



European Union  
Election Observation Mission

**KOSOVO 2019**

**Final Report**

**Early Legislative Elections**

6 October 2019



**European Union Election Observation Mission  
Kosovo\* 2019**

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**EU ELECTION OBSERVATION MISSION**  
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**EARLY LEGISLATIVE ELECTIONS**

**FINAL REPORT**

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

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This report contains the findings of the EU Election Observation Mission (EOM) on the 2019 early legislative elections. The EU EOM is independent from European Union institutions, and therefore this report does not represent the official position of the European Union.

## FINAL REPORT

### I. SUMMARY

The 6 October elections were the fourth legislative elections since Kosovo's declaration of independence in 2008. All of them were held early. The campaign was vibrant and competitive, allowing contestants to campaign freely in most of Kosovo. There was a lack of competition in the Kosovo Serb areas and the campaign environment was marred by intimidation, which targeted non-Srpska Lista candidates and supporters. Misuse of public resources and a lack of transparency of campaign finance resulted in an uneven playing field throughout Kosovo. The election process prior to election day was well-administered and transparent. Election day was orderly, and the EU Election Observation Mission observers positively assessed voting and to a lesser extent also counting. The preliminary results published after election day were generally trusted by political entities however the credibility of the post-election day counting and tabulation process was negatively affected by a lack of timely Central Election Commission (CEC) decisions, inefficient handling of complaints by the Election Complaints and Appeals Panel (ECAP) and controversial court decisions. These had a direct impact on the final election results and delayed significantly their certification. Recurring systemic problems with the election process which were also identified by previous observation missions need to be urgently addressed as a priority once the new government is formed in order to bring Kosovo fully in line with international standards for democratic elections.

- The electoral legal framework remains the same as in 2017 elections since no reforms have taken place. Shortcomings identified in the **legal framework** include provisions for calling early elections at extremely short notice and allowing the CEC to shorten time frames, including the length of the official election campaign, thereby increasing the risk of compromising electoral rights. Such limited time frames do not ensure proper electoral preparations, including the Out-of-Kosovo (OoK) voter registration, public scrutiny of the voter list and possible challenges to the candidates' lists. Important aspects of the process are regulated by secondary legislation, i.e. CEC Regulations. This combined with inconsistencies and lack of clarity makes the process vulnerable to last-minute amendments undermining legal certainty.
- All 25 political entities that applied for **registration to participate in the elections** were certified. Subsequently, the CEC also certified the 25 candidate lists with 1,067 candidates including 724 men and 343 women. All candidate lists with more than two candidates complied with the mandatory 30 per cent gender quota. There are no unreasonable restrictions on the certification of political entities or candidate eligibility and overall the certification process was inclusive, without any significant controversies.
- Kosovo has a passive **voter registration** system whereby the preliminary and final voter lists are compiled by the CEC based on the extracted records provided by the Civil Registration Agency. The final voter list was certified by the CEC on 19 September and it included 1,937,868 voters. The accuracy and credibility of the voter list is a long-standing problem of Kosovo elections. Kosovo has more registered voters than its estimated resident population. This anomaly is partially explained by the fact that the vast majority of Kosovo diaspora were excluded from the 2011 census though they remain lawfully registered in the

civil register. Furthermore, the voter list included many deceased persons as there is no effective system in place for their systematic removal from the list.

- The **election administration** at all levels operated transparently throughout the whole election process. The existing appointment mechanism for all three tiers of the election management body provided for meaningful involvement of relevant political entities, including those representing non-majority communities. The CEC meetings were open to the public and the decisions were generally published on the CEC website. The decisions were usually taken in a consensual manner, however, in several cases consensus was not reached, and simple majority voting had to be applied. These included deciding on the composition of MECs, distribution of PSC chairpersons' positions and on permissible ID documents for voter verification on election day.
- In several instances the CEC deliberately avoided their responsibilities to take decisions and let the CEC Secretariat decide on some important and politically sensitive aspects of the process. These included acceptance of disputed Out-of-Kosovo postal ballots from Serbia and acceptance of the postal ballots that arrived after the legal deadline of 5 October. This put undue political pressure on the CEC Secretariat.
- There is a lack of clarity in the law on what the **required ID documents** are for proving voters' identity on election day. The CEC clarified this issue on 9 September by adopting an administrative instruction according to which only Kosovo-issued ID documents could be accepted. This decision was opposed and unsuccessfully appealed by Srpska Lista. The CEC approved the instruction 26 days before election day, thus providing a reasonable time frame for those without a valid Kosovo ID card to acquire one.
- Despite a short time frame of 41 days, all **electoral preparations** were completed on time and elections were technically well prepared. With the notable exception however, of misprinted polling station result and reconciliation forms. Due to a lack of quality control, the CEC Secretariat failed to detect this printing error ahead of election day and as a result more than 450 result forms were filled in incorrectly and the respective polling stations had to be recounted.
- There are a lack of safeguards against impersonation in the **Out of Kosovo (OoK) postal voting** system and some stakeholders expressed concerns about the credibility of the process. The voters could apply electronically attaching only a scan of the personal ID document and ballot papers did not have to be mailed to the voters' addresses abroad as they could be downloaded from the CEC website. The OoK voter registration and voting were negatively affected by the compressed time frame. The voters had only 12 days to apply for registration in the OoK voter list and because the CEC was unable to review all applications in a timely manner, the voter list was not available for public scrutiny before the voting started. A large number of postal ballots arrived after the legal deadline.
- **Campaign freedoms** were respected in a vibrant and competitive campaign in most of Kosovo. The official campaign period was limited by the CEC to only 10 days compared to 30 days for regular elections. Some of the larger parties however started campaigning several weeks before the start of official campaign period. An intensive series of rallies were held by all the main Kosovo Albanian political entities. The key themes of the campaign were

allegations of corruption and nepotism, and the future relations between Kosovo and Serbia. The largest parties concentrated their campaigns on their prime ministerial candidates with few substantive manifestos published.

- Central and local **government resources** were in some cases misused in attempts to gain political advantage. Public sector job promotions, extensions of temporary contracts, or new positions were allegedly offered in the expectation of support from employees and their families. Similarly, the public-enterprise electricity and mining companies announced large numbers of new job opportunities just before the elections. Some municipalities promoted their local infrastructure projects to gain support for their Assembly candidates.
- There was a lack of competition in **the campaign in the Kosovo Serb majority areas**. Srpska Lista was emphatically supported by the government of Serbia which sought to delegitimise other Kosovo Serb parties. These parties experienced challenges in conducting an effective campaign in all Kosovo Serb majority municipalities, in part due to a lack of funds and in part due to alleged intimidation. There were multiple documented cases of opposition candidates' family members, and voters in general, facing threats of dismissal or suspension from government of Serbia funded or municipal positions. There were though few reports of physical intimidation. Fundamental freedoms of choice and expression in the Kosovo Serb community were neither sufficiently respected by the leading party, nor fully protected by authorities and institutions.
- The law prescribes a minimum 30 per cent **gender** quota both for candidate lists and seat allocation in the Assembly. The quota requirement was respected by all political entities candidates' lists. Women remain underrepresented within political parties and election administration, particularly at lower levels, and there are currently no affirmative measures that would aim at strengthening women's participation in the electoral process. Legal provisions on gender equality have not been sufficiently mainstreamed within the various laws causing uncertainty as to their proper implementation.
- The regulatory framework does not ensure transparency, integrity and accountability of **party and campaign finances**. Transparency of the campaign finances was further reduced by a lack of implementation of legal requirements. Namely, the CEC and several parties limited reporting only to the expenditures incurred during the ten days of the official campaign. In addition, auditing and disclosure of the campaign finance reports will not be conducted before June 2020 and auditing does not include identifying unreported incomes and expenditures. Many EU EOM interlocutors raised concerns about intertwined political and financial interests that render ruling parties accountable to wealthy donors and result in misuse of the budget for public procurement.
- **Media** benefit from a sound legal framework for protection of media freedoms and they were able to freely cover the elections. Nonetheless, there are not sufficient legal safeguards protecting the independence of the public broadcaster. The otherwise adequate media regulation for the election campaign was weakened by a loophole allowing political parties to purchase an unlimited amount of paid coverage. There was a lack of efficient and effective oversight by the Independent Media Commission, the broadcast media regulatory body, which did not sanction or redress any media violations during the election campaign.

- **Media and social networks** enabled voters' access to information on different political views. During the ten-day election campaign, the public broadcaster, RTK, offered a largely balanced coverage of contestants on its broadcast channels, while it showed a biased coverage on its news website and Facebook page in favour of the Democratic Party of Kosovo (PDK), a ruling party since Kosovo's declaration of independence. Despite fairly balanced news coverage, the overall election coverage of private broadcast media was characterised by inclusive but not very informative election debates, which did not contribute much to inform voters on alternative party programmes. The election coverage was also undermined by an extensive use of paid-for content by political entities, which benefited the wealthiest parties undermining the level playing field. Online media and social platforms hosted political paid content and advertising without fully ensuring its transparency and accountability.
- The **election day** was orderly and calm, and the EU EOM observers did not report any major incidents. The EU EOM deployed 108 observers who observed opening, voting, closing and counting procedures at 416 polling stations across all 38 municipalities. The overall conduct of the voting was assessed positively in more than 95 per cent of polling stations observed. Political entity and civil society observers were present in more than 90 per cent of polling stations visited, enhancing stakeholders' confidence in the process.
- While the overall assessment of the **voting process** was positive, the EU EOM observers noted also several irregularities. The most significant one – excessive assistance to voters – was observed in many polling stations visited, with assistance being provided to voters who did not appear to need it. The proportion of voters being assisted in marking the ballot was in some polling stations as high as 22 per cent. The performance of PSC staff deteriorated significantly during the closing and **counting process** and only 28 out of 39 polling station counts were assessed positively. This was mainly due to the fact that the rather complex closing and counting procedures were often not strictly followed.
- Positively, the CEC ensured transparency of the counting process by publishing online **preliminary results** for political entities broken down by polling station within several hours after the completion of the vote count at polling stations. The CEC K-vote system which facilitated the online publication of preliminary and unofficial results in a timely manner proved to be critical for ensuring credibility of the results announcement process. Political entities generally trusted these results, albeit with concerns caused by the issue of misprinted result forms.
- The **results tabulation process and counting** of conditional, special needs and OoK postal votes was centralised to the Count and Results Centre (CRC) in Pristina. According to the EU EOM observers the work at the CRC was well organised, staff were competent, and observers had meaningful access to all stages of the process. However, the process took an extremely long time. The main reason for this delay was the need to recount 2255 or 88 per cent of all polling stations due to detected irregularities in the result and reconciliation forms.
- The EU EOM analysed 258 out of 396 polling stations which were recounted prior to the publication of final results due to the detected inconsistencies between the number of votes received by political entity and the number of votes received by its candidates. In 165 polling stations the recount led to changes in the number of votes received by political entities

and in 250 polling stations in the number of votes received by individual candidates. While most of these changes could possibly be explained by differences in determining the validity of votes or unintentional error, there were several cases clearly indicating deliberate manipulation of results.

- The processes at the CRC were transparent. When there were recounts, both the original polling station results forms and the newly filled in forms after the recount were published online. However, the CEC failed to publish overall Kosovo-wide progressive results, which would have considerably improved transparency of results during the tabulation and recount process.
- On 13 October, the premises at the Ministry of Infrastructure where verification of postal ballots was taking place were evacuated and sealed off by the Kosovo Police after reportedly some of the 26 CEC staff complained of allergic reactions from handling the envelopes received from Serbia. The incident was investigated by the Prosecution Office and Kosovo Police. However the investigation was not concluded prior the certification of final results and authorities did not provide any official information about the status of the investigation. The **postal ballots from Serbia** were processed and counted ten days after the incident, but ultimately annulled during the complaints and appeals process.
- After the publication of final results on 7 November Nisma-AKR-PD challenged the regularity of the OoK postal ballots received from Serbia. The ECAP decided to annul these postal ballots and subsequently the Supreme Court upheld the ECAP decision and rejected the appeal submitted by Vetëvendosje candidates. These decisions were seen as politically biased by a number of EU EOM interlocutors as there is no agreement on international mail exchange between Kosovo and Serbia and a similar practice of receiving OoK postal ballots from Serbia was accepted in previous elections. This had a direct impact on the election results as due to the annulment of postal ballots from Serbia the coalition Nisma-AKR-PD passed the five per cent threshold. It should be noted, that this matter reached ECAP already two times earlier during the tabulation and recount process, however it was controversially only considered by the ECAP after the publication of final results on 7 November, when the impact on the results was already known.
- On 27 November, i.e. 52 days after election day, the CEC certified **final election results**. In terms of percentage of the total valid votes received by political entities, there were only very minor differences between the certified final results, final results published on 7 November and K-vote preliminary results which were published shortly after election day. However, while preliminary and final results showed that the coalition Nisma-AKR-PD was below the five per cent threshold, according to the certified final results, which eventually excluded postal ballots from Serbia, the coalition passed the threshold by 21 votes. The overall turnout reached 44.56 per cent and 3.8 per cent of all votes cast were invalid.
- The **complaints and appeals mechanism**, as applied, resulted in significant delays in the publication of certified final results. The absence of clear provisions in the law on the nature of complaints that can be filed during the CRC process or upon announcement of the final results, creates confusion for the complainants, produces extra workload for the adjudication authorities and causes further delays in the process. The situation was aggravated by the lack of formal decisions by the CEC, mainly related to the acceptance of the OoK postal

ballots received after the legal deadline, as well as by the different approaches of the Election Complaints and Appeals Panel (ECAP) and the Supreme Court on acceptance of these postal ballots.

## II. PRIORITY RECOMMENDATIONS

The EU EOM has 23 recommendations for improving elections in Kosovo. They include following seven priority recommendations:

1. *To consider introducing a non-partisan position of the Polling Station Committee (PSC) member/secretary to provide necessary advisory and clerical support to the PSC chairperson.*
2. *To improve design of the ballot paper for legislative elections to make it easier for voters' understanding and substantially enhance voter education well in advance of any elections, focusing on areas with traditionally high number of invalid votes.*
3. *Include clear provisions on challenging results at all levels (polling station, CRC and final results) in the LGE. Clarify the type of complaints and appeals and their respective deadlines throughout the process in the LGE. Clarify competences of CEC and ECAP in annulling results and ordering recounts.*
4. *Early elections to be called with a minimum two months' notice to allow sufficient time for proper electoral preparations and the election campaign.*
5. *To improve the accuracy of the voter list by, inter alia, introducing a mechanism for systematic removal of deceased persons from the civil register and subsequently from the voter list.*
6. *The law to prescribe reporting of the incomes and expenditures of contestants during the campaign period as well as within 30 days from the election day. Reporting should include the finances of party-nominated candidates and entities or individuals affiliated with contestants (third parties). The law to prescribe a short deadline for the oversight authorities and the political entities to publish all financial reports in an easily accessible manner.*
7. *Consideration to be given to further regulate the purchasing by political entities of airtime on broadcast media. This should aim to ensure equal and non-discriminatory conditions to access it, publicly disclosure of price lists, as well as to set a limit on the amount of airtime that a broadcaster can sell to each political entity during the election campaign.*

### III. MISSION INTRODUCTION

Following an invitation by the President of Kosovo issued on 28 August 2019, the EU deployed an Election Observation Mission (EOM) on 7 September to observe the 6 October early legislative elections. The mission was led by Mrs Viola von Cramon-Taubadel, a Member of the European Parliament (MEP) from Germany. The mission comprised a team of 9 analysts based in Pristina, 18 long term-observers (LTOs) who were deployed across Kosovo on 15 September, and 36 short-term observers (STOs) who were present in Kosovo from 2 to 9 October (six of them remained in Kosovo until 14 October). The EOM was also reinforced by 38 locally recruited observers from EU Member States in Kosovo and a delegation of the European Parliament led by Mr Andrey Kovatchev from Bulgaria. On election day, a total of 108 observers from 27 EU Member States, Norway and Switzerland visited 416 polling stations in all the 38 municipalities of Kosovo to observe voting and counting.

The mission's LTOs remained in the field to follow post-election day proceedings and left Kosovo on 17 October except for 6 LTOs who remained in Kosovo to observe the activities of the Count and Results Centre in Pristina until 28 October. The Majority of the core team left Kosovo on 31 October while two other CT members closed the mission on 29 November two days after the certification of final results.

The EU EOM assess the whole electoral process against international obligations and commitments for democratic elections as well as the laws of Kosovo. The EU EOM is independent in its findings and conclusions and 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 Kosovo authorities, the Central Election Commission and other institutions, the police, political parties, media and civil society for their cooperation and assistance throughout the Mission's presence. The EU EOM also expresses its appreciation to the EU Office/EUSR, EULEX, KFOR, the OSCE and the diplomatic representations of the EU Member States, Norway and Switzerland.

### IV. POLITICAL BACKGROUND

These early legislative elections were held on 6 October 2019 following the official resignation of the government on 22 July 2019 and the dissolution of the Assembly a month later. These were the fourth set of legislative elections since Kosovo's declaration of independence in 2008, all of which have been held early.

The previous government was formed three months after the June 2017 early legislative elections from the pre-election coalition known as "PAN" which was composed of the Democratic Party of Kosovo (PDK), Alliance for the Future of Kosovo (AAK) and Social Democratic Initiative (Nisma). These parties were joined by the non-majority parties and the New Kosovo Alliance (AKR) - who had at the time of the 2017 elections been in a pre-election coalition with the Democratic League of Kosovo (LDK). At the time of its formation, the government had the support of 61 out of 120 Assembly members and had 21 ministers representing eight parties and one independent.

In the 2017 early legislative elections, the pre-election PAN coalition came first, but did not caucus together in the Assembly, making the largest single party the opposition Vetëvendosje (VV), until 13 of its legislators left the party in 2018, 12 of whom joined the Social Democratic Party (PSD). The numbers in the Assembly caucuses at the time of the dissolution on 22 August 2019 were reported to be LDK 25, PDK 23, VV 19, PSD 12, AAK 12, Srpska Lista 10,<sup>1</sup> Nisma 8, the parliamentary grouping of non-majority parties 6, as well as 5 members with no affiliation.

### **The main political actors**

In these elections, 25 political entities (parties, coalitions, or in one case an individual) were certified to participate by the Central Election Commission (CEC). The numbers of entities registered by community were 7 Kosovo Albanian, 4 Kosovo Serb, 4 Bosniak (including 1 independent candidate), 3 Gorani, 2 Ashkali, 2 Roma, 2 Egyptian and 1 Turkish.

The three largest parties of PDK, LDK and VV ran in these elections on their own. A pre-election coalition was formed by AAK and PSD under the banner of “100% Kosovo”. Nisma and AKR along with the Justice Party (PD) also formed a pre-election coalition. The prime ministerial candidates for the main parties were the leader of VV, Albin Kurti, Deputy Chairperson of LDK, Vjosa Osmani, outgoing Speaker of the Assembly and leader of PDK, Kadri Veseli, and outgoing Prime Minister and leader of AAK, Ramush Haradinaj, for the AAK-PSD coalition.

The Kosovo Serb community was represented in the outgoing Assembly by nine Srpska Lista members and one from the Independent Liberal Party (SLS). Both parties were represented in the outgoing government.<sup>2</sup> The other two Kosovo Serb parties which took part in these elections were the Party of Kosovo Serbs (PKS) and the Freedom Coalition (Sloboda). All ten Serb-majority municipalities have elected Srpska Lista local administrations; the four northern municipalities held extraordinary mayoral elections in May 2019 in which of the Kosovo Serb parties, only Srpska Lista took part.

## **V. IMPLEMENTATION OF PREVIOUS EU EOM RECOMENDATIONS**

### **Very few recommendations implemented after the 2017 early legislative elections**

Kosovo has made a little progress in strengthening the electoral process since the 2017 legislative elections. Despite the initiative of parliamentary caucus leaders to improve and strengthen the electoral process and a decision made by the Assembly to establish an ad-hoc parliamentary committee much needed reform did not take place due to the dissolution of the Assembly.

The EU EOM for the 2017 early legislative elections made 26 recommendations. Of those, only two were fully implemented in practice. Namely, the tabulation process at the Count and Results

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<sup>1</sup> Including the sole member of the Gorani community from the JGP who chose to caucus with Srpska Lista in the previous Assembly.

<sup>2</sup> Srpska Lista announced that they no longer supported the coalition government in March 2018, though their ministers de facto continued in office. An SLS minister of agriculture was appointed in February 2019.

Centre was enhanced, and procedures for the handling of conditional votes were clarified and observers were able to observe the verification process.

Three other recommendations were partially implemented. The 2019 early elections were called with the longest possible notice of 45 days, provided for by the Constitution, the ECAP posted decisions on complaints online in a timely manner and institutions tried to promptly and properly investigate, prosecute and adjudicate on cases of electoral fraud. It should be noted that none of the recommendations requiring legislative change was implemented.

## VI. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

### *Adequate legal framework but several previously identified shortcomings persist*

The election is regulated primarily by the Constitution of 2008, the Law on General Elections (LGE, last amended in 2010) and the Law on Financing Political Parties of 2010 (last amended in 2013).<sup>3</sup> The legal framework has not undergone any amendments since the last legislative elections, and it is assessed as adequately guaranteeing the conduct of elections, in line with the international standards to which Kosovo has committed through its Constitution.<sup>4</sup> Nevertheless, several shortcomings already identified in previous elections still persist. The Constitution further imposes on authorities to interpret the human rights and freedoms guaranteed by the law and Constitution in accordance with the judgements of the European Court of Human Rights (ECHR).<sup>5</sup> The rights enshrined in the ECHR are directly enforceable, and, in case of conflict, have priority over Kosovo laws. Following Kosovo's membership in the European Commission for Democracy through the Law, known as the Venice Commission, the Code of Good Practice in Electoral Matters of the Venice Commission of October 2002 is applied as a reference for the conduct of democratic elections.<sup>6</sup>

An Ad-hoc Committee for the improvement and strengthening of the electoral process was constituted in May 2019 without however achieving any concrete results before the dissolution of the Assembly. Therefore, despite the engagement to proceed to a well-defined electoral reform, no

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<sup>3</sup> These are supplemented by the 19 CEC Regulations issued in 2013, 2015 and 2016, which expand on principles included in the LGE. In addition, procedural aspects are foreseen in the Rules of Procedure of the CEC of 2008 and the Rules of Procedure of the Elections Complaints and Appeals Panel (ECAP) of 2015. Other important laws relevant to the election process are the Criminal Code of 2019, the Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (LPPRC), last amended in 2012 and the Law on the Use of Languages of 2006.

<sup>4</sup> Article 22 of the Constitution states the direct applicability of a number of agreements and instruments relevant for elections: the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR); the European Convention on Human Rights and Fundamental Freedoms (ECHR) and its Protocols; the Council of Europe Framework Convention for the Protection of National Minorities, the Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)..

<sup>5</sup> Article 53 of the Constitution. Nevertheless, since Kosovo is not a party to the ECHR, there is no venue for a case to be brought before the European Court of Human Rights and interpretation and enforcement of human rights remains within the Kosovo judicial system.

<sup>6</sup> On 11 June 2014, the Committee of Ministers of the Council of Europe approved Kosovo's membership of the European Commission for Democracy through the Law (Venice Commission).

amendments were introduced and key EU EOM recommendations that required legislative change were not addressed.

Identified shortcomings of the legal framework include provisions for calling early elections at extremely short notice allowing the CEC to further shorten timeframes, thereby increasing the risk to compromise electoral rights. This limited time does not ensure proper electoral preparations, including OoK registration, voters' register verification or possible challenges on the candidates' lists. The law prescribes campaign regulations aiming at ensuring equality of opportunity of contestants and the impartiality of public administration during the campaign. The official campaign period shortened to 10 days, did not ensure a level playing field amongst contestants.

Important aspects of the process such as registration and operation of political parties, rules on electoral campaign, the procedures at the CRC, rules for recounting and annulments are regulated by secondary legislation, i.e. CEC Regulations,<sup>7</sup> which makes the process vulnerable to last-minute amendments or clarifications and does not ensure legal certainty.<sup>8</sup> Further, the deadlines for challenging various CEC decisions, the procedure on challenging election results particularly related to deadlines for filing and adjudicating such complaints and appeals as well as for ordering repolling are not clear and only vaguely addressed in the LGE and often even in conflict with the ECAP rules of procedure or the CEC regulations.<sup>9</sup> These, combined further with the lack of clarity in the LGE over how candidate eligibility to stand for non-majority political entities can be assessed,<sup>10</sup> and the very general provisions on non-majority communities' representation on the election management bodies compromise legal certainty.<sup>11</sup> The LGE leaves the authorities with wide discretionary powers to interpret its provisions, which does not prevent inconsistent or arbitrary implementation.<sup>12</sup> On a different note, the legal framework is discriminatory in denying citizens the right to vote and candidate eligibility based on mental incapacity, at odds with the CRPD.<sup>13</sup>

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<sup>7</sup> Addressed in CEC Regulations No.6/2013, No.11/2013, No.13/2013.

<sup>8</sup> CEC Regulation 13/2013 on Electoral Campaign and Notice for Political Events was amended on 26 September during the campaign period by CEC Regulation 20/2019.

<sup>9</sup> Namely, deadlines on challenging candidate lists or on candidates' withdrawal, deadlines on adjudicating appeals to CEC decisions etc. Indicatively, challenges to candidate certification as addressed in article 122.1(b) and 26.6, LGE, articles 10.4 and 10.5 of Rule No. 02/2015, ECAP Rules of Procedure and article 6.8 of CEC Regulation No.08/2013.

<sup>10</sup> 15.11, LGE "Each Political Entity shall indicate in its application whether it wishes to contest any of the seats guaranteed for the representation of Kosovo Serb and other non-majority communities under Article 64 of the Constitution."

<sup>11</sup> The issue is generally addressed by article 67.1(b), LGE "one member appointed by Political Entities that have passed election threshold in national elections, it they are subject of election threshold" and article 67.3, LGE "The CEC shall endeavour to ensure that all ethnic communities with significant numbers in respective municipalities are fairly represented in the membership of MECs." and similarly repeated in Article 3, CEC Regulation No.18/2016 "The Commission should attempt to ensure fair representation of the MEC for all communities, with the number of distinct populations within a municipality".

<sup>12</sup> Ref. section of Electoral Dispute Resolution.

<sup>13</sup> Article 45.1, Constitution and article 5.1(e), LGE. The treaty committee for the CRPD has stated that under articles 12 and 29 mental incapacity should not serve as a basis for the deprivation of the right to vote and to be elected under any circumstances (CRPD GC 1, para. 48).

*Recommendation: Essential aspects of the process currently set in CEC regulations, e.g. operation at the Count and Results Centre, rules for recounting and annulment of results to be included in primary legislation.*

In addition, there are insufficient legal safeguards against the misuse of public resources as well as financial reporting. Campaign rules related to notice for and organising of campaign events, electoral posting and the neutral and impartial involvement of public officials and civil servants in electoral campaigns are not sufficiently developed in the LGE.<sup>14</sup> The LGE neither includes adequate safeguards against illegitimate use of administrative resources, i.e. such as a prohibition of the misuse of administrative resources in a clear and predictable manner nor prescribes an exhaustive list of possible such electoral violations and respective sanctions.<sup>15</sup> Overall, these legal shortcomings do not ensure the transparency and integrity of all stages of the electoral process.<sup>16</sup>

*Recommendation: The campaign period for early elections to be extended to 30 days. Campaign rules related to notice for and organising of political events, rules for electoral posting and rules for the involvement of elected officials in electoral campaign to be more developed in the LGE.*

Kosovo is a single electoral district with a multi-party proportional representation system with preferential voting for up to five candidates.<sup>17</sup> The 120 deputies of the Assembly are elected by secret ballot for a four-year term. One hundred seats in the Assembly are distributed amongst all parties, coalitions, citizens' initiatives and independent candidates in proportion to the number of valid votes received.

A minimum of 20 seats are guaranteed for non-majority communities (ten for the Serb community, three for the Bosniak, two for the Turkish, one for the Roma, one for the Ashkali, one for the

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<sup>14</sup> Article 35, LGE "Prohibited Actions by Public Employees".

<sup>15</sup> Para.110. "The objective of laws providing measures tackling the misuse of administrative resources is in principle to secure a free and equal vote....". Venice Commission Report on the Misuse of Administrative Resources during Electoral Processes adopted by the Council for Democratic Elections at its 46th meeting (Venice, 5 December 2013) and by the Venice Commission at its 97th plenary session (Venice, 6-7 December 2013).

Para.A.1.1. "The legal framework should provide for a general prohibition of the misuse of administrative resources during electoral processes. The prohibition has to be established in a clear and predictable manner. Sanctions for misuse of administrative resources have to be provided for and implemented. Such sanctions need to be enforceable, proportionate and dissuasive". A.4.2. In this respect, the legal framework should provide for a range of adequate and proportionate rules. Such rules may include a clear instruction on how and when campaigning in a personal capacity may be conducted, suspension from office or resignation of certain public authorities running for elections. B.1.1. The legal framework should provide effective mechanisms for prohibiting public authorities from taking unfair advantage of their positions by holding official public events for electoral campaigning purposes. B.1.4. The legal framework should stipulate that there should be no non-essential appointments to public bodies during the electoral campaign." Joint guidelines for preventing and responding to the misuse of administrative resources during electoral processes adopted by the Council of Democratic Elections at its 54th meeting (Venice, 10 March 2016) and by the Venice Commission at its 106th Plenary Session (Venice, 11-12 March 2016).

<sup>16</sup> On this matter refer also to Sections "Campaign Environment" and "Campaign finance".

<sup>17</sup> Voters mark their choice for a political entity and can also mark preferences for up to five candidates from the chosen political entity. If a ballot is marked for more than five candidates, the preferences are invalidated and only the vote for the political entity is counted.

Egyptian, one for the Gorani and one additional seat for the Roma, Ashkali or Egyptian with the highest overall votes).<sup>18</sup> The political entities representing the Albanian majority community must pass a threshold of five per cent of the total valid votes. Among the seats allocated to a political entity, each gender is required to have at least 30 per cent of the total number of seats won by the political entity. If this is not achieved, after initial allocation of seats, the candidate list is reordered until the total number of seats allocated to the minority gender reaches 30 per cent.<sup>19</sup>

The Constitution and the LGE allow the President of Kosovo to call early elections for the Assembly when it has been dissolved. Early elections may not be held earlier than 30 days or later than 45 days after the dissolution of the Assembly.<sup>20</sup> A Presidential decree of 26 August announced 6 October as the date of the 2019 early legislative elections, the latest possible date to hold early elections. Although this allowed for more time than in the 2017 elections, this timeframe is too short for ensuring proper electoral preparations and equal opportunities for political entities and candidates.

*Recommendation: Early elections to be called with a minimum two months' notice to allow sufficient time for proper electoral preparations and the electoral campaign.*

## VII. CANDIDATE REGISTRATION

### Open and inclusive candidate certification process

The Constitution guarantees freedom of association, as well as the right of every citizen who has reached the age of 18 to be elected. The enabling legislation does not contain any unreasonable restrictions on the certification of political entities or candidate eligibility.

In order to participate in elections, potential candidates have to be certified by the CEC as political entities.<sup>21</sup> A political entity can be a political party, a coalition of political parties, a citizens' initiative or an independent candidate. Registered political parties are certified automatically. Each certified political entity has to submit to the CEC a candidate list for certification.

All 25 political entities – four coalitions of political parties, 20 political parties and one independent candidate – that applied for certification to participate in the 2019 early legislative elections were certified. Subsequently, the CEC also certified the 25 candidate lists with 1,067 candidates

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<sup>18</sup> The system guarantees that those 20 seats will always be allocated to political entities representing those non-majority communities, independently of their actual performance, but in addition they may be allocated extra seats depending on their share of the vote.

<sup>19</sup> Provided that the list contains over two candidates (art.111.6 as amended, LGE).

<sup>20</sup> Article 66.2, Constitution; article 4.5, LGE.

<sup>21</sup> Apart from various administrative requirements, a political entity shall pay a certification fee of 2,000 EUR and submit 1,000 signatures in support of its application for certification. A political party that gained at least one seat in the last Kosovo Assembly elections is not required to pay the certification fee or to submit signatures.

including 724 men and 343 women.<sup>22</sup> All candidate lists with more than two candidates complied with the mandatory 30 per cent gender quota.<sup>23</sup> The certification process was concluded on 10 September as foreseen in the approved electoral calendar. Overall the process was inclusive, without any significant controversies.

## VIII. ELECTION ADMINISTRATION

### Transparent election management body and technically well-prepared elections

The elections were administered by a three-tier election management body, consisting of the CEC, 38 Municipal Election Commissions (MECs) and 2,547 Polling Station Committees (PSCs). The existing CEC, MEC and PSC appointment mechanism provides for meaningful involvement of relevant political entities in Kosovo including the non-majority political entities. The CEC was composed of ten members with one seat being vacant. Apart from a non-partisan chairperson, there were two appointees of VV and LDK, and one from PDK, Srpska Lista, Vakaf coalition (Bosniak), KDTP (Turkish) and PREBK (Roma, representing also Ashkali, and Egyptian communities). AAK, the second largest party of the defunct PAN coalition, was not represented in the CEC, as the President did not confirm the appointment of the second CEC member from this coalition.<sup>24</sup> AAK, however, was represented at MEC and PSC level.

The CEC and MECs operated in a transparent and professional manner. The CEC meetings where decisions were taken were open to the public and the decisions were generally published on the CEC website, although at times publication was delayed, some decisions were missing, and they were not always published in both official languages. The decisions were usually taken in a consensual manner, however, in several cases consensus was not reached, and simple majority voting had to be applied. These included deciding on the composition of MECs, distribution of PSC chairpersons' positions and on permissible ID documents for voter verification on election day.<sup>25</sup>

In several instances the CEC deliberately avoided responsibility to take decisions and let the CEC Secretariat to decide on some important and politically sensitive aspects of the process, such as acceptance of the OoK postal ballots from Serbia, acceptance of the OoK postal ballots that arrived after the legal deadline of 5 October, and acceptance of the OoK postal ballots that arrived after 11 October and which were not explicitly mentioned in the Supreme Court decision ordering the CEC to process and count all received postal ballots providing they were mailed before the legal deadline.

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<sup>22</sup> After the candidate certification deadline, the CEC based on the ECAP rulings de-certified five candidates and certified two new candidates to maintain the required minimum gender quota.

<sup>23</sup> The law requires that each candidate list shall comprise at least 30% certified candidates of the other gender.

<sup>24</sup> PAN coalition consisting of PDK, AAK and Nisma, was entitled to appoint two members of the CEC. The President confirmed appointment of the PDK member, however, he did not confirm either of the two appointees proposed by AAK and Nisma respectively.

<sup>25</sup> The CEC approved a "compromise" proposal on composition of 38 MECs allowing all three members of PAN coalition (i.e. PDK, AAK and Nisma) to nominate their own representatives, although by law the whole coalition was supposed to nominate only one representative.

There is a lack of clarity in the law on what are the required ID documents for proving voters' identity on election day. The CEC clarified this issue on 9 September by adopting an administrative instruction according to which only Kosovo-issued ID documents, i.e. ID card, passport and driving licence can be accepted. This decision was opposed and unsuccessfully appealed by Srpska Lista. In principle, all voters whose names appeared on the voter list must previously registered in the Kosovo civil register, which serves as the basis for the voter list. However, while being eligible, not all of these registered voters necessarily possessed on election day a valid Kosovo-issued ID document.<sup>26</sup> The CEC approved the instruction 26 days before election day, thus providing reasonable time frame for those without valid ID card to acquire a new one.<sup>27</sup> The EU EOM observers did not receive any tangible evidence of people being unable to obtain a new ID card ahead of elections.

The data provided by the Civil Registration Agency (CRA) on the total number of valid Kosovo ID cards issued, indicated that in the final voter list there were around 246,000 registered voters without a valid Kosovo ID card<sup>28</sup> including 137,000 persons with expired United Nations Mission in Kosovo (UNMIK)-issued ID cards. This group could include several categories of voters, such as deceased persons, persons who abused relaxed registration requirements in the early years of the civil registration and never applied for a new ID card<sup>29</sup>, persons living permanently abroad who do not intend to renew their expired ID cards, persons who for various reasons refuse to apply for new Kosovo-issued ID cards etc.

Sufficient financial resources – 5.7 million EUR – were allocated to the CEC from the Kosovo budget shortly after elections were announced. Despite a short time frame of 41 days, all electoral preparations were completed on time and elections were technically well prepared. Notable exception, however, were misprinted polling station result and reconciliation forms (RRFs). Due to a lack of quality control, the CEC Secretariat failed to detect this printing error ahead of election day and as a result more than 450 RRFs were filled in incorrectly and the respective polling stations had to be recounted, delaying the results tabulation process. Overall, the CEC benefitted from its previous experience, having organised four Kosovo-wide elections between 2013 and 2017 with two of them being early legislative elections.

Training of more than 17,000 polling staff at the municipal level was assessed by the EU EOM observers as generally well conducted, however audit of RRFs and candidate reconciliation forms (CRFs) at the Count and Results Centre (CRC) detected that one in three polling stations had problems with result forms and had to be recounted. This is a recurring problem of Kosovo elections. It appears that training alone is not sufficient to address this issue, and some systemic solution might be needed.

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<sup>26</sup> The majority of these registered voters were likely to be Kosovo Albanians. Srpska Lista estimated that there were around 5,600 Kosovo Serb voters lacking a Kosovo ID card. Almost all of them reportedly lived in the four northern municipalities.

<sup>27</sup> A new ID card should be issued within 15 days from the submission of application and the fee is 10 EUR. It can be issued also in 72 hours, however the fee for such service is 60 EUR.

<sup>28</sup> Difference between the total number of registered voters in the final voter list for both in and out-of-Kosovo voting (1.97 million) and the total number of valid Kosovo ID cards issued as of 31 August 2019 (1.73 million.).

<sup>29</sup> In the initial phase of the civil registration by UNMIK, people could be registered in the civil registry even without any documents, providing that their identity was confirmed by other two persons with valid ID cards.

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*Recommendation: To consider introducing a non-partisan position of the PSC member/secretary to provide necessary advisory and clerical support to the PSC chairperson.*

In spite of a high number of invalid votes in the previous elections, voter education did not appear to be a priority for the CEC. The voter education was limited to broadcasting of the CEC spots in electronic and social media and some last moment voter education activities by mobile teams in the urban centres of municipalities. The EU EOM observers assessed the voter education as inadequate.

*Recommendation: To improve the design of the ballot paper for legislative elections to make it easier for voters' understanding and substantially enhance voter education well in advance of any elections, focusing on areas with traditionally high number of invalid votes.*

There were four types of voting allowed in these elections: regular voting in the assigned polling station; conditional voting for those who were not found on the final voter list at the polling centre but presented a permissible ID document; special needs conditional voting through mobile ballot box for homebound, hospitalised, detained and imprisoned voters; and Out-of-Kosovo (OoK) conditional postal voting for eligible voters who are temporarily residing outside Kosovo.<sup>30</sup> Regular votes were counted at the polling stations immediately after the close of the polls. All other votes – conditional, special needs and OoK postal votes – were counted centrally at the CRC.

### **Out-of-Kosovo postal voting**

There is a lack of safeguards against impersonation in the Out-of-Kosovo (OoK) postal voting system and some stakeholders expressed concerns about the credibility of the process. The voters could apply electronically attaching only a scan of the personal ID document and ballot papers did not have to be mailed to the voters' addresses abroad as they could be downloaded and printed from the CEC website.

OoK voter registration and voting was negatively affected by the compressed time frame and higher than expected number of applicants.<sup>31</sup> The voters had only 12 days to apply for registration in the OoK voter list and the CEC was unable to review all 40,313 applications in a timely manner. Therefore, unlike the regular voter list, the OoK voter list was unavailable for public scrutiny during the extremely short confirmation and challenge period on 12-14 September. The OoK final voter list with 35,087 voters<sup>32</sup> was compiled only on 18 September and subsequently certified by the CEC. OoK voting started on 19 September, one day later than originally foreseen, after the approved ballot paper and booklet with candidate lists were published on the CEC website. Germany, Switzerland and Serbia accounted for more than 70 per cent of both registered and rejected OoK applicants.

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<sup>30</sup> There is no OoK voting possible at the Kosovo missions abroad.

<sup>31</sup> The number of applicants for OoK voting increased from 20,354 in 2017 to 40,313 in 2019 early legislative elections.

<sup>32</sup> Following the decision of ECAP on submitted complaints, another seven voters were added to the OoK voter list. Altogether OoK voters represented 1.8 per cent of all registered voters.

All conditional postal ballots had to arrive at the designated post office in Pristina before midnight of 5 October, i.e. within 17 days from the first day of voting. By this deadline the CEC received 15,794 mail items with postal ballots. Another 6,445 mail items that arrived after the deadline were initially rejected, but later on processed following the Supreme Court decisions as they had been posted before the deadline.<sup>33</sup> After the election day, the CEC started verification of received postal ballots to ascertain whether they were sent by eligible registered OoK voters. The observers had access to follow the verification process. The EU EOM observers visited the postal ballot verification premises at the Ministry of Infrastructure<sup>34</sup> several times and there were no complaints reported regarding the verification process.

On 11 October the verification process was suspended after the staff started to process packages received from Serbia. Altogether there were 19 identical packages from Serbia containing 3,782 personalised envelopes which were also all identical, suggesting undue involvement of Serbian authorities in the OoK process. The packages contained between 157 and 238 envelopes. In order to verify them, 150 envelopes were opened and inside them there were identical purple secrecy envelopes. The packages were physically brought to the post office by the Serbian liaison officer rather than sent by international mail, as currently there is no agreement between Belgrade and Pristina on direct mail exchange. This issue was brought to the attention of the CEC meeting held on 12 October, however, the CEC decided not to take any official decision in this regard.

Around 11 a.m. on 13 October, the premises at the Ministry of Infrastructure where verification of postal ballots was taking place were evacuated and sealed off by the Kosovo Police after reportedly some of the 26 CEC staff complained of allergic reactions from handling the envelopes received from Serbia. According to the police reports, nine persons were admitted to the hospital for treatment.<sup>35</sup> The incident was investigated by the Prosecution Office and Kosovo Police, however, by 27 November the investigation was not concluded and authorities did not provide any official information about the status of the investigation in terms of timing of results or the examination of evidence.

During the closed meeting held in the evening of 13 October, the CEC decided to move all OoK voting material<sup>36</sup> to the CRC. The material was physically moved to the CRC and the counting of 13,491 approved OoK votes conducted on 16 October in the presence of political entity and civil society observers. Based on the decision of the CEC Secretariat, 3,782 disputed envelopes with postal ballots from Serbia were eventually processed on 23 October and on the same day the count of 2,924 verified votes was completed. It should be noted that prior to processing these envelopes Kosovo authorities failed to publish any official information about the cause of the CEC staff health problems or potential health risk associated with handling of these envelopes.<sup>37</sup>

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<sup>33</sup> The LGE stipulates that OoK postal ballots should be received by the CEC prior to election day.

<sup>34</sup> The verification of postal ballots is traditionally organised outside the CRC, usually at the same premises where packages with postal ballots were stored before election day. This time, between 6 October and 1 November, the verification process was conducted at the premises in the Ministry of Infrastructure.

<sup>35</sup> According to the media reports all hospitalised CEC staff were released from the hospital after several days.

<sup>36</sup> Except for the material which was needed for further police investigation.

<sup>37</sup> Based on police instruction, the CEC staff, while processing and verifying postal ballots from Serbia, wore full-body protective clothing, gloves and breathing masks.

Following the two Supreme Court decisions, 6,445 mail items that arrived after the legal deadline were processed and 6,709 verified OoK postal ballots were counted between 31 October and 5 November. Overall, there were 23,345 OoK postal votes initially included in the results, representing 2.7 per cent of all votes cast. Out of 35,087 registered OoK voters 67 per cent participated in the elections.

*Recommendation: To consider introducing longer timeframes, in case of early elections, and additional safeguards in order to improve the inclusiveness and integrity of the Out-of-Kosovo voting process. The safeguards could include application only in writing and signed by the applicant, voting only by ballot paper mailed to the voter's postal address abroad, or postal ballot to be accompanied by the signed affirmation from the voter that the ballot was cast in secret and only by the voter.*

## IX. VOTER REGISTRATION

### **There is a lack of trust in the accuracy and credibility of the voter register**

The Constitution guarantees the right to vote to every citizen who has reached the age of 18 years. The enabling legislation makes voter eligibility even more inclusive, granting the right to vote also to non-citizens, who would be eligible to be citizens of Kosovo.

Kosovo has a passive voter registration system whereby the preliminary and final voter lists are compiled by the CEC based on the extracted records provided by the Civil Registration Agency (CRA) of the Ministry of Internal Affairs. The final voter list was certified by the CEC on 19 September and it included 1,937,868 voters. This figure did not include 35,087 voters who registered for OoK voting. Each voter can be identified by a unique 10-digit personal number assigned by the CRA.

The accuracy and credibility of the voter list is a long-lasting problem of Kosovo elections. Kosovo has more registered voters (1.973 million) than estimated resident population (1.796 million as of 31 December 2018). This anomaly is partially explained by the fact that the vast majority of Kosovo diaspora were excluded from the 2011 census due to the existing legal definition of resident population although they remain lawfully registered in the civil register which serves as a basis for the voter list.<sup>38</sup> However, in the absence of any credible data on diaspora population, it is not possible to assess whether this explanation is justified.

Furthermore, the voter list included many deceased persons as there is no effective system in place for their systematic removal from the list. The analysis of the final voter list made by the EU EOM<sup>39</sup> showed implausibly high number of registered voters above the age of 100 (centenarians) – 3,731,

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<sup>38</sup> Persons who have been temporarily absent from their place of usual residence for a period of less than twelve months for reasons such as work, study, travel, medical treatment or education should be included in the census and in the resident population.

<sup>39</sup> As provided in the law, the EU EOM received from the CEC the final voter register in electronic format.

with the oldest one being 134 years old. Based on the voter list data Kosovo has 1,269 centenarians per one million people, i.e. 4.7 times more than is the average value for top ten countries in the world with the highest number of centenarians per one million people.<sup>40</sup>

The main reason for this unfavourable situation appears to be the fact that the burden of administrative action rests primarily with the family of a deceased person, who often has no incentive to report the death to Kosovo authorities. During the very short confirmation and challenge period on 12-14 September, when preliminary voter list was available for public scrutiny at the MEC offices, voters could also challenge inclusion of any deceased person in the list, but this procedure is practically not being used. The CRA has reportedly in 2016 started a cooperation with some religious authorities in improving the death reporting system, however a more systemic solution is needed to resolve this problem.

*Recommendation: To improve the accuracy of the voter list by, inter alia, introducing a mechanism for systematic removal of deceased persons from the civil register and subsequently from the voter list.*

The number of registered voters is continuously growing between elections as the number of new voters who turned 18 and the number of newly registered citizens always outnumber the total number of voters removed from the voter list due to death or renounced citizenship. Between 2017 and 2019 early legislative elections, the number of registered voters increased by approximately 65,000.

A high number of diasporas residing permanently abroad and deceased voters on the voter list makes the voting process in every elections vulnerable to potential abuse. This risk is somewhat mitigated by the existing safeguards in the system, such as the cross-party composition of the polling station committees and presence of political entity and civil society observers in the polling stations.<sup>41</sup>

As per the rules of the CEC, the voter list is required to be cleaned from voters who are deprived of their legal capacity by a final decision of the courts. This requires Kosovo Judicial Council to communicate to the CEC the identity of these persons. Out of 297 persons, however, only 112 could be identified because of a lack of personal identification number.

## **X. CAMPAIGN ENVIRONMENT**

*A competitive campaign in most of Kosovo, though with misuse of incumbent advantage; there was a fundamental lack of competition in the Kosovo Serb community*

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<sup>40</sup> Data source: United Nations, DESA Population Division, Population by age and sex (thousands), 2015, both sexes combined, desired age group: 100+, <https://population.un.org/wpp/DataQuery/> The estimated resident plus diaspora population of Kosovo is 2.94 million.

<sup>41</sup> The number of observers from a single political entity or civil society observer organisation that may be present at the same time in a polling station may not exceed two.

Campaign freedoms were respected in a vibrant and competitive campaign in most of Kosovo. An intensive series of rallies were held by all the main Kosovo Albanian political entities during the official campaign period. There were no cases of tension or inflammatory language at the almost fifty rallies observed by the EU EOM. However, some political parties reported difficulties in finding public space for placing posters. Two municipalities were assessed as having failed to provide approved locations and equal space for parties' posters as required, which benefitted larger parties with the ability to pay for posters on private property.<sup>42</sup>

Some significant financial penalties imposed by the Election Complaints and Appeals Panel (ECAP) affected freedom of expression and appeared disproportionate and unwarranted. These concerned candidates being fined for posting photographs of themselves on their Facebook pages meeting police officers to illustrate campaign pledges about law and order. Also, the CEC adopted an amended regulation during the official campaign period which tightened restrictions on the use of children in campaigns and appeared to be drafted with considerable ambiguities. The prime ministerial candidate of LDK who introduced her children to a rally while they were wearing LDK badges was sanctioned, despite clearly having provided consent on her children's behalf.<sup>43</sup> Of most significance though, was the fine of EUR 30,000 against Srpska Lista for what ECAP adjudicated using a broad interpretation, as "hate speech" for an advert entitled "*When Serbia calls*".<sup>44</sup>

*Recommendation: Any limitation of freedom of expression must be prescribed by law, be necessary in a democratic society and aimed at certain enumerated objectives, one of which could be the prevention of disorder or crime. Any limitation must apply equally to all cases meeting the set conditions.*

The key themes of the campaign were allegations of corruption and nepotism, and the future relations between Kosovo and Serbia. The largest parties concentrated their campaigns on their prime ministerial candidates, with few substantive manifestos published. This focus on personalities rather than policies, limited the voters' ability to make informed choices about potential government programmes.

The official campaign period was limited by the CEC to 10 days compared to 30 days for regular elections, resulting in different understandings by stakeholders of what was permitted for the duration of the pre-campaign period. Some of the larger parties started campaigning several weeks

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<sup>42</sup> This was noted by EU observers in the municipalities of Gillogoc/Glogovac and Ferizaj/Uroševac. No official complaints were made by parties though. Article 3.3 of Election Regulation 13/2013 states: "*Municipal authorities should designate specific locations for exposure of printed election material... Such places should be ... the most frequently used and most visible in the municipality.*"

<sup>43</sup> As required by the provisions of the newly adopted CEC Regulation No.20/2019.

<sup>44</sup> The panel in its reasoning deemed that the video which stated "*When it's difficult, only together we win, in protection of what is ours*" and "*When Serbia calls, I cast my vote*" amounted to a message that incited hatred against the existence of Kosovo.

before the official start of the campaign giving them a first-mover advantage.<sup>45</sup> Due to this ambiguity, the beneficial equalising effects of regulating the campaign were reduced.

Central and local government resources were in some cases misused in attempts to gain political advantage. For instance, the outgoing Minister of Innovation and Entrepreneurship from PDK launched a EUR 4 million fund for support of small and medium sized enterprises of up to EUR 100,000, with vague selection criteria and the deadline for applications being the day after the election. The Minister of Agriculture from SLS promoted a EUR 3 million subsidy for farmers on her personal Facebook account with party flag prominently displayed on the video. The public-enterprise electricity and mining companies announced large numbers of new job opportunities just before the elections.<sup>46</sup> Some municipalities promoted their local infrastructure projects to gain support for their Assembly candidates.<sup>47</sup> Further, public sector job promotions, extensions of temporary contracts, or new positions were allegedly offered in the expectation of support from employees and their families. These are not in compliance with international best practice,<sup>48</sup> nor the Kosovo Code of Conduct for Political Entities.<sup>49</sup>

*Recommendation: The legal framework to specifically provide for a general prohibition on the misuse of administrative resources for political advantage by central government and municipal authorities during electoral processes. The prohibition to be established in a clear and predictable manner.*

### **Campaign environment in Kosovo Serb majority areas**

There was a lack of competition in the Kosovo Serb majority areas. Srpska Lista was emphatically supported by the government of Serbia which sought to delegitimise other Kosovo Serb parties. Opposition parties experienced challenges in conducting an effective campaign in all Kosovo Serb

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<sup>45</sup> These campaign events were sometimes billed as “party meetings” but had the characteristics of campaigns. For instance, the prime minister’s event in Pejë/Peć on 17 September in which youths were asked to sign a pledge of 100% support of Kosovo, which echoed the AAK-PSD campaign slogan.

<sup>46</sup> Media reported that KEK, the electricity company, announced 133 jobs and Trepca mine 230 jobs.

<sup>47</sup> For instance, the Facebook of the municipality of Ferizaj/Uroševac posted on 3 October that the mayor had met with the minister of health and signed a contract for a new hospital. Both the minister and the mayor are PDK. On the same day, 30 farmers were given agricultural equipment with promises that “*support for farmers will continue to be applied with even greater intensity in the coming days and weeks.*” The mayor of Pristina, who was a PSD candidate for the Assembly, promoted infrastructure renovations on the official municipal Facebook page on 2 October. The Facebook account of the municipality of Malishevë/Malishevo on 3 October promoted the breaking ground ceremony of a school hosted by the mayor in the presence of Assembly candidates and the Deputy Minister of Education, all of whom represent Nisma.

<sup>48</sup> Venice Commission, Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes (2016) Chapter B, Article 1.4 “*The legal framework should stipulate that there should be no non-essential appointments to public bodies during the electoral campaign.*”

<sup>49</sup> Election Regulation no. 11/2013 Code of Conduct for Political Entities Article 6.2 “*No political entity shall, during the course of an electoral campaign period, encourage or take advantage of a public employee using his or her public position to campaign for a political entity.*”

majority municipalities, in part due to a lack of funds and in part due to alleged intimidation.<sup>50</sup> SLS, the largest opposition party, did not campaign in the four Serb majority municipalities in northern Kosovo, PKS had a limited campaign mostly in Leposavić/Leposaviq, while Sloboda's limited campaign was mostly in Gračanica/Graçanicë and online. The EU EOM observers noted that PKS and Sloboda did not hold rallies. Srpska Lista, on the other hand, held several rallies, both in the northern and the southern Serb-majority municipalities. Of the four Srpska Lista rallies observed, there was inflammatory language in three. There were also reports of Serbian officials being denied entry to Kosovo during the campaign period.

Kosovo Serb opposition parties had difficulties in conveying their messages to the electorate which went beyond their lack of resources. Nine out of ten Kosovo Serb-majority municipalities were assessed by long-term observers as not providing adequate space to all parties for placing posters. In many areas, there were only Srpska Lista posters.<sup>51</sup> The Kosovo Serb community mostly relies for its news on media from Serbia rather than Kosovo. Kosovo Serb opposition parties claimed to lack equal access to Serbian media and presented evidence that they were denounced by media and by Serbian government representatives.

There were multiple documented cases of opposition candidates' family members, and voters in general, facing threats of dismissals or suspensions from government of Serbia funded or municipal positions.<sup>52</sup> There were though few reports of physical intimidation.<sup>53</sup> Fundamental freedoms of choice and expression in the Kosovo Serb community were neither sufficiently respected by the leading party, nor fully protected by authorities and institutions.

*Recommendation: Fundamental democratic rights could be more vigorously and promptly protected by authorities throughout Kosovo to ensure that all candidates, their families, campaigners and supporters as well as voters, to participate freely in all aspects of democratic life are fully enforced. Citizens could have more information on how to complain to the appropriate authorities about allegations of electoral intimidation.*

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<sup>50</sup> In the extraordinary mayoral elections in the four Serb majority municipalities in northern Kosovo held in May 2019, of the Kosovo Serb parties, only Srpska Lista took part. The Serb opposition parties claimed that the conditions for a fair election did not exist given the consequences of the assassination of the opposition leader Oliver Ivanović in January 2018 and the support from the Serbian government and media of Srpska Lista.

<sup>51</sup> Although there were some instances of defacing Srpska Lista posters, the destruction of PKS posters and billboards in Leposavić/Leposaviq appeared to be systematic.

<sup>52</sup> Documents were received by the mission which indicated that an SLS candidate, a member of the SLS board, a relative of an SLS board member, and the mothers of two SLS candidates were suspended or dismissed from their Belgrade or municipal funded jobs. Additionally, a family member of the same board member of SLS was given notice of eviction from social housing. On the other hand, two employees of the Kosovo postal service claimed to have been sacked for their support of Srpska Lista. The governments of Kosovo and of Serbia separately fund municipal and public sector positions in the Kosovo-Serb majority areas, but political control in both cases is devolved to local politicians which are dominated by Srpska Lista elected representatives.

<sup>53</sup> There was a confrontation between Srpska Lista and PKS in Leposavić/Leposaviq on 4 October to which police were called. A prominent SLS councilor was allegedly abducted and threatened in Klokot/Klllokot on 2 October. The Srpska Lista chairman of the local municipal assembly and his deputy were subsequently indicted in connection with the alleged incident.

## Campaign environment in other non-majority communities

The Constitution guarantees seats to communities in proportion to their population. This establishes a framework in which many voters choose to elect representatives from their own community. While this diminishes electoral competition between communities, it can heighten local rivalries, which was a feature of this campaign. Door to door, online and social media campaigning was the main method of informing voters of parties' policies, which generally focused on economic development for their communities.

More than 120 candidates from three political entities and an independent candidate ran for three guaranteed seats for the Bosniak community which is concentrated mostly in Prizren.<sup>54</sup> The Gorani community, had a fiercely fought campaign between three parties in which there were allegations of similar, if less severe, practises as affected the Kosovo Serb community.<sup>55</sup> There was some degree of tension between the Bosniak and Gorani communities' parties during the campaign with the largest Bosniak party accusing the leader of the largest Gorani party of hate speech.<sup>56</sup> In both of these communities a significant long-term policy debate, repeated in this campaign, was for the creation of municipal status for the Bosniak and Gorani communities. Each of the Roma, Ashkali and Egyptian communities had two parties competing in this election.<sup>57</sup> These campaigns were characterised by both inter- and intra-community rivalry, with competition between Egyptian parties in Pejë/Peć particularly tense. Only one Turkish party took part in the election, but with 30 candidates for two guaranteed seats, voters were ensured some degree of choice.<sup>58</sup>

## XI. CAMPAIGN FINANCE

### *Parties' income and expenditure lack transparency, in an inadequate regulatory framework*

Party and campaign finances are regulated by the 2010 Law on Financing Political Entities (LFPP), the 2008 Law on General Elections (LGE) as well as CEC Regulations.<sup>59</sup> In January 2019, the Assembly failed to adopt a new draft law on political finances, which had been assessed as "an important step in the right direction".<sup>60</sup> The current legal framework prescribes limits on donations and expenditures, reporting and disclosure requirements, oversight and sanctions for irregularities.

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<sup>54</sup> Vakaf Coalition, New Democratic Party (NDS), Party of Democratic Action (SDA) and Esmir Kasi.

<sup>55</sup> United Gora Party (JGP), Civic Initiative of Gora (GIG), Movement for Gora (PG).

<sup>56</sup> ECAP adjudicated that the complaint by Vakaf Coalition against JGP was ungrounded – but the incident clearly illustrated tension between the parties.

<sup>57</sup> United Roma Party of Kosovo (PREBK), Kosovo New Romani Party (KNRP) for the Roma, Ashkali Party for Integration (PAI), Democratic Ashkali Party of Kosovo (PDAK) for the Ashkali, Egyptian Liberal Party (PLE), New Democratic Initiative for Kosovo (IRDK) for the Egyptian community.

<sup>58</sup> Turkish Democratic Party of Kosovo (KDTP).

<sup>59</sup> CEC Regulations No. 12/2013 on Campaign Spending Limit and Financial Disclosure and No. 14/2015 on Financing Political Entities and Sanctions.

<sup>60</sup> See [the Venice Commission Opinion 922/2018 on the Draft Law on Amending and Supplementing the Law No.03/L-174 on the Financing of Political Entities](#). This draft law passed its first reading in the Assembly, but it was drastically amended and eventually withdrawn.

However, it contains several shortcomings, gaps, inconsistencies and ambiguities. Overall, the regulatory framework does not ensure complete reporting, timely disclosure, meaningful oversight and accountability for irregularities.<sup>61</sup> Many EU EOM interlocutors raised concerns about intertwined political and financial interests that render ruling parties accountable to wealthy interests and result in misuse of the budget for public procurement.

## Incomes and Expenditures

Political entities represented in the Assembly receive public funding, allocated annually, proportionally to the number of their seats.<sup>62</sup> The law provides for additional public funding for elections, of which 10 per cent to be allocated to political entities without representatives in the outgoing Assembly. However, it is not mandatory, and it was not allocated by the Assembly for these or any previous elections.

All political entities may also be financed from their activities as non-profitable legal entities, party membership fees and private donations. An individual may donate to a single political entity up to EUR 2,000 annually whereas a legal entity may donate up to EUR 10,000. Notwithstanding, there is no mechanism for identifying whether the aggregate amount of donations by a single donor have exceeded the permissible limit. Donations may be monetary or in-kind, namely goods or services for free or below the market value, but there is no methodology for evaluation of in-kind donations. EU EOM interlocutors, including candidates, civil society and authorities, informed the mission that donations are often made in cash and in-kind.

There are also bans on certain sources of donations, including foreign and anonymous sources, non-governmental, charitable and religious organisations, public enterprises and private companies with public procurement contracts. Political entities are required to return prohibited donations to the donors and deposit anonymous donations in the Kosovo budget. They must also notify the CEC within 15 days.<sup>63</sup> However, there is no mechanism for verifying compliance with this ban. The law also prohibits exercising pressure and promising privileges or illegitimate benefits to donors. While there is limited grassroots fundraising, many EU EOM interlocutors, including authorities, civil society and political entities, stated that ruling parties rely upon big corporate donors compensating them with public procurement contracts resulting in mutual enrichment.<sup>64</sup>

*Recommendation: An effective mechanism, to be introduced for verification of the legality of donations. Such mechanism could include information and communication technologies and should*

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<sup>61</sup> See [Recommendation \(2003\)4 of the Committee of Ministers of the Council of Europe](#), “On common rules against corruption in the funding of political parties and electoral campaigns”.

<sup>62</sup> In 2019, EUR 4.2 million were allocated to 13 political entities in four quarterly payments. Namely, EUR 1,365,000 to PAN (PDK, AAK, Nisma), EUR 1,120,000 to VV, EUR 1,015,000 to LAA (LDK and AKR), EUR 315,000 to Srpska Lista, EUR 70,000 to KDPT and Coalition Vakaf each and EUR 35,000 each to seven other non-majority parties.

<sup>63</sup> The CEC informed of one case of a donation returned to the donor in the past.

<sup>64</sup> Approximately 25% of the EUR 2 billion annual budget of Kosovo is allocated to public procurement. Interlocutors stated that, since the last elections, big companies often donated to multiple leading parties, unable to foresee the winner.

*enable cross-checking donors against a database for public procurement contractors and identifying multiple donations by a single donor.*

A political entity may spend up to EUR 0.5 per registered voter, which amounts to EUR 986,233 Kosovo-wide.<sup>65</sup> The law prescribes that all expenditures incurred for campaign purposes should be reported even if incurred prior to the call of elections. However, in an incorrect interpretation of the law, the CEC and several parties limited reporting only to the expenditures incurred during the 10 days of the official campaign, which significantly reduced transparency and accountability. EU EOM interlocutors noted that parties are reluctant to report all their incomes and expenditures, due to their questionable legality. There is no legal requirement for imprints with information on the number of copies, publisher and payer on print campaign materials, which does not ensure traceability of these expenditures.

*Recommendation: All print and digital campaign materials to be clearly labelled with information about the sponsoring organisation and prescribe sanctions for non-compliance and effective enforcement.*

## **Reporting and Disclosure**

Each political entity is required by law to receive all incomes and incur all expenditures by bank transfer through a single party bank account. Notwithstanding, a significant amount of campaign transactions bypassed the single bank account and were likely to remain unreported. Namely, many candidates informed that they individually received contributions, used their own funds and made payments. In addition, several EU EOM interlocutors stated that donations and payments made in cash or in-kind often remain unreported. There were also a few instances of third-party campaigning by organisations affiliated with political entities, which is not regulated by law.<sup>66</sup>

Political entities are required to submit campaign finance reports to the CEC only after election day within 45 days, which does not provide for transparency and oversight prior to election day. Whereas the law requires political entities to publish their financial reports on their websites, most parties fail to do so. For instance, PDK, AKR and the Party PDAK have not published any past reports whereas VV, Nisma and KDTP have published most of them and LDK some reports. VV has also published most audit reports. Most political entities do not have official websites and therefore cannot publish their reports as required by law. Political entities are required to publish their annual reports by July and their campaign finance reports within six months from election day, which does not ensure timely disclosure.<sup>67</sup> Whereas reports are submitted on a standardized CEC template, this does not require disaggregated information and is not published in an easily accessible manner.<sup>68</sup>

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<sup>65</sup> For the 2017 early legislative elections, LDK reported expenditures amounting to EUR 899,880, PDK-EUR 330,775, VV-EUR 304,226, Nisma-EUR 58,021, Srpska Lista-EUR 62,854, KDTP EUR-26,804 and AAK did not report. For the 2017 municipal elections, LDK reported EUR 878,225, PDK-EUR 266,252, VV-EUR 576,930, AAK-EUR 252,112, Nisma EUR 51,712, Srpska Lista EUR 67,050, KDTP EUR 32,647.

<sup>66</sup> Namely, there was sponsored (paid) digital third-party negative campaigning on a few Facebook accounts of unknown affiliation. The law stipulates that third parties may not donate to political entities.

<sup>67</sup> Political entities are required to keep them published for at least one year.

<sup>68</sup> Both the CEC and the parties publish scanned copies of the financial reports.

*Recommendation: The law to prescribe interim reporting of the incomes and expenditures of contestants during the campaign period as well as final reporting within 30 days from the election day. Reporting should include the finances of party-nominated candidates and entities campaigning for contestants (third parties). The law to prescribe a short deadline for the oversight authorities and the political entities to publish all financial reports in an easily accessible manner.*

## Oversight and Sanctions

The Committee for the Oversight of Public Finances of the Assembly (hereafter the Committee), is required to outsource the auditing of financial reports to external certified auditors. Many EU EOM interlocutors raised concerns about possible conflict of interest and lack of capacity of the Committee to perform its oversight role.<sup>69</sup> The law requires that the auditing be completed within 75 days from the submission of financial reports. However, in case of early elections, the auditors may be appointed only in the year following the elections and thus the auditing for these elections cannot be completed before June 2020.<sup>70</sup> Many EU EOM interlocutors raised concerns about the effectiveness of such late auditing. The auditors are required to verify the content of the financial reports but not to identify unreported incomes and expenditures, which limits the scope of oversight. Past auditing reports identified inaccuracies in many party financial reports, but no sanctions were imposed.<sup>71</sup>

The CEC is required to receive and publish the annual and campaign finance reports of political entities on its website.<sup>72</sup> In a narrow interpretation of the law, the CEC publishes these reports only after the auditing, which further delays disclosure.<sup>73</sup> The CEC is also required to publish a register of donors, with information on all donations made to political entities but there are no deadlines for doing so and such a register has not been published yet. By law, the CEC may impose sanctions for irregularities, including for failure to submit a financial report and misuse of public resources for campaign. However, the CEC is insufficiently resourced and is not granted by law any investigative powers to identify irregularities. Moreover, several EU EOM interlocutors opine that the existing sanctions (mostly fines ranging from EUR 1,000 to 5,000) are not dissuasive and effective compared to the amounts at stake in the field of party finances. Moreover, no sanctions were imposed to parties for failing to publish their financial reports on their websites or for irregularities identified by the auditors.

*Recommendation: Auditing of party and campaign finances to include identifying unreported incomes and expenditures. To introduce an effective mechanism for monitoring and estimating the value of campaign expenditures, including on media and digital campaigning.*

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<sup>69</sup> The Committee failed to appoint auditors due to unsuccessful public tenders. Subsequently, the reports from 2013 until 2016 were audited in 2017. The 2018 reports have not been audited yet.

<sup>70</sup> The law prescribes that the call for the appointment of auditors both for the annual and the campaign finances in a regular election-year is published in January and completed in March.

<sup>71</sup> Identified inaccuracies included lack of supporting documentation, including invoices and rental and employment contracts, discrepancies between the reported incomes and expenditures and the amounts in invoices etc.

<sup>72</sup> Article 19 of the LFFP requires the CEC to publish the annual financial reports together with the final audit reports by 30 June every year. Article 43 of the LGE requires the CEC to publish the campaign finance reports, without mentioning auditing conclusions, and does not prescribe any deadline.

<sup>73</sup> The CEC published the financial reports from 2013 until 2017, with the auditing reports, in June 2019.

*Recommendation: To ensure that an independent mechanism is in place for effective oversight of party and campaign finances which is given the mandate, the authority, as well as the financial and human resources to effectively and pro-actively monitor, investigate alleged campaign finance irregularities and impose sanctions.*

## XII. MEDIA

***Media and social networks enabled voters' access to information on different political views, but the overall broadcast media election coverage was characterised by an extensive use of paid-for content by political entities, which undermined the level playing field.***

Kosovo benefits from a pluralistic and lively media environment. The main sources of information are television, online media and social networks, especially for the sizeable younger section of the population.<sup>74</sup> The public broadcaster Radio Television of Kosovo (RTK) has four TV channels and two radio stations; as well as a news website and a Facebook page. Board members of RTK are elected with a simple majority by the Kosovo Assembly, which could lead to a board appointed by the ruling Assembly majority, interlocutors also expressed concerns related to the overall selection process of board members<sup>75</sup> In addition, the public broadcaster largely relies on a budget allocated by the Assembly, which further hinders its full independence.<sup>76</sup> A draft law, partially addressing these shortcomings was introduced to the Kosovo Assembly in May 2019, but its passage was not completed by its dissolution.

*Recommendation: Consideration to be given to strengthen the independence of the public broadcaster from possible political interference, by revising the selection process of its board as well as its financing system.*

Besides the first public TV channel, *RTK1*, there are five private TV channels, which reportedly enjoy considerable audiences: *RTV21*, *Kohavision (KTV)*, *Klan Kosova*, *T7* and *TV Dukajini*.<sup>77</sup> Among the most popular online news media are *telegrafi.com* and *gazetaexpress.com* in Albanian, and *Kossev.info* in Serbian. EU EOM interlocutors reported that there are a considerable number of

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<sup>74</sup> By 31 March 2017, 80.4 per cent of the population had access to internet according to [Internet World Stats](#), which also reports that by December 2018 there are 910,000 Facebook users, accounting for around half of the population. By January 2019, Instagram had around 600,000, and Twitter around 65,000 users ([Hootsuite Global Digital Report 2019](#)).

<sup>75</sup> As of October 2019, the RTK Board counts six members out of eleven. From December 2019, two more members are due to end their mandate and in the absence of new appointments, the Board will not have the quorum of six members to take decisions.

<sup>76</sup> The Law on RTK (2012) on its Art. 21.4 prescribes that for a provisional period of three-year, until a financing system based on subscriptions would have been introduced, RTK would have received 0,7 per cent of the Kosovo Annual Budget. The provisional period has expired, but RTK is still dependent on the Kosovo Budget, and RTK management informed the EU EOM that in the last year the public broadcaster did not receive the full amount of the budget indicated by the law.

<sup>77</sup> The Association of Independent Broadcast Media of Kosovo (AMPEK) informed the EU EOM that there are no organisations publishing reports on broadcasters' audience in Kosovo.

online news media which lack professionalism, do not disclose their ownership and often republish news produced by other media outlets without mentioning the source, or publish misleading and unverified information. The few daily newspapers currently published in Kosovo have a very limited circulation. The main social network in Kosovo is Facebook (FB), Instagram is less popular, and it is not used much for political purposes, while Twitter has a very limited number of users and does not play a significant role.

The Kosovo media landscape remains divided between the Albanian and Serbian speaking communities, with almost no media outlets in both languages. The primary source of information for Kosovo Serbs are TV channels from Serbia and to a lesser extent a few local media in Serbian language. There is a cable TV channel of the public broadcaster, *RTK2*, which airs programmes in Serbian and other non-majority languages, but it is not accessible in the four Serb majority municipalities in northern Kosovo.<sup>78</sup>

### Media legal framework and freedom of the media

The legal framework provides sound safeguards for freedom of the media. The Constitution guarantees “*freedom and pluralism of media*” and forbids censorship. Libel is not a criminal offence, and the legislation includes laws on protection of journalists’ sources, granting access to public information and protecting whistle-blowers.<sup>79</sup> Nevertheless, the Association of Journalists in Kosovo (AJK) and the Journalists Association of Serbia in Kosovo (UNS) indicated that investigation and prosecution by the judiciary of the isolated threats against journalists, which are still occurring, is excessively slow and at times ineffective.<sup>80</sup> Reportedly, media professionals also face difficulties on accessing public information and, at times, exert self-censorship. EU EOM media interlocutors reported that freedom of the media covering the elections was largely respected, with some exceptions in the Kosovo Serbs majority municipalities, where some media from Serbia and a Kosovo Serb news website were temporarily restricted from freely covering the elections.<sup>81</sup>

Broadcast media are regulated through by-laws issued by the audiovisual regulatory body, the Independent Media Commission (IMC). The Law on IMC (2012) defines its responsibilities, which include establishing and implementing broadcasting policies and regulations, as well as sanctioning broadcasters that do not abide by the law. IMC Board and Appeal Board members are appointed with a simple majority by the Kosovo Assembly.<sup>82</sup> In line with international good practices, online media do not need to obtain a license to operate, and together with print media rely on a voluntary

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<sup>78</sup> Also, the main public TV channel, RTK1, is obliged by the Law on RTK to air 15 per cent of its programmes in non-majority languages.

<sup>79</sup> Civil Law Against Defamation and Insult (2012), Law on Protection of Journalism Sources (2013), Law on Access of Public Information (2019), Law on Protection of Whistle-blowers (2018).

<sup>80</sup> As of October 2019, for this year, AJK reported 11 attacks against journalists: 4 minor physical and 7 verbal attacks.

<sup>81</sup> The UNS, for instance, claimed that on 4 October, a team of journalists from Radio Belgrade were detained at a police station in South Mitrovica for six hours with no reason. The Kosovo Serb news website [Kossev.info](http://Kossev.info) claimed to have been a victim of an attack on its website, which was not operational for few hours on election day.

<sup>82</sup> During the election campaign, two out of three judges’ positions composing the Appeal Board were vacant as new judges were not appointed by the Assembly, following the expiration of the mandate of the previous ones, thus the Appeal Board was not operational.

based self-regulatory mechanism led by Press Council of Kosovo (PCK).<sup>83</sup> Social platforms, including Facebook, are not bound by any specific legislation.

### Media campaign regulation

The media coverage of the election campaign is primarily regulated by the LGE, which requires, *inter alia*, broadcast media to ensure fair and equitable coverage to all certified political entities. It also foresees a minimum amount of free airtime for all contestants on any broadcast media which accept paid advertising, though leaving to these broadcasters to decide when and in what format to grant free airtime.<sup>84</sup> Paid-for content is allowed during the election campaign as long as it clearly shows that it is paid and by whom.<sup>85</sup> Whereas an IMC by-law sets a ceiling of 20 per cent for advertising spots, including political paid spots, out of all programmes on prime time in private TV channels; this ceiling does not apply to other types of political paid-for content on broadcast media.<sup>86</sup> The LGE and IMC guidelines also require broadcasters to submit to the IMC weekly ‘diaries’, with detailed information on the free airtime and paid-for access used by each political entity, as well as their price lists.<sup>87</sup>

Major TV channels began their coverage of political parties’ election-related activities and held TV debates once the elections were called by the president, thus well before the beginning of the official election campaign. The EU EOM observed isolated instances of violations by private TV channels, which aired a few programmes and advertising spots paid by political entities before the official election campaign period.<sup>88</sup> The IMC conducted a systematic monitoring of broadcast media only during the ten days of the official election campaign regulated by the LGE. Despite the IMC being responsible for the oversight of media by-laws, including those requiring broadcasters to provide a

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<sup>83</sup> See 2011 Joint Declaration on freedom of expression and the internet. PCK amended its Statute on April 2019 to fully include online media in the self-regulatory mechanism. As of October 2019, the PCK is composed of 35 members (4 newspapers and 31 online news media). The total number of online news media operating in Kosovo is unknown, but most of them did not adopt the Code of Ethics issued by the PCK.

<sup>84</sup> The public TV and radio stations are required to provide a minimum of 40 and 30 minutes respectively to each contestant, while private broadcasters are required to offer a minimum number of minutes of free airtime ranging from 10 to 20 minutes, based on the broadcasters’ geographical outreach. During the monitored period, TV channels offered free airtime access, but except for political entities representing non-majority communities there was limited interest of the contestants to make use of this opportunity.

<sup>85</sup> During the election campaign, political entities can purchase from broadcast media political spots that can be no longer than 120 seconds, or they can buy some airtime to broadcast video content produced by themselves, this could include recorded or live coverage of their campaign activities as well as promotional videos.

<sup>86</sup> Commercial audiovisual communication, IMC by law 2017/07, Article 11.2 “[...] *commercial communication that are broadcasted from 18:00 until 24:00, [...] commercial TV stations are allowed to broadcast commercial communication up to 20% of the volume of the general program broadcasted in that period.*”

<sup>87</sup> IMC Guidelines on broadcast media conduct for Early Legislative elections 2019: “*Licensees (providers of audio and audiovisual media services), based on Article 53 of the Law on Election No. 03 / L-073, shall make available to the IMC the Schedule of Broadcast through the Diaries, which states the broadcasting paid airtime and free airtime. Together with Diaries, licensees will also present their advertising pricelist for the past six months.*”

<sup>88</sup> Commercial audiovisual communication, IMC by-law 2017/07, Art.2.2. “*Commercial audiovisual political communication is allowed only during election campaigns, in compliance with relevant laws and bylaws.*”. Art. 14.6. “*It is forbidden to advertise political parties, coalitions and independent members of the representative bodies, except during the election promotion period in accordance with a special act*”

fair and balanced editorial coverage at all times and forbidding them from airing any political paid-for content outside the election campaign, it did not extend its monitoring to the period before the election campaign period, claiming to have limited financial and human resources to cope with their responsibilities.<sup>89</sup> Taking into consideration the very short period of the election campaign, the absence of an effective IMC oversight on the media conduct before its beginning undermined safeguards for the principle of a level playing field ahead of the elections.

*Recommendation: The IMC to strengthen the oversight of existing media by-laws to ensure that broadcasters provide a balanced coverage and do not air political paid-for content outside the election campaign period.*

Prior to, and during, the election campaign, the IMC informed broadcasters and the public about the media regulation for the election campaign, through a workshop, guidelines sent to all broadcasters, press releases and interviews of IMC representatives on major TV channels. During the election campaign the IMC monitored 17 TV channels detecting multiple and recurrent breaches of the law, most of them related to paid-for content not properly labelled as such, advertising, including political ones, within current affairs programmes and TV channels not offering a balanced coverage of contestants.<sup>90</sup> Nevertheless, the regulatory body did not sanction or redress any violations during the election campaign, claiming to be bound to lengthy internal procedures not allowing it to react in a timely manner. Only after the elections, the IMC sanctioned 11 TV channels with penalties ranging from a warning to EUR 4,000. Similar violations were detected in previous elections and were followed by warnings or similar fines, issued after the election day.<sup>91</sup> This shows that IMC decision-making process is neither effective, nor does it prevent or redress violations during the election campaign, as well as from one election to another. EU EOM interlocutors indicated that the financial amount of fines applied are not sufficient to deter broadcasters from breaching the law.

*Recommendation: The decision-making process of the IMC to be revised in order to address violations and complaints in a timely manner, particularly during the election campaign, and enforce dissuasive sanctions.*

## **EU EOM media monitoring**

The pluralistic and lively media environment enabled voters' access to diverse political views. The EU EOM media monitoring showed that the public TV channel *RTK1* during the official campaign period, offered in its news a largely balanced coverage of the political entities represented in the

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<sup>89</sup> Code of Ethics for media service providers IMC by-law 2016/03, Art. 6.2 2. "Media service providers have to ensure a balanced coverage of issues of public interest and issues of political controversy and to ensure a pluralistic representation of views, without any privilege for a political party, political view or any group or individual."

<sup>90</sup> The IMC informed the EU EOM that it did not receive any media related complaint during the election period.

<sup>91</sup> Following the first round of municipal and mayoral elections 2017, nine broadcasters were sanctioned with penalties ranging from a warning to EUR 5,000.

Assembly and organised inclusive election debates.<sup>92</sup> Nonetheless, in the ten days prior the beginning of the election campaign, the public TV channel offered a considerable coverage to the Speaker of the Parliament and Minister of Health, respectively Head and Deputy Head of PDK, while acting in their institutional positions. Moreover, ahead of the elections, on its news website and Facebook page, RTK devoted extensive and rather positive coverage to PDK, with less coverage for other parties and, at times, negative coverage for LDK.<sup>93</sup> This reinforced the general perception of the public broadcaster being biased. The public broadcaster, as a public institution, bears a crucial responsibility, requiring it to apply a fair and balanced editorial policy on its online media and social platforms accounts as well as on its broadcasts.<sup>94</sup>

Private TV channels such as *TV21*, *KTV*, *Klan Kosova* and *T7*, offered overall balanced and neutral in tone news coverage, and organised numerous inclusive election debates, but none of them succeeded in organising a debate among the main prime minister candidates. Despite some attempts by the media to address specific topics and policies, party representatives taking part in the debates did not focus on concrete political platforms proposals and journalists generally did not challenge them by holding them to account for their previous political record. Moreover, some private TV channels breached the regulation by displaying paid political banners during their debates and political programmes.<sup>95</sup> Programmes designed to inform voters, therefore became another tool for political advertising. Several election debates resulted in ‘infotainment’ programmes, which did not contribute much to voters being informed on political options and programmes.

The overall election coverage by private TV channels was undermined by the extensive presence of paid-for content, including paid political spots, paid coverage of campaign events, and promotional videos. On *KTV* the paid-for content exceeded the editorial coverage accounting for 61 per cent of its total electoral coverage, while for *T7* the paid-for content accounted for 46 per cent, and 42 per cent for *Klan Kosova* and *RTV21*. PDK and AAK-PSD together accounted for almost 60 per cent of the total paid-for content, respectively with 31 and 28 per cent. LDK accounted for 20 per cent, VV for 11 percent and Nisma-AKR-PD for 10 per cent of the total paid-for content. The unlimited use of paid-for content on broadcast media benefited the wealthiest parties undermining the level playing field, and it was accompanied by a lack of transparency on the purchase of the paid access. The IMC did not receive from all broadcasters the ‘diaries’ with information on the aired free airtime, paid-for content, and their pricelists, as required by the LGE and IMC guidelines, and not all submitted diaries provided comprehensive information.

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<sup>92</sup> Between 14 September and 6 October 2019, the EU EOM conducted qualitative and quantitative monitoring of six TV channels (RTK1, RTK2, RTV21, KTV, Klan Kosova and T7) from 17:00 to 01:00 daily as well as of the main primetime newscast of TV Most and TV Puls. A qualitative monitoring of a sample of online news media and social platform (Facebook pages) was also conducted during the election campaign.

<sup>93</sup> The RTK’s Facebook page showed a bias in favour of PDK by devoting more posts to this political party, at times sponsoring these posts to increase their reach, and also posting videos of PDK’s campaign events without the public broadcaster logo nor indicating that this was content paid for by the political party.

<sup>94</sup> Law on RTK (2012), Art.18.8 “*Editorial policy of RTK shall be independent, fair, professional, objective, balanced and impartial.*”

<sup>95</sup> *Klan Kosova*, *TV21* and in particular *T7* violated the Commercial audiovisual communication, IMC by-law 2017/07, Art.12.1 “*Split-screen advertising should not be excessive in a way that would prevent viewers from continuing to view editorial content and should not be used in children’s, religion, news and current affairs programs.*”

*Recommendation: Consideration to be given to further regulate the purchasing by political entities of airtime on broadcast media. This should aim to ensure equal and non-discriminatory conditions to access it, publicly disclosure of price lists, as well as to set a limit on the amount of airtime that a broadcaster can sell to each political entity during the election campaign.*

RTK2, the public TV channel in Serbian, which is not available in the four Serb majority municipalities in northern Kosovo, proved to be fairly balanced during the election campaign by devoting 28 per cent of its news coverage to Srpska Lista and 31 per cent all together to the three Kosovo Serb opposition parties: Sloboda, PKS and SLS. RTK2 also offered some free airtime and organised debates among political parties representing non-majority communities. Srpska Lista refused to take part in any debate. On the other hand, private local Kosovo Serb TV channels displayed biased coverage: *TV Most* and *TV Puls* devoted 87 and 89 per cent respectively of their news coverage to Srpska Lista.

Voters were able to access a variety of online news media, which at times displayed editorial lines supporting or discrediting political entities.<sup>96</sup> Several online news media hosted political advertising in the absence of any requirement to offer equal conditions to contestants and to disclose information on contestants' expenditures. Facebook was largely used by traditional and online media to live stream and republish their editorial content and increase their audience. Contestants made use of Facebook to reach out to voters with sponsored messages, to mobilise voters during the campaign and live stream campaign events. The EU EOM noted isolated instances of Facebook pages of unknown affiliation running smear campaigns by systematically spreading paid-for messages with misleading and, at times, fake content. While there was a considerable amount of campaign-related advertising on Facebook, the social network has not yet implemented in Kosovo its policy, adopted elsewhere, to fully ensure the transparency of election related advertising.<sup>97</sup> This would have enabled voters to know the source of sponsored messages, as well as to have an estimation of political entities and third parties expenditure on this social platform.

### **XIII. PARTICIPATION OF WOMEN**

*While provisions for women participation are in place their implementation remains ineffective especially at local level.*

Gender equality is enshrined in various provisions of the Constitution.<sup>98</sup> The legal framework specifies minimum mandatory levels of representation of each gender on each party's candidate list and

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<sup>96</sup> On 4 October 2019, the popular online news media *gazetaexpress.com* publicly endorsed both Albin Kurti (VV) and Vjosa Osmani (LDK) as prime minister candidates.

<sup>97</sup> Facebook is gradually introducing around the world an "[ad authorisation process](#)" for advertisers running ads about social issues, elections or politics aimed at enhancing the transparency of political advertising on its platform.

<sup>98</sup> Article 71.2, Constitution "The composition of the Assembly of Kosovo shall respect internationally recognized principles of gender equality" and other provisions on the composition of civil service (article 101.1), the judiciary (article 104.2), the Kosovo Judicial Council (article 108.2), the Kosovo Prosecutorial Council (article 110.1), the Constitutional Court (article 114.1).

the allocation of the Assembly seats.<sup>99</sup> While the legal context lays the foundation for gender equality in public life and several laws and institutional mechanisms to increase women's participation in politics are in place, their implementation is ineffective, and the political scene is male dominated while women remain insufficiently represented especially at a local level.

Of the 1,067 certified candidates, 343 were women, representing 32.15 per cent of all candidates, in line with the quota provided for in the LGE, with only one woman declared to be running as a prime ministerial candidate.<sup>100</sup> There is only one women leader of a political party.<sup>101</sup> Political platforms did not sufficiently address gender issues. In the rallies observed by the long-term observers, female speakers accounted for 22 per cent of the total speakers while female turnout averaged 23 per cent. The NGO Kosovo Women's Network initiated an extensive door to door campaign throughout Kosovo to encourage voters to vote for female candidates, irrespective of political views.<sup>102</sup> Political parties offered limited access and coverage to women candidates in the editorial programmes of major monitored broadcasters: out of the total coverage offered to candidates only 17 per cent was devoted to women candidates, with 36 per cent of the women coverage given to the LDK prime ministerial candidate, Vjosa Osmani.<sup>103</sup>

The presence of women within the election administration remained low. Although the CEC is chaired by a woman, only two of the 10 CEC members and 14 per cent of MEC members were women. A more balanced gender presence was observed among polling staff trainers. In the 416 polling stations where voting was observed by the EU EOM, women made up 28 per cent of the PSCs members and 19 per cent of the PSC Chairpersons while 26 per cent of party observers and 44 per cent of domestic observers were women. Beyond statistics, several EU EOM interlocutors stated that women are not serving as leaders and decision makers and seem to face social and family barriers in getting nominated for elected office or conducting successful campaigns.

The recent Law on Gender Equality provides for strict equality of 50 per cent representation.<sup>104</sup> The provisions of this law have not been harmonised with those of the LGE and the 30 per cent quota provided in the LGE was still applied for this election. The lack of harmonisation of the two laws was an issue raised on several occasions by representatives of women's rights organisations and

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<sup>99</sup> Articles 27, 110.2 and 111.6 as amended, LGE prescribe a 30 per cent minimum quota for each gender in each candidate list and in the allocation of the Assembly seats respectively. Article 4.1, CEDAW stipulates that "Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved." Paragraph 20, General recommendation No. 25 on article 4.1 of CEDAW.

<sup>100</sup> According to the CEC Candidates' list certified by the CEC, dated 17 September 2019.

<sup>101</sup> Emilija Redžepi, Leader of the Bosniak party Nova Demokratska Stranka (NDS).

<sup>102</sup> Delivering flyers with the slogan "Whichever list you choose vote for more women in Parliament".

<sup>103</sup> Candidates coverage by RTK1, TV21, KTV, Klan Kosova and T7 during the election campaign in their election debates, talk shows and current affairs programmes. TV channels reported to the EU EOM that generally they do not invite directly candidates in their programmes, but only ask to political parties for one of their representatives, thus giving to the parties the final choice on whom to send among their candidates.

<sup>104</sup> The Law on Gender Equality (No.05/L-020) was introduced on 28 May 2015 repealing Law on Gender Equality No.2004/2, to ensure gender equality in accordance with the CEDAW and several EU Directives on gender equality.

challenged by the Ombudsperson in court shortly prior to the elections. The Ombudsperson issued a public statement on 5 September 2019 on the pre-eminence of the provisions of the Law on Gender Equality over provisions of the Law on General Elections. On 27 September the Ombudsperson filed a lawsuit with the Basic Court in Pristina against CEC on gender discrimination in political entities candidates' list and an application for an injunction requesting the CEC to revise the candidate lists, which the Court refused to grant as such an order would prejudice the judgment on the main claim.<sup>105</sup> Beyond legislative quotas, political parties and electoral administration failed to adopt any voluntary affirmative-action measures to increase the numbers of women candidates and the numbers of women members of bodies responsible for the conduct of elections especially at lower-level election bodies.

*Recommendation: Political parties to consider adopting internal policies to promote women's participation and integrate gender issues into party platforms. To increase public funding for parties that promote gender equality.*

*Recommendation: The CEC to increase women participation at all levels of the electoral administration.*

#### **XIV. PARTICIPATION OF PERSONS WITH DISABILITIES**

##### ***Identifying measures and approaches intended to support inclusion persons with disabilities in political and public life need to be intensified***

The Constitution guarantees basic human rights and freedoms and further imposes the obligation that they should be interpreted consistently with the judgements of the European Court of Human Rights.<sup>106</sup> The CEC is required by law to ensure that persons with disabilities (PWD) and persons with special needs and circumstances (PSNC), are enabled to participate in the electoral process and that voter education campaigns are inclusive and also target illiterate voters.<sup>107</sup> On election day, the MECs established PSC Mobile Teams and Institutional Voting Teams to facilitate voting for all PSNC successfully registered voters. A total of 2,785 persons were registered for this special type of voting, divided into two categories, namely homebound and institutional voting (detention centres, correctional centres and the High Security Prison, healthcare institutions, elderly homes).<sup>108</sup>

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<sup>105</sup> The Basic Court ruled that the interim measure requested was identical to the main request of the claim. If the Court ordered for the candidate lists to be revised it would be like deciding on the substance of the case.

<sup>106</sup> Article 53 of the Constitution. Nevertheless, since Kosovo is not a party to the ECHR, there is no venue for a case to be brought before the European Court of Human Rights and interpretation and enforcement of human rights remains within the Kosovo judicial system.

<sup>107</sup> As per art. 99.1, LGE, special needs voting rules are established for homebound voters who cannot vote in person at a regular PS due to physical, medical, or any other kind of disability or voters confined to an institution, hospitalized, elderly people in specially designated homes, persons of diminished mental capacity in institutions of health care, inmates in prisons and detainees in detention centers. Special circumstance voting refers to voters living in communities who, due to relocation from the vicinity of their regular PS or security concerns, cannot vote at their assigned PS.

<sup>108</sup> Namely 1,315 voters for homebound voting and 1,470 voters confined in institutions. There was no registered voter under the third category, i.e. special circumstances voting.

The law provides for assisted voting by a person of the voter's choice, in line with CRPD standards,<sup>109</sup> a practice that was extensively used on election day. A special tactile ballot for visually impaired voters was available in 60 per cent of the polling stations observed. However, according to NGOs, literacy of Braille is relatively low, and no specific training was provided. Difficulties in gaining physical access to polling stations were observed in almost 40 per cent of polling stations visited by the EU EOM. NGOs advocate an absolute vindication of the right to autonomous vote and measures for effective integration and independent voting.<sup>110</sup>

The CEC is required by law to produce voter information in sign language.<sup>111</sup> Voter information on the CEC website was not tailored to persons with disabilities,<sup>112</sup> compromising their opportunity to receive and communicate information on an equal basis.<sup>113</sup> On a positive note however, CEC spots on media and on CEC Facebook page were also translated into sign language. Electoral rights of vulnerable groups did not feature in campaigns and were not debated during primetime political shows. There are no special legal requirements for public or private media to adapt any election related programming for PWD.<sup>114</sup>

## XV. CIVIL SOCIETY OBSERVATION

*Party and civil society observers contributed to voter confidence in the electoral process in most communities.*

The CEC accredited large numbers of observers within reasonable deadlines and without any reported issues. In total there were 34,535 observers including from political entities, NGOs, media, international observers and diplomats. This high degree of scrutiny helped to increase the transparency of the conduct of voting and counting on election day. Since the accreditation also applies to the Counting and Results Centre, the presence of observers there also contributed to confidence in the results and recounts process.

Political entities had 29,339 accredited observers, with the main five political parties<sup>115</sup> each having around 5,000 observers allowing for around two observers per polling station. The smaller parties on the other hand had fewer observers, with the exception of Vakrat who accredited 1,005 observers which accounts for approximately 1 in 30 of the Bosniak community. Srpska Lista was well

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<sup>109</sup> Article 89.5, LGE "A voter who is disabled in such a way so as it is not able to mark or cast the ballot and/or illiterate may be assisted to vote by another person chosen by the voter if they so request assistance" in accordance with the CRPD, article 29(iii) "the free expression of the will of voters with disabilities shall also be guaranteed by "allowing assistance in voting by a person of their own choice."

<sup>110</sup> HANDIKOS and the Kosovo Association for the Blind.

<sup>111</sup> Article 108, LGE on Broadcasting of Voter Information.

<sup>112</sup> A disability-friendly website may use assistive technology, such as, for instance, alt tags that are read aloud for users with visual impairment, enlarged clickable range for users with mobility problems, reader guides for elderly audiences.

<sup>113</sup> Article 21 of the CRPD calls for providing "information intended for the general public to persons with disabilities in accessible formats ... appropriate to different kinds of disabilities" and for encouraging "the mass media ... make their services accessible to persons with disabilities."

<sup>114</sup> The Law on Radio Television of Kosovo only contains general provisions such as "particular attention shall be paid to the persons with disabilities in terms of programs and information delivery" (articles 1.11 and 1.12). Sign language was only used in RTK main daily news bulletin and voter information spots by NGOs.

<sup>115</sup> Namely, VV, LDK, PDK, AAK-PSD and Nisma-AKR-PD.

represented with 237 accredited observers in the approximately 200 polling stations in the Kosovo Serb community, but the opposition parties were less represented with SLS having 127, PKS 14 and Sloboda no accredited observers. Kosovo Serb opposition parties reported that some of these observers and their polling station committee members were subjected to pressure on the night before the election, but no evidence was provided.

There was a total of 4,154 domestic observers, of which 3,113 came under the umbrella organisation of Democracy in Action, a network of around 50 NGOs. Democracy in Action had 72 long term observers who were able to observe almost 800 campaign events throughout Kosovo in addition to providing static observers for each of the polling stations on election day. Their comprehensive, timely and valuable public reports throughout the campaign, on election day and afterwards made a significant contribution to the integrity of the electoral process.

## **XVI. POLLING AND COUNTING**

### ***Orderly and calm election days with positively assessed conduct of the polling***

The election day was orderly and calm, and the EU EOM observers did not report any major incidents. The EU EOM deployed 108 observers who observed opening, voting, closing and counting procedures at 416 polling stations across all 38 municipalities, as well as handover and intake of polling station material in 24 MEC reception centres. The observation sample covered 16 per cent of all polling stations and 63 per cent of all reception centres. The polling station sample was not randomised and therefore the observation findings are not representative of all polling stations in Kosovo.

All 38 polling stations where the mission observed the opening process, opened either on time or with a delay of less than 30 minutes. The main reasons for delayed opening were unpreparedness and insufficient polling station committee staff. Opening procedures were largely followed and the overall conduct of the opening was positively assessed in all but one polling station observed.

Voting was observed in 416 polling stations. The overall conduct of the voting was assessed positively in more than 95 per cent of polling stations observed. Political entity and civil society observers were present in 94 and 91 per cent respectively of polling stations visited, enhancing stakeholders' confidence in the process. However, in the 76 polling stations in which voting was observed in Kosovo Serb-majority municipalities, Serb opposition political entities were not well represented with SLS having 20, PKS 11 and Sloboda 4 observers.

While the overall assessment of the voting process was positive, the EU EOM observers noted also several irregularities. The most significant one – excessive assistance to voters – was observed in many polling stations visited, with assistance being provided to voters who did not appear to need it. The proportion of voters being assisted in marking the ballot was in some polling stations as high as 22 per cent. The EU EOM observers reported that assisted voting was often abused to legalise

otherwise unlawful family voting. The unlawful assistance to voters by the PSC members or observers was observed in 3 per cent of polling stations visited.<sup>116</sup>

More than two observers from one political entity were unlawfully present in 15 per cent and instances of family or group voting (excluding assisted voting) were observed in 10 per cent of polling stations visited. Voters did not always mark their ballot in secrecy in 9 per cent of visited polling stations and voters were allowed to vote conditionally with Serbian ID documents in 3 out of 84 dual polling stations observed.<sup>117</sup> Attempts to influence voters on whom to vote for, were observed in 3 per cent of polling stations visited.

The EU EOM observers reported organised coordinated voting by large groups of Kosovo Serb voters who appeared to be public sector employees in Gračanica/Gračanicë town and Gušterica/Gushtericë and Brnica/Bërnice villages.

The performance of PSC staff deteriorated significantly during the closing and counting process and only 28 out of 39 polling station counts were assessed positively. This was mainly due to the fact that the rather complex closing and counting procedures were often not followed. In one case the EU EOM observers reported falsification of results for candidates in the CRF. Political entity observers were present in 36 and civil society observers in 37 polling stations observed during the count. Handover and intake of polling station material was observed by 25 teams at 24 out of 38 MEC reception centres. The process was assessed positively in 25 out of 26 observations.<sup>118</sup>

Like in previous elections, the CEC requested the OSCE to provide technical assistance in the four Serb-majority municipalities in northern Kosovo. OSCE responded positively and deployed 220 election staff and 50 support staff to four MECs and all 86 PSCs. OSCE staff had only an advisory role with no executive power, however their presence contributed to the smooth polling and counting process on election day.

Positively, the CEC ensured transparency of the counting process by publishing online preliminary results for political entities broken down by polling station within several hours after the completion of the regular votes count at polling stations.<sup>119</sup> The CEC K-vote system which facilitated the online publication of results proved to be critical for ensuring credibility of the results announcement process. Polling centre K-vote data entry staff were, with few exceptions, seemingly able to detect mistakes and enter the correct number of votes per political entity even if the polling station RRFs were filled in incorrectly by the PSCs chairpersons. Political entities generally trusted these results, albeit with concerns caused by the issue of misprinted RRFs.<sup>120</sup>

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<sup>116</sup> A voter could be assisted in marking the ballot paper by a person of his/her own choice. The PSC members and observers were not allowed to assist the voters.

<sup>117</sup> Each polling centre included one dual polling station where voters were able to vote by conditional ballot.

<sup>118</sup> Two teams observed at the same MEC reception centre at different times and together they submitted three separate observation forms.

<sup>119</sup> The full results broken down by polling station were available on the CEC website 45 hours after the close of the polls.

<sup>120</sup> According to the preliminary results the coalition received 4.96 per cent of valid regular votes.

## XVII. POST ELECTION DAY ENVIRONMENT

The Kosovo-wide picture was of broad acceptance of the election results despite the significant political changes that they brought. VV, the winner of the elections and LDK, which came second, announced on 10 October an agreement to form a small coalition government with only 12 ministers and both parties immediately started negotiations about the government programme.

PDK announced on the night of the elections that they accepted the result and would go into opposition. Similarly, AAK announced on 7 October that they would not seek to be part of the government but might support it on a case by case basis. The coalition Nisma – AKR – PD which missed by some 300 votes the 5 per cent threshold to enter the Assembly unsuccessfully challenged the final results at ECAP and Supreme Court. This left only four Kosovo Albanian political entities in the Assembly, a reduction from seven in the last term.

All ten seats guaranteed to the Serb community were won by Srpska Lista and they expressed satisfaction with the outcome. The other Kosovo Serb political entities, namely SLS, PKS and Sloboda complained of the unfairness of the campaign, intimidation of their supporters, observers and polling station committee members, and unsuccessfully requested full recount of all polling stations in Kosovo Serb majority areas.

## XVIII. TABULATION

### *Transparent process but problems with results forms delayed announcement of final results*

Tabulation of results, verification and counting of conditional and special needs votes<sup>121</sup>, counting of the OoK postal ballots, as well as all required recounts of polling station results were taking place simultaneously at the Count and Results Centre in Pristina. According to the EU EOM observers the work at the centre was well organised, staff was competent, and observers had meaningful access to all stages of the process. However, the progress of work was rather slow, due in part to the tabulation safeguards in place, such as double blind data entry of all RRFs and CRFs, double scanning of all polling station final voter lists in order to detect any potential multiple voting by conditional voters and auditing of any detected irregularities related to the polling station material and results.

The CEC maintained high level of transparency during the processes at the CRC. Scans of both RRFs and CRFs for each polling station processed were uploaded on the CEC website. In case of a recount, both original polling station results forms and newly filled in forms after the recount were published. The only noticeable shortcoming in terms of transparency was the fact that there were no Kosovo-wide progressive results published by the CEC during the tabulation process. This shortcoming was particularly pronounced in case of results of Nisma-AKR-PD coalition.

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<sup>121</sup> Altogether 26,825 conditional and special needs confirmed ballots, representing 3.1 per cent of the total votes cast, were counted on 24 and 25 October.

According to K-vote preliminary results this political entity obtained 4.96 per cent of valid votes and until the announcement of final results there was contradictory information as to whether they passed the five per cent threshold.

Overall, the tabulation process took extremely long and the final results, still subject to further challenges and certification, were announced only on 7 November, i.e. 32 days after election day.<sup>122</sup> The main reason for delay was the need to recount 2,255 or 88.5 per cent of all polling stations due to detected irregularities, as well as the lengthy complaints and appeals process regarding the acceptance of the OoK postal ballots received from Serbia and those that arrived after the legal deadline.

Prior to the ECAP decision to recount votes from 1,407 polling stations, the CEC during meetings held on 9, 17 and 25 October decided on recounting 314, 530 and 4 polling stations respectively. The majority of these 848 polling stations, i.e. 452, had to be recounted due the fact that the RRFs used on election day at all polling stations were misprinted. The first line in the section where the votes received by each of the 25 political entities had to be recorded was printed without three boxes for entering the three-digit number of votes (e.g. 0 0 7) received by the first political entity listed on the ballot. As a consequence, many PSC chairpersons recorded the votes received by the first entity into the line/boxes belonging to the second entity on the ballot etc.

The other 396 polling stations had to be recounted primarily due to the detected inconsistencies between the number of votes received by a political entity and the number of votes received by its candidates. In the vast majority of these cases one or more candidates received more votes than their political entity. Such anomalies in the polling station results were automatically rejected during the data entry process and subsequently sent for auditing. None of the detected irregularities led to annulment of polling station results.<sup>123</sup>

The EU EOM analysed 258, i.e. 65 per cent of these 396 recounted polling stations. The analysis of the results forms confirmed the officially stated reason for the recount in 240 polling stations.<sup>124</sup> In 165 polling stations the recount led to changes in the number of votes received by political entities. In 153 cases the change was between 1 and 5 votes, and in 12 cases more than 5 votes. The recounts also changed, mostly downwards, the number of votes received by individual candidates in 250 analysed polling stations. In 156 polling stations the change was up to 10 votes, in 57 polling stations between 11 and 50 votes, in 27 polling stations between 51 and 100 votes, and in 10 polling stations more than 100 votes.<sup>125</sup> While most of these changes could possibly be explained by differences in determining the validity of votes or unintentional error, there were several cases clearly indicating deliberate manipulation of results. All these cases warrant further investigation.

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<sup>122</sup> In 2017 early legislative elections the final election results were announced 18 days and certified 27 days after election day.

<sup>123</sup> In case of the polling station 2114B/01R in Skenderaj/Srbica municipality, where 450 unused ballot papers were reportedly stolen during election day, the CEC exceptionally amended the CRC procedure and accepted the results.

<sup>124</sup> In 14 polling stations the official reason was not confirmed, and 4 scans of results forms were illegible.

<sup>125</sup> If the recount led to more than one change in the number of received votes for a political entity or candidate, the highest change was considered.

Following the ECAP and Supreme Court decisions on complaints submitted by various political entities against the final results published on 11 November the CRC was ordered to recount additional 1,407 polling stations. In order to speed up the process the CRC increased the number of recounting teams from 23 to 33. The recount process of these polling stations was transparent, and it was closely followed mainly by observers from VV and the Nisma-led coalition. Like previously, the CRC did not publish any regular updates of the provisional results. Positively, the new results forms from the recounted polling stations were publicly displayed at the CRC and with some delay they were also published on the CEC website.<sup>126</sup> However, the process was more tense due to several disputes and inconsistent decisions on validity of the disputed ballots. Some 35 decisions on disputed ballot papers were appealed to ECAP by VV or Nisma representatives.<sup>127</sup>

The EU EOM analysed 236 (23 per cent) of the 1,040 published recount results forms. The analysis showed that in 151 (64 per cent) polling stations there was no change in the number of valid and invalid ballot papers. In the remaining 85 polling stations the change was mostly +/- one or two ballot papers.<sup>128</sup>

## **XIX. ELECTORAL DISPUTE RESOLUTION**

*The electoral dispute resolution process as implemented does not provide for an effective legal redress.*

The Election Complaints and Appeals Panel (ECAP) is an independent body composed of ten judges and chaired by a Supreme Court judge. It is responsible for adjudicating election-related complaints, except for challenges to the regular voter list and complaints against media outlets. Anyone alleging a violation of their rights or with an interest in the matter, can file a complaint; these can be voters, political entities, PSC or MEC members, political party observers, domestic observers or NGOs. Most types of complaints and appeals must be filed within 24 hours, including against certain CEC decisions, as well as campaign, voting and counting irregularities. The 24-hour deadline applies from the time of the alleged violation and the close of the polling station respectively. ECAP has 72 hours from the receipt of the complaint to reach a decision, which can be then appealed to the Supreme Court within 24 hours.<sup>129</sup>

By law, the mechanisms for complaints and appeals are in place but the dispute resolution process, as currently implemented, does not fully provide for an effective legal redress. The prescribed deadlines are deemed extremely tight both for the parties to collect the necessary evidence and for the adjudicating bodies to examine and assess them properly. Further, some of the various provisions

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<sup>126</sup> As of 28 November, one day after the certification of final results, only 1,040 out of 1,407 results forms from recounted polling station were published on the CEC website.

<sup>127</sup> Out of 35 disputed ballots 17 were appealed for validation and 18 for invalidation. Altogether 14 appeals were approved by ECAP.

<sup>128</sup> In three polling stations the change was between 14 and 24 ballot papers.

<sup>129</sup> According to article 118.4, LGE (as amended) an appeal to the Supreme Court will be accepted if it involves a fine over EUR 5,000 or an alleged violation of a fundamental right. The Supreme Court has 72 hours to decide the case.

for the deadlines and complaints and appeals are unclear, scattered in various articles of the LGE and give no practical guidance as to the necessary and admissible evidence.<sup>130</sup> The ECAP Rules of Procedure of 2015 provide more procedural details, although at times are open to different interpretation compared to the LGE.<sup>131</sup>

*Recommendation: Extend the deadlines for filing an election complaint or appeal to 48 hours and for ECAP to adjudicate to 96 hours.*

## Complaints and appeals before and on election day

Before election day, ECAP received 86 appeals against CEC decisions. Most appeals were related to the OoK voters' registration. Two appeals on the non-appointment of representatives within the MECs were rejected.<sup>132</sup> Six requests by candidates to withdraw from certified candidates' lists were satisfied.<sup>133</sup> An appeal filed by Srpska Lista against the CEC instruction that only Kosovo-issued documents could be used for voter identification was rejected both by the ECAP and the Supreme court.<sup>134</sup> It was deemed that clarifying this provision of the law falls within the competence of the CEC and that the instruction would equally apply to all voters and it was made without any discrimination in terms of community, ethnicity, or gender.

ECAP received three complaints related to alleged campaign violations before the official campaign period; but any such complaints do not fall within ECAP's competence.<sup>135</sup> ECAP acknowledges the need for regulating the pre-campaign period by law. ECAP received a total of 290 complaints, including 149 on the official campaign and 86 on breaches of campaign silence during voting, or in the 24 hours prior to it. These latter complaints mainly concerned placing of posters in public spaces, distribution of campaign material near polling stations and requests for votes through phone calls or text messages.<sup>136</sup> Thirteen complaints referred to use of public office in breach of the code of conduct with eight resulting in significant fines.<sup>137</sup> On election day, 42 complaints were received

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<sup>130</sup> e.g. for filing and adjudicating, giving notice to parties to reply or serving the decisions.

<sup>131</sup> e.g. deadlines related to adjudicating complaints and appeals and service of the decisions to the parties.

<sup>132</sup> Appeal filed by PLE and SLS against CEC Decision 919/2019, dated 4 September 2019 for non-appointment of their representatives as MEC members in Istog/Istok and Klinë/Klina and Istog/Istok, Lipjan/Lipljan, Obiliq/Obilić, Pejë/Peć, Skenderaj/Srbica, Viti/Vitina, Vushtrri/Vučitrn and Klinë/Klina respectively.

<sup>133</sup> The requests for withdrawals relate to the following political entities: four from PEK, one from Fjala. A candidate from Vakrat withdrew his appeal to ECAP, thus remaining on the list. The right of candidates within political entities' lists to withdraw applies until the drawing of lots for the ballot order.

<sup>134</sup> The complaint was filed against CEC instruction of 9 September 2019 clarifying article 90 of the LGE. The Supreme Court ruled that "the appellant failed to question the legality of ECAP's decision and consequently the CEC Administrative Instruction was rightly upheld by ECAP."

<sup>135</sup> One complaint was filed by PKS concerning the use of children for political promotion on social media by Srpska Lista and another two by GIG against JGP and PG. ECAP's position on complaints related to breaches before the launch of the official campaign was confirmed at the ECAP's and OPPRC (CEC) meeting with the political entities on 23 September.

<sup>136</sup> Out of the 149 complaints concerning the campaign period, 85 were approved and fined, 56 rejected, four withdrawn, four dismissed on formalities. Out of the 86 complaints concerning the campaign silence period, 26 were approved and fined, 53 rejected, and seven dismissed on formalities.

<sup>137</sup> Pictures with members of Kosovo police, security forces, medical staff, students posted on Facebook accounts.

on campaign materials in the vicinity of polling stations, irregularities by the PSCs, lack or loss of ballots, taking photos of the ballot and errors in the RRFs. In total, 118 complaints were upheld, a few were withdrawn and some 167 were rejected on formalities or on their merits.

Complaints which were upheld by ECAP resulted in a significant number of fines imposed totalling EUR 360,000 against 13 political entities, with PDK receiving the largest amount of fines and VV the lowest of the major parties.<sup>138</sup> Most of the fines were imposed for relatively minor breaches, such as placing posters in unauthorised locations or posting photos on social media. The majority of the complaints (134) were filed by the NGOs Balkan Investigative Reporting Network (BIRN) and Kosova Democratic Institute (KDI).<sup>139</sup> The number of complaints against political entities were PDK 63, VV53, AAK-PSD 50, LDK 42, NISMA-AKR-PD 11, Srpska Lista 10, with a further 22 against PSCs and others.

ECAP applied strict interpretations of breaches of the code of conduct for political parties during the campaign, which appeared to be unreasonable restrictions of the freedom of expression. Namely, it imposed fines on contestants for children appearing in campaign events or officials such as security forces appearing in campaign materials. Moreover, it imposed significant fines which were often not proportional to the violation identified and the possible impact of this violation to the freedom of vote.<sup>140</sup> In view of preventing undue limitation of the freedom of expression and ensuring consistent decisions, ECAP should have considered to adopt further guidance for stakeholders and its own decision making. Fines imposed need to be proportionate to a legitimate aim and not applied in an arbitrary and overly restrictive manner. A fine of EUR 30,000 was imposed for a campaign video by Srpska Lista which, in a broad interpretation of the relevant legal provision, was deemed to be in breach of the code of conduct for political entities. On a positive note, in some 50 cases, ECAP returned the complaints or appeals to the complainants or appellants as they failed to meet formal requirements. This was done for them to be complemented or clarified instead of being automatically dismissed.<sup>141</sup>

### Complaints and appeals after election day

After election day, and during the procedure at the CRC, PDK, LDK and Nisma-AKR-PD submitted complaints to ECAP, requesting full recounting, due to a printing error on the RRFs which resulted in some instances to mistakenly recording the number of votes to the next line i.e. to the

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<sup>138</sup> Namely, PDK received fines totalling EUR 100,100, AAK-PSD EUR 89,600, LDK EUR 74,850, Srpska Lista 36,500, AKR-PD EUR 33,900, VV EUR 14,100 amongst others.

<sup>139</sup> Followed by political entities, LDK (43), VV (41), PDK (13), Nisma-AKR-PD (17), AAK-PSD (8) and others.

<sup>140</sup> Pursuant to article 120, LGE as amended the maximum amount of fine that may be imposed is EUR 50,000, while the scale of fines is prescribed in an ECAP Rule No.01/2012 ranging from EUR 5,000 to EUR 50,000. Fines lower than EUR 5,000 have also been imposed. When deciding on the sanctions ECAP takes into consideration mitigating and aggravating circumstances, such as corrective measures taken by the perpetrator upon reply to a complaint (as per article 6.7 of Rule No. 02/2015, ECAP Rules of Procedure), whether a political party has participated in previous elections and breached the Code of Conduct or whether it received public funding, respectively.

<sup>141</sup> As per articles 6.3 and 11.4 of Rule No. 02/2015, ECAP Rules of Procedure.

next political entity.<sup>142</sup> All three requests were merged and dismissed as premature and inadmissible.<sup>143</sup> Another eight complaints were filed with ECAP during the process at CRC, seven requesting partial recounts were dismissed and one partially approved.<sup>144</sup> In the absence of a solid legal basis to challenge the partial preliminary results at this stage of the process, no complaint could be examined while the political entities were advised by the ECAP to revert when final results were published by CEC if they were still aggrieved.<sup>145</sup> The option to file an appeal against the CEC decision of publication of the final results is a loosened approach of the relevant legal provisions.<sup>146</sup> It should be noted that the types of CEC decisions that may be appealed are expressly listed in the LGE and challenging the results is not included. ECAP acknowledges this legal lacuna.

During the electoral process and until the publication of the final results on 7 November, 19 of the ECAP decisions on complaints and appeals reached the Supreme Court. In 14 cases the appeals were rejected and ECAP's decisions were essentially upheld; two appeals were approved while another three decisions were sent to ECAP for reconsideration to be amended as to the form but upheld as to the substance.<sup>147</sup>

### Cases referring to Out of Kosovo postal ballots

Shortly after election day, on 17 October, VV asked ECAP for some 4,639 OoK packages with postal ballots, received after the legal deadline, to be included in the counting.<sup>148</sup> ECAP dismissed the complaint on procedural grounds, whose decision was then appealed to the Supreme Court; the latter returned the matter to ECAP for reconsideration further instructing on how the case should be decided on the substance.<sup>149</sup> ECAP rejected the case by strictly applying the provisions of the LGE. The decision was then again appealed and the case was finally decided by the Supreme Court, which argued that the relevant provision of the LGE is in contradiction with the international standards Kosovo has committed to through its Constitution and that these OoK ballots were posted well in advance of election day, and should therefore be counted.

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<sup>142</sup> Complaints No.350/2019 by PDK, No.351/2019 by LDK and No.353/2019 by NISMA-AKR-PD, dated 07.10.2019 were reviewed at the session held on 08.10.2019.

<sup>143</sup> Pursuant to article 105.1, LGE and art.10 CEC Regulation No.6/2013 (Count and Results Centre).

<sup>144</sup> Four by Nisma-AKR-PD, two by PLE, one by VV and one by an individual.

<sup>145</sup> By application of article 122.1, LGE. The justification being that the CEC may proceed to rectification of results during verification at the CRC.

<sup>146</sup> Final aggregated results before certification by the CEC.

<sup>147</sup> VV appeal on OoK ballots.

<sup>148</sup> As per article 96.2, LGE "An OoK vote should be received by the CEC prior to election day as determined by CEC rule". A similar complaint was filed by the NGO Germin on 18.10.2019, that also addressed a complaint to the Ombudsperson for violation of the right to vote of citizens of Kosovo living abroad.

<sup>149</sup> The CEC had excluded those ballots without making any formal CEC decision. ECAP argued that there was no decision to appeal against. The Supreme Court ruled however that even a "silent" CEC decision may be appealed. Further, it further gave precedence of a general law to the special electoral law and opined that the date of posting should be considered as the date of receipt (pursuant to article 127.2, Law No. 03/L-006 on Contested Procedure of 2008), in contradiction to the article 96, LGE and article 4.4, CEC Regulation 03/2013. It is noted that general procedural laws may be applied by analogy when no relevant provisions are included in the special law.

A similar approach was followed later for another 1,806 OoK packages received after the legal deadline and excluded from the counting. The appeal filed by VV on 2 November was rejected by the ECAP disregarding the reasoning of the previous Supreme Court judgement. ECAP assessed that the LGE clearly foresees the deadline when the said ballots should arrive setting a timeframe within which the process should end; handling postal ballots received after the deadline set by the law would put the CEC in a vicious circle delaying the publication of the election results.<sup>150</sup> ECAP decision was then again successfully appealed to the Supreme Court which on 5 November decided for the ballots to be counted, without however indicating until which stage of the process such ballots should be accepted. The different approaches by the ECAP and the Supreme Court to this matter caused a significant delay in the publication of the results. Further, the judgment reached by the Supreme Court in deviation of the LGE at this advanced stage of the process raised negative reactions for possibly accommodating political interests.<sup>151</sup>

On 22 November, and shortly before the recounting process was over, VV requested from ECAP the counting of another 392 OoK packages that arrived after the deadline, but also after the results were published on 7 November.<sup>152</sup> ECAP dismissed it as impermissible, whose decision was then appealed to the Supreme Court, further delaying the process. On 27 November, the Supreme Court this time justifiably upheld ECAP's reasoning and dismissed the appeal, deviating from its previous judgments on the matter by arguing that these were delivered at a different phase of the process when counting was still ongoing, and results were not yet published.

On the same date VV addressed the ECAP requesting for the third time the counting of OoK ballots, namely on 22 November, Nisma-AKR-PD referred the first Supreme Court judgment on this matter (that ordered the counting of the 4,639 packages received after the deadline) to the Constitutional Court.<sup>153</sup> Within the referral an interim measure to temporarily suspend the certification of the results until a decision is rendered, was also requested.<sup>154</sup> The referral was based on fact that the Supreme Court exceeded its jurisdiction by controlling the constitutionality of the LGE, while it should have referred this matter to the Constitutional Court.<sup>155</sup> It should be noted that Nisma-AKR-PD never publicly questioned this Supreme Court judgment already issued on 30 October. Such a move at that stage of the process may only be interpreted as an ultimate attempt to secure a legal safeguard to suspend certification of results, if needed. No such interim measure was ordered until the certification of the results on 27 November.

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<sup>150</sup> ECAP further argued that article 96 of the LGE does not violate the right of vote, instead it only sets a deadline for receiving the ballots and that these provisions contribute to ensuring the integrity of the electoral process.

<sup>151</sup> LDK and PDK through their respective CEC members and the NGO Democracy in Action (DiA).

<sup>152</sup> ECAP Decision No.507/20018, 24 November 2019.

<sup>153</sup> Supreme Court Judgment No. AA20.2019 dated 30 October 2019. Pursuant to article 113.7 of the Constitution, an individual may refer violations by public authorities of their individual rights and freedoms guaranteed by the Constitution after exhaustion of all legal remedies provided by law.

<sup>154</sup> Article 116.2 of the Constitution gives the authority to the Constitutional Court to temporarily suspend a contested action while a proceeding is pending before it until the Court renders a decision, if the Court finds that application of the contested action or law would result in unrecoverable damages.

<sup>155</sup> Pursuant to article 113.8, Constitution.

## Cases referring to postal ballots received from Serbia

On 24 October during the process at the CRC, Nisma-AKR-PD requested from ECAP the annulment of the OoK ballots received from Serbia that were at some point included in the counting, without however the CEC making any formal decision. In the absence of such CEC decision the case was dismissed on procedural grounds. Following the Supreme Court's judgment on the case of the OoK ballots, where it held that even a "silent" CEC decision can be challenged, Nisma-AKR-PD returned to ECAP a few days later with an appeal against the "silent" CEC decision. Then, it was dismissed by ECAP as belated and the appellants were advised to revert once the final results were published.<sup>156</sup>

After publication of the results, Nisma-AKR-PD returned with an appeal on the OoK ballots received from Serbia. ECAP approved the appeal ruling that the circumstances of the case demonstrate that the disputed packages were not received by the Kosovo Post in the regular way. ECAP further ruled that accepting such ballots would violate the integrity of the electoral process and would be in breach of the law and the recommendations of the Venice Commission.<sup>157</sup> After two unsuccessful appeals of the ECAP decision to the Supreme Court, the contested ballots from Serbia were eliminated from the final results, allowing thus Nisma-AKR-PD to pass the threshold. The decision was considered as politically biased by several EU EOM interlocutors mainly due to the lack of an official international mail service between Kosovo and Serbia. It is noted that this matter reached ECAP by Nisma-AKR-PD on three occasions, two times during the process at the CRC and then after publication of the results. ECAP applied procedural aspects of the law to the letter leading to the matter being considered in its merits only after publication of the results and notably when the impact of the annulment of these votes was known.

## Appeals to the final results published by the CEC

After the publication of the final results by the CEC on 7 November, 102 appeals were filed both by political entities and individual candidates.<sup>158</sup> ECAP merged several appeals of the same subject-matter thus reaching one sole decision. ECAP approved or partially approved 51 appeals and ordered the CEC to recount over 1,400 polling stations. The Nisma-AKR-PD appeal (mentioned

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<sup>156</sup> There was no possibility to file an appeal to that CEC decision within 24 hours from the time it was decided to include the ballots from Serbia since the relevant Supreme Court's judgment was issued several days later.

<sup>157</sup> Code of Good Practice in electoral matters, Venice Commission, para.38. *Postal voting and proxy voting are permitted in countries throughout the western world, but the pattern varies considerably. Postal voting, for instance, may be widespread in one country and prohibited in another owing to the danger of fraud. It should be allowed only if the postal service is secure – in other words, safe from intentional interference – and reliable, in the sense that it functions properly...*

<sup>158</sup> Distributed as follows by political entity SLS 42, LDK 23, PDK 12, Nisma-AKR-PD 6, VV 6, PKS 4, PLE 2, Vakaf Coalition 1, PDAK 1, KDTP 1, NDS 1, PG 1, PAI 1 and JGP 1. Out of the total 44 appeals were filed by individual candidates and 3 by voters.

above) requesting exclusion of the OoK ballots from Serbia from the final results was also approved and CEC was ordered to eliminate these votes from the final results.<sup>159</sup>

The nature of some appeals filed (that even referred to irregularities during election day) reveals that there is lack of understanding by the complainants on the legal redress available at the various stages of the process. Moreover, there were complaints that could have been considered by the ECAP before the publication of results.<sup>160</sup> In some 22 complaints, which were already filed after election day and dismissed, the complainants were advised to revert after publication of the results, if still aggrieved. Of these, eight did revert (in some cases several requests were merged in one appeal) and then the cases were considered. Given the tight deadlines this may be a practical approach by ECAP to allow for more time to gather evidence and properly prepare the pleadings. However, the provisions on the nature of the complaints that may be filed during the CRC process are not clear and this practice leads to confusion about the filing deadlines and delays the certification of the results by accumulating appeals for after publication of the results.

ECAP considered jointly 50 appeals (by various entities, in their majority by SLS) and reached one decision ordering the recount of some 1,463 polling stations.<sup>161</sup> ECAP ruled that there were inconsistencies of the results announced by the CEC compared to RRFs and that the CEC failed to produce convincing evidence that the CRC staff checked the accuracy of the data entered into every single RRF. Therefore, the panel held that the counting process as administered by the CEC during the audit was not processed according to law.<sup>162</sup> ECAP noted, however, that recounting needed not be repeated for polling stations already recounted by the CEC previously. Within the 24-hour deadline, seven appeals to ECAP decisions were lodged with the Supreme Court.<sup>163</sup> In all cases ECAP decisions were upheld.<sup>164</sup> Finally, it should be underlined that ECAP decision on recounting was not appealed to the Supreme Court.

*Recommendation: Include clear provisions on challenging results at all levels (polling station, CRC and final results) in the LGE. Clarify the type of complaints and appeals and their respective deadlines throughout the process in the LGE. Clarify competences of CEC and ECAP in annulling results and ordering recounts.*

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<sup>159</sup> Another 24 appeals were dismissed as belated or non-permissible (out of which 11 appeals from SLS against the CEC requesting recounts on polling stations where irregularities were observed during the e-day), 26 rejected as unfounded and one appeal was considered as withdrawn.

<sup>160</sup> Nisma-AKR-PD addressed the ECAP three times until ECAP came with a decision on the substance of the matter on the ballots from Serbia. Also, recounting had been requested by several parties already after election day.

<sup>161</sup> Decision No. 386/2019.

<sup>162</sup> Article 101.1, LGE “The procedures of counting of the ballots shall be governed by the following objectives: accuracy, transparency, efficiency, capability for recount and repeat elections, and protection of the secrecy of the vote.”

<sup>163</sup> One by the three VV candidates that would lose their seats should Nisma-AKR-PD pass the threshold and one by Sloboda candidate against ECAP Decision 428/2019 on the ballots from Serbia; another five appeals were filed by individual candidates of LDK, KDTP, PLE, PDAK and VV.

<sup>164</sup> Including two appeals on ECAP’s decision leading to the exclusion of the ballots received from Serbia from the final results. See paragraph “Cases on OoK ballots received from Serbia”.

## Complaints filed during the recounting process at the CRC

ECAP received 30 complaints during the recounting process at the CRC, 20 by Nisma-AKR-PD and 10 from VV. <sup>165</sup> The complaints contested the validity or invalidity of 35 individual ballots. ECAP upon examination of the evidence produced or upon conduct of an investigation at the CRC approved or rejected the complaints by validating or invalidating the contested ballots. ECAP's decisions on these individual cases allegedly served as precedent for the practice to be followed subsequently in similar cases by the CRC staff, however, it is arguable whether such instructions were given or consistently followed.

Although following the recounting and the dispute resolution process, the new results brought changes to the seats distributed within the Assembly and subsequently the candidates elected, there is no remedy provided in the law for challenging the final results following a recounting. <sup>166</sup> Therefore, upon completion of the recounting process and the adjudication of all cases before the ECAP and the Supreme Court, the CEC certified the results on 27 November opening the path for the formation of the new government and Assembly.

All complaints and appeals were adjudicated within the prescribed 72 hours deadline. Cases were resolved on the basis of written submissions. In general, complaints and appeals were not always well argued and little evidence was provided. Neither the ECAP nor the Supreme Court decisions were always well structured or consistently reasoned. The legal basis and reasoning were included in the decisions, albeit briefly. ECAP followed a formalistic approach in the consideration of cases and often adopted a narrow interpretation of the law. The Panel applied the provisions of the Law on Administrative Proceedings by analogy but did not proactively search for evidence. ECAP can appoint investigation teams but this was deemed necessary for very few cases on complaints that involved the CRC. <sup>167</sup> Positively, ECAP contributed to greater transparency by maintaining a publicly accessible register of cases submitted. Decisions were published in a timely manner on its website, although with some delay of their translation into Serbian.

## Electoral criminal offences

If a case contains elements of a possible criminal offence, it may be referred to the police for further investigation, while ECAP maintains its jurisdiction to determine the administrative liability. <sup>168</sup> Six such cases were referred by ECAP to the police for further investigation. The operational plan of the police and the National Coordinator for Elections within the State Prosecutor's Office included the deployment of 100 regional prosecutors on election day. The State Prosecutor dealt with some 35 cases, either filed or initiated ex officio based on information received from the media and civil society. These cases refer to 45 suspects of electoral criminal offences, including 11 polling station

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<sup>165</sup> Including the appeal on 392 OoK packages. See paragraph "Cases referring to OoK postal ballots".

<sup>166</sup> By excluding the ballots received from Serbia, Nisma-AKR-PD passed the threshold.

<sup>167</sup> Complaint by VV regarding 173 OoK ballots deemed invalid.

<sup>168</sup> Article 9, CEC Regulation No.11/2013, The Code of Conduct for Political Entities, their Supporters and Candidates.

committee members and 34 voters.<sup>169</sup> Some 25 persons were temporarily detained (for 48 hours), whereas for two of them, the court imposed pre-trial detention.<sup>170</sup> Most of the cases are still under investigation at the time of writing. By the end of November, the prosecution brought 14 indictments and two court cases were completed.<sup>171</sup>

## XX. ANNOUNCEMENT OF RESULTS

The first K-vote preliminary results were published on the CEC website immediately after election day. On 11 November, the CEC published final results after completing the recount of 848 polling stations and the count of conditional, special needs and OoK postal ballots. Following the ECAP and Supreme Court decisions on appeals against the final results, an additional 1,407 polling stations were recounted, and the postal ballots received from Serbia were excluded from the count. The CEC certified final results on 27 November, i.e. 52 days after election day. The coalition Nisma-AKR-PD passed the five percent threshold by 21 votes. The overall turnout was 44.56 per cent and 3.8 per cent of all votes cast were invalid.

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<sup>169</sup> Four commissioners, suspects of having been involved in the case of stolen ballots in PS 2114B/01R in Runik, Skenderaj/Srbica municipality were arrested following verification of polling material at the CRC.

<sup>170</sup> Six cases in Pristina, ten in Prizren, two in Pejë/Peć, 10 in Gjakovë/ Đakovica, two in Gjilan/Gnjilane, four in Mitrovica, one in Ferizaj/Urosevac.

<sup>171</sup> Namely, two in Gjilan/Gnjilane, two in Prizren, one in Ferizaj/Uroševac, one in Mitrovica seven in Gjakovë/Đakovica, one in Pejë/Peć. Pursuant to art.159, Code of Criminal Procedure, the Prosecution has a two-year deadline to bring an indictment. The offences involved the following offences: article 211 (abuse of official duty); article 212 (giving or receiving a bribe); article 213 (abusing the right to vote); article 214 (obstructing the voting process); article 215 (violating confidentiality in voting); article 216 (falsification of voting results), Criminal Code.



## XXI. TABLE OF RECOMMENDATIONS

| NO.                    | CONTEXT<br>(including reference to the relevant page of the FR)   | RECOMMENDATION   | CHANGE IN LEGAL FRAMEWORK REQUIRED: <sup>172</sup>             | RESPONSIBLE INSTITUTION | RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION<br>(including text of the relevant document quoted)  |
|------------------------|---|--|--|-------------------------|--|
| <b>LEGAL FRAMEWORK</b> |   |  |  |                         |  |
| 1                      | <p>The legal framework includes provisions for calling early elections at extremely short notice allowing the CEC to further shorten timeframes, thereby increasing the risk to compromise electoral rights. This limited time does not ensure proper electoral preparations, including the Out-of-Kosovo voting process, public scrutiny of the voter list and possible challenges to the candidates' lists etc.<br/>Page 13</p> | <p>Early elections to be called with a minimum two months' notice to allow sufficient time for proper electoral preparations and the electoral campaign.</p> | <p>C – Constitution<br/><br/>PL – Law on General Elections</p> | <p>Kosovo Assembly</p>  | <p><b>PERIODIC ELECTIONS, FREEDOM OF OPINION EXPRESSION, GENUINE ELECTIONS THAT REFLECT THE FREE EXPRESSION OF THE WILL OF VOTERS</b><br/><b>ICCPR, article 25</b> “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:<br/>(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors”.<br/><br/><b>ICCPR, article 25, HRC GC 25</b> “1. Article 25 of the Covenant recognizes and protects the right of every citizen to take part in the conduct of public affairs, the right to vote and to be elected and the right to have access to public service. Whatever form of constitution or government is in force, the Covenant requires States to</p> |

<sup>172</sup> C = constitution PL = primary legislation D = desirable to be secured in law

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

| NO. | CONTEXT<br>(including reference to the relevant page of the FR)  | RECOMMENDATION   | CHANGE IN LEGAL FRAMEWORK REQUIRED: <sup>172</sup>   | RESPONSIBLE INSTITUTION    | RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION<br>(including text of the relevant document quoted)  |
|-----|--|--|--|----------------------------|--|
|     |  |  |  |                            | <i>adopt such legislative and other measures as may be necessary to ensure that citizens have an effective opportunity to enjoy the rights it protects.”</i>   |
| 2   | The law prescribes campaign regulations aiming at ensuring equality of opportunity of contestants and the impartiality of public administration during the campaign. The official campaign period shortened to only 10 days. Page 12                                   | The campaign period for early elections to be extended to 30 days, as it is in the case of regular elections. Campaign rules related to notice for and organising of political events, rules for electoral posting and rules for the involvement of elected officials in electoral campaign to be more developed in the LGE. | PL – Law on General Elections<br><br>CEC Regulations | Kosovo Assembly<br><br>CEC | <b>GENUINE ELECTIONS THAT REFLECT THE FREE EXPRESSION OF THE WILL OF VOTERS</b><br><b>ICCPR article 19.2</b> “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds”.<br><b>ICCPR, article 25, HRC GC 25, para. 20</b> “Electors should be fully informed of these guarantees.”<br><b>HRC GC 25 para. 19:</b> “Persons entitled to vote must be free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector’s will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.” |
| 3   | Important aspects of the process such as registration and operation of political parties, the procedures at the Count and Results Centre (CRC), rules for recounting and annulment of results are regulated by secondary legislation, i.e. CEC Regulations. This makes | Essential aspects of the process currently set in CEC regulations, e.g. operation at the Count and Results Centre, rules for recounting and annulment of results to be included in primary legislation.  | PL – Law on General Elections<br><br>CEC Regulations | Kosovo Assembly<br><br>CEC | <b>RULE OF LAW, TRANSPARENCY AND ACCESS TO INFORMATION</b><br><b>ICCPR, article 19, HRC GC 34, para. 25</b> “A norm, to be characterized as a ‘law’, must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public....”.<br><b>UN Human Rights Council Resolution 19/36, 2012, para. 16</b> [The Human Rights Council] “calls upon  |

| NO.                       | CONTEXT<br>(including reference to the relevant page of the FR)   | RECOMMENDATION  | CHANGE IN LEGAL FRAMEWORK REQUIRED: <sup>172</sup>                                  | RESPONSIBLE INSTITUTION                | RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION<br>(including text of the relevant document quoted)  |
|---------------------------|---|---|---|--|--|
|                           | the process vulnerable to last-minute amendments undermining legal certainty. Page 12   |   |   |  | <p><i>States to make continuous efforts to strengthen the rule of law and promote democracy by: (c) Ensuring that a sufficient degree of legal certainty and predictability is provided in the application of the law, in order to avoid any arbitrariness”.</i></p> <p><b>Code of Good Practice in Electoral Matters Venice Commission 2002, para.2</b> “Regulatory levels and stability of electoral law a. Apart from technical and detail rules - which may be included in regulations of the executive, rules of electoral law must have at least the rank of a statute.”; <b>para.63</b> “Stability of the law is crucial to credibility of the electoral process, which is itself vital to consolidating democracy. Rules which change frequently – and especially rules which are complicated – may confuse voters. Above all, voters may conclude, rightly or wrongly, that electoral law is simply a tool in the hands of the powerful, and that their own votes have little weight in deciding the results of elections.”</p> |
| <b>ELECTORAL DISPUTES</b> |   |   |   |  |  |
| 4                         | By law, the mechanisms for complaints and appeals are in place but the dispute resolution process, as currently implemented, does not fully provide for an effective legal redress. The prescribed deadlines (24 hours for the complainants/appellants and 72 hours for | Extend the deadlines for filing an election complaint or appeal to 48 hours and for ECAP to adjudicate to 96 hours. | PL – Law on General Elections<br><br>ECAP Rules of Procedure<br><br>CEC Regulations | Kosovo Assembly<br><br>ECAP<br><br>CEC | <p><b>RIGHT TO EFFECTIVE REMEDY, RULE OF LAW</b></p> <p><b>ICCPR, article 2.3</b> “(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or</p>   |

| NO. | CONTEXT<br>(including reference to the relevant page of the FR)  | RECOMMENDATION  | CHANGE IN LEGAL FRAMEWORK REQUIRED: <sup>172</sup> | RESPONSIBLE INSTITUTION    | RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION<br>(including text of the relevant document quoted)  |
|-----|--|---|--|----------------------------|--|
|     | ECAP) are deemed extremely tight both for the parties to collect the necessary evidence and for the adjudicating bodies to examine and assess them properly. Page 41 |   |  |                            | <p><i>legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted.”</i></p> <p><b>UDHR, article 8</b> “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law”.</p> <p><b>Code of Good Practice in Electoral Matters, Venice Commission 2002, para. 95</b> “In addition, decisions on the results of elections must also not take too long, especially where the political climate is tense. This means both that the time limits for appeals must be very short and that the appeal body must make its ruling as quickly as possible. Time limits must, however, be long enough to make an appeal possible, to guarantee the exercise of rights of defence and a reflected decision. A time limit of three to five days at first instance (both for lodging appeals and making rulings) seems reasonable for decisions to be taken before the elections. It is, however, permissible to grant a little more time to Supreme and Constitutional Courts for their rulings.”</p> |
| 5   | In the absence of a solid legal basis to challenge the partial preliminary results, no complaint could be examined while the CRC process was                         | Include clear provisions on challenging results at all levels (polling station, CRC and final results) in the LGE. Clarify the type | PL – Law on General Elections                      | Kosovo Assembly<br><br>CEC | <p><b>RIGHT TO EFFECTIVE REMEDY, RULE OF LAW</b></p> <p><b>ICCPR Article 2(b)</b> “To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or</p>   |

| NO.                           | CONTEXT<br>(including reference to the relevant page of the FR)   | RECOMMENDATION   | CHANGE IN LEGAL FRAMEWORK REQUIRED: <sup>172</sup>                               | RESPONSIBLE INSTITUTION | RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION<br>(including text of the relevant document quoted)   |
|-------------------------------|---|--|--|-------------------------|---|
|                               | ongoing. Political entities were advised to revert when final results were published by CEC if they were still aggrieved, i.e. if their complaint is not addressed by the CEC during the process at the CRC. It should be noted that the types of CEC decisions that may be appealed are expressly listed in the LGE and challenging the preliminary results is not included. Page 47 | of complaints and appeals and their respective deadlines throughout the process in the LGE. Clarify competences of CEC and ECAP in annulling results and ordering recounts.                                      | CEC Regulations  |                         | <p><i>legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.”</i></p> <p><b>ICCPR, GC 25 para. 20</b> “<i>There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes”.</i></p> <p><b>Code of Good Practice in Electoral Matters, Venice Commission, 2002, para. 97</b> “<i>It is also vital that the appeal procedure, and especially the powers and responsibilities of the various bodies involved in it, should be clearly regulated by law, so as to avoid any positive or negative conflicts of jurisdiction.”</i></p> |
| <b>PARTICIPATION OF WOMEN</b> |   |  |  |                         |   |
| 6                             | EU EOM interlocutors stated that women are not serving as leaders and decision makers and seem to face social and family barriers in getting nominated for elected office or conducting successful campaigns. Page 34   | Political parties to consider adopting internal policies to promote women’s participation and integrate gender issues into party platforms. To increase public funding for parties that promote gender equality. | PL – LFPP<br><br>Amendments to internal rules of procedures of political parties | Kosovo Assembly         | <p><b>EQUAL SUFFRAGE, FREEDOM FROM DISCRIMINATION, WOMEN’S PARTICIPATION IN PUBLIC AFFAIRS/EQUALITY BETWEEN MEN AND WOMEN</b></p> <p><b>CEDAW Committee, GR 23, Paragraph 34</b> “<i>Political parties have an obligation to demonstrate their commitment to the principle of gender equality in their constitutions...on their executive boards.”</i></p> <p><b>CEDAW Committee, GR 23, Paragraph 28</b> “<i>Political parties have a responsibility to ensure that women are included in party lists and nominated in areas where they have a likelihood of electoral success.”</i></p>   |

| NO.                             | CONTEXT<br>(including reference to the relevant page of the FR)   | RECOMMENDATION  | CHANGE IN LEGAL FRAMEWORK REQUIRED: <sup>172</sup>   | RESPONSIBLE INSTITUTION    | RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION<br>(including text of the relevant document quoted)  |
|---------------------------------|---|---|--|----------------------------|--|
| 7                               | The presence of women within the election administration remained low. Although the CEC is chaired by a woman, only two of the 10 CEC members and 14 per cent of MEC members were women.<br>Page 34 | The CEC to increase women participation at all levels of the electoral administration.  | PL – Law on General Elections<br><br>CEC Regulations | Kosovo Assembly<br><br>CEC | <p><b>FREEDOM FROM DISCRIMINATION, WOMEN’S PARTICIPATION IN PUBLIC AFFAIRS/EQUALITY BETWEEN MEN AND WOMEN</b></p> <p><b>ICCPR, Article 3</b> “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”</p> <p><b>CEDAW, Article 7</b> “States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; [...]”</p> <p><b>CEDAW GR No. 25, on article 4, para. 1</b> “...Thirdly, States parties’ obligation is to address prevailing gender relations and the persistence of gender-based stereotypes that affect women not only through individual acts by individuals but also in law, and legal and societal structures and institutions.”</p> |
| <b>ELECTORAL ADMINISTRATION</b> |   |   |  |                            |  |
| 8                               | Although the number of invalid votes was lower than in 2017 early legislative elections, it still remained high, around 4 per cent. Page 16   | To improve the design of the ballot paper for legislative elections to make it easier for voters’ understanding and substantially enhance voter education |  |                            | <p><b>RIGHT AND OPPORTUNITY TO VOTE AND TRANSPARENCY AND ACCESS TO INFORMATION</b></p> <p><b>ICCPR, General Comment 25, para. 11</b> “Voter education and registration campaigns are necessary to</p>  |

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|   |   | well in advance of any elections, focusing on areas with traditionally high number of invalid votes.   |   |                                      | <p><i>ensure the effective exercise of article 25 rights by an informed community.</i></p> <p><b>ICCPR, General Comment 25, para. 12</b> “Information and materials about voting should be available in minority languages. Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have adequate information on which to base their choice.”</p> |
| <b>VOTER REGISTRATION</b>               |   |  |   |                                      |   |
| 9                                       | The accuracy and credibility of the voter list is a long-standing problem in Kosovo elections. Kosovo has more registered voters than estimated resident population. The final voter list included many deceased persons as there is no effective system in place for their systematic removal from the list. Page 19 | To improve the accuracy of the voter list by, inter alia, introducing a mechanism for systematic removal of deceased persons from the civil register and subsequently from the voter list. | CEC<br><br>Civil Registration Agency                | CEC<br><br>Civil Registration Agency | <p><b>UNIVERSAL SUFFRAGE, RIGHT AND OPPORTUNITY TO VOTE</b></p> <p><b>ICCPR article 25</b> “elections which shall be by universal and equal suffrage.”</p> <p><b>Code of Good Practices in Electoral Matters of the Council of Europe Venice Commission 1.2.ii</b> “There must be regular up-dates (of electoral registers), at least once a year.”</p>   |
| <b>POLLING, COUNTING AND TABULATION</b> |   |  |   |                                      |   |
| 10                                      | The audit at the Count and Results Centre detected that high number of the PSC chairpersons were unable to fill in polling station result forms correctly and therefore ballot papers cast at the affected polling  | To consider introducing a non-partisan position of the PSC member/secretary to provide necessary advisory and clerical support to the PSC chairperson.                                     | PL – Law on General Elections<br><br>CEC regulation | Kosovo Assembly<br><br>CEC           | <p><b>GENUINE ELECTIONS THAT REFLECT THE FREE EXPRESSION OF THE WILL OF VOTERS</b></p> <p><b>ICCPR, General Comment 25, para. 20</b> “An independent electoral authority should be established to supervise the electoral process and to ensure that it is</p>  |

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|                            | stations had to be recounted. Both CEC and MECs currently include one non-partisan member. Page 16   |  |   |                            | <i>conducted fairly, impartially and in accordance with established laws.”</i>   |
| 11                         | OoK voter registration and voting was negatively affected by the compressed time frame. There is a lack of safeguards against fraud in the OoK postal voting system. Page 18 | To consider introducing longer timeframes, in case of early elections, and additional safeguards in order to improve the inclusiveness and integrity of the Out-of-Kosovo voting process. The safeguards could include application only in writing and signed by the applicant, voting only by ballot paper mailed to the voter’s postal address abroad, or postal ballot to be accompanied by the signed affirmation from the voter that the ballot was cast in secret and only by the voter. | PL – Law on General Elections<br><br>CEC regulation | Kosovo Assembly<br><br>CEC | <b>RIGHT AND OPPORTUNITY TO VOTE</b><br><b>ICCPR, General Comment 25, Paragraph 11</b> “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed.”<br><b>ICCPR, General Comment 25, Paragraph 20</b> “There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.” |
| <b>CAMPAIGN ENVIROMENT</b> |  |  |   |                            |  |
| 12                         | There were subsidies and public sector jobs announced in the run up to the election by both the Kosovo central   | The legal framework to specifically provide for a general prohibition on the misuse of administrative  | PL – Law on General Elections                       | Kosovo Assembly            | <b>PREVENTION OF CORRUPTION/FAIRNESS IN THE ELECTION CAMPAIGN</b><br><b>Venice Commission Joint Guidelines for Preventing and Responding to the Misuse of</b>  |

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|     | governmental and municipal authorities which appeared intended to gain political advantage for incumbents. Page 21   | resources for political advantage by central government and municipal authorities during electoral processes. The prohibition to be established in a clear and predictable manner.  |  |                            | <p><b>Administrative Resources during Electoral Processes (2016), Chapter A, Article 1.1</b> <i>The legal framework should provide for a general prohibition on the misuse of administrative resources during electoral processes. The prohibition has to be established in a clear and predictable manner. Sanctions for misuse of administrative resources have to provide for and implemented. Such sanctions need to be enforceable, proportionate and dissuasive.</i></p> <p><b>Venice Commission Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes (2016), Chapter B, Article 1.4</b> <i>“The legal framework should stipulate that there should be no non-essential appointments to public bodies during the electoral campaign.”</i></p> |
| 13  | Parties were subject to unclear, changing and arbitrary regulations during the official campaign which reduced their freedom to campaign due to disproportionate fines. For instance, ECAP fined several candidates for posting on Facebook pictures of them meeting police etc. when campaigning on points of law and order. Further, the restrictions on preventing the participation of | Any limitation of freedom of expression must be prescribed by law, be necessary in a democratic society and aimed at certain enumerated objectives, one of which could be the prevention of disorder or crime. Any limitation must apply equally to all cases meeting the set conditions. | PL – Law on General Elections<br><br>CEC regulations | Kosovo Assembly<br><br>CEC | <p><b>FREEDOM OF OPINION AND EXPRESSION</b><br/> <b>ICCPR article 19 (2)</b> <i>“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds”.</i><br/> <b>ICCPR General comment No. 34 Article 19: Freedoms of opinion and expression General remarks 34 &amp; 35.</b> <i>“Restrictions must not be overbroad... restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; they must be proportionate</i></p>  |

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|     | minors were poorly drafted, changed during the campaign and were arbitrary. Page 20   |   |  |  | <p><i>to the interest to be protected...The principle of proportionality has to be respected not only in the law that frames the restrictions but also by the administrative and judicial authorities in applying the law... When a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.”</i></p> <p><b>Framework Convention for the Protection of National Minorities (FCPNM) (1995) Article 9 1.</b> “<i>The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers.”</i></p> |
| 14  | Some parties and authorities placed undue pressure on candidates, their families, supporters and voters in general. There were in some cases insufficient responses by authorities in Kosovo Serb majority municipalities concerning these allegations. Page 23 | Fundamental democratic rights could be more vigorously and promptly protected by authorities throughout Kosovo to ensure that all candidates, their families, campaigners and supporters as well as voters, participate | D = requires better enforcement of existing legislation. | Responsibility of central and municipal authorities, police, prosecutors’ office, Ombudsman and political parties. | <p><b>FREEDOM OF OPINION AND EXPRESSION, RIGHT TO EFFECTIVE REMEDY</b><br/><b>ICCPR, article 25, HRC GC 25 paragraph 19:</b> “<i>Persons entitled to vote must be free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector’s will. Voters should be able to form opinions independently, free of violence or threat of</i></p>   |

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|                         |   | freely in all aspects of democratic life. Citizens could have more information on how to complain to the appropriate authorities about allegations of electoral intimidation. |   |                         | <p><i>violence, compulsion, inducement or manipulative interference of any kind.”</i></p> <p><b>ECHR, Article 13</b> “everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”</p> <p><b>ICCPR, Article 2.3</b> “Each State Party to the present Covenant undertakes:</p> <p>(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;</p> <p>(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;</p> <p>(c) To ensure that the competent authorities shall enforce such remedies when granted.”</p> |
| <b>CAMPAIGN FINANCE</b> |   |   |   |                         |   |
| 15                      | The law prescribes bans on certain sources of donations, including from public contractors, even three years after the end of the contract. The law also prescribes limits on | An effective mechanism to be introduced for verification of the legality of donations. Such mechanism could include information and   | <p>PL – Law on General Elections</p> <p>PL – LFPP</p> | Kosovo Assembly         | <p><b>PREVENTION OF CORRUPTION, TRANSPARENCY AND ACCESS TO INFORMATION</b></p> <p><b>UN CAC, Article 9.1</b> “to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption.”</p>   |

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|     | <p>donations by individuals and legal entities. However, there is no mechanism to check whether a donation is from an impermissible source or there are multiple donations by the same donor exceeding the donation limit. Page 25</p>   | <p>communication technologies and should enable cross-checking donors against a database for public procurement contractors and identifying multiple donations by a single donor.</p>           |  |                         | <p><b>Council of Europe, Committee of Ministers Recommendation (2003) 4, Article 3.a</b> “Measures taken by states governing donations to political parties should provide specific rules to: avoid conflicts of interest; ensure transparency of donations and avoid secret donations; avoid prejudice to the activities of political parties; ensure independence of political parties.”</p> <p><b>Council of Europe, Committee of Ministers Recommendation (2003) 4, Article 5.b</b> “States should take measures limiting, prohibiting or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration.”</p>  |
| 16  | <p>The law prescribes that all expenditures incurred for campaign purposes should be reported even if incurred prior to the call of elections. EU EOM interlocutors noted that parties are reluctant to report all their incomes and expenditures, due to their questionable legality. There is no legal requirement for imprints with information on the number of copies, publisher and payer on print campaign materials, which does not ensure traceability of these expenditures. Page 25</p> | <p>All print and digital campaign materials to be clearly labelled with information about the sponsoring organisation and prescribe sanctions for non-compliance and effective enforcement.</p> | <p>PL – Law on General Elections</p>               | <p>Kosovo Assembly</p>  | <p><b>PREVENTION OF CORRUPTION, TRANSPARENCY AND ACCESS TO INFORMATION</b></p> <p><b>UN CAC, Article 7.3</b> “consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.”</p> <p><b>UN CAC, Article 12.1</b> “...to prevent corruption involving the private sector, enhance accounting and auditing in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.”</p> <p><b>UN CAC, Article 12.3</b> “In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and</p> |

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|     |  |  |  |                         | <i>regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards...for the purpose of committing any of the offences established in accordance with this Convention.”</i>  |
| 17  | <p>Third party campaigning by organisations affiliated with political entities is not regulated by law. Political entities are required to submit campaign finance reports to the CEC only after election day within 45 days, which does not provide for transparency and oversight prior to election day. The CEC publishes the financial reports only after receiving the auditing conclusions, which delays disclosure for several months or even years.</p> <p>Political entities are required to publish their annual reports by July and their campaign finance reports within six months from election day, which does not ensure timely disclosure. The standardized</p> | <p>The law to prescribe interim reporting of the incomes and expenditures of contestants during the campaign period as well as within 30 days from the election day. Reporting should include the finances of party-nominated candidates and entities campaigning for contestants (third parties). The law to prescribe a short deadline for the oversight authorities and the political entities to publish all financial reports in an easily accessible manner.</p> | <p>PL – Law on General Elections<br/>PL – LFPP</p> | Kosovo Assembly         | <p><b>TRANSPARENCY AND ACCESS TO INFORMATION</b></p> <p><b>Council of Europe Committee of Ministers Recommendation (2003) 4, Article 11</b> “States should require political parties and the entities connected with political parties mentioned in article 6 [entities related to political parties] to keep proper books and accounts. The accounts of political parties should be consolidated to include, as appropriate, the accounts of the entities mentioned in Article 6.”</p> <p><b>Council of Europe, Committee of Ministers Recommendation (2003)4, Article 13</b> “States should require political parties to present the accounts referred to in Article 11 regularly, and at least annually, to the independent authority referred to in Article 14. States should require political parties regularly, and at least annually, to make public the accounts referred to in Article 11 or as a minimum a summary of those accounts, including the information required in Article 10, as appropriate and in Article 12.”</p> <p><b>VC Guidelines on Political Parties, Para.200.</b> “reports on campaign financing should be turned into the proper authorities within a period of no more than 30</p> |

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|     | CEC template does not require disaggregated information and is not published in an easily accessible manner. Despite a legal requirement, most parties fail to publish their financial reports on their websites. Page 26  |   |  |                         | <i>days after the elections. Such reports should be required not only for the party as a whole but for individual candidates and lists of candidates. The law should define the format of reports so that parties disclose all categories of required information and so that information from different parties can be compared. In an effort to support transparency, it is good practice for such financial reports to be made available on the internet in a timely manner.”</i>  |
| 18  | The auditors are required to verify the content of the financial reports but not to identify unreported incomes and expenditures, which limits the scope of oversight. Past auditing reports identified inaccuracies in many party financial reports, but no sanctions were imposed.<br>[...] The auditors are required to verify the content of the financial reports but not to identify unreported incomes and expenditures, which limits the scope of oversight. Page 27 | Auditing of party and campaign finances to include identifying unreported incomes and expenditures. To introduce an effective mechanism for monitoring and estimating the value of campaign expenditures, including on media and digital campaigning. | PL –<br>Law on General Elections<br>PL – LFPP      | Kosovo Assembly         | <b>PREVENTION OF CORRUPTION, TRANSPARENCY, ACCESS TO INFORMATION</b><br><b>Council of Europe, Committee of Ministers Recommendation (2003) 4, Article 3.b</b> “States should provide that donations to political parties are made public, in particular donations exceeding a fixed ceiling; consider the possibility of introducing rules limiting the value of donations to political parties; adopt measures to prevent established ceilings from being circumvented.”<br><b>Council of Europe, Committee of Ministers, Recommendation (2003) 4, Article 14</b> “States should provide for independent monitoring in respect of the funding of political parties and electoral campaigns. The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.” |

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|     |   |  |   |                         | <p><b>2001 PACE Recommendation 1516 on Financing Political Parties 8.d.</b> “States should establish independent auditing bodies endowed with sufficient powers to supervise the accounts of political parties and the expenses linked to electoral campaigns.”</p>  |
| 19  | <p>The CEC is insufficiently resourced and is not granted by law any investigative powers to identify irregularities. There is no mechanism for verifying compliance with the bans on certain sources donations nor for identifying whether the aggregate amount of donations by a single donor have exceeded the permissible limit. The auditors are required to verify the content of the financial reports but not to identify unreported incomes and expenditures, which limits the scope of oversight. Page 27</p> | <p>To ensure that an independent mechanism is in place for effective oversight of party and campaign finances which is given the mandate, the authority, as well as the financial and human resources to effectively and pro-actively monitor, investigate alleged campaign finance irregularities and impose sanctions.</p> | <p>PL – Law on General Elections<br/><br/>PL – LFPP</p> | <p>Kosovo Assembly</p>  | <p><b>TRANSPARENCY AND ACCESS TO INFORMATION</b><br/> <b>UN CAC article 6.2</b> “Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.”<br/> <b>2001 PACE Recommendation 1516 on Financing Political Parties, article 8.d</b> “States should establish independent auditing bodies endowed with sufficient powers to supervise the accounts of political parties and the expenses linked to electoral campaigns.”<br/> <b>Council of Europe, Committee of Ministers, Recommendation (2003) 4, Article 16</b> “States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions.”</p> |

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| <b>MEDIA</b> |   |   |  |                            |   |
| 20           | During the election campaign, the paid-for content in some private TV channels accounted for 42 to 61 per cent of their total prime time election coverage. This benefited the wealthiest political entities and undermined the level playing field. Moreover, most of broadcasters did not comply or partially complied with obligations to provide to the IMC detailed information on the amount of paid-for content aired and their pricelists, undermining the overall transparency of the process. Page 32 | Consideration to be given to further regulate the purchasing by political entities of airtime on broadcast media. This should aim to ensure equal and non-discriminatory conditions to access it, publicly disclosure of price lists, as well as to set a limit on the amount of airtime that a broadcaster can sell to each political entity during the election campaign. | D – IMC by law on Commercial audio-visual communication<br><br>PL – Law on General Elections | IMC<br><br>Kosovo Assembly | <i>Prevention of corruption/Fairness in the election campaign</i><br><b>VC CGP para. 2.3</b><br><i>“Equality of opportunity must be guaranteed for parties and candidates alike... Political party, candidates and election campaign funding must be transparent... The principle of equality of opportunity can, in certain cases, lead to a limitation of political party spending, especially on advertising”</i><br><b>CoE Recommendation on Measures concerning Media Coverage of Election Campaigns. Measures concerning broadcast media, para 5</b><br><i>“In member states where political parties and candidates are permitted to buy advertising space for election purposes, regulatory frameworks should ensure that all contending parties have the possibility of buying advertising space on and according to equal conditions and rates of payment.</i><br><i>Member states may consider introducing a provision in their regulatory frameworks to limit the amount of political advertising space and time which a given party or candidate can purchase.”</i> |
| 21           | Broadcast media repeatedly violated the LGE and media by-laws during the election campaign. The IMC did not sanction or redress any   | The decision-making process of IMC to be revised in order to address violations and complaints in a timely manner,  | D – IMC Internal rules and procedures  | IMC<br><br>Kosovo Assembly | <b>RULE OF LAW</b><br><b>UN Human Rights Council Resolution 19/36, 2012, para. 16</b> [The Human Rights Council] <i>“calls upon States to make continuous efforts to strengthen the rule of law and promote democracy...”</i>   |

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|     | violation during the election campaign, claiming to be bound to lengthy internal procedures not allowing it to react in a timely manner. Page 31  | particularly during the election campaign, and enforce dissuasive sanctions.   | PL – Law on General Elections   |                         | <b>VC CGP para. 2.3</b><br><i>“Equality of opportunity must be guaranteed for parties and candidates alike...”</i>  |
| 22  | Board members of RTK are elected with a simple majority by the Kosovo Assembly, which could lead to a board appointed by the ruling Assembly majority, interlocutors also expressed concerns related to the overall selection process of board members. In addition, the public broadcaster largely relies on a budget allocated by the Assembly, which further hinders its full independence. dissolution. Page 28 | Consideration to be given to strengthen the independence of the public broadcaster from possible political interference, by revising the selection process of its board as well as its financing system. | PL – Law on RTK   | Kosovo Assembly         | <b>FREEDOM OF OPINION AND EXPRESSION</b><br><b>ICCPR, article 19, HRC GC 34 para 16.</b> « States parties should ensure that public broadcasting services operate in an independent manner. Actions to ensure independence may include the setting out of the mandate of such broadcasters in law and the provision of legislative guarantees of independence and editorial freedom, as well as the provision of funding in a manner that does not undermine independence.” |
| 23  | The IMC conducted a thorough monitoring of the media conduct only during the ten days official election campaign, However, the regulatory body is also responsible for the oversight of by-laws requiring broadcasters to provide a fair and balanced   | The IMC to strengthen the oversight of existing media by-laws to ensure that broadcasters provide a balanced coverage and do not air political paid-for content outside the election campaign period.    | Reinforce IMC’s media monitoring outside the election campaign period to oversee media compliance with IMC by-laws such as the Code | IMC                     | <b>FREEDOM OF EXPRESSION, TRANSPARENCY AND ACCESS TO INFORMATION</b><br><b>ICCPR, article 19, HRC GC 34 para 11</b><br><i>“... to guarantee the right to freedom of expression, including the right to seek, receive and impart information and ideas... This right includes political discourse, commentary on one’s own, and on public affairs...”</i><br><b>VC CGP para. 2.3</b>   |

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|     | editorial coverage at all times and forbidding them from airing any political paid-for content outside the election campaign. The absence of effective IMC’s oversight on the media conduct before beginning of the election campaign undermined safeguards to the principle of level playing field ahead of the elections. Page 30 |                | of ethics and Commercial audio-visual communication by-laws. |                         | <i>“Equality of opportunity must be guaranteed for parties and candidates alike...”</i>   |



**European Union Election Observation Mission  
Kosovo\* 2019**

Early Legislative Elections – 6 October 2019

**ANNEX I: FINAL CERTIFIED RESULTS**

|  |           |
|--|-----------|
| Registered Voters                              | 1,937,868 |
| Number of voters who voted in polling stations | 826,916   |
| Conditional and Special Needs ballots          | 26,825    |
| Out-of-Kosovo ballots                          | 20,191    |
| Turnout (%)                                    | 44.56%    |
| Valid ballots                                  | 841,275   |
| Invalid Ballots                                | 20,897    |
| Blank Ballots                                  | 12,374    |
| Ballots Used                                   | 873,997   |
| Unused Ballots                                 | 853,257   |
| Spoiled Ballots                                | 1,599     |

| Political Entity  | Votes   | % of votes | Seats | % of seats |
|---|---------|------------|-------|------------|
| Lëvizja Vetëvendosje  | 221,001 | 26.270%    | 29    | 24.166%    |
| Lidhja Demokratike e Kosovës                                      | 206,516 | 24.548%    | 28    | 23.333%    |
| Partia Demokratike e Kosovës                                      | 178,637 | 21.234%    | 24    | 20%        |
| AAK - PSD Koalicioni 100% Kosovë                                  | 96,872  | 11.515%    | 13    | 10.833%    |
| Srpska Lista  | 53,861  | 6.402%     | 10    | 8.333%     |
| Nisma Socialdemokrate - Aleanca Kosova e Re - Partia e Drejtësisë | 42,083  | 5.002%     | 6     | 5.002%     |
| Koaliciaja Vakant   | 7,075   | 0.841%     | 2     | 1.666%     |
| Kosova Demokratik Türk Partisi                                    | 6,788   | 0.807%     | 2     | 1.666%     |
| Partia Liberale Egjiptiane  | 4,887   | 0.581%     | 1     | 0.833%     |
| Nova Demokratska Stranka  | 3,935   | 0.468%     | 1     | 0.833%     |
| Partia e Ashkalinjëve për Integrim                                | 3,113   | 0.370%     | 1     | 0.833%     |
| Fjala   | 2,852   | 0.339%     | -     | -          |
| Partia Demokratike e Ashkalinjëve të Kosovës                      | 1,963   | 0.233%     | -     | -          |
| Samostalna Liberalna Stranka                                      | 1,859   | 0.221%     | -     | -          |
| Iniciativa e Re Demokratike e Kosovës                             | 1,755   | 0.209%     | 1     | 0.833%     |
| Partia Euroatlantike e Kosovës                                    | 1,173   | 0.139%     | -     | -          |

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

| Political Entity                 | Votes | % of votes | Seats | % of seats |
|----------------------------------|-------|------------|-------|------------|
| Jedinstvena Goranska Partija     | 1,159 | 0.138%     | 1     | 0.833%     |
| Partia Rome e Bashkuar e Kosovës | 1,078 | 0.128%     | 1     | 0.833%     |
| Stranka Demokratske Akcije       | 834   | 0.099%     | -     | -          |
| Partija Kosovskih Srba           | 816   | 0.097%     | -     | -          |
| Gradanska Inicijativa Gore       | 785   | 0.093%     | -     | -          |
| Pokret za Gora                   | 695   | 0.083%     | -     | -          |
| Sloboda                          | 672   | 0.080%     | -     | -          |
| Esmir Kasi                       | 577   | 0.069%     | -     | -          |
| Kosovaki Nevi Romani Partia      | 289   | 0.034%     | -     | -          |

## ANNEX II: ACRONYMS

| Full name - English   | Acronym      |
|---|--------------|
| Candidates Results Form   | CRF          |
| Central Election Commission   | CEC          |
| Civil Registration Agency   | CRA          |
| Convention on the Elimination of All Forms of Discrimination Against Women                        | CEDAW        |
| Convention on the Rights of Persons with Disabilities   | CRPD         |
| Count and Results Centre  | CRC          |
| Election Complaints and Appeals Panel   | ECAP         |
| European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols | ECHR         |
| Independent Media Commission  | IMC          |
| International Covenant on Civil and Political Rights and its Protocols                            | ICCPR        |
| Kosovo Energy Corporation   | KEK          |
| Law on General Elections  | LGE          |
| Municipal Election Commission   | MEC          |
| Out-of-Kosovo   | OoK          |
| Persons with disabilities   | PWD          |
| Persons with special needs and circumstances  | PSNC         |
| Polling Station Committee   | PSC          |
| Prime Minister  | PM           |
| Result and Reconciliation Form  | RRF          |
| The Kosovo Constitution of 2008   | Constitution |
| The Law No. 03/L-073 on General Elections of 2008 as amended in 2010                              | LGE          |
| United Nations Mission in Kosovo  | UNMIK        |
| Universal Declaration of Human Rights   | UDHR         |
| Voters List   | VL           |

| Full name - original                  | Full name - English                 | Acronym |
|---------------------------------------|-------------------------------------|---------|
| Aleanca për Ardhmërinë e Kosovës      | Alliance for the Future of Kosovo   | AAK     |
| Aleanca Kosova e Re                   | New Kosovo Alliance                 | AKR     |
| Partia Fjala                          | “The Word” Party                    | Fjala   |
| Građanska Inicijative Gore            | Citizens’ Initiative of Gora        | GIG     |
| Iniciativa e Re Demokratike e Kosovës | New Democratic Initiative of Kosovo | IRDK    |
| Jedinstvena Goranska Partija          | United Gorani Party                 | JGP     |
| Kosova Demokratik Türk Partisi        | Turkish Democratic Party of Kosovo  | KDTP    |
| Kosovaki Nevi Romani Partia           | The Kosovar New Romani Party        | KNRP    |
| Lidhja Demokratike e Kosovës          | Democratic League of Kosovo         | LDK     |
| Nova Demokratska Stranka              | New Democratic Party                | NDS     |
| Nisma Socialdemokrate                 | Social Democratic Initiative        | Nisma   |
| Partia e Ashkalinjve për Integrim     | Ashkali Party for Integration       | PAI     |
| Partia e Drejtësisë                   | Justice Party                       | PD      |

| <b>Full name - original</b>               | <b>Full name - English</b>         | <b>Acronym</b> |
|---|------------------------------------|----------------|
| Partia Demokratike e Ashkalive të Kosovës | Democratic Ashkali Party of Kosovo | PDAK           |
| Partia Demokratike e Kosovës              | Democratic Party of Kosovo         | PDK            |
| Partia Euroatlantike e Kosovës            | Euro-Atlantic Party of Kosovo      | PEK            |
| Pokret za Gora                            | Movement for Gora                  | PG             |
| Partija Kosovskih Srba                    | Kosovo Serb Party                  | PKS            |
| Partia Liberale Egjiptiane                | Egyptian Liberal Party             | PLE            |
| Partia Rome e Bashkuar e Kosovës          | United Roma Party of Kosovo        | PRBK           |
| Partia Socialdemokrate                    | Social Democratic Party            | PSD            |
| Stranka Demokratske Akcije                | Party of the Democratic Action     | SDA            |
| Koalicija "Sloboda"                       | "Freedom" Coalition                | Sloboda        |
| Samostalna Liberalna Stranka              | Independent Liberal Party          | SLS            |
| Koalicija Vakati                          | The Coalition Vakati               | Vakati         |
| Lëvizja Vetëvendosje                      | Self-determination Movement        | VV (aka LVV)   |

PAN – the pre-election coalition comprised of PDK, AAK and Nisma which came first in the 2017 legislative elections.

## ANNEX III: MEDIA MONITORING

### EU EOM MEDIA MONITORING RESULTS

#### Early Legislative Elections, Kosovo 2019

#### INTRODUCTION

The EU EOM conducted a quantitative and qualitative media monitoring of a sample of broadcast media during the ten days election campaign for 6 October elections (25 September – 4 October 2019).

The broadcast media were monitored from 17:00 to 01:00 daily, the following TV channels constituted the selected sample:

- ✓ **RTK1**, public TV channel (in Albanian)
- ✓ **RTK2**, public TV channel (in Serbian and non-majority languages)
- ✓ **KTV**, private TV channel (in Albanian)
- ✓ **RTV21**, private TV channel (in Albanian)
- ✓ **KLAN KOSOVA**, private TV channel (in Albanian)
- ✓ **T7**, private TV channel (in Albanian)

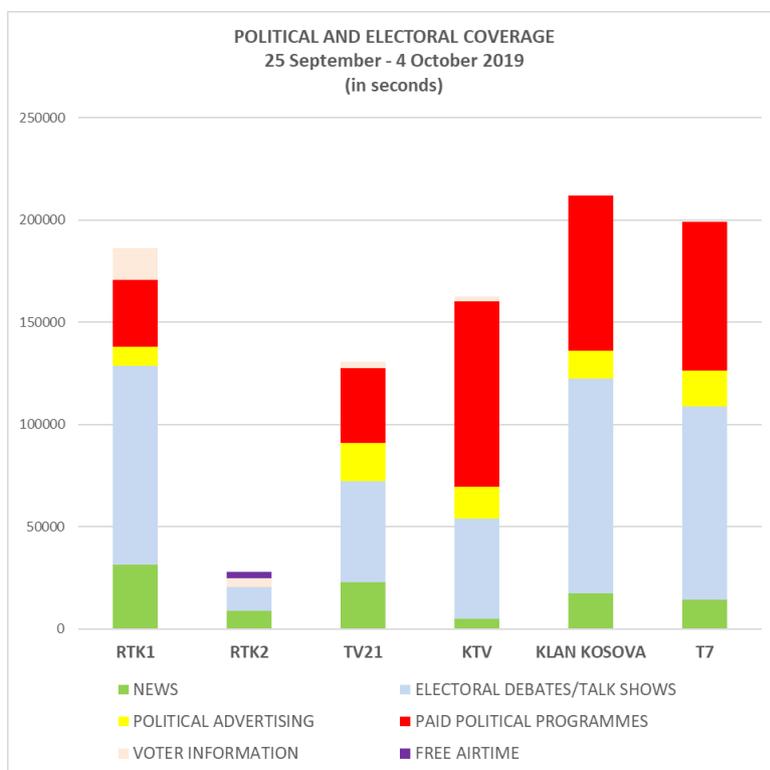
In addition, the media monitoring included the daily prime-time newscast of two local TV channels broadcasting in Serbian language, **TV MOST** and **TV PULS**.

The EU EOM qualitative monitoring included the “tone” used by broadcasters to cover institutional and political entities, but as the “tone” was largely neutral, the statistical results are not included in this summary. However, it has to be noted that there was an exception for TV MOST and TV PULS, local TV channels in Serbian language, which displayed a rather positive coverage for Srpska Lista and negative coverage for the opposition Serbs parties: Sloboda, PKS and SLS. Moreover, some TV channels in Albanian language, despite being neutral in their news reporting, at times displayed a news content and context related to the political entities raising the concern that that it was not selected based on its newsworthiness, but in order to convey a positive or negative coverage of the political entity.

The EU EOM conducted as well a monitoring of the same broadcast media during ten days before the beginning of the election campaign (15 - 24 September 2019) focusing on their news coverage, as well as on observing possible breaches to the prohibition of airing political advertising spots or programmes paid by political entities outside the official electoral campaign period.

A qualitative monitoring of a sample of online news media and social media (Facebook pages) was also conducted. In the following pages, you will find a summary of the results for the quantitative media monitoring of broadcast media.

**POLITICAL AND ELECTORAL COVERAGE DURING THE ELECTORAL CAMPAIGN**



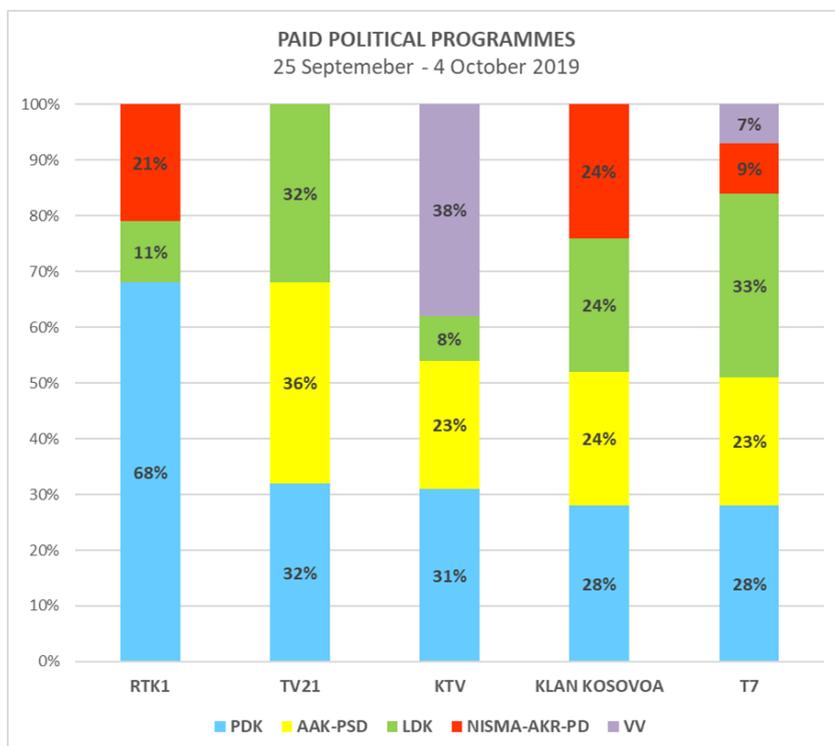
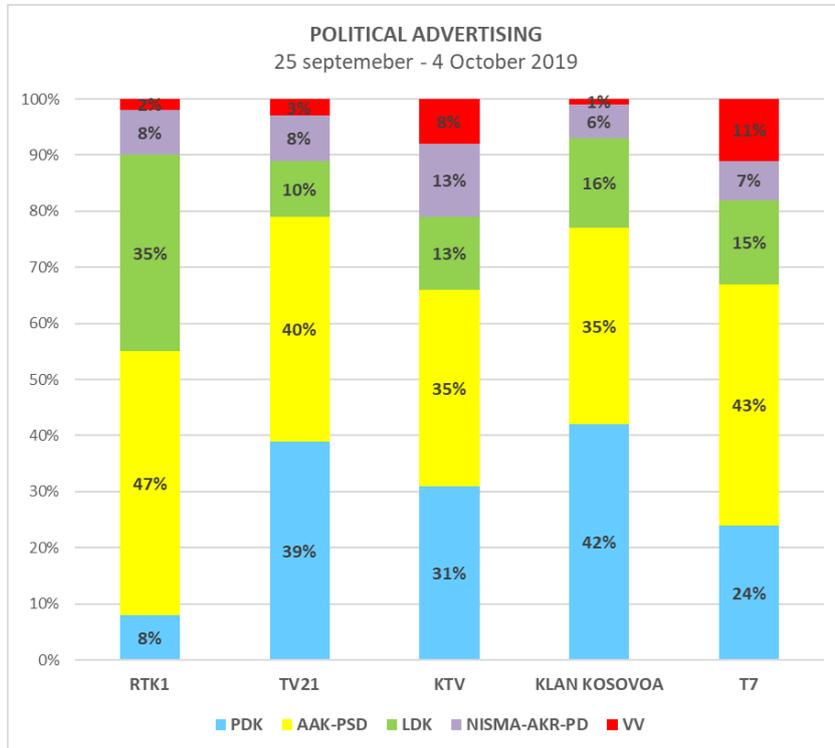
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|                                     | RTK1 | RTK2 | TV21 | KTV | KLAN KOSOVA | T7  |
|-------------------------------------|------|------|------|-----|-------------|-----|
| <b>NEWS</b>                         | 17%  | 32%  | 17%  | 4%  | 8%          | 7%  |
| <b>ELECTORAL DEBATES/TALK SHOWS</b> | 52%  | 42%  | 38%  | 33% | 5%          | 47% |
| <b>PAID ADVERTISING</b>             | 5%   | 0    | 14%  | 9%  | 6%          | 9%  |
| <b>SPONSORED PROGRAMMES</b>         | 18%  | 0    | 28%  | 52% | 36%         | 37% |
| <b>VOTER INFORMATION</b>            | 8%   | 15%  | 3%   | 2%  | 0           | 0   |
| <b>FREE AIRTIME</b>                 | 0    | 11%  | 0    | 0   | 0           | 0   |

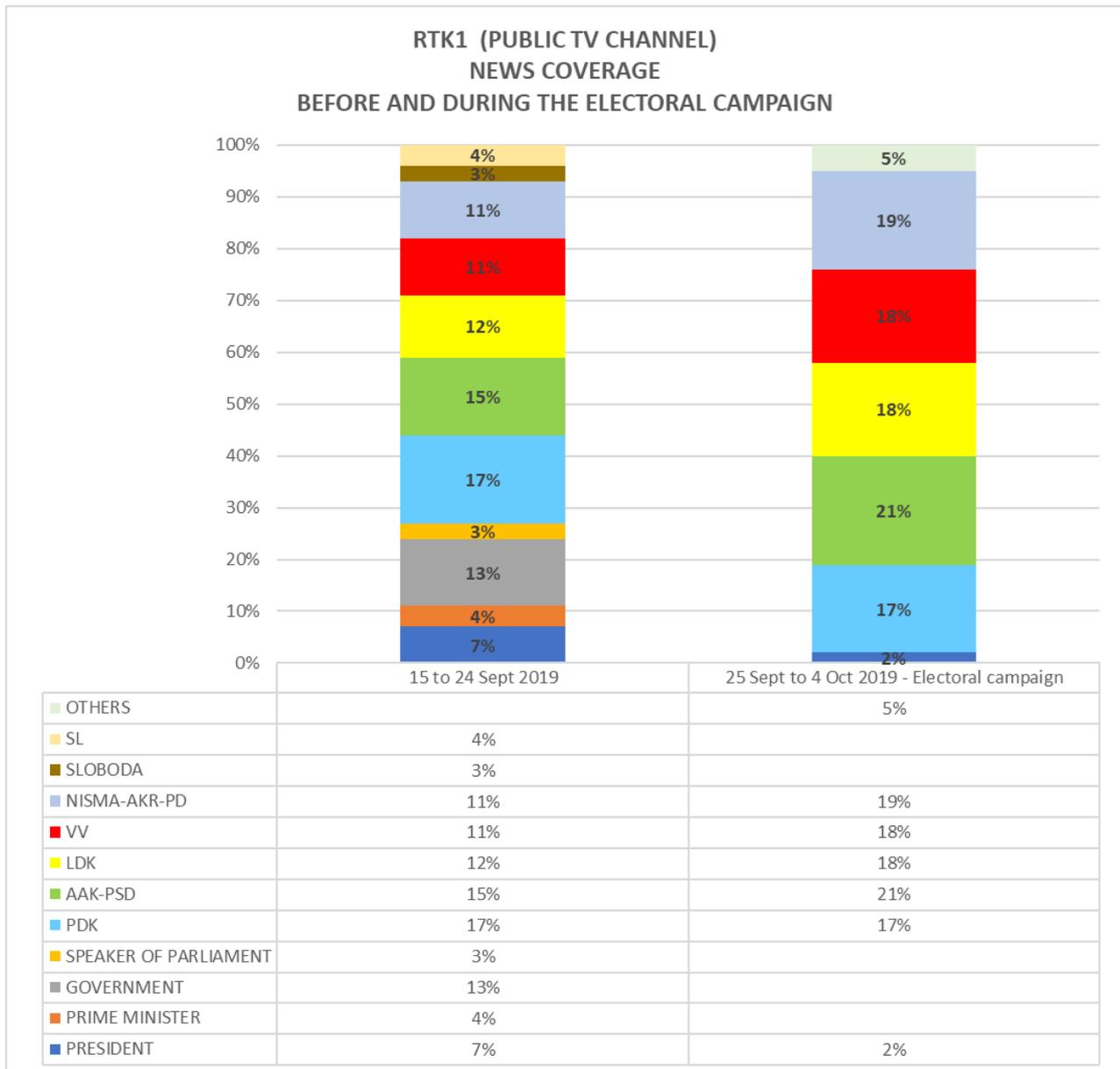
|                    | <b>Total political and electoral coverage</b> |
|--------------------|---|
| <b>RTK1</b>        | 51 hours, 45 minutes and 5 seconds            |
| <b>RTK2</b>        | 7 hours, 44 minutes and 5 seconds             |
| <b>TV21</b>        | 36 hours, 19 minutes and 7 seconds            |
| <b>KTV</b>         | 40 hours, 51 minutes and 18 seconds           |
| <b>KLAN KOSOVA</b> | 58 hours, 49 minutes and 45 seconds           |
| <b>T7</b>          | 55 hours, 49 minutes and 26 seconds           |

<sup>173</sup> Political advertising: advertising spots that should be no longer than 120 seconds, as defined by the LGE. By “Political paid programmes”, we refer to any other form of content paid by political entities and aired by broadcasters. For instance, live coverage of campaign events or promotional videos produced by political entities. By “Free airtime” we refer to time slots offered to political entities and which are not under the editorial control of the broadcaster.

**POLITICAL ADVERTISING AND PAID POLITICAL PROGRAMMES DURING THE ELECTORAL CAMPAIGN**



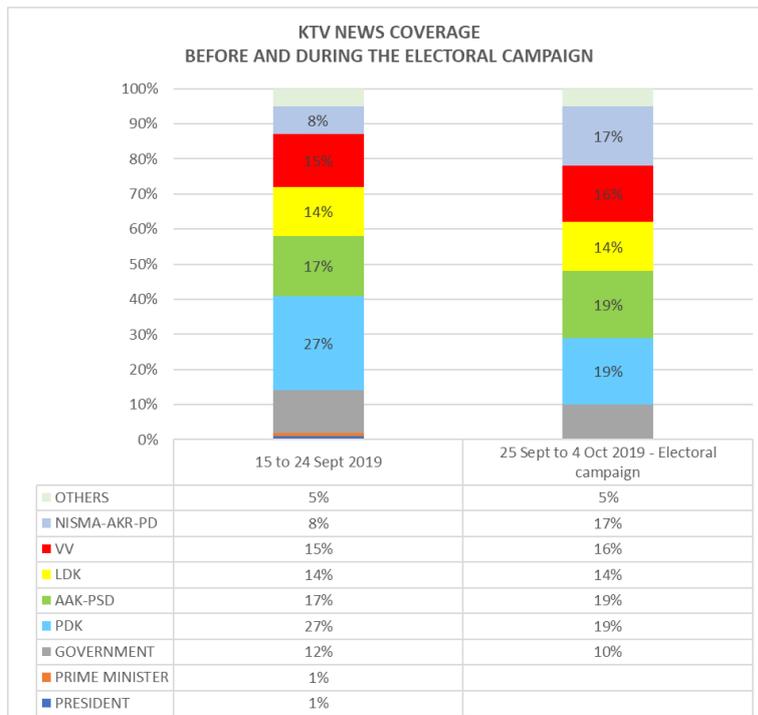
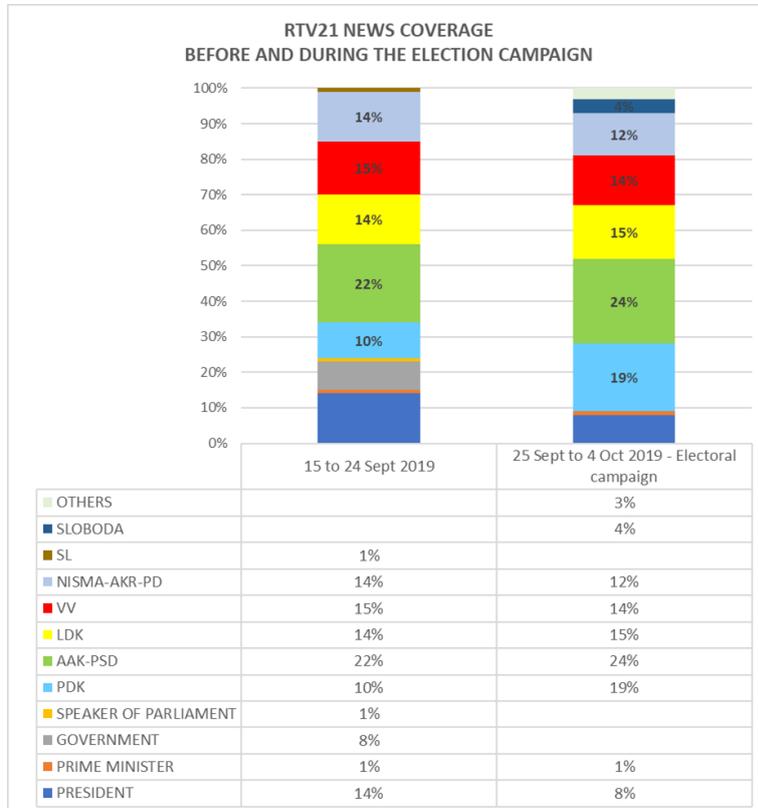
**NATIONAL PUBLIC TV CHANNEL NEWS COVERAGE  
 BEFORE AND DURING THE ELECTORAL CAMPAIGN**



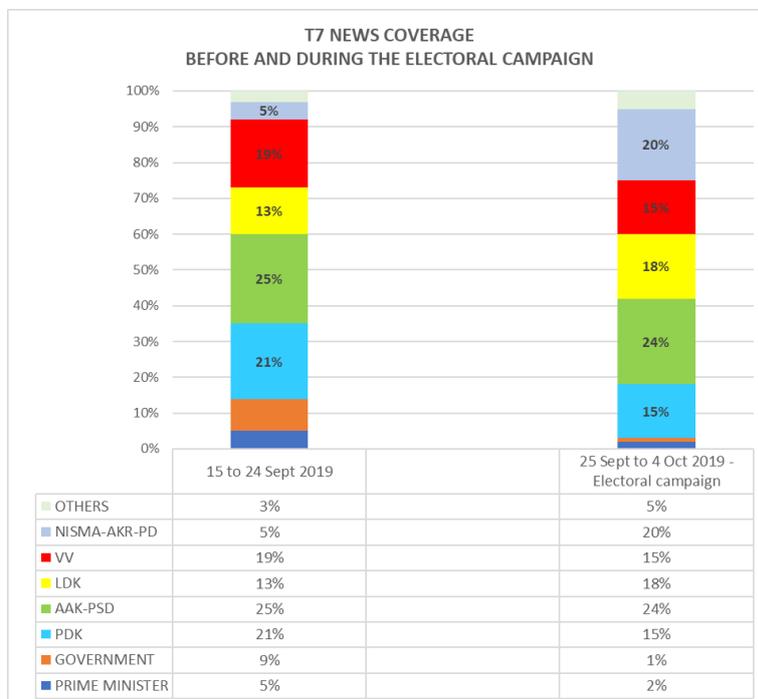
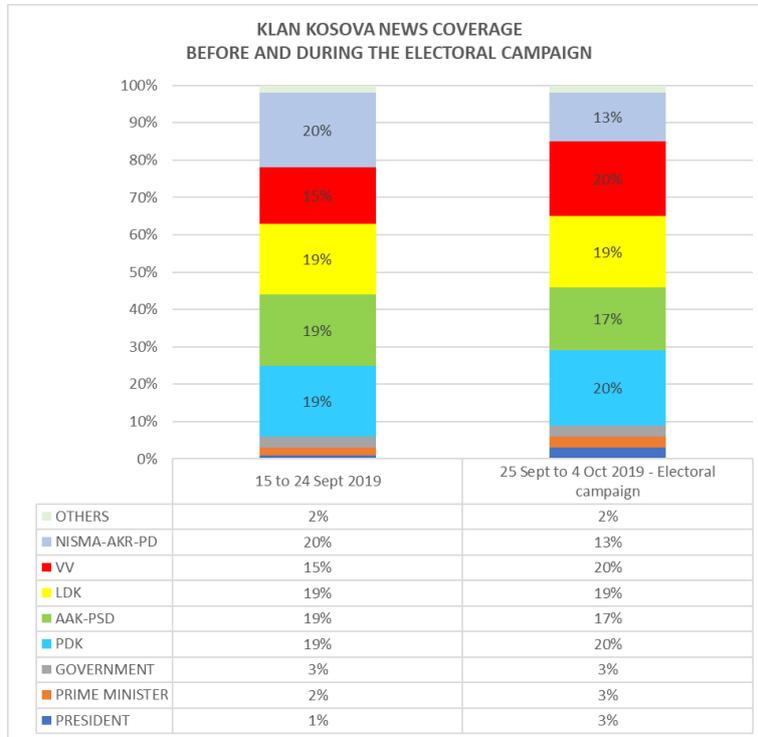
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<sup>174</sup> By “News coverage” we refer to the total time dedicated by the broadcasters to the institutional or political entity, including the direct speech.

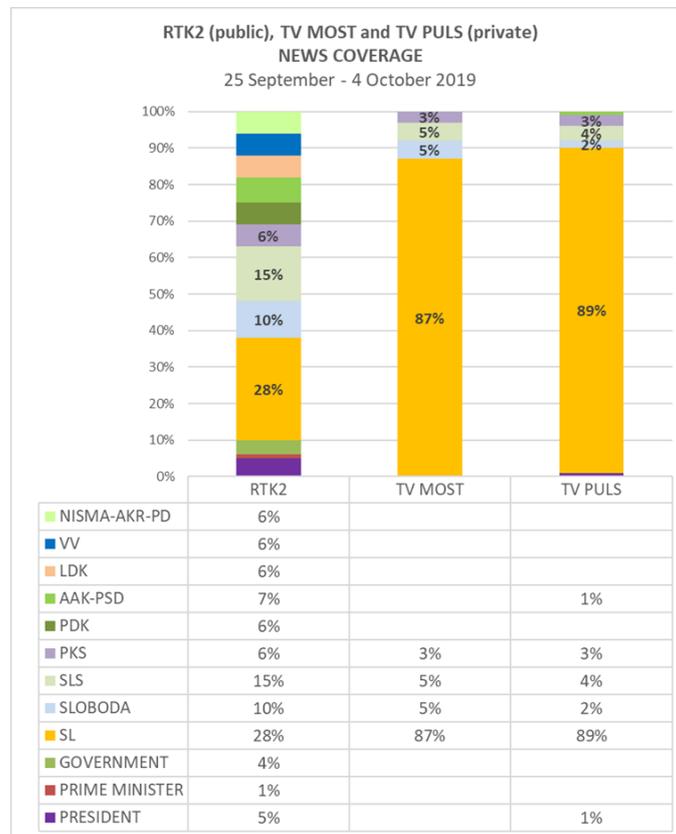
**NEWS COVERAGE BY NATIONAL PRIVATE TV CHANNELS  
 BEFORE AND DURING THE ELECTORAL CAMPAIGN**



**NEWS COVERAGE BY CABLE PRIVATE TV CHANNELS  
 BEFORE AND DURING THE ELECTORAL CAMPAIGN**



### NEWS COVERAGE BY TV CHANNELS FOR NON-MAJORITY COMMUNITIES DURING THE ELECTORAL CAMPAIGN



### TV COVERAGE BY GENDER DURING THE ELECTORAL CAMPAIGN

