



KOSOVO¹ LEGISLATIVE ELECTIONS

PRELIMINARY STATEMENT

Successful Election Day consolidates progress in democracy in Kosovo

Pristina, 9 June 2014

Summary

- The 8 June 2014 early elections were transparent and well-organised, and consolidated progress made in the 2013 municipal elections. Election Day was calm and passed without major incident as voters cast their ballots throughout Kosovo, including in the north. Contestants campaigned freely and refrained from inflammatory language. The short timeframe of the early elections, however, negatively affected some aspects of the process.
- Opening, voting, closing and counting procedures on Election Day were positively assessed by EU EOM observers. People expressed their democratic right to vote, including in the north. Some isolated cases of malpractice were reported, which were addressed by the relevant authorities.
- The legal framework that governed previous legislative and local elections remains in place for these elections. Despite a number of attempts to reform the electoral system in Kosovo, shortcomings identified during the two last election processes were not addressed. The legislation nevertheless provides a sufficient basis for democratic elections in accordance with international instruments to which Kosovo has committed in its constitution.
- The decision to call early elections for the earliest possible date after the dissolution of the Assembly, while legal, had an impact on a number of aspects of the electoral process. It presented additional challenges for the timely organisation of the elections and for the legal deadlines for complaints and appeals prior to Election Day. It also reduced the official campaign to ten days.
- All layers of the electoral administration conducted their work in a transparent manner. Despite the short timeframe, the election administration organised the elections well on a technical level, meeting most of its operational deadlines, including training PSCs, printing manuals and ballots, and delivering electoral materials. Nevertheless, some of the delays to decisions and actions of the Central Election Commission (CEC) did not enhance public confidence in its work.
- In most of Kosovo there was a lively campaign. Contestants were able to campaign freely and the campaign intensified in its final days. The candidates focused on economic and social issues rather than nationalistic rhetoric, and inflammatory language was not used.

¹ This designation is without prejudice to positions on status, and is in line with Security Council resolution 1244 (1999) and the International Court of Justice Opinion on the Kosovo declaration of independence.

- Media freedom was overall respected. While news reporting of the campaign was generally balanced and equitable, extensive prime time coverage of the political parties through unregulated, sponsored airtime (in addition to the regulated political advertising spots) reduced the balance of the coverage. The TV channels, using a gap in the legislation, applied “negotiable” prices to sponsored coverage, which reduces the equality of contenders foreseen in the law.
- The *de facto* campaign in the media started well before the official period, with all six Kosovo Albanian parliamentary parties campaigning and PDK getting more coverage during the 20 days prior to the official campaign in the public RTK1. The Independent Media Commission (IMC) also issued five warnings for publishing political advertising spots or sponsored programmes prior to the official campaign period.
- The Serb community entered the election process with discontent following the expiration of transitional arrangements for the ‘reserved’ seats system and the use for the first time of the ‘guaranteed’ seats system. The temporary suspension of election preparations and the absence of campaigning in the north affected voters’ right to be informed. In the south, all political entities campaigned freely and without incident, and Srpska List resumed campaign activities during the last three days.
- The eligibility criteria for the out-of-Kosovo voting programme are inclusive and the procedures to access to it are well clarified by the CEC. More than 16,000 voters out of 29,754 applications successfully applied to vote and some 15,000 cast their vote. The 206 voters who successfully appealed the decisions on their applications, may not have been able to vote due to the short timetable for out-of-Kosovo voting. Furthermore, unsuccessful appellants did not have time to seek a final legal remedy before Election Day.

The European Union Election Observation Mission (EU EOM) has been present in Kosovo since 20 May 2014 following an invitation from the President of Kosovo on 8 May. The Mission is led by Chief Observer, Roberto Gualtieri, Member of the European Parliament. In total, the EU EOM deployed 96 observers from 26 EU Member States, Norway and Switzerland across Kosovo to assess the whole electoral process against international obligations and commitments for democratic elections as well as the laws of Kosovo. Twenty-six observers from the diplomatic representations of EU Member States, Norway and Switzerland as well as from the EU/EUSR also joined the mission on Election Day. On Election Day, observers visited 510 polling stations in 353 polling centres to observe voting and counting.

This preliminary statement is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, in particular, the tabulation of results, and the handling of possible post-election day complaints and appeals. The EU EOM remains in Kosovo to observe post-election developments and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process.

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.

Preliminary Findings

Background

The 2014 early elections of the Kosovo Assembly are the second legislative polls held after the 2008 declaration of independence, and the first legislative elections to take place throughout Kosovo under Kosovo law, after the Brussels Agreement on the normalisation of Belgrade-Pristina relations.

As there were allegations of widespread irregularities during the 2010 Kosovo Assembly elections, which were organised for the first time by the Kosovo institutions, the 2014 elections are a particularly important test of credibility. Early elections were triggered by the consequent vote to dissolve the Assembly, concluding a series of impasses.

Voters were called on to elect MPs to the Kosovo Assembly's 120 seats, 10 of which are guaranteed for Serbs and 10 for other non-majority representatives. Among the 30 political entities certified to participate in these elections, nine were Kosovo Albanian, and 21 represented non-majority communities.

Legal Framework

The legal framework provides a sufficient basis for democratic elections in accordance with international agreements to which Kosovo has committed in its constitution. Kosovo's constitution states the direct applicability of several international agreements and instruments, including the European Convention on Human Rights and Fundamental Freedoms and its protocols, and the International Covenant on Civil and Political Rights.

Since the 2010 legislative elections, there have been two unsuccessful attempts to comprehensively reform the electoral system and address previously identified shortcomings. However, the legislation governing elections remains substantially unchanged. Changes to the Criminal Code in 2012 increased the number of criminal offences related to elections and established heavier penalties with the aim of deterring electoral violations.

Some of the shortcomings in the law identified by the EU EOM are: the possibility of shortening the deadlines within the election calendar, including the campaign period; the lack of clarity over how the allocation of seats should be undertaken *vis-à-vis* the guarantee system for non-majority political entities; the very general rule on ethnic representation on the elections management bodies; the lack of safeguards in the law to exercise the equality of opportunities of political entities to media airtime; and the unclear limits of the powers of the CEC and the ECAP at the time of ordering recounts or repeat elections.

By law early elections must be held between 30 and 45 days of the dissolution of the Assembly. The President of Kosovo opted to call the elections in 30 days, necessitating the shortening of deadlines in the electoral calendar. While legal, this presented additional challenges for the timely organisation of the elections and for the legal deadlines for complaints and appeals prior to Election Day. This also reduced the official campaign to ten days.

Kosovo is considered a single electoral district with the 120 deputies directly elected on the basis of an open list. The distribution of seats is made by proportional representation in accordance with the *Sainte-Laguë* method.

In line with the Constitution, a system of ‘reserved’ seats for political entities representing non-majority communities (used as a transitional measure for the two previous legislatures) was replaced by a permanent system of allocation of 20 ‘guaranteed’ seats. Ten seats are guaranteed for the Kosovo Serbs and the rest for the Bosnian, Turkish, Gorani, Roma, Ashkali and Egyptian communities. Political entities representing non majority-communities are exempted from the 5% threshold by law.

The representation of non-majority communities in the elections management bodies (MEC and PSC) is not guaranteed by the law, which only contains a general rule that states that the CEC shall endeavour to ensure that all ethnic communities with significant number in respective municipalities are fairly represented in the membership of MECs. The PSCs then have to reflect the MEC composition.

The law provides for at least 30% of the candidates on each political entity’s list and at least 30% of the total seats in the Kosovo Assembly to be for the least represented gender. This provision is important to ensure the representation of women but does not marry well with the current open list system, where voters can express their preferences for candidates.

Election Administration

The Central Election Commission (CEC) is a permanent body composed of members representing the six largest parliamentary groups of the Assembly and four non-majority groups. It appointed the 38 municipal electoral commissions (MECs) and 2,374 polling station committees (PSCs) specifically for these elections. It is the sole decision-making power body on all aspects of the elections and the MECs implement its instructions.

All layers of the electoral administration conduct their work in a transparent manner, with open meetings and dissemination of information to election stakeholders and the public. Domestic observers and political party observers were accredited in high numbers without any significant obstacle. However, the CEC website was not always updated promptly and translations were in some instances slow to be made available.

Despite the short timeframe, the election administration organised the elections well on a technical level, meeting most of its operational deadlines, including training PSCs, printing manuals and ballots, and delivering electoral materials. The CEC organised an extensive voter education campaign, including for out-of-Kosovo voters. The communication flow between CEC and MECs functions well, except for in the northern municipalities, where communications are not always timely.

Occasionally, delays in the decision-making and actions of the CEC did not enhance public confidence in its work. Despite extensive discussions of the procedure for allocating seats in the Assembly, the precise formula was only made available a few days before Election Day. A CEC

decision just prior to the official start of the campaign to ban the use of certain posters was untimely, causing unnecessary obstacles for campaigning parties and was eventually overturned by ECAP. The CEC also established a working group to consider a proposal to decide prior to Election Day to have a full recount of all polling stations at the central counting centre. This indicates a lack of trust of the PSCs and would have been in contradiction with the law.

The role of the OSCE in the four northern municipalities was one of guidance for MECs; assistance for the transportation of by mail voting applications and, if needed, in cooperation with the CEC; assistance in the transportation of election materials; and advice and technical assistance for PSCs.

Voter Registration

The final voter list, which is based on the civil registry maintained by the Ministry of Interior, included 1,782,454 voters. The criteria for eligibility are inclusive, extending to all potential voters who would be entitled to citizenship, but that due to population movements in recent decades might not formally be citizens of Kosovo.

Despite a recent clean-up of the civil registry, removing some 20,000 deceased persons, confidence in the accuracy of the voter list remains low. The major concern of political entities is the estimated 500,000 people who do not reside in Kosovo that are still registered in the civil registry and in the voter list.

The EOM observed that the preliminary voters lists were not always available for public consultation during the challenge period, as foreseen by the law. This period was extended from one to three days but no voters challenged the list to oppose inaccuracies and omissions.

Out-of-Kosovo Voting

Voters residing outside of Kosovo can participate in the Assembly elections through the out-of-Kosovo voting programme. Criteria of eligibility are inclusive and the instructions provided by the CEC are exhaustive and correctly translated. Nevertheless, the application period lasted only one week. Applicants needed to present documents that proved their identity along with documents that prove their connection to Kosovo, in accordance with the law. Without those, the application could not be accepted. Successful applicants in previous elections did not need to reapply but had to request a voting package.

The CEC received 29,754 applications (87% of them from Serbia) and a total of 16,569 were accepted in the first instance by the CEC; these were included in the out-of-Kosovo voters list and received the ballot paper on time. Out of those rejected, 9,172 appealed to ECAP, which only accepted 206. According to both institutions a large majority of applicants/appellants failed to attach the necessary documents that proved their eligibility, as foreseen in the law.² The successful appellants were included in the out-of-Kosovo voters list, but it is uncertain whether they were

² The right to vote is foreseen in the article 25 of the International Covenant for Civil and Political Rights, of 23 March 1976.

able to cast their vote³ before the 6 June deadline. Furthermore, unsuccessful appellants did not have time to appeal to the Supreme Court. As a consequence, their right to seek a final legal remedy was affected. Once more the extremely tight timeframe coming from the call for early elections affected the right to vote.

The CEC received around 15,000 envelopes through the postal system and the transportation provided by OSCE from Serbia. The counting of these votes is ongoing in the Counting and Results centre (CRC).

Registration of Candidates/Political Parties (Lists)

Candidate registration was conducted in an inclusive manner. Any person on the voter list is eligible to be a candidate. Registered political parties are automatically certified unless they express their will not to participate in the elections. The CEC certified 30 political entities: 18 political parties, seven citizens' initiatives, four coalitions and one independent candidate. At the time of registration and certification, political entities have the option to declare themselves as representing one of the non-majority communities. Among the certified political entities were 21 representing non-majority communities: five Kosovo Serbs, six Bosniaks, two Turkish, two Goranis, two Roma, two Ashkali and two Egyptians.

Campaign Environment

Campaign activities were in evidence since the elections were called, except in the north. However, the official campaign started only ten days prior to Election Day. Contestants were able to campaign freely and the campaign intensified in its final days. Most parties used door-to-door canvassing and small-scale meetings, in addition to distribution of flyers or visit cards, while the major political entities also used billboards, big rallies, but first and foremost paid coverage on the main TV channels, complemented by a dynamic utilization of social media platforms. Several political entities reported to EU EOM observers that public sector employees had been instructed to attend rallies.

The candidates focused on economic development, employment and investment. In most of the campaign, the overall tone was moderate although in the final days some parties reverted to nationalistic themes. With very few exceptions, all the candidates whether they represent the Albanian majority or non-majority communities, addressed their messages only to their community and in one language. Political parties continue to be dominated by men and media give much more extensive coverage to male candidates.

The dominant campaigners were the main parties represented in the Kosovo Assembly (PDK, LDK, AAK, VV, AKR). All the main opposition political parties criticised the privileged use of the public TV made by PDK, including in the pre-campaign period, and also raised concerns about its alleged misuse of public resources.

The expiration of the reserved seats system and the use of the guaranteed system was the source of discontent within the Serb community. In this context, on 28 May, the four mayors of the

³ The right to legal remedy is foreseen in the article 2.3 of the International Covenant for Civil and Political Rights, of 23 March 1976.

northern municipalities decided to suspend elections activities and threatened to boycott the elections citing the CEC's decision regarding the composition of PSCs and the use ballot paper bearing Kosovo's emblem. On 3 June, after the Serbian Prime Minister's intervention, Srpska List started campaigning actively in the south, without incident. In the north, the leaders of Srpska List finally agreed not to boycott the elections but there was no campaigning in the north. However, the suspension of election activities affected the right to campaign and voters' right to be informed in the north.

Media

Freedom of the media was generally respected and the media gave extensive coverage of the election campaign offering viewers and readers a wide range of news, debates and interviews. No election-related incident involving journalists was reported and most media interlocutors said they felt free to conduct their work. Media abstained from inflammatory messages although many of them restricted their reporting to their own community. Debates between members of different ethnic communities were practically non-existent.

The *de facto* campaign in the media started before the official period. Five television channels received warnings by the Independent Media Commission (IMC), a constitutional body which oversees broadcasting activities accused of airing spots or programmes sponsored by political parties before 28 May, a practice which breaches a specific IMC regulation⁴. The opposition largely complained about unequal treatment by the public RTK television during the pre-election period and extensive coverage given by the channel to Prime Minister Hashim Thaçi's activities. EU EOM analysis of the pre-campaign period found that all six major Kosovo Albanian parties were covered in RTK's evening news editions although more coverage was given to PDK⁵.

While the law regulates the buying and airing of political advertising spots, it does not limit sponsored coverage of election activities. During the official campaign sponsored coverage on TV was used as a means of campaigning at a level that many interlocutors said was unseen during previous elections. Television channels used a legal gap to apply "negotiable" prices for sponsored coverage, a practice which seems to be inconsistent with the Law on General Elections which provides for equal treatment to political contenders.

In its news programmes and during the campaign the public RTK 1 television gave more coverage to the candidates of PDK and LDK.⁶ Four other Kosovo Albanian parliamentary entities (AKR, AAK, Vetëvendosje and Nisma) were also largely covered. Srpska List was more covered than its main contender PDS in the news programmes of the Serbian-language public RTK 2 TV channel.

The private TV21 and Klan Kosova's coverage was balanced although the latter gave less space to AKR and Nisma. The media belonging to the private Koha Group (KTV channel and Koha Ditore daily) took a clearly negative stance towards PDK. The Kosova Sot daily showed a very

⁴ Rregullore për Komunikimet Komerciale Audio-vizuele / Uredba o komercijalnim audio-vizuelnim komunikacijama. Art. 2 and 22.

⁵ PDK 34%, LDK 21%, AAK 15%, Vetëvendosje 13%, AKR 9%, Nisma 6%. Data for all news on political parties and their leaders broadcast in all the editions of "Lajme" (19h30 news program) between 8 May and 27 May.

⁶ PDK 25%, LDK 21%, AAK 14%, Vetëvendosje 13%, AKR 13%, NPK 10%, PF 3%.

similar attitude towards LDK. The Tribuna daily gave AKR almost the same space as the second and third PDK and LDK joined together. Reporting by Zëri newspaper seemed to be more balanced with most coverage going to PDK, LDK and Vetëvendosje.

Coverage of women candidates was very low in the news media although KTV television and Radio Kosova provided for broad participation of women candidates in the debates.

Civil Society and Domestic Observers

Democracy in Action (DiA), a coalition of civil society organisations, is the main domestic observer group. It observed the campaign and the electoral preparation with 100 long-term observers, deployed observers in the majority of polling station during Election Day and issued several reports during the campaign period.

On Election Day, EU EOM observers saw at least one domestic observers present in 91% of polling stations, of whom 31% were women. They assessed their comprehension of the process as good or very good. DiA was the most present organisation, encountered in 82% of polling stations.

Electoral Disputes

The Elections Complaints and Appeals Panel (ECAP) is an independent body formed by judges that is responsible for adjudicating complaints related to alleged violations of the electoral process and appeals on CEC decisions. The panel received a total of 91 complaints and appeals during pre-campaign and campaign period. Complaints related to the political entities that started the campaign before the official campaign period were dismissed as ungrounded, as the law does not regulate that period, nor does prohibit campaigning.

Polling and Counting

The EU EOM observed the opening, voting and closing in 510 polling stations in 37 municipalities. This represents the 21.5% of the total number of polling stations in Kosovo.⁷

The opening hour was generally respected and the EOM positively evaluated the overall conduct of the opening and all the related procedures were largely followed. Polling centre staff were assessed as professional. Polling Station Committees (PSCs) were regularly present and EOM observers evaluated their performance as “very good” or “good” in 95.3% of cases. 17.6% of PSCs were women but very few were chairpersons. Accredited observers representing political entities were present in the majority of polling stations. 17% of them were women. The most represented party was LDK, present in 80% of PS, followed by PDK with 78% and Vetëvendosje with 77%. EU observers reported that their attitude was generally very professional.

The polling was positively conducted in all the polling stations observed. The EU EOM assessed it as “very good” or “good” in almost all cases; the transparency of the process was also

⁷ The survey method design for the voting phase is a stratified random sample. The sample size is 277 polling centres, where the strata are 37 out of 38 municipalities of Kosovo, for security reasons observation did not take place in Zubin Potok. With a confidence level of 95% and a confidence interval of 95% the margin of error is 2.4%.

consistently considered as “very good” or “good”. EU EOM observers were able to observe the voting operation without hindrance nor restriction. The secrecy of the vote was guaranteed in 93% of polling stations observed.

Procedures to ensure the integrity of the vote were mostly followed. However, polling staff did not always check for traces of ink in 5% of cases, and the verification of the voter’s ID was not always done in 4%. The polling layout was generally adequate for the conduct of polling and to protect the secrecy of the ballot. The EU EOM also observed the conduct of conditional voting in several municipalities and found that procedures were respected.

The counting was positively assessed overall in polling stations observed and it was conducted in a transparent manner. According to observers, the voters’ intention was generally respected, when clear, as per international standards and Kosovo legislation. Nevertheless, PSCs sometimes had difficulties in completing the Reconciliation and Results Form (RRF) and in calculating the preferences for the candidates. This severely delayed the finalisation of the counting.

After the counting, the EU EOM followed the transportation of the electoral material to the respective MECs and observed the intake phase in 28 MECs. The Mission notes that the integrity and transparency of the operations are guaranteed in all MECs observed. The EU EOM is currently following the out-of-Kosovo voting verification process in the CEC and the intake phase in the CRC. In the coming days, the EU EOM will continue observing the tabulation in the CRC in Pristina.

Some isolated cases of malpractice were reported to the EU EOM, which were addressed by the relevant authorities.

This Preliminary Statement is issued prior to the completion of the tabulation of results, consideration of possible post-election electoral disputes and announcement of the final results. The EU EOM will publish a final report after the conclusion of the electoral process. The final report will include possible recommendations for the improvement of future elections.

An electronic version of this Preliminary Statement is available on the Mission website (www.eueom.eu/kosovo2014). For further information, please contact:
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