibility. Rather, it chose to send written enquiries to the CEC for confirmation of the accuracy of allegations made by complainants. While the counting process was still ongoing, the CEC could only answer that the allegations could not be confirmed at that stage. The ECAP then resolved the complaints within the legal deadline, but in the absence of the necessary evidence, rejected most of them. Only after the results had been announced, as in the cases of Zvečan/Zvečan and Klinë/Klina, could the ECAP's approach of sending enquiries to the CEC be of use in informing their decisions on complaints.

Violations that aim to affect the election results, besides being administrative offences, could also be criminal offences. In such cases, the ECAP should forward the matter to the office of the Chief Prosecutor, to pursue a criminal case. But this should not divest the ECAP of its jurisdiction to determine the administrative liability. However, no complaints were forwarded to the Chief Prosecutor to investigate.

The Task Force established by the Chief Prosecutor, the police, the Kosovo Judicial Council, the ECAP and the CEC to pursue criminal offences related to elections opened 32 cases involving 58 individuals for alleged violations of electoral rights regarding the 3 November elections.

#### **POLLING AND COUNTING**

As in the first round, in most of Kosovo voting passed calmly, and people were able to cast their ballots freely and without hindrance. The EU EOM observed the opening, voting, closing and counting in 330 PSs across Kosovo, as well as the intake of electoral materials at the MECs. The opening and voting were assessed as good or very good in almost all observed PSs. Voting in the two northern Serb-majority municipalities where elections took place passed peacefully, with a heavy security presence.

Observers assessed that the integrity of the vote was sufficiently protected in most PSs. However, there were reports of ballot papers being photographed in some places. As on 3 November, the secrecy of the vote was not always safeguarded. More than one person in the voting booth was observed in several PSs, sometimes due to family voting. The possibility of requesting assisted voting was frequently used, and observers noted widespread suspicions that this was sometimes being abused. Voters showing their ballots outside the booth was observed in a number of cases, especially in Gračanica/Gračanicë and Pristina. Voting procedures were mostly followed, but stamps on ballots were often not checked by a PSC member before the ballot was cast. In observed PSs, there was a significant preponderance of male PSC members, and in one-quarter of them all the PSC members were male. A large number of PSs were inaccessible for people with disabilities who did not request homebound voting.

Overall, counting was carried out quickly and without serious irregularities, and procedures were mostly followed. The handover of election materials at the MECs was assessed by observers to have been carried out efficiently and transparently, although in many cases, unlike during the voting and counting, neither political entity nor civil society observers were present. In one serious incident, in Parteš/Partesh municipality, near the end of the counting process people broke into a Polling Centre (with three PSs), and stole or destroyed ballot boxes and election materials. Unlike for the first round on 3 November and the rerun elections on 17 November, counting in North Mitrovica/Mitrovicë, as well as in Zvečan/Zvečan (where reruns were held in three PSs), was conducted at the PSs, in line with the law.

The ECAP received a number of complaints on Election Day related, among other things, to alleged manipulation of election material, vote-buying and assisted voting. The Task Force led by the Chief Prosecutor deployed a total of 60 prosecutors, 10 more than for the first round, who worked together with the police to enforce the criminal legislation on Election Day. As in the first round, Task Force representatives played an important deterrent role, were highly visible in the media, and regularly provided up-dated information on elections offences. They announced the opening of criminal cases including voting on behalf of someone else, illegal possession of fire arms, obstruction of voting, misuse of office, and violation of the free will of the voters.

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*The European Union Election Observation Mission (EU EOM) in Kosovo was launched on 4 October 2013. The mission is led by Chief Observer Roberto Gualtieri, Member of the European Parliament. In total, the EU EOM deployed 71 observers from 26 EU Member States, Norway and Switzerland across Kosovo to assess the whole electoral process in accordance with international commitments for elections, as well as the laws of Kosovo. The EU EOM adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005. The EU EOM wishes to express its appreciation to the Central Election Commission and other authorities, political parties, civil society and media organisations for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the European Union Office in Kosovo, the European Union Rule of Law Mission in Kosovo, and the European Union member states' diplomatic missions for their support throughout.*

*This statement is delivered prior to the completion of the election process. The final assessment of the elections, including both rounds, will depend, in part, on the conduct of the remaining stages of the election process, including the tabulation of results and the handling of possible post-Election Day complaints and appeals. The EU EOM will remain in Kosovo until the end of the process, and will publish a final report, containing detailed recommendations, within two months of its conclusion.*

*This report is available in English, Albanian and Serbian but only the English version is official. An electronic version of this Preliminary Statement is available on the Mission website [www.eueom.eu/kosovo2013](http://www.eueom.eu/kosovo2013). For further information and interview requests, please contact Florence Marchal, Press and Public Outreach Officer, Mobile: + 386 49 73 77 08, Email: [florence.marchal@eueomkosovo2013.eu](mailto:florence.marchal@eueomkosovo2013.eu)*

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