



<b>International Observation Mission to Kosovo Municipal Elections 2009</b>	
<b>Misioni Ndërkombëtar i Vëzhgimit në Kosovë për Zgjedhjet komunale 2009</b>	<b>Međunarodna posmatračka misija - Lokalni izbori na Kosovu 2009</b>

## **STATEMENT ON PRELIMINARY FINDINGS AND CONCLUSIONS FOR THE SECOND ROUND OF MAYORAL ELECTIONS**

### **Kosovo's Second Round of Mayoral Elections Show Notable Improvements; However, Challenges Remain**

**Pristina, December 14<sup>th</sup>, 2009**

*The international observation mission of the European Network of Election Monitoring Organizations (ENEMO) observed the electoral process in Kosovo from the beginning of October 2009. ENEMO issued its first preliminary statement on 16 November 2009 and an interim statement on 9 December (both available at [www.enemo.eu](http://www.enemo.eu)). The following statement reflects the observation of the lead-up to the second round of mayoral elections on 13 December, as well as Election Day itself. The mission will remain in Kosovo to observe the counting process and will issue a final report in January 2010. For further information on observation methodology, please see the end of this document.*

#### **Preliminary conclusions**

- **The simplified process in the second round of the mayoral elections, together with efforts by the Central Election Commission (CEC), led to a slight improvement in the conduct of the voting procedure and, in particular, a more efficient counting and intake process.**
- **The second round of mayoral elections commenced while the results for municipal assemblies were not yet certified. Due to the fact that the complaints regarding allocation of assembly candidates were still being adjudicated during the second round of elections on 13 December, the Counting and Result Centre (CRC) faced challenges in preparing for the second round.**

- **The electoral campaign was generally calm with political actors focusing on door-to-door activities.**
- **Following the annulment by the CEC and the Election Complaints and Appeals Commission (ECAC) of several polling stations as a result of irregularities caused by the polling station staff in the first round, the CEC substituted a high number of Polling Station Committee (PSC) staff. Numerous requests for change of polling staff were also made by different political entities.**
- **The ENEMO mission hopes that detected cases of fraud in the first round of municipal elections will be investigated and processed by the proper authorities**
- **Numerous allegations of fraud and manipulation by most parties, often made without consideration of the legal and institutional mechanisms necessary to resolve the complaints, created a tense atmosphere in which the legitimacy of the election results may be challenged.**
- **The continued reliance on international assistance in organizing elections raises concerns of the willingness to build capacity within the stakeholder institutions.**
- **Despite a legal framework that promotes gender equality as “a fundamental value for the democratic development of the society,” the participation of women in political and state institutions in Kosovo remains limited.**
- **The widespread incidence of family voting observed is not only against the law, but represents a serious breach of the important principle of the secrecy of the vote. The apparent general acceptance of this breach by election authorities and political observers alike further consolidates a tradition of excluding women from playing active roles in society.**
- **A number of actors within the public institutions continue to disregard the fundamental principle of not using public resources for political campaigns**
- **The absence of Pristina municipality in the second round has meant that the media coverage of the different races has been more evenly spread in comparison to the first round.**

## **Background**

Following the publication of the final mayoral results of the first round on 26 November 2009, the Central Election Commission (CEC) announced that a second round of mayoral elections would be needed to decide the contests in 21 municipalities. In accordance with the law<sup>1</sup> the date for the second round was set for 13 December.

<sup>1</sup> Law on Local Elections in the Republic of Kosovo, art 9.6

## **Legal Framework**

In accordance with CEC Electoral Rule 10/2009, the second round of elections for mayors was conducted within the same legal framework as during the first round on 15 November. The practical differences for the second round are outlined in the same rule.

## **Election administration**

The second round of mayoral elections commenced while the results for municipal assemblies were not yet certified. The late announcement and certification of final results was a consequence of errors in packing and tabulations made at a polling station level, which were later discovered at the Counting and Result Centre (CRC).

The CEC is responsible for the CRC, where the count is carried out of conditional and special needs ballots, as well as those mailed-in from outside of Kosovo. The CRC also audits material and forms arriving from polling stations via the municipal election commissions (MECs). The CRC is a time consuming and costly part of the election process – partly due to the generalized use of conditional ballots.

Due to the fact that complaints regarding allocation of assembly candidates were still being adjudicated during the election on 13 December, the CRC faced challenges in preparing for the second round.

During these adjudications made by the ECAC and CEC, cases of suspected fraudulent behavior made at polling stations were detected and resulted in invalidation of polling station results. The credibility of the CEC, as well as of future elections, would be strengthened if the alleged fraudulent actions are investigated by appropriate authorities. Anyone found to have made an election related crime should be prosecuted. The unfortunate precedent of the 2007 elections should not be repeated. (On 20 March 2008, the ECAC sent findings of electoral irregularities in the 2007 elections to the Office of the Public Prosecutor for further investigation. To date, none of the cases have been investigated<sup>2</sup>).

The CEC, which was for the first time responsible for the election process, was still seen to be dependent on international technical assistance. The Organization for Security and Co-operation in Europe (OSCE) played an important advisory role both at the central and field levels.

The management of such crucial aspects of the process as the Count and Results Centre, voter education, and voting in the majority ethnic Kosovar Serb municipalities in the North, were the responsibility of the CEC and its technical implementation was coordinated by the International Foundation for Electoral Systems (IFES) through a signed agreement of cooperation. As problems and challenges became evident, it appeared as if the CEC withdrew from its leadership role and left IFES with much of the responsibility.

As in the first round, preparations and logistics from the central level seem to have been implemented without any major obstacles. The shortcomings detected at the field level during the first round on 15 November led to a number of changes in preparing for the second round. Both

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<sup>2</sup> OSCE Human Rights and Communities Department –Legal System Monitoring Section (Monthly Report – May 2009).

MECs and political entities decided to replace a total of 785 polling station commissioners for the second round. The CEC also organized additional trainings for MEC and polling station committee (PSC) staff.

CEC, MEC, and PSC members, with the exception of the CEC and MEC chairs, were all selected by political entities, as described in the Constitution and the Law on General Elections. It seems that the dependence on nominations from the political entities creates greater challenges for the process than if the selection were based on education and professional experience.

Unlike the first round, mail-in ballots were not sent to voters outside of Kosovo for the second round. Kosovar citizens residing abroad were simply asked to download the ballots from the internet and cast the votes from abroad using mail-in voting procedures.

The CEC should be commended for its efforts to provide Tactile Ballot Guides for visually impaired or blind people wishing to vote without assistance. Although not present in all polling stations visited, this attempt contributed to the respect of the secrecy of the vote.

## **Campaign**

According to its mandate,<sup>3</sup> which allows the CEC to decide on the length of the campaign period for the second round, the CEC on 18 November decided that the electoral campaign for the second round would be limited to a seven-day period from 5 December to 11 December. While some actors felt that this was unnecessarily short, it also provided the CEC with time to declare the contestants in the second round, and other actors were happy to limit the campaign in order to also lessen the costs of campaigning.

In the run-up to the campaign's commencement, most political activity was concentrated on forming alliances in the various municipalities in order to win over supporters of candidates no longer in the race. The agreements between the Democratic League of Kosovo (LDK) and the Alliance for the Future of Kosovo (AAK) to form alliances against the Democratic Party of Kosovo (PDK) in some municipalities led to a crisis in the governing coalition of Kosovo, and although the leaders of the two parties have since declared the coalition intact and said they will leave any restructuring until after the second round of mayoral elections, the crisis rumors certainly raised the temperature in the election campaign.

Party leaders have been very active in traveling around Kosovo to support their local candidates at various rallies and meetings emphasising the importance of the local elections for Kosovo's political future at national level. At the same time, the number of large-scale rallies and meetings decreased substantially from the first round and few new posters were seen on the billboards. The political stakeholders generally explained that they felt that their political programme was already familiar to voters and therefore concentrated on door-to-door campaigns and other small-scale visits with the electorate to encourage them to go out and vote.

The misuse of public resources (a breach of one of the fundamental principles of the election law<sup>4</sup>) already observed in the first round continued during the campaigns for the second round. Governmental or municipal vehicles were at times used for campaign meetings, as well as for

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<sup>3</sup> CEC Electoral Rule No 13/2009, art 1.1

<sup>4</sup> Law on General Elections in the Republic of Kosovo, art 2.

distributing and posting campaign materials.

## Media

The deliberations on the legitimacy of Kosovo's declaration of independence were set to dominate the news media in the period between the two election rounds. However, party politics also filled much of the media space. The allegations and confessions of political murders since the conflict in Kosovo and the local alliances threatening the governing coalition were the focus of many a debate and editorial in the media.

The absence of Pristina municipality in the second round meant that coverage of the different races was more evenly spread, in comparison to the first round, when the debate on the capital race dominated media outlets.

Again, a number of debates were organised in different media outlets, and the presence of only two candidates in each race facilitated voters' decision-making.

The Independent Media Commission, (IMC) is given the task to monitor the media during the campaign.<sup>5</sup> The IMC also set out to publish biweekly reports based on this monitoring. In its first biweekly report<sup>6</sup> on the media in the campaign, published on 6 November and covering the first week of campaign, the IMC concluded that media broadcasters have mostly acted in compliance with the law. It further noted that, although the law stipulates the responsibility of the IMC regarding all media outlets, the work of the IMC is limited to covering broadcast media, thus leaving the control over printed media without a regulatory body – a gap in the legislation that, according to IMC. “remains for further discussion and proceeding after the elections.”

Since this first biweekly report, and in spite of its name, no further report or follow-up of the campaign has been published on the IMC website, although various media outlets mention a new report just before the second round of elections. Furthermore, according to sources at the IMC, four official complaints about broadcast media have been submitted. Out of these, two have been settled through clarifications issued by the media outlets to the petitioners, while the other two complains still remain to be decided almost a month after being submitted.

On Election Day, a number of party candidates and/or representatives were interviewed in the various debate programmes in the broadcasting media. While they were generally asked to comment on the process, they often took the opportunity not only to urge voters to go and vote but also to vote for their own parties, thus breaching the campaign silence.

In interviews mentioned above, there were also numerous allegations from all sides about various acts of fraud and manipulation on behalf of other parties during the electoral process. While the mission strongly urges all actors to substantiate these allegations and address them to the proper authorities (the ECAC and the police service), they certainly raises concerns about the level of democratic political culture of the political stakeholders. Should these allegations be true (some examples have been witnessed by ENEMO observers), then the acts described show a sincere

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<sup>5</sup> Law on General Elections in the Republic of Kosovo, Chapter 8

<sup>6</sup> Monitoring of Media Broadcasters during the Coverage of Campaign for Local Elections 2009, ([http://www.kpm-ks.org/images/stories/raporti\\_zgjedhjet\\_2009\\_eng.pdf](http://www.kpm-ks.org/images/stories/raporti_zgjedhjet_2009_eng.pdf))

disrespect for the whole principle of allowing the people to freely express their will through the ballots. If groundless, such false allegations will jeopardise public confidence in political parties.

## **Civil Society**

The activities of civil society in the period between the first and second rounds of the municipal elections appear to have had very little impact on the process. As in the first round, civil society organizations maintained their election observation activities, but at a much lower intensity. Some non-governmental organizations (NGOs) ceased their activities in regards to the elections and there was no visible voter education activity for the second round.

The coalition “Democracy in Action” has been active on local level, visiting municipalities and sending messages for free and fair elections. “Democracy in Action” held one press conference a day before the election silence, evaluating the process after the first round. The coalition remained the organization with the largest number of accredited observers – 2,393,<sup>7</sup> out of which 1448 observers were deployed in all of the municipalities where runoff elections were organized.

As an international network of NGOs, ENEMO still has the overall impression that civil society is not addressing important issues related to this process to the extent required and expected.

## **Women participation**

Despite a legal framework promoting gender equality as “a fundamental value for the democratic development of the society,”<sup>8</sup> the participation of women in political and state institutions in Kosovo remains very limited.

All of the 11 female candidates for mayor in the first round were defeated, and in the remaining 21 races, the contests were among 42 male candidates. The electoral administration continued to show a clear bias to male staff members as only 12% of the members of polling station committees observed were women.

The widespread cases of family voting (cases were observed in 26% of the polling stations visited in the second round) are not only against the law, but represent a serious breach of the important principle of the secrecy of the vote. The apparent general acceptance of this breach by election authorities and political observers alike further consolidates the tradition of excluding women from an active role in society.

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<sup>7</sup> Source: [www.kqz-ks.org](http://www.kqz-ks.org)

<sup>8</sup> The Constitution of the Republic of Kosovo, art 7

## Communities

In line with the intentions of the Ahtisaari plan, the various communities in Kosovo elected their own leaders in some of the municipalities where elections were held for the first time. The Democratic Turkish Party of Kosovo (KDTP) secured the mayoral position and the majority of councillors in Mamushë/Mamuşa, while the Kosovar Serb community gained control in Gračanica/Gračanicë, Ranilug/Ranillugu, and Klokot/Kllokot.

In Štrpce/Shtërpçë and Novobërdë/Novo Brdo, the results from the first round of elections were inconclusive and both municipalities went to a runoff. The preliminary information for the second round appears to indicate that there was considerable increase in the voter turnout within these municipalities.

## Election Day

On Election Day, 106 observers were deployed to witness the polling station opening, voting, and counting procedures. Observers made 538 total visits to polling stations in a majority of the 504 polling centers, and followed the counting and transfer of results to all 21 MECs. The ENEMO observers completed some 640 observation forms.

In general, the elections were carried out in a peaceful atmosphere and, despite more challenging weather conditions compared to the first round, the electoral authorities managed to solve all logistical problems and most of the polling stations opened on time or with minor delays. Compared to the first round, a slight improvement in the conduct was noted during these visits and the voting process was assessed positively in 96 per cent of polling stations visited and stations generally adhered to voting procedures; however, some procedural shortcomings remained. In four per cent of polling stations visited, polling station committee members did not always check properly for ink and in three per cent of stations, voters' identification documents were not always controlled, resulting in the opportunity for multiple and/or proxy voting.

The secrecy of vote was not always observed. In particular, cases of group or family voting were still observed in 26 per cent of stations, proxy voting in six per cent, and attempts to influence voters in some three per cent.

Party representatives of the two contesting candidates in the respective municipalities were present as members in the PSCs in 91 per cent of polling stations visited by the ENEMO observers and in 89 per cent, the parties deployed observers. Domestic observers were present in 87 per cent of visited polling stations, most frequently representing Democracy in Action.

The observations from the closing and counting procedures give the impression that efforts by the CEC to improve the process have had positive effects. The counting was generally carried out quickly and efficiently, and was assessed positively in all but one polling station visited.

However, isolated cases of non-adherence to administrative procedures were noted and in three cases the ballots were not checked for the stamp on the reverse. In two cases, the polling station chairperson did not announce the provisional results and, in six cases, a copy of the result protocol was not posted at the entrance of the polling stations, as required by law.

The many problems of the material delivered to the CRC in the first round were not witnessed in the polling stations visited this time, and the packing and sealing of material after counting was assessed by all observers as fully in line with the instructions.

Domestic observers were present in most of polling stations visited by the ENEMO observers during counting and party observers or representatives were present in all but one.

The intake procedure at the MECs also appears to have gone much more smoothly than in the first round and was assessed positively by all observers. Out of the 798 polling stations observed during the intake, approximately nine percent had errors, mostly regarding gaps on the Result and Reconciliation Form or the way the material was packed, but generally, these shortcomings were addressed by the MECs in coordination with the PSCs.

## **Complaints and Appeals**

Due to late release of governmental funding, the Election Complaints and Appeals Commission (ECAC) will, according ECAC sources, only be fully staffed and operational in early January 2010. The ECAC website was only fully operational at a late stage of the campaign, and still, very few of decisions made have been translated into the official Serbian language.

ENEMO will continue to follow the complaints and appeals process until the final results are certified.

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The ENEMO Mission wishes to express its appreciation to the Central Election Commission and the Kosovo Police Service (KPS) for their cooperation and assistance in the course of the observation. The ENEMO Mission is also grateful to the International Civilian Office (ICO) for its support throughout.

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***This document is available in Albanian and Serbian,  
but only the English version remains official.***

*The European Network of Election Monitoring Organizations (ENEMO) is a group of 22 leading civic organizations from 17 countries of Eastern and Central Europe and Central Asia. ENEMO member organizations have monitored more than 140 national elections and trained more than 190,000 observers. ENEMO seeks to support the international community's interest in and promotion of democracy in its region of engagement, to assess electoral processes and the political environment, and to offer accurate and impartial observation reports. ENEMO international observation missions evaluate the electoral process using international standards for democratic elections and benchmarks in the assessed country's legislation and constitution.*



*Following the invitation of the President of the Republic of Kosovo Dr. Fatmir Sejdiu to observe the Municipal Elections 2009, on October 12<sup>th</sup>, ENEMO Core Team arrived and prepared to deploy 12 Long Term Observers in 6 teams covering all territory of Kosovo to monitor the pre-election environment including the political campaign and activities of the election administration ahead of the November 15th. On the Election Day on 15 November, ENEMO deployed 106 election observers to 644 polling stations, throughout all municipalities in Kosovo where elections were held.*

*The Core Team and the 12 Long Term Observers remained in Kosovo throughout the interim period and on the Election Day 13 December 106 Short Term Observers returned to visit 538 polling stations in the 21 municipalities where the runoff took place.*

*For this particular Election Observation Mission ENEMO observers are coming from 16 organizations members of ENEMO and an additional 8 interested states from Europe.*

*The ENEMO observation reports are based on observations of the long- and short-term observer's findings in reference to international standards and national election legislation. The mission emphasizes that this second preliminary statement does not render a final assessment of the entire election process. ENEMO will defer its final assessment until the end of the election process which includes the vote count, announcement of the results and the potential complaints to be addressed. A final report will be published in January 2010.*