



NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

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STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE (NDI) INTERNATIONAL PRE-ELECTION DELEGATION TO ALBANIA

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I. INTRODUCTION

This statement is offered by an international pre-election delegation organized by the National Democratic Institute for International Affairs (NDI) in advance of Albania's June 24, 2001 parliamentary elections. The delegation visited Albania from May 9 through May 14.

The purposes of this international delegation were to express interest in and support for a democratic election process in Albania, to assess the electoral conditions and political environment in which the upcoming parliamentary elections are being held, and to offer an accurate and impartial report on the pre-election situation. The delegation conducted its activities according to international standards for nonpartisan election observation and Albanian law. The Institute does not seek to interfere in the election process and recognizes that, ultimately, it will be the people of Albania who will determine the credibility and validity of the elections and resulting composition of the Parliament.

II. SUMMARY OF OBSERVATIONS

After 10 years of multi-party democracy, the 2001 parliamentary elections present a critical opportunity for Albania to make significant progress in its democratic development. While Albania has made substantial progress in the area of electoral preparation, particularly in comparison to past elections, there remains a harsh polarization between parties and personalities, and skepticism among voters that could affect Albania's continuing transition to democracy. Government and political leaders must work together where possible in order to ensure public confidence in the democratic electoral process.

The delegation noted several important and positive factors in the electoral process which include the following:

- There appears to be an admission among political leaders of past electoral problems and a general recognition of the need for improvements in the current electoral framework. These improvements are necessary in order to create a better democratic process through which the public will become confident that the contest for political power will be resolved through credible elections.

- The Central Election Commission (CEC) has made several improvements in preparation for the 2001 parliamentary elections. These include: conducting proceedings in a more professional, timely and transparent manner; working with political parties to develop multi-partisan Local Government Election Commissions (LGECs); and posting voter lists throughout the country in a timely manner, thereby providing a 40 day verification period for voters to review the lists.
- Opposition parties have agreed to name their members to the Local Government Election Commissions (LGECs) and through their participation the parties have contributed to the establishment of multi-partisan LGECs throughout the country.
- Freedom of expression for citizens is generally guaranteed and there are a variety of news sources.
- Civic organizations are committed to conducting non-partisan monitoring during the pre-election period and on election day.

These positive aspects notwithstanding, the delegation noted a few significant challenges to the election process.

- Although public confidence in the CEC's technical capabilities has increased since the 2000 local elections, there still remains some skepticism about the Commission's overall political impartiality.
- Despite the efforts by the CEC to publicly post voter lists and to provide a review period of 40 days during which citizens can verify their names, concern was expressed to the delegation that many citizens may not yet be fully aware of the verification procedures and some may ultimately be unable to exercise their right to vote.
- Newly created constituency boundaries that were drafted by the Boundary Commission, debated at length in parliamentary committee and passed by Parliament on the legal deadline of February 28, have themselves become a source of political controversy.
- Confusion exists over the interpretation of Article 66 of the Electoral Code, "Allocation of Compensatory Mandates," which sets forth the guidelines for distributing the 40 proportionally assigned seats in the 140-member Parliament. Without clear guidance from the CEC, this confusion might ultimately undermine the spirit of the Constitution and the intent of Article 66, which is designed to provide smaller parties with adequate representation in Parliament.

The delegation was encouraged by the strong desire expressed by Albanians to hold the upcoming parliamentary elections in accordance with international standards, and therefore a series of recommendations is offered at the end of this statement.

III. THE DELEGATION AND ITS WORK

NDI began its activities in Albania in 1991 and monitored the country's 1991, 1992, 1996 parliamentary, 1996 municipal, and 1997 parliamentary elections and offered a pre-election assessment of the 2000 municipal elections. The Institute provided assistance to the Society for Democratic Culture, a non-partisan Albanian civic organization, throughout the 1990's. NDI also carries out programs in Albania supporting political party development through the Political Leadership Development Program (ZHUP), grassroots civic education through Civic Forum, and voter education through its NGO coordination program. NDI has maintained a staff presence in the country since 1993. NDI's programs in Albania are funded by the United States Agency for International Development (USAID).

NDI has conducted more than 45 international election observations and more than 60 pre-election missions around the world, including many in Central and Eastern Europe. This pre-election delegation includes election and political experts who have participated in numerous election assessments and international election observer missions around the world. The members of the delegation are: Juan Ignacio Garcia, Chairman of the Chilean Central Election Commission; Dr. Shlomo Avineri, Director of the Institute for European Studies at the Hebrew University of Jerusalem and former Director-General of the Israeli Foreign Ministry; Jason Steinbaum, Counsel to U.S. Congressman Eliot Engel; and Shari Bryan, NDI Regional Director. The delegation was joined by Gillian Gloyer, Resident Political Party Program Director for Albania and Damian Murphy, NDI Washington Program Officer for Albania.

The delegation made its observations and findings based upon: analysis of the legal framework for the elections; review of materials on Albania's election process produced by other international organizations, Albanian and international press and impartial Albanian election monitoring organizations; and analysis of information presented during the delegations' meetings in the country. While the role of the delegation was distinct from NDI's other programs in Albania, it was informed by the activities of NDI staff in the country over the past 10 years and the findings of the Institute's prior pre-election missions to Albania.

The delegation met with Prime Minister Ilir Meta; the Speaker of Parliament, Skender Gjinushi; the Chairman and Vice Chairman of the Central Election Commission (CEC), Ilir Celibashi and Gasper Kokaj; leaders of government and opposition political parties (including among others, Socialist Party President Fatos Nano, and Democratic Party President Sali Berisha); media analysts; leaders of civic organizations, including the Society for Democratic Culture and Albanian Helsinki Committee; residents of the districts of Tirana and Durres; members of the diplomatic community and representatives of international organizations, including the Presence in Albania of the Organization for Security and Cooperation in Europe (OSCE), OSCE's Office for Democratic Institutions and Human Rights (ODIHR), the Council of Europe and the International Foundation for Electoral Systems (IFES); the U.S. Agency for International Development (USAID); and others concerned with election processes. The delegation would like to express its gratitude to everyone with whom it has met for sharing their time and their views.

IV. OBSERVATIONS

An accurate and complete assessment of any election must take into account all aspects of the election process. These include: 1) conditions set up by the legal framework for elections; 2) the pre-election period before and during the campaign; 3) the voting process; 4) the counting process; 5) the tabulation of results; 6) the investigation and resolution of complaints; and 7) conditions surrounding the implementation of results. This delegation therefore does not pre-judge the overall election process. At the same time, no election can be viewed in isolation of the political process in which it takes place. The pre-election period, including electoral preparations, the political environment, and the degree of participation by all actors, must therefore be given considerable weight when evaluating the democratic nature of elections.

A. The Overall Election Environment

The delegation noted widespread consensus among political leaders of past electoral shortcomings and the need to improve the current electoral framework. Likewise, a genuine commitment seemed to exist by many to ensure that the upcoming parliamentary elections will reflect a new and more promising phase in Albania's democratic development. Many recommendations made by Albanian authorities, domestic monitors and international observers have been accepted and implemented. The delegation noted a general consensus that marked improvements had been achieved as some amendments had been made to the Electoral Code, the CEC had taken a more professional and transparent approach to its work, and cooperation between the political parties resulted in the February 28 agreement which led to the establishment of the parliamentary committee on voter lists.

B. The Central Election Commission

Political leaders from all parties (including the opposition), Albanian citizens and members of the international community informed the delegation that the CEC had substantially improved its work and was seen as a more transparent and professional body. It was noted that information was more easily obtained from the Commission, and press conferences and interviews of Commission members were routine. These improvements have been attributed in part to the reconstitution of the CEC, following the resignation and replacement of three controversial members, and the appointment of a new Chairman.

Despite these significant improvements since the local elections, a perceived lack of political impartiality of the Commission remains a concern. The resignation of three former members presented a positive opportunity to address this concern since these individuals had been particularly criticized for political bias by opposition parties. However, this opportunity was missed when the opposition failed to propose names to replace the three vacant seats and the government institutions appointed candidates without ensuring that they would be acceptable to all sides of the political spectrum. As a result, criticism and suggestion that the CEC remains in the hands of the majority party tends, in public perception, to cast a shadow over the Commission's independence. Extra-ordinary steps need to be taken by the Commission to ensure that its actions in the remaining period before the elections are seen by the Albanian people as credible, non-partisan and of the highest integrity.

C. Article 66

Article 66 of the Albanian Electoral Code sets forth the guidelines for distributing the 40 compensatory seats in Parliament, which are allocated under a proportional representation formula stipulated by the Code. The purpose of Article 66 is to carry out a principle embodied in the Albanian Constitution that provides smaller parties with an opportunity to achieve adequate representation in Parliament.

The Code contains a mathematical formula that, unfortunately, is subject to different interpretations. The allocation of seats according to this calculation depends on the way coalitions are treated and how independent candidates are defined. Several smaller parties have expressed concern that under a certain interpretation of the formula, larger parties could use it to increase their representation in Parliament.

The delegation found that this problematic aspect of the electoral system, unless legitimately clarified, carries the risk of confusion; this may also undermine the original intention of ensuring the representation of smaller parties in Parliament and may result in having the opposite effect. It is therefore critical that the CEC issue instructions as soon as possible on the proper interpretation of this aspect of the Code, and set out clear guidelines as to how the Code impacts the treatment of coalitions and independent candidates.

D. Voter Lists

The accuracy of the voter lists became a central point of contention during preparations for the 2000 municipal elections and continues to be a concern for several opposition parties. After a massive effort to compile Albania's first national voter registry last year, leaders in the opposition asserted that many of their supporters had been intentionally excluded from the lists and that it was the responsibility of the authorities to develop accurate lists based on Albania's civil registries. While there were several allegations made by some in the opposition, the delegation found no proof of voter list manipulation.

Election authorities have made several attempts to assuage the concerns of those in the opposition regarding the voter lists. For the 2001 parliamentary elections, citizens have 40 days to check their names on the voter lists posted throughout the country. In the event that citizens find errors or omissions on the list, they may go directly to the LGEC and make the necessary corrections. In addition to this process there are also three-person verification teams, consisting of representatives of the two largest parties and a local authority official, which work with the local civil registry office to identify voters who are missing from the list. An additional measure is the provision that citizens may apply to courts up to one day before the election, if they find that their names are not on the list.

In spite of these efforts to ensure that safeguards are in place so that every citizen has the opportunity to verify whether his or her name is properly placed on the voter registry, many political leaders and citizens suggested that there are still flaws in the process. It was argued that some citizens may have been confused by the recent census teams which came door to door to verify population numbers, while others asserted that citizens had not been sufficiently informed about the location of voter lists or about remedies available to prospective voters, should they find that their names are not included on the list. As such, the CEC and LGECs should therefore take extra precautions to ensure that the public is notified

of the verification process in an ongoing effort to encourage citizen participation in the upcoming elections.

E. Constituency Boundaries

In compliance with the 1998 Constitution, the Parliament was charged with reducing the number of electoral zones from 115 to 100. The Electoral Code stipulates that the approximate number of voters in each zone is determined by dividing the total number of voters in Albania by 100, but permits a tolerance of +/- 5% in any zone. It also allows for further adjustments based on a number of considerations enumerated in the Code. In March 2001, Parliament held a vote on redistricting that was boycotted by several opposition MPs, many of whom have alleged that several districts were gerrymandered in the Socialist Party's favor and that many violate the +/-5% margin of error suggested by the Code. Several in the opposition dispute the electoral zones because the boundaries were based on controversial voter lists developed for the 2000 local elections.

The delimitation of election boundaries is complicated and difficult to free from partisan political considerations. The delegation understands that there is concern over the composition of several of these electoral zones. Electoral zone 22, a geographically non-contiguous area, was mentioned to the delegation as particularly questionable. However, even if these concerns are justified, the principle of proportionality now embodied in Albanian electoral legislation should mitigate most of the effects of any deviations.

V. RECOMMENDATIONS AND CONCLUSIONS

The delegation appreciated the desire for credible elections expressed by public officials, political and civic leaders and Albanian citizens generally. While a significant number of improvements in the election process have been achieved, important challenges still lie ahead. In recognition of these factors and in the spirit of international cooperation, the delegation respectfully offers the following recommendations.

1) Continuing Political Discourse. Political parties should build on their February agreement in order to achieve a genuine election and a resulting government that will thereby benefit from a clear democratic mandate. The political leaders should take advantage of the opportunities to meet with members of the CEC on important electoral issues that are still to be resolved. Such dialogue is essential to promoting pluralism and to encouraging public confidence in the political process.

2) Encouraging Citizens to Verify Voter lists. The delegation strongly encourages all citizens to verify that their entries on the voter lists are correct. The Central Election Commission should increase voter education efforts in this respect, and political parties should take additional steps to encourage their supporters to check their names on the voter lists.

3) Encouraging Central Election Commission Instructions and Impartiality. Despite the significant steps that have been taken by the CEC in recent months to improve the transparency and professionalism of the Commission, many important issues are yet to be resolved and should not be delayed. In particular, the CEC should take expeditious action to issue clear guidance on Article 66, the formation of coalitions and the registration of

independent candidates. If this crucial electoral provision is not clarified, criticism and confusion can only increase in the remaining period before the election.

Likewise, as doubts about the CEC's political partisanship continue, confidence building measures should be taken by the Commission to ensure that all future decisions taken are viewed as impartial, non-partisan and conducted in an open and transparent manner. For example, the CEC should respond quickly to all electoral complaints regardless of political considerations.

4) Ensuring Election Day Preparedness. The national government should ensure that all appropriate authorities, including the CEC, local government organs and the courts be provided with sufficient financial and administrative resources to ensure that election day activities are conducted in an efficient manner. In addition, every effort should be taken to ensure that local courts are adequately equipped and prepared to address last minute petitions for voter registration.

5) Using Complaint Mechanisms. The delegation received reports that the procedures for resolving electoral disputes were not implemented satisfactorily in the aftermath of the October 2000 local elections. It also learned that, this year, training is being provided to the judiciary to assist it in this task. This is a welcome development. The delegation encourages political parties to raise any complaints they may have about the electoral process through the appropriate channels.

6) Encouraging Broad Citizen Participation in the Election Process. Every citizen has the right to participate in public affairs, and achieving genuine democratic elections requires broad citizen participation. Citizens should take up this responsibility to build and safeguard the democratic process by participating as voters, election officials at the polling stations and elsewhere, political party pollwatchers and domestic election monitors. In order to encourage citizen participation, the CEC should issue credentials to domestic election monitors in a timely manner.

Conclusion. The delegation was encouraged by positive developments in Albania's election system, and hopes that the recommendations offered above will contribute to the efforts of those who are working to consolidate, broaden and deepen democracy in Albania. The Albanian people have demonstrated a strong desire for advancing a more democratic culture; the delegation trusts that the country's political leaders will respect this desire by continuing to adhere to the principles of electoral participation. NDI will continue to monitor the process and through its programs will offer continuing support to those working to strengthen democracy in Albania.