



**EUROPEAN UNION ELECTION OBSERVATION MISSION
(EU EOM)**

KOSOVO,* MUNICIPAL ELECTIONS, 3 NOVEMBER 2013

PRELIMINARY STATEMENT

A Positive Step Forward for Democracy in Kosovo

Pristina, 5 November 2013

SUMMARY

- The 3 November Mayoral and Municipal Assembly elections were the first held throughout Kosovo, including the four Serb-majority northern municipalities, under Kosovo law. They followed the 19 April 2013 agreement between Pristina and Belgrade, facilitated by the European Union. Holding Kosovo elections for the first time in the north presented particular challenges to the organisation of the elections. The OSCE Mission played a crucial role in facilitating the elections in the north, as well as out-of-Kosovo postal voting in Serbia and Montenegro.
- In most of Kosovo, Election Day passed calmly and peacefully. People expressed their democratic right to vote, including in the north, despite attempts by opponents of the elections to dissuade people from voting there. The elections were marred by attacks on three voting centres in North Mitrovica/Mitrovicë, and the abandonment of the election process there.
- In most of Kosovo, the election environment was calm, and contestants were able to campaign freely. Allegations in some areas of pressure on public sector workers, including teachers, to attend campaign events, were assessed by the EU EOM as credible. A Task Force led by the Chief Prosecutor took up cases under the criminal code of campaign-related offences including intimidation and bribery. Intimidation and pressure by those opposing the elections against political activists and voters in the four northern municipalities constrained the campaign activities of contenders, creating an environment that was not conducive to a free campaign.
- The legal framework provides a sufficient basis for democratic elections in accordance with international norms to which Kosovo has committed in its constitution. Changes to the Criminal Code increase the number of elections-related criminal offences, with severe sanctions envisaged.
- Given the particular conditions in the north, the preparations for the municipal elections were carried out differently across Kosovo. In most municipalities the technical preparations appeared to proceed without major obstacles. However, the inclusion of the Serb population in the north as well as displaced Serbs raised many complex and politically sensitive issues.
- The election law contains provisions granting out-of-Kosovo voters the right to register to vote. However the process was neither voter-friendly nor inclusive. Of 41,168 applications for out-of-Kosovo voting, over 39,000 were from Serbia and Montenegro. Only 8,383 applications were initially approved by the Central Election Commission (CEC), and a further 5,458 on appeal.
- The law establishes a minimum 30 per cent quota for both genders for the political entities' lists for the Municipal Assembly elections and for the number of seats eventually allocated. However, out of 224 candidates for Mayors, only nine were women.
- The media provided extensive coverage of the campaign, enabling contenders to convey their messages, and providing voters with diverse campaign information. However, public television *RTK1* showed a preference in its presentation of the ruling Democratic Party of Kosovo (PDK).
- The Elections Complaints and Appeals Panel (ECAP) dealt with complaints related to alleged violations of the election rules according to the legislation.

* 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.

PRELIMINARY FINDINGS

BACKGROUND

The 3 November 2013 Mayoral and Municipal Assembly elections were of particular significance because they were the first to be held throughout Kosovo, including the four Serb-majority northern municipalities of North Mitrovica/Mitrovicë, Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok, under Kosovo law. They followed the 19 April 2013 agreement between Pristina and Belgrade, facilitated by the European Union, which called, among other provisions, for the holding of municipal elections in the four municipalities.

The conditions for elections in the north were particularly challenging. Kosovo institutions did not hold sway there, and the CEC could not communicate directly with Municipal Election Commissions (MECs). In the circumstances, the OSCE Mission in Kosovo played a crucial role in facilitating the participation of the Kosovo Serb population, by helping organise the elections in the four northern municipalities, as well as through out-of-Kosovo postal voting. A strong campaign against the holding of elections made for a difficult environment for the election campaign.

Among the contenders, the Democratic Party of Kosovo (PDK), the ruling party with the highest representation in the Kosovo Assembly, was defending 14 Mayoralties, while the opposition Democratic League of Kosovo (LDK) was defending seven, including the capital, Pristina. The Alliance for the Future of Kosovo (AAK) was defending six, mainly in the west, while Vetëvendosje, which first gained parliamentary representation in 2010, was contesting municipal elections for the first time. The Independent Liberal Party (SLS), an ethnic-Serb party that is part of the ruling coalition at national level, faced stiff competition from the Citizen's Initiative 'Srpska', which is supported by several Belgrade-based parties, for control of Serb-majority municipalities. In Gračanica/Gračanicë the Alliance of Kosovo Serbs (SKS), a new civic initiative, also competed. Many political party representatives also saw these elections as a test before the next Kosovo Assembly elections.

LEGAL FRAMEWORK AND HUMAN RIGHTS

The legal framework provides a sufficient basis for democratic elections in accordance with international norms to which Kosovo has committed in its constitution. While Kosovo has not signed up to any major international commitments on human rights or the conduct of democratic elections, the constitution states the direct applicability of several international agreements and instruments, including the European Convention on Human Rights and Fundamental Freedoms and its protocols, and the International Covenant on Civil and Political Rights. After the 2010 general elections, a parliamentary committee was established with the aim of proposing a comprehensive electoral reform. However, the reform process has since stalled, and although some changes have been made regarding procedures for complaints and appeals, the legislation governing elections remains substantially unchanged.

Changes to the Criminal Code in 2012 increased the number of criminal offences related to elections and established heavier penalties. The severe sanctions envisaged, combined with public information campaigns carried out by a Task Force made up of the Chief Prosecutor's office, the Ministry of Interior, the Judicial Council, the CEC and the ECAP, as well as one by the domestic observer organisation, Democracy in Action, aimed at deterring people from carrying out electoral violations.

The Law on General Elections establishes a minimum 30 per cent quota for both genders for the political entities' lists for the Municipal Assembly elections and for the number of seats eventually

allocated. Women were significantly under-represented among MEC and Polling Station Commission (PSC) members.

Equality of individuals before the law and respect for internationally recognised fundamental rights are enshrined in Kosovo legislation. The representation of non-majority communities in the legislative and executive authorities of the municipalities is guaranteed. The membership of MECs and PSCs should reflect the composition of communities in the municipality. However, Long-Term Observers observed that minority communities other than Serbs and Albanians (in areas where Serbs form the majority) were not always represented in proportion to their numbers. Election campaigns were generally aimed at individual ethnic groups, and did not address issues of specific concern to minorities.

Voters with special needs had the right to request home voting. Only the four northern municipalities missed the deadline for such requests. Voting with braille was available for blind people.

ELECTION ADMINISTRATION

Given the particular conditions in the four northern municipalities, the administrative preparations for the municipal elections were carried out differently across Kosovo. In most municipalities, the technical preparations appeared to proceed without major obstacles. However, the inclusion of the Serb population in the north as well as displaced Serbs raised many complex and politically sensitive issues that had to be addressed by the OSCE Mission in Kosovo in its facilitation role.

The elections were administered by a three-tiered election administration largely comprising representatives of the biggest political parties. While the CEC is a permanent body, the 38 MECs and some 2,400 PSCs were appointed only for these elections. The CEC Chairperson was elected from among the Supreme Court judges. The ten CEC members were nominated by the six largest parliamentary groups in the Kosovo Assembly, with four members representing minority communities.

Despite claims that the CEC was highly politicised, the CEC members appeared to work in a collegial manner during the course of the EU EOM. The preparations for the elections were centralised, and observers reported that some MECs criticised the level of support from the CEC Secretariat. MECs had varying work practices. Some held frequent formal sessions while others met informally and without minutes. For the most part, the MECs were operational and enjoyed the confidence of the main election stakeholders.

The OSCE Mission had a key role in the organisation of elections in the four northern municipalities through assisting in election operations and maintaining contacts between the CEC and the MECs there. Despite many challenges, the infrastructure for elections such as the preparation of voters lists and establishment of polling stations was successfully put in place. However, the complexities and political sensitivities of the process in the north inevitably affected the transparency of the preparations for the elections in those municipalities, creating a perception of uncertainty and lack of clarity. Some CEC members criticised the role of the OSCE over the lack of information about the preparations in the north, as well as on the out-of-Kosovo voting, caused by the absence of a formal reporting mechanism. Following a written request from the CEC, on 31 October the OSCE Mission submitted a report on its electoral assistance.

The CEC missed some operational and legal deadlines, notably regarding the public display and certification of voters lists. The use of Kosovo state symbols on election materials was contentious. While the CEC reached an agreement to remove the symbol from the ballots, it remained on the voters lists, results forms and other official electoral documentation. This created uncertainty shortly before the elections as to whether these documents would be accepted in the northern municipalities. Voter education intensified on television during the last days before the elections.

VOTER REGISTRATION

The CEC was responsible for maintaining and updating the voters lists which were extracted from the Central Civil Registry (maintained by the Ministry of Interior). There was low confidence in the accuracy of the voters lists, particularly due to the allegedly frequent instances of deceased persons, as well as the many eligible voters residing abroad. There were nearly 1.8 million voters for the 2013 municipal elections, including some 66,000 in the northern municipalities.

Eligible voters who temporarily reside outside of, or were displaced from Kosovo were entitled to register and to vote by mail. There were 41,168 applications received, including over 39,000 from Serbia and Montenegro. Only 8,383 of these applicants were initially approved as voters by the CEC. According to the CEC, the rest were rejected due to insufficient evidence submitted to prove that these applicants resided in Kosovo before 1 January 1998. A total of 16,355 rejected applicants submitted an appeal to the ECAP. Under intense time pressure, the ECAP's ten-member panel managed to review these appeals, and decided to allow another 5,458.

The out-of-Kosovo registration process was cumbersome and neither voter-friendly nor inclusive. Applicants had to prove their eligibility by submitting copies of old Kosovo-issued identification cards, passports, driving licenses, utility bills, etc. However, this was a challenge to many applicants after more than 15 years. Secondly, the timeframe for out-of-Kosovo registration was extremely tight given that all applications, decisions and appeals had to be transferred to and from Serbia by the OSCE Mission, and delivered to voters by Serbian post. Moreover, the EU EOM received credible information that the verifying of applications by the CEC was not always consistent and based on objective criteria, and that occasionally correspondence to voters was sent to incorrect addresses.

REGISTRATION OF CANDIDATES

Candidate registration was conducted in an inclusive manner. The CEC certified 103 political entities (political parties, coalitions, civic initiatives and independent candidates) to contest the Mayoral and Municipal Assembly elections. In total, 7,926 candidates were certified to run in the 38 municipal assemblies, one-third of them female. Out of 224 candidates for Mayor, only nine were women. Several candidates for Mayor are currently indicted for various crimes, some of them for war crimes.

CAMPAIGN ENVIRONMENT

In most of Kosovo, with the notable exception of the four northern municipalities, electioneering took place in a calm atmosphere, and contestants were able to campaign freely. The official campaign period began on 3 October. In addition to campaigning through the media, contestants held rallies and small-scale meetings, as well as door-to-door campaigning and distribution of flyers. Contenders also used social media to advertise campaign events and for paid advertisements. The strongest parties in the Kosovo Assembly were the most evident. Despite these being local elections, national leaders and national issues were prominent. Mayoral candidates were more visible than candidates in the Municipal Assembly elections. Promises by the Prime Minister of significant funding for municipalities where he campaigned were much criticised by other contenders.

The Law on General Elections contains a Code of Conduct for the campaign, to which all election contenders were obliged to commit, with violations to be sanctioned by the ECAP. Among other things, the Code prohibits any kind of intimidation or violence by political entities, as well as vote buying. Notwithstanding these prohibitions, allegations of pressure on public sector workers, including medical workers and teachers, as well as pupils, to attend campaign events for the incumbent ruling

party in the municipality concerned were voiced in some areas. The EU EOM assessed cases in Pristina, Skënderaj/Srbica, Malishevë/Mališevo, Lipjan/Lipljan, Gjakovë/Djakovica, Gračanica/Gračanicë, Klokot/Kllokoti and Leposavić/Leposaviq municipalities as credible. The EU EOM received allegations of widespread vote buying, especially on the day before Election Day. There were indications of Roma being targeted for vote buying in South Mitrovicë/Mitrovica and Gračanica/Gračanicë.

The placing of campaign posters proved controversial. In some areas, contestants claimed ruling parties at the local level were favoured in the allocation of commercial billboards. The Code of Conduct prohibits posters in certain places, such as public institutions, traffic signs etc., as well as the removal or defacing of posters. A large number of complaints were filed with the ECAP about the infringement of these rules, and in many cases fines were issued. In a positive show of commitment to enforcing electoral rights, as of the end of the campaign, the Task Force led by the Chief Prosecutor had taken up 16 cases under the criminal code of campaign-related offences including intimidation and vote buying.

In three of the northern municipalities, the widespread prevalence of intimidation and pressure against political activists and voters constrained the campaign activities of election contenders, creating an environment that was not conducive to a free campaign. The EU EOM followed up cases of pressure on some individuals not to participate in the campaign, and assessed them as credible. The campaign against participation in the elections was much more visible than the election campaigns of the contenders. The posters of election contenders were frequently torn down. The campaign environment in Leposavić/Leposaviq was more positive.

Three explosive devices during the week of 14 October targeted figures who were either candidates or had earlier withdrawn their candidacy. On the night of 1 November, the mayoral candidate of the Civic Initiative 'Srpska' for North Mitrovica/Mitrovicë was physically attacked. On 2 November, a candidate for the AAK was murdered in Skënderaj/Srbica, although it did not appear to be election-related. Visits by Belgrade officials to Serb-majority municipalities raised controversy.

MEDIA

Overall, the media provided political entities with a variety of ways to disseminate their messages to the electorate, and offered voters diverse information to enable them to make an informed choice. Freedom of expression, guaranteed by the Constitution, was respected during the campaign period. However, in one notable negative instance, the editor-in-chief of *Kosova Sot* was intimidated following critical photo-reporting concerning Pristina Municipality.

The campaign was highly visible in the national media, including a very high number of paid spots and live coverage of rallies, extensive news coverage and numerous debates covering different municipalities. Media paid particular attention to the campaign in Pristina. While other municipalities were also regularly covered, the news exposure was largely driven by the presence of party leaders, rather than the activities of municipal candidates or local topics.

The Independent Media Commission (IMC), charged with overseeing broadcast media during the campaign, received nine official complaints. The fact that the Commission is composed of political nominees affected its work. Two out of seven members had not been appointed due to political disagreement, and two more were criticised for participating in the election campaign. The EOM was informed that, according to the media monitoring of the IMC's Executive Office, media, including public broadcasters, complied with requirements regarding the allocation of free time.

The majority of monitored media gave the highest coverage to the most active political entities. The PDK received the most news coverage in most Albanian-language media. In its news programmes, public television *RTKI* showed a preference in its presentation of the PDK, notably its leader, the Prime Minister. Private *TV21* offered its viewers a balanced portrayal of contestants, while in some other outlets, such as the nationwide *KTV* and *Koha Ditore*, a newspaper, coverage of the PDK was more critical in its tone. Both channels also aired high-quality analytical programmes and debates.

Of the two monitored private Serbian-language TV channels, *TV Most* showed bias in favour of the Civic Initiative 'Srpska'. The public Serbian-language channel *RTK 2* provided balanced coverage, including debates, of contenders representing Serb, Montenegrin and Bosniak voters.

ELECTORAL DISPUTES

The complaints and appeals process is executed by the ECAP, which is an independent body composed of 10 judges. Its decisions could be appealed to the Supreme Court. The panel dealt with complaints related to alleged violations of the electoral rules and adjudicated on appeals related to decisions of the CEC. The ECAP processed complaints and appeals in accordance with the rules, considering the evidence and for the most part respecting deadlines. However, it did not hold any hearings to allow the complainant or respondent to state their position. During the official campaign period, the majority of complaints concerned alleged violations of the Code of Conduct for election contenders. The panel also dealt with appeals against CEC decisions. Changes in the Law on General Elections introduced more realistic deadlines as well as increasing possible fines for the violation of electoral rules. However, the lack of a clear deadline for deciding on complaints not related to voting or counting resulted in the ECAP taking a long time to address some complaints.

In relation to Out-of-Kosovo voting (see Voter Registration section), around 5,100 applicants whose appeals had been rejected by the ECAP appealed to the Supreme Court. However, given that the examination of the appeals was conditioned on the payment of a 30 Euro fee, and the time left before the elections was very short, these appeals could not have been adjudicated in time to enable these persons to take part in the elections. As a result, the right to pursue an effective legal remedy against a judicial decision was infringed, and the right to vote of those persons was not respected.

DOMESTIC OBSERVATION

The Law on General Elections provides for domestic and international election observation. Observers from election contenders and civil society organisations were accredited by the CEC in an inclusive manner, increasing the transparency of the process. Almost 27,000 observers representing political entities were accredited. Democracy in Action, a coalition of civil society organisations, observed the whole election process and deployed observers throughout Kosovo on Election Day. The Kosovo branch of the Balkan Investigative Reporting Network (BIRN) deployed observers to selected locations on Election Day. The Ombudsperson institution also deployed observers, focusing on the voting process for those confined in institutions such as hospitals, mental health facilities, prisons and detention centres. The Coalition of Election Monitoring, comprising nine civil-society organisations from the Serb community, deployed observers in Serb-majority municipalities. Some of its applications for accreditation were rejected by the CEC, because they did not have Kosovo IDs.

POLLING AND COUNTING

In most of Kosovo, Election Day passed calmly and peacefully, without major incidents. People went to the polling stations to express their democratic right to vote, including in the four northern

municipalities, despite attempts by opponents of the elections to dissuade people from voting in some places. The success of the elections in the north was marred near the end of Election Day by attacks on three voting centres in North Mitrovica/Mitrovicë, which led to the abandoning of the election process there. Ballot boxes from the other northern municipalities were brought to a location in the south, although there was concern about the security of the transfer in some cases.

The EU EOM observed opening, voting, closing and the count in 460 polling stations across Kosovo. The opening and voting was evaluated as positive or satisfactory in the vast majority of observed polling stations. While the integrity of the vote appeared to be sufficiently protected in most places, there were isolated cases of serious violations, including multiple voting, intimidation and taking photographs of ballot papers during voting. The secrecy of the vote was not always respected, and more than one person in the voting booth was observed in a significant number of polling stations throughout Kosovo, most often due to family voting.

There was inconsistency as to whether Serbian or UNMIK IDs should be accepted for voting. On the eve of the elections, the CEC issued guidelines specifying which IDs could be used, but did not address whether Serbian IDs were included, leading to confusion among PSC staff in some places.

Overall, counting was carried out without serious irregularities, although procedural errors were noted in some cases. A large number of ballots were invalidated for the Municipal Assembly elections, apparently due to unclear instructions to PSC members, as well as poor understanding among voters.

At regular intervals during Election Day, the Task Force led by the Chief Prosecutor provided updates on the number of criminal cases opened for violations of electoral rights, with the aim of deterring electoral offences. The ECAP received complaints connected with voting and counting, and informed the EU EOM that complaints also under investigation by the police would not be processed.

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 99 observers from all 28 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. Two members of the European Parliament also joined the mission and fully endorsed this Statement. 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 preliminary statement is delivered prior to the completion of the election process. The final assessment of the elections 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 after the second round of Mayoral elections, and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process.

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. 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