



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

## ***Statement of Preliminary Findings and Conclusions***

**The first elections conducted in the Republic of Kosovo were held in a calm and orderly atmosphere marked by some breaches of procedure**

**Pristina, November 16<sup>th</sup>, 2009**

*The European Network of Election Monitoring Organizations (ENEMO) is a group of 18 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 PhD. Fatmir Sejdiu to observe the Municipal Elections 2009, on October 12<sup>th</sup>, 2009, ENEMO's 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 15<sup>th</sup>. On the Election Day, ENEMO deployed 106 election observers to 563 polling stations, throughout all municipalities in Kosovo where elections are held.*

*For this particular Election Observation Mission ENEMO observers are coming from 16 organizations members of ENEMO and additional 8 different states from Europe and Eurasia. The ENEMO observation preliminary report is 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 preliminary report 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 vote count, announcement of the results, possible run offs and the potential complaints to be addressed.*

## Preliminary conclusions

- **The Central Election Commission endeavoured to create the necessary conditions for an efficient and positive conduct of the election process. This work was carried out in a transparent manner to overcome obstacles and challenges faced in the first elections since independence.**
  - **The Municipal and Mayoral Elections 2009 in the Republic of Kosovo met many of the International standards for elections, however, a complex political situation resulted in the inability of a portion of the electorate to exercise its right to vote in some areas.**
  - **The campaign was conducted in a peaceful and dynamic manner only disturbed by isolated cases of misconduct in its last week. The unsubstantiated allegations of systematic fraud further affected the atmosphere of the election process.**
  - **Despite efforts from the CEC to improve the voters list, discrepancies in the Civil Registry remain an obstacle to a qualitative list, thus leaving the door open to speculations of manipulation on Election Day.**
  - **The late start-up of an important election process institution, the Election Complaints and Appeals Commission, ECAC, introduced the possibility of diminishing trust in the electoral process.**
  - **The generalized use of conditional voting adds to the challenges and costs of the electoral process. They are further amplified by out of country voting, an unusual concept for Municipal and Mayoral elections.**
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## Background

In 1998 Kosovo erupted into violent conflict. Fearing a return to the brutal Balkans wars of the 1990s, the North Atlantic Treaty Organization (NATO) intervened in 1999. Serbs fled the returning Kosovar Albanians and found refuge both in Serbia proper and Northern Kosovo. NATO secured cordons around ethnic communities to prevent further violence and conflict.

A peace agreement, brokered by the United Nations (UN) Security Council, was signed under the conditions outlined in Security Council Resolution 1244, giving administrative authority of Kosovo to the United Nations Mission in Kosovo (UNMIK). Provisional Institutions of Self Government (PISG) were established under UNMIK authority, providing limited self-government to Kosovars. UNMIK administered Kosovo up until the 2008 declaration of independence. While technically still empowered by resolution 1244, UNMIK no longer exercises any real authority.

In 2005, UN Secretary General Kofi Annan appointed a Special Envoy to find a resolution to Kosovo's stalemate status. Former Finnish President Martti Ahtisaari spent several months in 2006 meeting with actors in both Serbia proper and Kosovo to put together a comprehensive settlement of status proposal. In his report, Ahtisaari proposed conditions for independence which included linguistic, cultural, social, and political rights for minority communities, most notably Kosovar Serbs. Several attempts to broker agreement between Belgrade and Pristina failed, and in 2008 Pristina declared independence, committing to implement Ahtisaari's package. This commitment was mandated by many sovereign states as a condition for recognizing the Republic of Kosovo.

Kosovo has an established tradition of holding elections since 2000. Two Municipal elections (2000 and 2002) and two Assembly elections in (2001 and 2004) were prior to 2007. All of these elections were administered and organized by the International community.

The Local, Mayoral and General Elections were held on the 17<sup>th</sup> of November 2007 were organized and managed by the international community.

The current Local and Mayoral Elections 2009 are the first to be organized by the authorities of the Republic of Kosovo.

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## **Legal Framework**

Since the declaration of independence on February 17, 2008, Kosovo has adopted a Constitution and several laws governing the conduct of elections.

The Constitution follows the recommendations and obligations set out in the Comprehensive Settlement Proposal for Kosovo<sup>1</sup>, which emphasises the rights and freedoms granted to minority communities living in Kosovo.

Although Kosovo is not a signatory to any human right treaty, it is according Art. 22 in the Constitution obliged to give priority over Kosovo laws to several of the main treaties such as the Universal Declaration of Human Rights and the for election standards essential International Covenant on Civil and Political Rights.

The principal election related laws are the Law on General Elections and Law on Local Elections in the Republic of Kosovo were both adopted in June 2008.

Other important legal acts for the 2009 local elections are the Law on Local Self-Government and the Law on Administrative Municipal Boundaries.

The Law on General Elections leaves many important aspects of the electoral process to be described and decided by the Central Election Commission (CEC) through the adoption of Electoral Rules. For the 2009 local elections CEC has issued fourteen different Electoral Rules.

The Constitution, the main electoral laws and the CEC Rules describe different aspects of an election process while guaranteeing the basic fundamental rights and freedoms for democratic elections according international standards. However, there are issues in the existing legislation and rules which need to be addressed.

The Law on General Elections gives, in Art. 95, the voter an opportunity to cast a conditional ballot if they cannot be found on the voters list. Conditional balloting is a solution often used in post conflict environments to give voters the possibility to cast a ballot despite not being on the voters list where s(he) claims to be eligible to vote.

Conditional balloting has many drawbacks and unduely delays the announcement of count results and introduces a potential risk for decreased confidence in the whole process. There are also additional costs as strict voting and counting controls must be in place; security, transportation, and counting centre as examples.

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<sup>1</sup> [www.unosek.org](http://www.unosek.org)

The need to continue with the generalised and standardised conditional balloting should be discussed. Procedures similar to the special needs voting, for example, can be applied for remaining specific cases such as IDPs (Internally Displaced Persons).

As described in the Law on General Elections CEC is tasked to manage most aspects of political party registration and financial disclosure as well as political entity and candidate registration. Most of the electoral rules elaborated by the CEC are related to political entities and candidates. To reach more long-term, stable and transparent procedures separate laws regarding registration and operation of political parties, entities and candidates should be considered.

During the last weeks prior to the election voter identification documents were the subject of great public discussion. The law describes among others valid passport and valid ID cards without specifying the origin of the documents. Concerns were raised specifically among minority communities about the use of valid identification from outside of Kosovo. In the Kosovo context it is especially important that voters, well in advance of the Election Day, have clear and understandable information regarding the acceptable valid identification documentation.

Out of country voting for local elections is not a common practice. Due to many technical and logistical challenges this procedure drained energy from the election administration. Best practices demonstrate that the Local elections are focussed on addressing local issues and are of major interest to the citizens residing in the country.

## **Election administration**

The 2009 Local Municipal and Mayoral Elections are the first elections for which the Central Election Commission (CEC) is fully responsible for the preparation and conduct of the elections. The CEC is supported by a Secretariat (CECS) and 36 Municipal Election Commissions (MEC) implementing CEC decisions and responsible for the administrative and logistical arrangements needed for an election. The CEC is comprised of 11 members with the chair appointed by the President of Kosovo from among the judges of the Supreme Court.

CEC in general showed a high level of commitment during the preparations for the elections. The recruitment and training of election administration and polling staff in non Serbian areas as well as material procurement were overall conducted in an appropriate manner. The distribution of sensitive and non-sensitive election material to the municipalities was well executed.

It was nevertheless apparent that CEC is still dependent on external assistance. Several important activities were organized by IFES such as the Counting and Result Centre, the set-up of the mobile voting stations in the three northern Kosovo Serb municipalities and voter information campaigns. Also, OSCE was highly visible providing technical advice on central and local level.

Throughout the electoral period CEC cooperated with various stakeholders in effecting their role as elections administrators and maintained constant and open channels of communication. However, the low visibility of the voters education campaign run by the CEC remains a fact.

Another concern to be raised is that voters (especially in areas with minority populations), were not informed in a timely or proper manner about where they would cast their votes, or what alternative arrangements were being made. Alternate PCs were not established on time which led to a lack of time to inform voters properly about changes in PCs localities.

On the day of elections CEC held a series of press conferences to inform the public about the progress of elections.

Appointment of MEC members, polling station staff and selection of polling locations in Kosovo Serb communities met with severe difficulties. Already appointed staff resigned and public buildings could not be used as polling stations. In the northern municipalities of Zvecan and Zubin Potok only one mobile polling station was opened. For security reasons no polling station was opened in the municipality of Leposavich.

## **VOTERS LIST**

The total number of registered voters for the 2009 elections was 1.563.741. Although the CEC has done a considerable job of cleaning the voters lists' it still remains a problem. The highly complex and long legal procedures for addition or deletion of data in the voters lists' remains a challenge.

The voters list in Kosovo has been much debated and criticized for containing many names belonging to deceased or persons that for some reason have been erroneously included. There is no active voter registration, rather the voters list is an extract of the Kosovo civil registry which is part of the civil administration structure in each municipality.

## **Campaign**

The Pre-election period was marked with dynamic and active campaigning by candidates and political parties; from big rallies in large urban areas to the less formal gatherings and discussions with people on the streets, restaurants and other places where citizens gather.

The official campaign period began on 15 October. The campaign environment was mostly calm, despite some violent incidents. Major political leaders traveled widely, holding rallies around the country. Local campaign offices were established in most regions. The campaign was rarely marred by harsh language against rivals. As campaigning was coming to its end candidates were organizing large meetings with concerts, which attracted the younger population. A negative aspect is that many underaged people were actively engaged in the campaigns of candidates and parties, as activists and promoters of certain political options. It is notable that campaigning was more visible and more expensive in capital city and on national TV, much more than on local level and in door to door activities.

Many different stakeholders expressed concern about respecting of spending limits during the campaign. It is important that CEC follows this issue closely, especially the Campaign financial disclosure reports.

There were various cases of broken windows of party headquarters, cut tires (Gjilan) etc.

Prime Minister Thaci's motorcade came under a hail of stones and eggs late Wednesday 11th of November as he left the western town of Decani after a rally organized by his Democratic Party of Kosovo, or PDK. Besides this example, there were other violent events the motives for which are not completely clear. It is expected that the appropriate institutions will act efficiently in addressing these cases.

Based on the very active and visible campaigns the conclusion is that voters had choice in both content and information, and that candidates provided detailed programs in the hopes of securing elected office.

## **Media**

The European Network of Election Monitoring Organizations - ENEMO mission has not carried out a full-scale media monitoring. All comments in this section are therefore based on ordinary observations and interviews with media actors.

The Media sector in Kosovo developed rapidly after the end of the conflict in 1999 and today people have a wide choice of TV, radio and newspapers. However, the many newspapers, although influential among the urban elites, have fairly small numbers of circulation and TV has become the main source of information for the general public.

The constitution provides for a free and pluralistic media but in the last months a number of negative reports on the media situation have been published by various independent actors. In a June 2009 press release<sup>2</sup>, the Freedom House called for the Government to address and fully investigate the threats made against investigative journalist Jeta Xharra. In its report on the situation in Kosovo dated 14 October<sup>3</sup>, in the chapter devoted to Freedom of Expression, the European Union stated that the "independence and impartiality of the public owned RTK are not fully ensured". On 16 October, Reporters without Borders<sup>4</sup> found "freedom of media in Kosovo considerably deteriorated". Kosovo's ranking for media freedom fell to 75th place this year from 58th in 2008. Finally, on 26 October, the European Broadcasting Union (EBU) sent a public letter<sup>5</sup> to PM Thaçi saying that the EBU "is extremely concerned about the political and financial pressure being exerted by your government on RTK and its staff in the run-up to the first elections in Kosovo since your declaration of independence".

A number of journalists have confirmed problems within the sector and have also mentioned financial pressure on the private media sometimes leading to influence over reporting.

Most media outlets have been dominated by the election campaign and apart from ordinary news coverage and numerous political advertisements, there have been a large number of political debates especially for the mayor's races giving all candidates an equal opportunity to present their political programmes. The air-time for the different political entities in such debates is strictly regulated in the Law on General Elections and to date no complaints have been heard on the adherence to these provisions.

The electronic media is monitored by the Independent Media Commission, IMC, a body set up through the constitution. In its first biweekly report<sup>6</sup> on the media in the campaign it concludes that media broadcasters have mostly acted in compliance with the Law on Elections. News coverage was perceived as being neutral and balanced although the major Kosovo Albanian parties dominated the coverage due to "more dense political campaigns". The main problem noted were some cases of non-identification of advertisements – a violation of art 49 in the Law on General Elections.

When it comes to printed media there is no state regulator but instead a large number of newspapers have come together to found the Kosovo Press Council<sup>7</sup>, to act as a self-regulatory body for printed media. The council has so far not addressed any matters regarding the election campaign in the newspapers.

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<sup>2</sup> Freedom House press release 12 June 2009, (<http://www.freedomhouse.org/template.cfm?page=70&release=1007>)

<sup>3</sup> European Commission: Kosovo under UNSCR 1244/99 2009 Progress Report

<sup>4</sup> Reporters without borders: Press Freedom index 2009 (<http://www.rsf.org/en-classement1003-2009.html>)

<sup>5</sup> [http://www.ebu.ch/en/union/news/2009/tcm\\_6-66520.php](http://www.ebu.ch/en/union/news/2009/tcm_6-66520.php)

<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))

<sup>7</sup> <http://www.presscouncil-ks.org/>

## Civil Society

The civil society is playing an important role within the electoral process. The motivation of voters, voters education and election observation are the segments that the civil society should actively participate in. In relation to that, it is also notable that there was no visible and structured motivation campaign, neither from the election administration nor from civil society organizations, which would influence voters to take a more active part in elections and turnout in bigger numbers at polling stations.

There was a total of 10 civil society organizations accredited by the CEC and within a total of 2560 domestic observers were accredited for the Local election 2009.

However, there was no visible and structured "Get out the vote" campaign run by any of the stakeholders within the civil society.

The most visible domestic election observation group that accredited a total of 2131 observers was the umbrella of domestic NGO's "Democracy in action". Besides the E-day "Democracy in action" was following the process from its early stage and informed the public on its findings on weekly basis. Democracy in action held a series of press conferences in the course of the voting day and upon the closing of the voting.

The NGO "KIPRED" conducted a media monitoring on written and broadcasting media in the course of their campaign. KIPRED informed the public on its findings in a frequent manner.

There were significant efforts to undermine the election turn out by a domestic group - Vetevendosje by calling the voters to boycott the elections.

## 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 is very limited.

The Law on Local Elections calls for "at least 30% certified candidates of the other gender" (art 7.2) in the lists of candidates running for Municipal Assemblies and the seat allocation after elections must follow the same 30 % minimum even if votes on the open lists of candidates should produce a different result. This regulation has been followed during the certification of political entities. During the campaign there have also been cases of targeted debates and political meetings especially addressing the women in society.

However, in spite of these efforts the participation of women in many stages of the process has been low. Out of the 205 candidates running for mayors, only 11 are women. The absence of women is also very notable in the election authorities. Although chaired by a woman, the remaining ten members of the Central Election Commission are male. In the Municipal Election Commissions only 2 out of 33 functional<sup>9</sup> MEC Executive Officers are women and only some 9 % of the members are female. Also in the Polling Station Committees the women are in clear minority. In the 563 Polling Stations visited by the mission observers, only some 14 % were female.

## Communities

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

<sup>9</sup> The MECs in the 3 northern municipalities were at best appointed on paper while the work was carried out by IFES and the Mitrovica MEC

In line with the concerns raised in the Ahtisaari plan, the constitution of the Republic of Kosovo has a separate chapter on the rights of Communities and their members. Contrary to the provisions for the Assembly of Kosovo, there are no provisions for set aside seats in the municipal assemblies for minority Communities.

There are, however, other provisions aimed to guarantee the interests of the minority communities. All municipalities shall have a Communities Committee with a minimum of one representative from each of the minority Communities living in the municipality. Furthermore, in municipalities where at least ten per cent (10%) of the residents belong to Communities not in the majority in those municipalities there shall be a Vice President of the Municipal Assembly for Communities, (held by the non-majority community's candidate who received the most votes on the open list of candidates for election to the Municipal Assembly), and a deputy mayor for Communities elected by the municipal assembly.

The electoral authorities on various levels should reflect the various Communities in the Assembly of Kosovo and if needed, the Municipal Election Commissions may increase their number of members to give access to representatives of minority Communities. An example of this is the MEC in Pristina where one member was added to include the Ashkali community.

Out of the 74 entities certified to contest these elections, 40 represent the various minority communities in Kosovo as follows;

- Kosovo Serb 22,
- Kosovo Bosnian 7,
- Kosovo Turkish 4,
- Kosovo Ashkali 2,
- Kosovo Montenegrin 2,
- Kosovo Egyptian 1,
- Kosovo Gorani 1,
- Kosovo Roma 1.

The different communities have had access to various media outlets addressing their concerns and often in their languages. Most of these are local TV or radio stations and in some cases local printed media, but the public broadcaster RTK also airs some 30 % of its news and information programmes in minority languages.

Most of the minority community parties have expressed satisfaction with the election process although they suffer from lack of funding for any elaborate campaigning. The main focus in the run up to the elections has been on the participation of the Kosovo Serbs in the electoral process. As already noted, 22 different Kosovo Serb entities registered for the elections but at the same time the calls for a boycott were strong from many sides including the Serb Orthodox Church, the Assembly of the Community of Municipalities of the Autonomous Province of Kosovo and Metohija , the Serb National Council. From the government in Belgrade the official comment was that "there were no conditions for Serbs to vote" and even if it was up to each person to decide for themselves, it was made clear that support for Kosovo institutions would mean no future support from the Serb so called parallel structures.

## **E – Day**

On Election Day, 106 observers were deployed to follow opening, voting and counting procedures. Observers visited 563 polling stations in more than 500 of the 746 polling centers and followed the counting and transfer of results to all 36 MECs. The ENEMO observers completed some 700 observation forms.



The voting process was assessed positively in 93 per cent of visited polling stations and voting procedures were generally adhered to; however, some procedural shortcomings were noted. In 4 per cent of visited polling stations, polling station committee members did not always check properly for ink and in 2 per cent of stations the ID of voters 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 observed in 34 per cent of stations, proxy voting in 7 per cent and attempts to influence voters in some 4 per cent. Unauthorized persons were present in 7 per cent of polling stations visited, and in 3 per cent of the polling stations persons without authorization were directing the work of commissions.

The ENEMO observers reported some problems related to a lack of clear guidelines on which IDs were valid and in 26 cases observers assessed that voters were turned away for unjustified reasons. In areas where alternative polling stations had to be designated observers assessed that in 18 cases voters were not properly informed about the new location.

Party observers or representatives were present in 92 per cent of polling stations visited by the ENEMO observers. Domestic observers were present in 87 per cent of visited polling stations, most frequently representing Democracy in Action (82 per cent of all polling stations).

In general, counting was assessed positively in most polling stations visited. The ENEMO observers assessed that polling station committees did their best to follow procedures and minimize the risk of formal problems when delivering material to MECs.

Isolated cases of non adherence to procedures were noted and in two cases the process was difficult to follow fully in polling stations unsuitably arranged. A presence of unauthorized person was reported in a handful of cases and in two polling stations an unauthorized person was directing the work of the PSC.

While only 3 % of the votes cast for mayors in the polling stations visited were deemed invalid, a striking 11 per cent were rejected in the municipal assembly election possibly reflecting the new voting technique and the perceived lack of voter education.

In 10 cases the polling station chairperson did not announce the provisional results nor was a copy of the result protocol posted at the entrance of the polling stations, as required by law.

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. In two cases complaints were raised and noted in the poll book and one formal complaint to ECAC was filled in.

## **Complaints and Appeals**

The Election Complaints and Appeals Commission (ECAC) is the independent permanent body, with the mandate to adjudicate complaints and appeals related to the election process.

ECAC is composed of 5 judges appointed by the President of the Supreme Court.

The Law on General Elections states that the appointed ECAC members shall prioritize any ECAC related matter starting 60 days prior Election Day until certification of results and all Kosovo authorities shall assist ECAC during that period.

ECAC is a very important institution for maintaining and protecting the integrity, credibility, and transparency of the entire election process. It is therefore of concern that, although the judges were appointed in 2008, Kosovar authorities have not been able to release funding for a proper functioning of the ECAC in due time. Only after intervention and support from international organizations ECAC was able to be operational the last weeks before Election Day.

It is also of concern that none of the cases of criminal offences from 2007 elections that ECAC has forwarded to the appropriate courts has been prosecuted.

ENEMO will continue to monitor the work of ECAC within the process of complaints and appeals in the period to follow.