



ENEMO International Election Observation Mission

Local Elections, 17 October - Kosovo 2021

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

18 October 2021

The 2021 local elections were generally held in a calm environment, despite tension in the North and uncertainties regarding possible postponement of elections due to COVID-19. However, continuous delays in conducting an electoral reform have led to unclear and conflicting regulations affecting legal certainty. The election administration is highly centralized, with considerable responsibility, burden and power vested in the CEC. Effective oversight mechanisms, especially regarding voter registration and campaign finance, remain to be implemented.

On 18 September, the European Network of Election Monitoring Organizations (ENEMO), following official accreditation by the Central Election Commission of Kosovo, deployed an International Election Observation Mission (IEOM) to Kosovo to observe the Local Elections of 17 October 2021.

ENEMO has deployed a total of six Core Team experts, of whom five experts are based in Pristina. The Mission is headed by Mr. Pierre Peytier. The IEOM's scope is limited in scale, and has not engaged additional long-term or short-term observers and, as a result, did not conduct a comprehensive observation of the voting and counting process on Election Day. However, the mission has provided information on the preparation and conduct of the elections, and observed a number of selected polling stations on the day of voting.

Additionally, up until 15 October, the ENEMO CT experts have conducted 54 meetings with election management bodies, political entities, state officials, media, embassies, international and domestic civil society organizations.

The mission has been monitoring and assessing the overall political and electoral environment, respect for the rights to elect and stand for election, conduct of election management bodies, campaigning, gender equity, voting and tabulation processes, electoral dispute resolutions and

other crucial aspects of the process, based on international standards for democratic elections and the legal framework of Kosovo.

This Preliminary Statement is based on ENEMO's findings from the pre-election period and to a limited extent also the Election Day. The Mission will stay in the country until the conclusion of the electoral process, to observe the second round of elections in municipalities where these will take place and follow post-election developments. A final report, including a full assessment, which will depend in part on the conduct of the remaining stages of the elections, detailed findings, and recommendations will be issued within sixty days from the certification of results.

ENEMO's international observation mission for the 2021 Local Elections in Kosovo is financially supported by the National Endowment for Democracy (NED). The content of the document is the sole responsibility of ENEMO and does not necessarily represent the position of the donor.



Preliminary Conclusions

The pre-election period was generally calm and peaceful, aside from tensions in the North, while Election Day was conducted mostly in line with the legislation and international standards. The mission did not comprehensively observe Election Day, but was able to observe at a selected number of polling stations in Pristina, Gracanica, Kisnica and North Mitrovica. Overall, occasional incidents on the day of voting did not seem to affect the outcome or results of the election. The process of final tabulation of results remains to be conducted, and the mission will continue to observe in between the two rounds, along with any possible mayoral run-offs.

The existing legal framework regulates most important aspects of the election process and can ensure conduct of elections in accordance with most democratic standards. However, a whole range of regulations require revision and update in order to avoid ambiguity, ensure effective conduct of elections and improve the electoral environment. Over the last years, electoral reform has failed several times, preventing the adoption of relevant amendments to the legislation. Accordingly, those issues that require relevant amendments include, but are not limited to electoral dispute resolution, campaign financing and reporting, election campaign and misuse of state resources, voters' list and voters' eligibility, etc.

The Central Election Commission has managed to prepare the first round of elections effectively and conduct its tasks in line with the established deadlines, amidst the challenges faced with procurement procedures and a high number of "investigative" activities with regards to candidate and voter registration and verification of their eligibility. The CEC did not issue any special regulation with regards to the COVID-19 pandemic, other than implementing measures prescribed by the Government.

The work of the CEC was mostly transparent, and its sessions were open to observers. However, many minutes from CEC sessions, and a number of CEC Decisions and other election-related data were not posted on the CEC website accordingly, whereas none of the minutes from CEC sessions were made available in the Serbian language. The CEC organized voter education for the first round of elections, targeting various categories of voters and using diversified means of communication, including social and traditional media, in both official languages.

The election administration system of Kosovo is highly centralized and most activities and decisions with regards to elections are made by the CEC. MECs have a rather technical role, even in local elections, which puts additional pressure and workload on the CEC Secretariat and its staff.

While the Law is inconclusive and inadequately clear with regards to forming of lower tiers of electoral administration (MECs and PSCs), the CEC established all MECs and PSCs on time and without major issues, nor complaints from election contestants. The CEC made an effort to train all commissioners for these elections.

No significant challenges regarding candidate registration were noted by ENEMO for these elections, and the process seemed overall inclusive, even though extremely burdensome for the CEC Secretariat having to verify the eligibility of each candidate. Non-certified candidates were mostly rejected due to having a criminal record.

ENEMO has not recorded any improvements in the quality of the Voters' list compared to previous elections monitored by its election observation missions. The Voters' List and thereby the Civil Registry on which it is based, represents a major challenge for electoral processes in Kosovo, affecting the work of the CEC and the overall public trust in elections and requires urgent legislative and technical improvements, especially with regards to removing of deceased persons and completing the process of unified street addresses throughout the country.

The verification of Out of Kosovo application requests and voter eligibility was an extremely demanding process for the CEC, especially with thousands of requests and a limited period available for this task. The Out of Kosovo application and voting process leaves space for possible mistakes and misuses, as it lacks adequate safeguarding mechanisms and transparency, whereas the legal and human capacities of the CEC to conduct inquiries of applicants is also questionable, possibly granting discretionary power to the CEC Secretariat.

The campaign was characterized as low-key by all ENEMO interlocutors, while the vast majority of campaign budget of all political entities was directed towards campaigning on social media. A number of restrictions pertaining to the struggle against COVID-19 affected the campaign, which prevented mass-meetings by political entities and rallies. Despite these measures being aimed at limiting the risks of coronavirus infections, they did not prevent political entities from conducting campaign events. The disregard of political entities for the health of voters involved in such events is a reason for concern, as is the limited severity of sanctions imposed.

While the campaign environment among Kosovo-Albanian parties was diverse and competitive, Srpska Lista visibly dominated the political environment of the Kosovo-Serb community. During the televised debates organized by several media outlets, candidates from all municipalities had the opportunity to present their political platforms and discuss a range of topics relevant for local communities. Overall, language used in debates was moderate with few exceptions of inflammatory language used towards other candidates.

ENEMO raises concern over the alleged misuse of administrative resources that is often intertwined with pressure on public employees and vote buying, as it negatively affects voters to freely exercise their right to vote. Additionally, ENEMO notes that the legislative framework does not provide sufficient mechanisms for preventing the misuse of administrative resources, such as providing a list of possible violations and sanctions in this regard, which limits transparency and influences the integrity of the electoral process.

When it comes to campaign finance, ENEMO considers that the framework contains numerous shortcomings in terms of effective supervision, transparency, and does not ensure proper accountability of political parties. Legislative provisions do not regulate types of donations besides financial donations, such as in-kind donations, as well as mechanisms to identify and control goods and services provided for free or below market value, or paid in cash. The existing legislative framework is not fully in line with international standards for campaign finance, primarily when it comes to GRECO recommendations for campaign finance. ENEMO emphasizes that no mechanism is introduced to effectively monitor and verify the way funds are collected, especially if the amounts exceed the prescribed limit by an individual donor or entity.

ENEMO raises additional concerns over the requirement for political entities to submit their campaign finance report within 45 days after the elections, which undermines financial transparency of the campaign before the Election Day and prevents voters from being informed on funding of political entities in a timely manner. Finally, ENEMO notes that the purpose of the annual financial auditing process is disrupted by significant delays, while irregularities found in many financial reports of political entities are not adequately sanctioned despite the legal mechanisms at the disposal of the CEC.

Kosovo's media scene is very diverse, despite a lack of transparency regarding media ownership, which has in recent years flourished with online media. Television is the main source of information besides online and social media. Before the pandemic, Kosovo had five daily newspapers with small circulations. The COVID-19 pandemic put an end to the production of print issues; there are only online versions. Politicians are largely using social media in political communication, especially Facebook, the most used social network in Kosovo. All ENEMO media interlocutors raised concerns about spreading of disinformation and propaganda in social media and the lack of oversight over social and online media in Kosovo.

Access to information remains limited despite legal regulations, as many media interlocutors stated that the Government is insufficiently transparent and open for cooperation with the media. Overall, journalists struggle to obtain official information on important topics, including political news. On a positive note, as stated by all ENEMO media interlocutors, the CEC has been very cooperative and responsive.

For increasing women engagement in politics, the minimum requirement of 30 percent gender quota is an important mechanism. However, this requirement set forth in the Law on General Elections is not in accordance with the 50 percent gender representation standard envisaged by the Law on Gender Equality. All political entities respected the minimum requirement of gender quota, although women involvement in elections is still not high, with only 8.43 percent of women candidates for Mayoral elections and 37.25 percent of women candidates for Municipal Assemblies elections.

The legislation envisages regulations for the participation of persons with disabilities in elections. Nevertheless, the existing legal norms are not sufficient for either providing information regarding the ongoing election process to persons with disabilities in a format adapted to their needs, nor does it contribute to their independent participation in elections. Physical accessibility of polling stations still remains one of the main obstacles for persons with disabilities to independently vote at polling stations.

Complaints adjudication is extensively regulated by the primary and secondary legislation. Regardless of that, the existing legal norms do not fully guarantee the right to effective legal remedy, mostly because of tight deadlines for filing and adjudicating complaints. Legislation is also unclear and could cause misunderstandings regarding the types of complaints and their deadlines.

Background

The 17 October 2021 local elections were scheduled to take place by Decree of President Vjosa Osmani on 2 June 2021. These were the fourth local elections to take place following the declaration of independence of Kosovo in February 2008.

Local elections were held to elect heads of municipalities along with municipal councilors, and saw some 90 certified political entities competing in 38 municipalities throughout the country. According to official preliminary data from the CEC, as of 19:00, the turnout was 42.49 percent¹.

Dialogue between Kosovo and Serbia was suspended in 2018 upon imposition by Kosovo of trade tariffs on Serbian goods, with the EU emphasizing that one of the key conditions for potential Serbia and Kosovo EU membership was an established and legally binding agreement normalizing their relations². To some extent, dialogue was furthered in September 2020, when Prime Minister Hoti and Serbian President Vučić signed an "Economic Normalization" document, which was separately submitted to USA President Donald Trump. This document, commonly referred to as the "Washington Agreement", aimed at furthering a gradual normalization of relations between Kosovo and Serbia. On the other hand, negotiations on the Stabilization and Association Agreement (SAA) with the EU are still ongoing, along with issues such as the liberalization of visa regimes, while dialogue with Serbia remains an issue of contention and a process to be finalized.

Kosovo's political scene in recent years, and particularly since the February 2021 early parliamentary elections, has undergone drastic political alterations. This includes the victory of Lëvizja Vetëvendosje (LVV) and the political shift consecrated by the results of the February 2021 elections, where the party experienced a considerable increase in voters' support³. Meanwhile the country still faces several challenges pertaining to economic development, judiciary reform, unemployment rates, and corruption. Progress has been met in the organizing and holding of elections over the years, however a comprehensive electoral reform remains an urgent issue to be addressed.

In the framework of organizing local elections, an issue arose pertaining to the "reciprocity" regarding vehicle registration plates. The deadline for registered plates expired on 14 September 2021, with a provision that following steps would be discussed under EU mediation. However, on 20 September, the Government of Kosovo introduced fees for temporary Kosovo license plates for cargo and passenger vehicles with Serbian plates. Escalating tensions led to the deployment of

¹ <https://zgjedhjet2021.org/sq/mayr/t3>

² Since 2011, dialogue between Kosovo and Serbia has been mediated by the EU, following the International Court of Justice's conclusion that Kosovo's declaration of independence was not in breach of international law. The Brussels Agreement between Belgrade and Pristina from 2013 envisages the establishment and statute of a Community of Serb Municipalities (CSM). However, this Agreement remains on hold due to a decision of the Constitutional Court of Kosovo ruling that a number of provisions (24) are not in line with the Constitution of Kosovo. Serbia does not recognize Kosovo as a sovereign state, but rather as an autonomous region according to the Constitution of the Republic of Serbia.

³ 50.28 percent of total votes in the February 2021 early parliamentary elections.

heavy armed forces from special police units (ROSU) near the border crossings. In response, Kosovo Serbs drew up barricades in Jarinje and Brnjak, and tensions escalated when Municipal Offices were attacked. The issue was partially solved through EU mediation and covering state symbols on license plates from Kosovo and Serbia, and did not overly affect the organizing and holding of elections in the northern regions.

As an additional challenge, elections were held in the midst of the ongoing COVID-19 pandemic, raising the question of postponing elections. The Public Health Institute expressed concern in September that public gatherings during the campaign could worsen the epidemiological situation, while the idea to decrease the duration of the campaign was not accepted due to a lack of consensus among political parties. Finally, plans for holding the local elections went ahead and elections were not postponed.

The start of the electoral process was met with additional turbulence due to the fact that the previous Chairperson of the CEC, Mrs. Valdete Daka, was dismissed by the President only one day before the start of the process, and a new Chairperson was appointed from among the judges of the Supreme Court⁴. This decision caused a strong reaction from civil society and several political entities claiming it was politically motivated, especially since it came late in the process without clear and substantiated reason, decreasing public trust in elections and at odds with best democratic practices⁵.

Legal framework and electoral system

Legal Framework

Several legal acts regulate the conduct of local elections in the Republic of Kosovo. The most important legal document is the Constitution. It should be noted that, though Kosovo is not a party to any international human rights treaties, Article 22 of the Constitution sets forth that a number

⁴ The mandate of the Chair or any member of the CEC may be terminated through resignation, or terminated with immediate effect by the President of Kosovo in the following circumstances: a) the member fails to meet the conditions and criteria of the law; b) the member fails to attend three consecutive meetings of the CEC without any reasonable cause and the termination of the mandate is approved by 2/3 of the majority vote of the CEC; c) the member is convicted of a criminal offence; d) the member behaves or acts in a manner that seriously affects the status and integrity of the CEC; e) the member is unable to perform his/her duties for more than six consecutive months. In case the mandate is terminated by the President of Kosovo, the new appointment is conducted in line with the Law, whereas the new member shall only serve for the remainder of the mandate of the member replaced but may be re-appointed in line with the Law.

⁵ 2002 Venice Commission Code of Good Practice in Electoral Matters, Explanatory Report, Part 3, point 77: “Broadly speaking, bodies that appoint members to electoral commissions should not be free to recall them, as it casts doubt on their independence. Discretionary recall is unacceptable, but recall for disciplinary reasons is permissible - provided that the grounds for this are clearly and restrictively specified in law (vague references to “acts discrediting the commission”, for example, are not sufficient).”

of international agreements and instruments, relevant also for the conduct of elections, are directly applicable in Kosovo and in case of conflict, have precedence over domestic legal norms.⁶ Additionally, Article 53 determines that human rights and freedoms guaranteed by the Constitution should be interpreted in accordance with the decisions of the European Court of Human Rights.⁷

Besides the Constitution, primary legal acts regulating elections are the Law on Local Elections (LLE),⁸ Law on General Elections (LGE),⁹ and the Law on Financing Political Parties.¹⁰ Some aspects of elections are also regulated by the Criminal Code,¹¹ Law on Gender Equality, Law on Local-Self Government and the Law on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo.¹² The existing laws are supplemented by 19 regulations adopted by the CEC and also Rules of Procedure of Election Complaints and Appeals Panel (ECAP).

The most recent attempt to carry out electoral reform took place in 2019, but the process was suspended without adopting any amendments. As different interlocutors explained, this was caused by the political turbulence created in the country, outbreak of COVID-19 pandemic and several consecutive elections that prevented the resuming of the process. As indicated, the lack of political will and consensus among political parties caused the failure of the reform process during previous years.

Due to this, there are a whole range of issues that require revision. Primarily, this concerns election dispute resolution, campaign funding and reporting, voters list and voter eligibility, registration and operation of political parties, election campaign and misuse of administrative resources, etc. As noted by the interlocutors, besides laws, secondary legislation also requires changes to address existing challenges.¹³

Overall, the legal framework provides a sufficient basis for conducting democratic elections in accordance with most international standards to which Kosovo has committed to in its

⁶ Those international agreements and instruments are defined in Article 22 and comprise of: Universal Declaration of Human Rights; European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols; International Covenant on Civil and Political Rights and its Protocols; Council of Europe Framework Convention for the Protection of National Minorities; Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination Against Women; Convention on the Rights of the Child; Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

⁷ However, as Kosovo is not a signatory party to the European Convention of Human Rights, no application can be lodged against it in the court. Accordingly, implementation of human rights depends on state authorities and its judicial system.

⁸ Law No. 03/L-072 5 June 2008.

⁹ Law No. 03/L-073, 5 June 2008. Last amended on 29 October, 2010 (Law No. 03/L-256).

¹⁰ Law No. 03/L-174, 2010. Amended in 2012 and 2013.

¹¹ Code No. 06/L-074, Chapter XVIII (Articles 207-217) regulates Criminal Offences against Voting Rights. Those comprise violations of the right to be a candidate; threat to be a candidate; preventing exercise of the right to vote; violating free decision of voters; abuse of official duty during elections; giving or receiving bribe in relation to voting; abusing the right to vote; obstructing the voting process; violating confidentiality in voting; falsification of voting results; destroying voting documents.

¹² Law No. 03/L-047a, 4 June, 2008.

¹³ For instance, regulations on registration and operation of political parties, observers, limiting the campaign expenditures and financial declaration, Code of Conduct for political parties, their supporters and candidates, etc.

Constitution, however there are numerous challenges and legislative framework requires comprehensive revision in order to improve existing regulations, avoid misunderstandings and ensure legal certainty.

Electoral System

Municipal elections for electing municipal bodies- the Municipal Assembly and the Mayor, are conducted every four years through universal, equal, free, direct and secret vote. There are 38 municipalities and each of them represents a single electoral district.

The Municipal Assembly is the highest representative body at the municipal level and the number of members to be elected in the Municipal Assembly varies from 15 to 41 in proportion to the number of population in the municipality. Only the Assembly of the municipality of Pristina consists of 51 members.¹⁴ Open list ballots are used and a voter has the right to cast a vote for one certified political entity and for one candidate from the list of candidates of the same political entity, except for the first candidate on the list, as the vote casted for the political entity is considered as casted for that candidate. If more than one candidate is marked on the ballot paper, only the vote for a political entity is counted. Preferential votes casted for candidates are counted separately. The Sainte-Lague method is used for allocating seats in the Assembly.

A candidate list submitted by a political entity must satisfy a minimum 30 percent of gender quota. If the minority gender is assigned less than 30 percent of the total number of seats received by the political entity, the last candidate of the majority gender on the list of the respective political entity should be replaced by the minority gender candidate, until the minority gender receives the required 30 percent of seats.

The Mayor is directly elected by the voters registered in the respective municipality. A candidate is considered elected if she/he receives 50+1 percent of casted valid votes. If none of the candidates receives the required number of votes the second round is held between the two candidates who received the most of the valid votes in the first round. The candidate who receives the majority of votes in the second round becomes the Mayor of a municipality.

Election Administration

The election administration in Kosovo is composed of a three-tiered system, in a hierarchical manner: the Central Election Commission (CEC) as the highest electoral body, Municipal Election Commissions (MECs) as the second level tier and Polling Station Committees (PSCs) as the third tier that conducts polling and first tabulation of election results.

¹⁴ Art.36, Law NR. 03/L-040 on Local Self-Government, 2008.

Central Election Commission (CEC)

According to Article 139 of the Constitution and the Law on General Elections of Kosovo, the CEC is a permanent independent body responsible for the organization and implementation of elections in Kosovo. The main responsibilities of the CEC are: regulating the electoral process through the adoption of Electoral Rules/Regulations, maintaining the Voters' List, organizing and preparing election-related activities, conducting voter education, compiling and presenting election results, supervising the election process and electoral stakeholders' conduct and other tasks.

The CEC consists of 11 members. The chairperson is appointed by the President of the country from among the judges of the Supreme Court, or appellate courts, for a seven-year mandate. An additional 10 members of the CEC are appointed based on nominations made by parliamentary groups represented in the Kosovo Parliament, of which six members are appointed by six largest parliamentary groups¹⁵ that are not entitled to reserved seats, whereas one member is appointed by MPs holding seats reserved for the Kosovo Serb Community and three members are appointed by MPs holding seats reserved for the other non-majority Communities. Except for the chairperson of the CEC who cannot serve for more than two consecutive mandates, other members of the CEC should serve for no more than three consecutive mandates, whereas the mandates of the 10 CEC¹⁶ members normally follow the mandate of the Kosovo Assembly.

The CEC is supported by its **Secretariat (CECS)**, which performs numerous technical activities related to the organization of the electoral process and which is run by the CEO, who is responsible to the CEC for his/her work. Also, the **Count and Results Center (CRC)** is a special space where conditional ballots, out-of-Kosovo ballots, and any regular ballots, as required by the CEC or ECAP are counted, reconciliation and results forms from all polling stations are audited and tabulated, and the final results are compiled.

The CEC faced multiple challenges with procurement procedures, especially the printing of materials (including training manuals, accreditations, counting protocols, COVID-19 protective equipment and brochures), mainly due to complaints from unsuccessful procurement applicants, as the national Procurement Review Body was not functioning and could not decide on complaints,

¹⁵ If fewer groups are represented in the Assembly, the largest group or groups may appoint additional members - Art.139 of the Constitution of Kosovo.

¹⁶ To be appointed, a member of the CEC must have work experience of at least five years and a university degree in law, public administration, political science, human rights, mathematics, election administration, social sciences, public relations, or statistics. A person is ineligible to be a Member of the CEC if they are: a) a member of the Assembly of Kosovo; b) a member of a Municipal Assembly in Kosovo; c) a candidate for elected public office in Kosovo; d) a member of a publicly elected representative assembly outside of Kosovo; e) a holder of a senior public or high political party office; f) a member of a public electoral commission within or outside of Kosovo; g) a member of the Kosovo Protection Corps; h) a member of any police force or body of like kind; i) a person not eligible to vote in Kosovo; j) a person serving a sentence imposed by the International Criminal Tribunal for the Former Yugoslavia or under indictment by the Tribunal, and has failed to comply with an order to appear before the Tribunal; or k) a member of a non-governmental organization monitoring the elections; l) has been convicted of a crime by a final court decision; m) has been a member of an intelligence / security service in Kosovo, or abroad in the last 5 years; and n) has been dismissed from the public administration for a violation of the law.

but also possibly due to the inefficient conduct of the CECS¹⁷. The CEC decided to use the “extreme emergency procurement”¹⁸ procedure, established within the relevant procurement legislation of Kosovo, in order to be able to organize elections.

The conduct of the CEC was mostly transparent and its sessions were open to observers and other interested parties, with simultaneous translation provided also in English. However, not all data and documents related to elections were posted online, or were not posted regularly and timely on the CEC webpage, including a number of minutes from CEC sessions, some Decisions and other data relevant for the electoral process. At the same time, the CEC did not post any information with regards to these elections’ minutes of CEC sessions in the Serbian language section of its website, nor its section in English. The CEC produced numerous voter education materials, including video spots, brochures and other materials, available in both official languages. The voter education campaign covered different topics related to the election, including information on adequate voting procedures, eligible identification documents and similar, targeting various categories of voters and using diversified means of communication, including social and traditional media, in both official languages.

Meetings of the CEC are valid when attended by no less than seven CEC members. By Law, Decisions related to Electoral regulations, the registration of political parties and certification of political entities, the declaration of election results, as well as decisions related to complaints regarding the declaration of results, should be decided by consensus of CEC members, or two thirds of all votes when it is not possible to reach a consensus. Every other decision can be taken by a simple majority of votes. In sessions observed by the mission, most decisions were taken with a large majority, or unanimously.

For these elections, the CEC printed a **total of 3,397,200 ballots** for both types of elections (for Mayors and Municipal Assemblies), or **1,698,600 ballots each**. The printing of bilingual ballot papers was traditionally conducted at the printing house for high security documents from Celje, Slovenia. According to the decision of the CEC, 186,848 ballots were printed less than the total number of voters (9.91 percent), as a practice followed in previous election processes¹⁹.

The CEC did not adopt any special regulation with regards to the ongoing COVID-19 pandemic, as it decided to apply measures prescribed by the Government of Kosovo. All level commissioners needed to be vaccinated, or fulfill other health criteria related to the pandemic in order to be able to participate in elections. Before Election Day, the Government allowed electoral stakeholders and observers to move freely during elections regardless of the curfew, but not to voters.

¹⁷ Several CEC members have publicly stated that they will propose to the CEC to conduct an interim assessment of the work of the Secretariat with regards to procurement after the elections.

¹⁸ Art. 35 (2) iii, Law on Public Procurement

¹⁹ According to the CEC, 178,000 fewer ballots than the number of voters were printed for the last Parliamentary elections in February.

Municipal Election Commissions (MECs)

The 38 MECs are established by the CEC as local branches, one in each municipality to assist in performing the administrative and operational duties at the municipal level for each election. MECs generally consist of seven members, yet this number may be increased if the number of political entities qualified to nominate members is higher. Each MEC is composed of the MEC Executive Officer (MEO), who is employed by the CEC and as such is the Chairperson of the MEC, as well as MEC members, who are appointed based on nominations of political entities that have passed the threshold at previous Kosovo Parliamentary elections (if they are subject to an election threshold). The CEC Secretariat can also nominate any other person or persons that it considers appropriate for membership of the MEC, giving special consideration to the need to ensure fair gender and ethnic representation, whereas the Secretariat may also consult NGOs or academic institutions to identify suitable candidates. The non-majority Community parties with reserved seats in the Kosovo Parliament may also have members at the MEC and the CEC is obliged to ensure that all non-majority communities with significant numbers in respective municipalities are fairly represented in the membership of MECs.

To be eligible, MEC members must vote in the municipality of the MEC's location and should be persons with high professional and ethical standings, with administrative or electoral experience and knowledge sufficient to efficiently perform the work of the MEC. Also, each member needs to sign the MEC Code of Conduct to be appointed. The CEC should appoint every MEC within 15 days of the announcement of the election. Appointment shall be terminated 15 days after the certification of election results, unless the term of a MEC is terminated earlier or extended.

For these elections, all MECs were established on time, on 30 June 2021²⁰ and there were not many changes to the composition of MECs during these elections, while some MEC members in particular municipalities were added or substituted.²¹ MECs were mainly transparent in their work and were open towards observers and other interested stakeholders.

In Kosovo, MECs have a rather technical and administrative role in elections, mainly to support the conduct of elections, under the supervision of the CEC. By Law, MECs have the following tasks: a) to establish an office in the premises of the municipal administration building to conduct its duties; b) to provide information to voters of all communities and disseminate information necessary for the administration of elections; c) to impartially provide political entities and candidates with information about their rights and obligations in relation to elections; d) to attend any training session required by the CEC; e) to assist in the appointment and training of any person assisting in the administration of the election, including polling station committees; f) to assist in the technical arrangements at the polling stations and any other technical preparations for the elections, including receiving all non-sensitive election materials; g) to ensure proper conduct of polling and counting and compiling the results of the elections within their jurisdiction; h) to collect and store election-related materials after the election; and i) to perform other duties required by any other applicable legislation or CEC rule²².

²⁰ CEC Decision no.1719, 30 June 2021, <https://bit.ly/3vp1F6K>

²¹ CEC Decisions no. 1788, 2001, 2002, 2250, <https://bit.ly/3aIRDDX>; <https://bit.ly/3FVyywB>; <https://bit.ly/3pd7CTc>; <https://bit.ly/3FYJ0Dm>;

²² Primarily CEC Regulation No. 18/2016 on appointment, composition and functioning of MECs.

The system of election administration in Kosovo is very centralized and most decisions, as well as the most important electoral tasks are conducted by the CEC. Even when local elections are held, the MECs have a rather technical and administrative role in elections to support the work of the CEC, not being responsible for registering local election contestants, nor for establishing Polling Station Committees, or Polling Centers in their municipality.

Polling Station Committees (PSC)

At the precinct level, PSCs are responsible for managing the polling stations on Election Day, conducting the voting, tabulating votes and similar tasks. PSC composition is similar to the composition of the MEC and, in addition, the CEC Secretariat should invite newly certified parties to submit additional nominations for PSCs. MECs may, in special cases, increase the number of PSC members²³ and immediately notify the CEC. Each PSC member is obliged to attend training, sign a Code of Conduct and act impartially, regardless of political party affiliation. There should be at least 10 percent of reserve PSC members for elections.

Polling Stations (PS) are places where voting is conducted on Election Day and PS within a Polling Center (PC) should not have more than 750 voters, with an exception authorized by the CEC. One or more PSs are located in a single PC and, in most cases, they are set up in schools or community facilities. PSs should be established in an accessible place to allow voters to form and stand in a queue and should, whenever possible, have adequate access for persons with disabilities. Based on the recommendation of the MEC, the Secretariat publicly announces the exact location of each PC, no later than 40 days prior to the Elections. Subsequent changes to PC locations should be allowed in case of *force majeure*, or other objective and unpredictable reasons that would make a PC unsuitable for voting purposes. If a PC location has been changed, the MEC shall notify the voters of the change through local available media sources, as well as by posting a notice at the original PC location. Voters are assigned to a PC based on their residence and data from the Final Voters List and no voter should travel more than three kilometers to their place of voting, whenever possible.

For these elections, a total of 883 PCs, with 2,477 PSs were formed.²⁴ There were only several changes to the announced locations of PCs due to the ongoing pandemic, but voters were informed in time about the new location. The CEC made efforts to train all PSC members before the first round of elections, including the training of replaced commissioners in order for the replacements not to have an affect on the overall quality of work of the PSCs.

²³ According to the CEC Regulation No. 19/2016, each PSC should normally have the following positions / functions: Chairperson of the PSC; Queue Controller; Identification Officer (ID officer); Ballot provider; Ballot Box Supervisor; Identification Officer assistant and Ballot provider assistant.

²⁴ <https://www.kqz-ks.org/wp-content/uploads/2021/09/2021-09-08-Lista-e-QV-Zgjedhjet-Lokale-2021.pdf>

Registration of voters

As stipulated by the Law²⁵, an eligible voter in elections in Kosovo is a person that is at least eighteen (18) years of age on the day of the elections and satisfies at least one of the following criteria: a) he or she is registered as a citizen of Kosovo in the Central Civil Registry; b) he or she is residing outside Kosovo and left Kosovo on or after 1 January 1998, provided that he or she meets the criteria in applicable legislation for being a citizen of Kosovo; or c) he or she obtained the status of a refugee²⁶ on or after 1 January 1995, and is eligible to be registered in the Central Civil Registry as a habitual resident of Kosovo. At the same time, no person may vote if he or she: a) is serving a sentence imposed by the International Criminal Tribunal for the former Yugoslavia (“the Tribunal”); b) is under indictment by the Tribunal and has failed to comply with an order to appear before the Tribunal; or c) has been declared mentally incompetent by a final court decision. Additionally, according to the Law on Local Elections²⁷, the voter has the right to vote only in the municipality where he or she is registered as permanent citizen, unless provided otherwise by the law.

Voter registration is one of the most challenging issues in Kosovo elections, especially due to imprecise public civil registries and street addresses that are not unified, which affects the work of the CEC, especially when developing Voters’ lists and establishing PCs and PSs throughout the country. According to the CEC, some data, primarily the non-unified street addresses/codes of voters in the civil registry and registry of Identification documents of Kosovo citizens, maintained by the Ministry of Interior often do not match, or are not aligned with the actual names and numbers of streets in most municipalities, as the level of coordination between different institutions is very low and therefore the data used and kept by each of these institutions largely differs. This issue represents a considerable challenge for the CEC to adequately assign voters to the appropriate PS or PC and determine their actual numbers, as by the Law, the number of voters per each PS is limited and the distance of PS from voters’ residence should not exceed three kilometers, whenever possible. Furthermore, many interlocutors believe that the civil registry is not adequately and timely updated and contains many deceased persons.

These circumstances are among the main reasons why the mechanism of **Conditional voting** in Kosovo was put in place. This instrument allows all voters that cannot be found in the Voters list of a particular PS to cast a conditional vote in a specific PS, using a blank (“Conditional Voters List” - CVL). Such a PS is normally the dual PS within every PC and is specially formed for such situations, but only if a voter meets other legal criteria as a voter and proves his/her identity. For local elections, voters should only vote conditionally in the municipality where they permanently reside.

²⁵ Art. 5 of the Law on General Elections in the Republic of Kosovo.

²⁶ As defined in the Convention Relating to the Status of Refugees of 28 July 1951 and its Protocol of 16 December 1966.

²⁷ Art. 12.2 of the Law on Local Election of the Republic of Kosovo.

Out of Kosovo voting is another aspect of the electoral process in Kosovo that poses a challenge for the CEC in terms of time and human resources necessary for conducting such a complex process. The registration for out of Kosovo voting starts 25 days after the announcement of elections and ends 60 days before Election Day²⁸, during which time the Secretariat needs to conduct numerous tasks: informing the voters abroad about the means and specifics of voting procedures for out of Kosovo voters; receiving application/registration requests from interested voters; deciding whether to reject the application/registration on legal grounds and inform the applicants about the possible legal redress, or to send successful applicants ballots by mail if approved; developing an Out of Kosovo Voters list and removing the names of voters from the Voters list used for in-country voting. An eligible and successfully registered Out of Kosovo voter may vote by mailing the previously received/printed ballot to the CEC, from 15 September until 15 October (24 hours before Election Day). These ballots are directly counted at the CRC and are counted first, by CEC regulations.

For these elections, the CEC received a total of **18,836** applications for registration of Out of Kosovo voters²⁹ from almost 50 different countries, mostly by email. According to CEC reports, the number of applicants who have been successfully registered as voters Out of Kosovo and who can vote by mail until 15 October is **15,532**, whereas **3,320** applications were rejected for many different reasons, including the failure to meet legal requirements, but also a high number of applications (1,172) that were removed after phone verification conducted by the CEC, partially due to its practice to randomly check at least 2% of applications, but also due to the fact that the Secretariat staff found applicants' emails suspicious. The exact methodology used by the Secretariat remains unclear, especially as at the end of the verification process, around one third of all rejected applications came from one country³⁰.

According to the data from the CEC, many phone numbers provided by the applicants were inactive, whereas many voters whose phone numbers were correct admitted that they did not apply to vote in person and all these applications were rejected. At the same time, the number of application requests to vote by mail in some municipalities was very high when compared to the total number of voters in these as well as other municipalities, and the CEC needed to conduct additional verification³¹. The fact that the most complaints to ECAP (584) concerned Out of Kosovo voting and that only 12 were approved proves that this segment of the electoral process is one of the biggest challenges in Kosovo, even though the overall number of Out of Kosovo voters for local elections is rather low compared to the total number of voters.

The verification of Out of Kosovo application requests and voter eligibility is an extremely demanding process for the CEC, especially with thousands of requests and a limited time period available for this task. The Out of Kosovo application and voting process can also be abused, as it lacks adequate safeguarding mechanisms and transparency, whereas the legal and human

²⁸ For these elections the period of registration was from 10 July to 18 August.

²⁹ For Local Elections of October 22, 2017, the CEC had received a total of 11,813 applications.

³⁰ Somehow, after the verification process conducted by the CEC Secretariat, and according to data provided by its Voters Services Division, most rejected applications came from Montenegro - out of 1,373 received requests for Out of Kosovo voting, only 166 were approved and successfully registered from this country.

³¹ Four municipalities (Dragash/Dragaš, Suharekë /Suva Reka, Junik/Junik and Mamushë/Mamuša were particularly suspicious to the CEC staff and after the verification of applications by phone, many applications were rejected.

capacities of the CEC to conduct such inquiries are also questionable, and often giving discretionary power to the CEC Secretariat.

Another type of voting named “**Special Needs Voting**” (SNV) is also used in Kosovo, for three types of voters: homebound voters³²; voters confined to an institution:³³; and special circumstance voters: ³⁴. Any voter whose request for SNV was denied, has the right to submit a complaint to the court of first instance.

The total number of registered SNV voters for the first round of the elections was 3,292, out of which the CEC has registered 1,835 homebound voters, 1,429 voters confined at institutions and only 28 special circumstances voters. Also, for these elections, a special category of voters was added to the list of SNV voters - those who are infected with COVID-19. The election administration bodies have formed special Mobile Teams that were in charge of conducting the voting for SNV voters, of whom 109 teams were in charge of regular SNV voters throughout Kosovo and 87 teams were responsible for conducting the voting among voters who are infected with COVID-19.

For these elections and due to the Decision of the Ministry of Interior to expand all citizens’ ID cards’ validity for 6 months due to Covid-19 pandemic, the CEC decided to allow voters’ identification on Election Day with expired Kosovo ID cards.³⁵

Voters' list

The Voters' List (VL) represents the most recent available extract from the Central Civil Registry of all eligible voters who are registered as citizens of Kosovo pursuant to the law on Citizenship, and the list of eligible voters who have successfully applied to vote outside of Kosovo³⁶. The CEC maintains the Voters’ List and ensures that the Voters’ List is accurate and up to date. In accordance with the Law and the CEC regulations, the CEC receives extracts from the Civil registry three times during the election process. The first extract of the Civil Registry is received by CEC no later than two days after the announcement of elections, the second time not later than three days before the start of the Challenge and Confirmation period and the third time not later than two days after the end of the Challenge and Confirmation period. The CEC makes VL available for voters through MECs during the Challenge and Confirmation period³⁷, during which eligible voters can object to inaccuracies or omissions towards the court of first instance. After the end of this period CEC certifies the Final Voters’ List, two days before elections.

³² Eligible voters who cannot leave their home to vote in person at a regular polling station due to physical, medical, or any other kind of disability.

³³ Eligible voters who are hospitalized, elderly people in specially designated homes for the elderly, persons of diminished mental capacity in institutions of health care, inmates in prisons and detainees in detention centers.

³⁴ Eligible voters living in communities who, due to relocation from the vicinity of their regular PS or security concerns, cannot vote at their assigned PS. (This type of voting requires the approval of the MEC).

³⁵ CEC decision no. 1948, 12 August 2021, <https://bit.ly/3p6qe7g>

³⁶ In practice, two separate VLs are created by the CEC, whereas voters that register to vote from Out of Kosovo are enlisted in the separate list and should be removed from the regular VL used in the country.

³⁷ Between 54 days until 40 days from Election Day according to CEC Regulation 02/2013.

The number of voters in the Voters' list is very high (**1,885,448 voters in Kosovo and another 15,532 registered as Out of Kosovo voters**) when compared to country's total population, although it is hard to determine the exact population of Kosovo for different reasons, while the last census was conducted more than 10 years ago and showed a population of 1,810,366 citizens³⁸. The authorities claim that main reasons for such a high number of citizens in the civil registry is the fact that Kosovo's diaspora is large and that many deceased persons have not been removed from the registry due to the lack of death reports provided by their families and institutions. This issue can also be noticed in the data provided by the CEC by the fact that there are more persons who became eligible to vote in these elections by turning 18 years of age (24,697) than the total number of all reported deceased persons (i.e. persons removed from the VL for this reason) in the same period (18,252). Besides, 1,158 persons were removed from this elections' Voters list as they had renounced the citizenship of the Republic of Kosovo.

When compared to the last Parliamentary elections held in February 2021, and according to the data from the CEC, there are **90,586** more voters in this elections' VL, of whom less than half are first time voters³⁹ and the other voters are presumably citizens of Kosovo who voted from abroad in the last elections and were reinstated into the civil registry in between the two elections.

ENEMO has not recorded any improvements in the quality of Voters List compared to previous elections monitored by its election monitoring missions. The Voters List (i.e. the Civil registry) represents a major challenge of electoral processes in Kosovo, affecting the overall public trust in elections and the work of the electoral administration, and requires urgent legislative and technical improvements.

Candidate registration

According to Article 29.1 of the Law on General Elections, any person whose name appears on the Voters' List is eligible to be certified as a candidate in elections. However, the same article stipulates an extensive list of exceptions for candidates' eligibility, if they are: a) judge or prosecutor in Kosovo or elsewhere; b) member of the Kosovo Security Force; c) member of the Kosovo Police; d) member of the Customs Service of Kosovo; e) member of the Kosovo Intelligence Agency; f) head of an independent agency; g) diplomatic representative; h) chairperson or a member of the CEC; i) member of ECAP; j) member of a MEC; k) member of armed forces of any state; l) member of any police force or similar body; m) serving a sentence

³⁸ Different sources however show different numbers. For example, latest World Bank data for 2020 gives an estimate of Kosovo's population of 1,775,378 - <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=XX>

³⁹ According to the official data from the CEC, the number of first-time registered voters is **41,012**, of which 24,697 have reached the age of 18 after last elections in February and 8,937 voters who may be considered to be registered for the first time in the central civil registry after the last elections. Also, 7,378 voters are considered as new voters by the CEC, as they were provided with documents of the Republic of Kosovo after the February elections and who were previously removed from the Voters' list as they had only UNMIK identification documents. <https://www.kqz-ks.org/lajmet/sot-mbahen-zgjedhjet-lokale-ne-republiken-e-kosoves/>

imposed by the International Tribunal for the Former Yugoslavia; n) under indictment by the Tribunal and has failed to comply with an order to appear before the Tribunal; o) deprived of legal capacity by a final court decision; p) deprived by a final court decision, including an ECAP decision of the right to stand as a candidate; q) found guilty of a criminal offence by a final court decision in the past three (3) years; r) has failed to pay a fine imposed by ECAP or the CEC; or has failed to obey an order of the ECAP. Also, according to Article 29.8, a candidate may not at the same time stand for office on more than one candidate list of a political party, coalition, citizens' initiative, or run as an independent candidate.

For Mayors, article 9.2 of the Law on Local Elections states that a candidate for Mayor, besides satisfying the general eligibility criteria stipulated under article 30 of the Law on General Elections, must have been a resident, for at least three years, of the municipality in which she/he is running, to be elected as Mayor. Also, the same article is unclear about which three years' period should be taken as a reference. ENEMO assesses that the three year residency condition to run for election is at odds with international standards⁴⁰.

Candidate registration for Kosovo local elections is conducted by the CEC, i.e. its Office of Political Party Registration and Certification (OPPRC), which is responsible for registering and maintaining a register of political parties, certification of all political entities to participate in elections, overseeing the campaign spending limit and financial disclosure, and similar tasks. Registered political entities are automatically certified for local elections, except for those that notify the CEC that they will not contest the elections, or that they will form a coalition. New political entities (parties, citizen initiatives, independent candidates) that were not registered prior to elections and that plan to compete in elections, need to collect 500 signatures to run in elections in order to be certified, in addition to filing all the other necessary documentation in line with the CEC regulations and the Law.

The OPPRC department of the CEC was responsible for checking and examining each candidate that applied to run in the election, in order to verify their eligibility in line with the Law. Having in mind the limited period of time, as well as the total number of candidates that submitted their candidacy for both the municipal and mayoral elections (5,565, including 173 mayoral candidates), as well as the extensive list of exclusion criteria for candidacy provided by Article 29.1 of the Law, the process of verification of all candidates against all stipulated criteria was extremely time consuming and challenging, not only for the OPPRC staff, but also other institutions of Kosovo that needed to provide feedback on the CEC requests (the Judicial Council, the security institutions, other public institutions). It is disputable whether all this work by the OPPRC was necessary, having in mind that Article 29.9 of the Law states that any "intentional provision of false information pertaining to Articles 29.1 or 29.5 shall be a separate offence punishable in accordance with the rules of ECAP", thus clearly stating that each election contestant is responsible for any false information provided to the CEC with regards to candidate's eligibility.

⁴⁰ Namely, the ICCPR (1966), CCPR General Comment No25: Article 25, and the Venice Commission's Code of Good Practice in Electoral Matters (2002) provide that the requirements for being a candidate should not be excessive, and should not encroach on equal treatment nor violate the rights of citizens to be elected. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education or residence.

Nevertheless, after the extensive efforts of the OPPRC staff to check the eligibility of each applicant, **173 candidates were rejected**, mostly for having a criminal record (those who have been found guilty for committing a criminal offence by a final court decision in the past three years). Another **24 candidates withdrew** their application during the verification process, including two citizen initiatives (one after being certified by the CEC).

Unlike previous elections, the assigned numbers of candidates who resigned, or were removed due to later verification of their eligibility, remained on the list, but with blank names. In total, **18 numbers remained empty** on ballots for these elections, according to the data provided by the CEC. It remains unclear how the gender quota was calculated in such situations, as the law stipulates that there should be one candidate from each gender included at least once in each group of three candidates, counting from the first candidate in the list⁴¹. However, the legal corrective mechanism that secures the representation of 30 percent of the underrepresented gender during seat allocation⁴², by replacing the last elected candidate of the majority gender with the next candidate of the opposite gender on the reordered candidate list, until the total number of seats allocated to the underrepresented gender is at least 30 percent, should secure minimum gender representation in the municipal assemblies. **According to the CEC, all political entities respected the minimum gender quota on their electoral lists.**

In total, 90 different political entities with a total of **5,199 candidates** were certified as election contestants competing for the seats of Municipal assemblies, whereas **166 Mayoral candidates** were certified to compete for Mayoral elections in 38 municipalities.

No major challenges with regards to candidate registration were reported to ENEMO for these elections, while there were 16 complaints made to ECAP regarding the candidate registration and certification, which were all rejected.

Electoral Campaign and Campaign Finance

Electoral Campaign

According to the Law on General Elections, the official electoral campaign is performed by political entities and should start 30 days before the day of voting. The campaign ends on the day immediately preceding the election day, while the electoral silence comes into force 24 hours before the voting starts.⁴³ Political campaign activities include any kind of activities designated to propagate a political message in relation to the elections, while campaign events include public indoor or outdoor political rallies, gatherings, marches or processions, speeches, or any or any other similar activities designed to disseminate a political message in order to gain support from

⁴¹ Art. 27.1 of the Law on General Elections in the Republic of Kosovo: *In each Political Entity's candidate list, at least thirty (30%) percent shall be male and at least thirty (30%) percent shall be female, with one candidate from each gender included at least once in each group of three candidates, counting from the first candidate in the list.*

⁴² Art. 111.6 of the Law on General Elections in the Republic of Kosovo.

⁴³ Article 36 of the LGE.

voters.⁴⁴ Political entities, their supporters and candidates must follow the Code of Conduct that aims to ensure a campaign environment where political representatives are selected in a free and fair manner.⁴⁵ Prohibited activities include destroying campaign materials of other political entities; posting campaign materials on public premises and places, or private premises without prior permission; carrying weapons at political events; disturbing political events of other political entities; disrupting the work of journalists; promising financial reward to gain the support of voters; threatening other political entities, their supporters or candidates; abusing the complaints system; using language, symbols or behaviour that provoke violence and hate.⁴⁶

In total, 90 political entities were verified by the CEC to participate in the 2021 Local Elections, out of which 32 are political parties, 34 citizens' initiatives, one coalition and 23 independent candidates. The three largest parties of LVV (Lëvizja Vetëvendosje), (PDK) Partia Demokratike e Kosovës and LDK (Lidhja Demokratike e Kosovës) ran in these elections on their own. As the largest non-majority community, Kosovo Serbs had their representatives in 21 municipalities⁴⁷ and could elect their representatives from 18 lists. Out of 35 candidates for mayors in ten predominantly Kosovo-Serb municipalities,⁴⁸ 19 are Kosovo-Serbs.

In light of the deteriorating epidemiological situation in Kosovo due to COVID-19 pandemic, LDK leader, Lumir Abdixhiku, proposed in early September to shorten the period of the election campaign from 30 to 10 days. The proposal was dismissed by two major opponents of LDK, LVV and PDK.

A number of restrictions pertaining to the struggle against COVID-19 affected the campaign, such as the prohibition of gatherings of over 20 individuals indoors and 50 in open space⁴⁹. This prevented mass-meetings by political entities and rallies, while physical distancing and the use of masks were obligatory at all times. Despite these measures being aimed at limiting the risks of coronavirus infections, ENEMO assesses that they limited the visibility of the campaign and encroached on freedom of assembly in principle. However, in several instances, these restrictions did not prevent political entities from conducting meetings or gathering voters for events.⁵⁰ The disregard of political entities for the health of voters involved in such events is a reason for concern, as is the limited severity of sanctions imposed.

The campaign was characterized as low-key by all ENEMO interlocutors, while the vast majority of campaign budget of all political entities was directed towards social media campaign, mainly

⁴⁴ Article 3 of the LGE.

⁴⁵ Article 31 of the LGE.

⁴⁶ Article 33 of the LGE.

⁴⁷ Kosovo Serbs constitute a majority in 10 municipalities, and do not in 11 municipalities.

⁴⁸ Ten predominantly Kosovo-Serb municipalities are: Gračanica/Graçanicë, Klokot/Klllokot, Leposavić/Leposaviq, Novo Brdo/Novobërdë, Partesh/Partesh, Raniluk/Ranillug, Severna Mitrovica/Mitrovicë e Veriut, Štrpce/Shtërpçë, Zubin Potok/Zubin Potok and Zvečan/Zveçan.

⁴⁹ Decision of the Ministry of Health dated 24 September 2021.

⁵⁰ Examples of breaking the COVID-19 restrictions while campaigning come from all sides of the political spectrum. Some examples include LVV candidates and the Prime Minister campaigning in Prizren/Prizren and Prishtinë/Priština, LDK candidate and incumbent Mayor of Gjilan/Gnjilane, PDK candidate for Mayor of Skenderaj, AAK members and candidate for Mayor of Prishtinë/Priština, NISMA rally in Malishevë/Mališevo, as well as independent candidates in Skenderaj/Srbica and Kamenicë/Kamenica.

Facebook, Instagram, YouTube and Twitter. While the campaign environment among Kosovo-Albanian parties was diverse and competitive, Srpska Lista visibly dominated the political environment of the Kosovo-Serb community.⁵¹ In predominantly Kosovo-Serb municipalities, this resulted in unification of Kosovo-Albanian parties in their attempts to tackle the dominance of Srpska Lista. ENEMO notes that alleged pressure and violence towards members of Kosovo-Serb non-majority who were politically active and did not favor Srpska Lista negatively influenced the political landscape and freedom of political expression in Kosovo-Serb communities.⁵²

During the campaign period, 1,023 requests for political rallies were approved by the MECs and the Police, out of which 28 rallies were not held in full accordance with the COVID-19 restrictions.⁵³ Out of all registered rallies, 207 events did not take place despite being approved, while MECs reported to ENEMO that several political campaign events were not approved as they were planned to be held at schools premises, which was not in line with active COVID-19 limitations.

Main campaign themes included the struggle against the COVID-19 pandemic, regional and local economic recovery, future prosperity of youth and local infrastructure projects, either with general purpose (water supply, sewerage, lighting and asphaltting), social purpose (urbanization projects, building parks, schools, kindergartens, sports fields), or economic purpose (factories and other local enterprises). Most political entities provided voters with a brief political platform, often directed towards the local community. The most visible political parties in terms of social media outreach were LVV, LDK and PDK. During the televised debates organized by several media outlets,⁵⁴ candidates from all municipalities had the opportunity to present their political platforms and discuss a range of topics relevant for local communities. Despite being invited to participate in the debates, candidates representing the Serbian non-majority community, mainly Srpska Lista, refused to take part in debates. Overall, language used in debates was moderate with few exceptions of inflammatory language used towards other candidates. As the day of the local elections in Kosovo approached, the visibility of the political entities competing in 2021 Local elections intensified.

Even though public employees, either elected or appointed, are prohibited from using their office or any of their resources for the purpose of obtaining votes,⁵⁵ interlocutors of the mission raised the issue of abuse of state resources, along with allegations of pressure on state employees, voter intimidation, and vote-buying all across the political spectrum⁵⁶. ENEMO raises concern over the

⁵¹ The only parliamentary party besides Srpska Lista was SLS that was deleted from the Registry of Political Parties in 2020, after a reportedly long period of intimidation and violence towards their candidates and supporters by Srpska Lista.

⁵² In January 2019, the opposition leader of Kosovo-Serb parties, Oliver Ivanović, was assassinated which led to a boycott of opposition parties who claimed that the conditions for fair elections were not present. During the campaign for 2019 Parliamentary Elections, international observation missions present in Kosovo, as well as local media reported on widespread intimidation against the Kosovo-Serb opposition parties and their supporters.

⁵³ According to Kosovo Police, COVID-19 related irregularities were registered at 17 rallies of LVV, four rallies of PDK and LDK, two rallies of AAK, and one rally of other political entity.

⁵⁴ Some of the outlets that organized political debates are Klan Kosova, Kallxo.com, RTK, RTV21, and T7.

⁵⁵ Article 35 of the LGE.

⁵⁶ Local media reported on cases of vote buying before and on election day that resulted in several arrests, while allegations of misuse of administrative resources remain formally unreported.

alleged misuse of administrative resources that is often intertwined with pressure on public employees and vote buying, as it negatively affects voters to freely exercise their right to vote. Additionally, ENEMO notes that the legislative framework does not provide sufficient mechanisms for preventing the misuse of administrative resources, such as providing a list of possible violations and sanctions in this regard, which limits the transparency and influences the integrity of the electoral process.

In total, ten complaints concerning the campaign were submitted to ECAP, out of which two complaints were approved and resulted in fines for two political parties – LDK with 5,100 EUR due to setting up tents and tables with campaign materials in the street⁵⁷, and LVV with 1,200 EUR due to posting campaign posters on the information table in the street⁵⁸ (for more information, see *Complaints and Appeals* section). According to ENEMO interlocutors, such a low number of complaints and violations of the Code of Conduct for political entities is presumed to be a result of the switch from traditional means of campaigning to online campaigning due to the COVID-19 pandemic.

Campaign Finance

The existing legislation that regulates party and campaign finance is composed of the Law on Financing Political Entities (2010)⁵⁹ and the Law on General Elections (2008), along with two CEC Regulations from 2013⁶⁰ and 2015⁶¹ that provide additional provisions on campaign spending limit, financial disclosure, financing political entities and sanctions for any kind of misconduct by the political entities.

Even though general rules for party and campaign finance are included in the legislative framework by prescribing limitations on sources of income, defining the income and expenditures by political entities, as well as requirements for financial reporting and transparency, the framework contains numerous shortcomings in terms of effective supervision, transparency, and does not ensure proper accountability of political parties.

Each political entity represented in the municipal assemblies in the last local elections is entitled to annual public funding, in proportion to the number of their seats. This makes up 90 per cent of allocated funds, while the remaining 10 percent of the funds is allocated proportionally to other political entities registered and certified by the CEC for the Local Elections. Additional public funds that do not exceed 0.05 per cent of the Kosovo budget may be allocated by the Assembly. This funding remains optional.

⁵⁷ ECAP decision No. 604/2021.

⁵⁸ ECAP decision No. 607/2021.

⁵⁹ Law No. 03/L-174 on the Financing of Political Parties, amended by Law No. 04/L-058 and additionally amended by Law No. 04/L-212.

⁶⁰ CEC Election Regulation No. 12/2013 on Campaign Expenditure Limitation and Financial Disclosure.

⁶¹ CEC Election Regulation No. 14/2015 on Financing of Political Entities and Sanctions.

Political entities are allowed to receive contributions from individuals that do not exceed 2,000 EUR per calendar year, while legal entities may donate up to 10,000 EUR per calendar year. Profitable business activities are not allowed.⁶² ENEMO raises concern over the lack of legislative provisions that would regulate other types of donations, such as in-kind donations, as well as mechanisms to identify and control goods and services provided for free or below the market value, or paid in cash. The existing legislative framework is not fully in line with international standards for campaign finance, primarily when it comes to GRECO recommendation that records should be kept of all expenditures, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate.⁶³

Allowed sources of donations exclude foreign and unknown sources, public institutions and authorities, civil society organizations, charitable and religious organizations, as well as enterprises with public procurement contracts. Prohibited donations must be returned to the donors, while anonymous donations should be redirected to the budget of Kosovo. The Law also prohibits political pressure on donors in any form, and forbids promising privileges or personal benefits to donors of any political entities. ENEMO emphasizes that no mechanism is introduced to effectively monitor and verify the way funds are collected, especially if the amounts exceed the prescribed limit by an individual donor or entity.

Maximum campaign expenditures are defined according to the number of voters per municipality. In municipalities with more than 5,000 voters, parties must limit their campaign expenditures to 0,5 EUR per registered voter in a given municipality, while in municipalities with less than 5,000 voters, parties may spend 0,7 EUR per registered voter for the campaign. For 2021 Local Elections, the maximum allocated campaign budget is 950.633,40 EUR⁶⁴.

While all political entities are required to ensure that all incomes and expenditures are managed through a single bank account, concerns should be raised over allegations mentioned by ENEMO interlocutors of numerous non-reported and untraceable transactions, donations and expenses. ENEMO raises additional concerns over the requirement for political entities to submit their campaign finance report within 45 days after the elections, which undermines financial transparency of the campaign before the Election Day and prevents voters being informed on funding of the political entities in a timely manner.

Besides financial reporting for individual electoral processes and campaigns, political entities are required to submit annual reports by 31 June of each year. Annual financial reports are audited by external certified auditors that are outsourced by the Committee for the Oversight of Public Finances of the Assembly, whose role is to oversee the process. External auditors have 75 days to audit financial reports for the previous year, and this process often does not comply with the legal provisions due to unsuccessful public tenders⁶⁵. ENEMO notes that the purpose of the auditing process is disrupted by significant delays, while irregularities found in many financial reports of

⁶² Except for the sale of goods such as publications, advertising, materials with party emblems, acronyms, etc.

⁶³ Article 10 of GRECO Recommendation Rec(2003)4.

⁶⁴ CEC decision on Limiting the Campaign Expenditures for Political Entities, dated 16 June 2021.

⁶⁵ For example, reports for 2013-2016 were audited in 2017, while the auditing process for 2017-2020 is ongoing.

political entities⁶⁶ are not adequately sanctioned despite the legal mechanisms at the disposal of the CEC.

Media

A. Media Environment⁶⁷

Kosovo's media scene is very diverse, despite a lack of transparency regarding media ownership, which has in recent years flourished with online media. Television is the main source of information besides online and social media. Politicians are largely using social media in political communication, especially Facebook, the most used social network in Kosovo. The media is financially frail and therefore disposed to political influence.

According to the latest World Press Freedom Index,⁶⁸ Kosovo has been ranked 78th out of 180 countries. Compared to the ranking of the countries in 2020, Kosovo has dropped by 8 places in 2021.

Media in Kosovo are dominated by one public broadcaster (Radio and Television of Kosovo – RTK) which consist of four TV channels (RTK 1, RTK 2, RTK 3, RTK 4) and two radio stations (in Albanian and Serbian). Currently, Kosovo has 19 television stations with terrestrial transmitters, out of which 13 are broadcasting in Albanian language, alongside RTK, and five in Serbian. In addition, there are 105 televisions broadcasting through distribution operators, out of which 90 percent have thematic content (music, film, documentary) and few of them have generalist content. Also, Kosovo has two private televisions with national coverage: KohaVision television (KTV) and Television 21 (RTV21). Additionally, there are 89 radio stations, out of which 56 are broadcasting in Albanian, 22 in Serbian, three in Bosnian languages, two in Turkish language, two in Gorani language, one in Roma language and one is a Multiethnic radio station.

Before the pandemic, Kosovo had five daily newspapers with small circulations. The COVID-19 pandemic put an end to the production of print issues; there are only online versions.

In general, the Kosovo media offer space for various discussion settings, including onscreen debates between candidates. Although these debates are under editorial control, the parties have the opportunity to use them to present their programmes.

During the pandemic much disinformation transpired. All ENEMO media interlocutors raised concerns about spreading of disinformation and propaganda in social media and the lack of control over social media in Kosovo.

⁶⁶ Some of the irregularities found by auditors include differences in reported incomes and expenditures and lack of receipts, invoices and contracts.

⁶⁷ The mission did not conduct media monitoring activities. Findings and conclusions in this section are drawn from meetings with interlocutors that work in the media field in Kosovo and monitoring of the activity of the body in charge of monitoring media conduct (Independent Media Commission).

⁶⁸ <https://rsf.org/en/kosovo>

B. Media Legal Framework

The Constitution guarantees general freedom of speech and provides free and pluralistic media, where censorship is forbidden (Article 42). The legal framework includes a number of laws that regulate this right. In general, laws are aligned with EU and other international standards for the protection of freedom of speech. In addition, Article 59 of the Constitution provides for various non-minority communities in Kosovo the right to “have guaranteed access to, and special representation in, public broadcast media as well as programming in their language, in accordance with the law and international standards”.

The broadcast media regulator, Independent Media Commission (IMC), established in 2005, is responsible for the licensing of television, radio, and cable providers, as well as for the oversight of their work in accordance with the Code of Conduct. The conduct of the media during local elections is regulated by the Law on General Elections. In addition, the IMC is responsible for the implementation of Chapter VIII of the LGE, which specifically defines provisions for "Media acting during an Election Campaign". Also, the IMC has drafted the Election Guide which was forwarded to the media. Moreover, in order to assess the compliance of broadcast media with the election, the IMC monitored 22 TV channels throughout the election period. However, according to the IMC the list of these TV channels cannot be made public before the IMC publishes its monitoring report. The focus of the monitoring was news, election chronicles, interviews, debates and political spots. The results of their monitoring will be presented within seven days after Election Day. Additionally, the IMC informed ENEMO mission that before Election Day their Board had not imposed any sanctions to any television station. Due to the lack of quorum, the Board meeting is rescheduled for the week after Election Day.

Radio Television of Kosovo (RTK) is fully funded from the state budget, while private media rely primarily on advertisements or subscription fees. Many ENEMO interlocutors stated that since the beginning of the pandemic they are financially struggling, as the requests for advertisements are very low.

Print media have voluntarily adopted a Code of Conduct of the Press Council of Kosovo, a self-regulatory body founded by the print media in 2005. Over the years, advancing their own self-regulation, some online news media joined the Press Council and now constitute the majority of its members.

In line with the LGE, all broadcast media shall ensure fair and equitable access to political discussion shows and debates for all contestants. On public television each registered political entity is entitled to a minimum of 40 minutes of free airtime and 30 minutes on public radio. Additionally, all private broadcasters that choose to air paid advertisements are also required to offer free airtime to each political entity, with a minimum number of minutes depending on the broadcasters' geographical outreach. Although there is no limit on paid airtime, the price charged for paid spots should not be higher than the lowest rate charged for the same time in the previous six months.

ENEMO EOM was informed that overall, in debates, most candidates were present and had an opportunity to present their programmes, except candidates from Srpska Lista who have not participated in the debates at all. Moreover, according to them, during the official campaign period,

a lack of interest from the politicians for paid advertisement has been noted, especially since many politicians are focusing on online campaigning and use of social networking sites.

Despite legal regulations, access to information remains an issue for many journalists, according to almost all ENEMO media interlocutors. They stated that the current Government is not open for cooperation with the media. Overall, journalists struggle to obtain official information on important topics, including political news. On a positive note, as stated by all ENEMO media interlocutors, the CEC has been very cooperative and responsive.

Based on the meetings conducted and information received, a conclusion can be drawn that Kosovo media are in general free from political control. They can criticize politicians openly and are free to write. ENEMO media interlocutors reported that most attacks on journalists were recorded in previous years, less so in recent years. The situation has currently calmed down, since no public events are organized due to the pandemic.⁶⁹ Related to elections, a few cases of threats and intimidation were reported to ENEMO's IEOM, where journalists were threatened to delete the news from their portals. According to media interlocutors, investigation and prosecution by the judiciary is very slow and ineffective, despite the existing legal framework. However, they all said that they felt free to conduct their work.

C. Online and social media

Since press and online media in Kosovo are not required to have any license to function and there is no state body that oversees their work, online news media are constantly flourishing. Anyone can set up a media, open a portal and publish content. This raised concerns among ENEMO interlocutors that professional standards have significantly degraded, especially due to many outlets regularly copying one another. Furthermore, many journalists publish content in real time without checking and verifying the information, which leads to misinformation being published continuously. In addition, very often online media lack ownership transparency which represents a considerable challenge to hold them responsible for their published content.

The internet penetration for 2021 based on households is 88.8 percent.⁷⁰ Most media shifted their programmes online, through different channels, and are sharing their news on social networks. The total number of online media in Kosovo is unknown.

ENEMO used the CrowdTangle platform to monitor the activities of political parties on Facebook. During the official campaign period, ENEMO monitored 32 pages of political parties which used social network Facebook to spread political content. Within this period, the total number of content published by political parties was: 1121 out of which individually: Self-determination Movement - LVV 91; Social Democratic Initiative- NISMA 59; Democratic Party of Kosovo – PDK 33; Democratic League of Kosovo - LDK121; Alliance for the Future of Kosovo- AAK 61; New Kosovo Alliance- AKR 70; Social Democratic Party - PSD 10; FJALA 20; The Alternative 115; Movement for Unification 13; Justice Party-PD 11; KDTP 64; Srpska Lista 16; OUR Initiative 41;

⁶⁹ The riots began in North Mitrovica on October 13, while a police unit from Pristina carried out an operation to prevent smuggling. During these clashes between citizens and police, journalists from KoSSev, T7, Klan Kosova, RTV Dukagjini, ATV and Kanal 10 were attacked and obstructed while performing their duties. <https://agk-ks.org/en/news/sj-albanian-and-serbian-journalists-attacked-and-obstructed-in-north-mitrovica/>

⁷⁰ <https://www.internetworldstats.com/stats4.htm>

Coalition Vakaf 81; Movement for Interaction 1; SDU Social democratic Union 8; Albanian Christian Democratic Party of Kosovo – PSHDK 4; Kosovo Serb Party 5; Vatra Civic Movement 9; KATP 190; Yenilikçi Türk Hareket Party 36; PDD Democratic Party of Diaspora 11; New Democratic Party 18; Egyptian Liberal Party – PLE 1; Progressive Democratic Party 0; New Democratic Initiative of Kosovo – IRDK 17; Democratic Party of Unity – PDU 1; JGP 7; Democratic National Front – Kosovo 0; KNRP 0; PREBK – United Roma Party of Kosovo 7.

A total of 280 thousand Facebook interactions were made on the mentioned posts, out of which as much as 155.8 thousand were only on the posts of the Self-determination Movement - LVV and 68.2 thousand on LDK posts.

Parties communicated mostly through photos (56.53 percent) and Facebook videos (31.20 percent) which had 4.74 million views in total.

Gender Representation

Kosovo has relevant legal regulations for the promotion of gender equality and women participation in political and public life. As determined by the Constitution, gender equality is a fundamental value of democratic development, and Kosovo creates equal opportunities for representatives of both genders to participate in the political and other fields of societal life.⁷¹

The Law on Gender Equality promotes and protects equal rights of women and men.⁷² The law envisages the adoption of temporary special measures by public institutions for promotion of equality. In order to increase the participation of the underrepresented gender, it determines that legislative, executive, judicial bodies at all levels and other public institutions should adopt respective special measures. At the same time, it is established that equal representation is achieved if a minimum representation of 50 percent for each gender is ensured, including in decision-making bodies.

The Law on Local Elections also introduces gender quotas, but with a lower threshold. Candidate lists submitted by political entities should consist of at least 30 percent of candidates of the other gender, which is at odds with the higher standard set forth in the Law on Gender Equality. ENEMO assesses that the provision pertaining to gender quota enshrined in the law on Local Elections is in direct contradiction to the Law on Gender Equality.

In order to ensure the minimum representation of 30 percent, the Law on Local Elections establishes some additional regulations. It is stipulated that if after the allocation of seats the candidates of the underrepresented gender within a political entity have not received at least 30 percent, the last elected candidate of the majority gender from the list of that political party should be replaced by the next candidate of the minority gender until the total number of seats allocated

⁷¹ Art.7 of the Constitution of the Republic of Kosovo, 2008.

⁷² Law No. 05/L-020, 26 June, 2015, <https://bit.ly/3uVrNWA>

to the minority gender reaches at least 30 percent.⁷³ In case of replacement of a Municipal Assembly member, it is also determined that vacancy should be filled by the next candidate of the same gender on the candidate list of the respective political party.

While establishing a gender quota requirement for candidate lists of political parties is a positive step forward to increase women's engagement and representation, the discrepancy between the two laws and possibility for satisfying the lower threshold does not contribute to an effective increase in the number of women in political life and does not fully ensure the principle of equality as determined by the Law on Gender Equality.

Regarding women's involvement in these local elections as candidates for the position of Mayor, out of 166 candidates only 14 (8.43 percent) were women. In the case of Municipal Assemblies, out of 5,199 candidates 1,937 (37.25 percent) were women. These numbers indicate once again that for strengthening women's engagement in politics, a functional gender quota mechanism is relevant and contributes to overcoming obstacles women face in politics.

The fact that additional instruments are necessary for increasing the inclusion of women in politics was acknowledged by most political entities. Numerous candidates made political promises to ensure a higher number of women in leading positions within the political parties, as well as to appoint more women wherever it is possible. Further efforts to increase the visibility of women candidates were made by some media outlets with designated air-time to present political platforms of women running in these elections.⁷⁴ Nevertheless, women were significantly underrepresented in debates.

Despite visible progress in overall recognition of the importance of gender equality and inclusion of women, some women candidates reported gender-based slander and defamation language targeted towards them during the campaign⁷⁵, indicating that there is still significant space for improvement in this regard.

Non-Majority Communities

As determined by the Constitution, the Republic of Kosovo is a multi-ethnic state consisting of Albanian and other Communities.⁷⁶ According to the legal regulations⁷⁷ Serb, Turkish, Bosnian,

⁷³ Art.8, Law on Local Elections in the Republic of Kosovo, 2008.

⁷⁴ For example, online portal Kallxo.com presented political platforms of many female candidates running for Municipal Assemblies in order to increase their visibility.

⁷⁵ LDK and PDK candidates running in Deçan/Deçane mentioned during the television debate that they reported slander to police. <https://www.youtube.com/watch?v=cgetHSwNf3I>

⁷⁶ Art.3 of the Constitution of the Republic of Kosovo, 2008.

⁷⁷ Art.1, Law on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo, 2008.

Roma, Ashkali, Egyptian and Gorani are the communities that are traditionally present in Kosovo and do not belong to the majority.⁷⁸

In addition to guaranteeing the same rights to all citizens, the Constitution contains a separate chapter dedicated to the rights of persons belonging to non-majority communities.⁷⁹ Kosovo is not a signatory to the Council of Europe Framework Convention for the Protection of National Minorities, but according to the Constitution the referred Convention is directly applicable in Kosovo.

Aside from the Constitution, the rights of non-majority communities are regulated by the Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo,⁸⁰ which recognizes Kosovo's national, ethnic, linguistic and religious diversity as a basis for further democratic development, and regulates political participation of communities and its members. According to Article 11 of the Law, communities and their members have the right to effective participation in political decision-making at all levels of government. It also states that they have the right to form political parties and to run for elected seats and positions at all levels of government.

The Law on Local Elections also sets forth that all citizens of Kosovo have the right to vote and be elected without discrimination, among others, on the basis of ethnicity or language.⁸¹ The LGE also envisages representation of non-majority communities in the composition of MECs, though the legal provision is vague not setting precise criteria for determining the number of representatives of non-majority communities in MECs, leaving it at the discretion of the CEC (for more information, see *Election Administration, Municipal Election Commissions* section).

The existing legislation does not establish a mandatory quota for non-majority communities' representation in Municipal Assemblies, but the Constitution foresees that a Deputy Chairperson of the Municipal Assembly should represent a non-majority community if at least ten percent of citizens belong to non-majority communities.

Moreover, municipalities with at least ten percent of citizens belonging to non-majority communities should have a Deputy Mayor for Communities,⁸² whose appointment and dismissal requires the support of a majority of the municipal assembly members belonging to non-majority communities.

Some of the voter education materials (on voter identification, voting instructions and electoral crimes) prepared by the CEC were available on the CEC website in two official languages, Albanian and Serbian. Bilingual ballot papers were available in Albanian and Serbian.

⁷⁸ As the census was not conducted since 2011 there is not reliable information available about the exact statistics regarding non-majority communities.

⁷⁹ Ibid. Chapter III "The Rights of Communities and Their Members".

⁸⁰ Law No. 03/L-047a on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo.

⁸¹ Art. 3, Chapter 1, Law on Local Elections in the Republic of Kosovo, NR.03/L-072, 2008.

⁸² Art.61, Law NR. 03/L-040 on Local Self-Government, 2008.

Inclusion of Persons with Disabilities

The LGE envisages the adoption of special needs voting regulations for voters who cannot vote at polling stations due to physical, medical, or any other kind of disability (homebound voting), as well as for voters of diminished mental capacity in health care institutions (institutional voting). Accordingly, the CEC adopted Election Regulation No.04/2013 on Voting of Persons with Special Needs and Circumstances setting forth detailed rules for special needs voting. For homebound voting, voters were required to submit to the relevant MEC a copy of application, identification document and a medical certificate of disability.⁸³ The MEC was required to take a decision within two days, which could be appealed to the respective authority.

Additionally, Article 89.5 of the LGE determines that a voter unable to independently vote (mark or cast a ballot paper) may be assisted by another person of his/her choice. A person assisting the voter could not be a member of the PSC or an accredited observer and could assist only one voter.

Though these regulations contribute to the participation of PWDs in elections, a number of problems remain pertaining both to the legislation and practice which limit the involvement of PWDs in elections. For instance, Article 5 of the LGE states that persons declared mentally incompetent by a court do not have the right to vote which is at odds with the Convention on the Rights of Persons with Disabilities.⁸⁴

The LGE partially regulates the provision of information to persons with hearing impairment. It determines that informational material of the CEC should have sign language for voters with hearing impairment. However, the legislation does not clearly oblige public broadcasters to use sign language in news programs covering the election process and political debates. Article 7 of the Law on Radio Television of Kosovo only determines that “particular attention shall be paid to the persons with disabilities in terms of programs and information delivery” and to use adaptable technologies for providing information to disabled persons.⁸⁵ This regulation implies the application of sign language, but as it does not set forth precise regulation, the practice is inconsistent and sign language is not used by RTK in all news programs/debates related to elections.⁸⁶

There is also no regulation for political parties to use sign language for their political advertisements which are broadcasted on television.

Neither the Law on General Elections nor the CEC’s regulation establish any requirements regarding physical accessibility of polling stations, which is one of the key issues preventing

⁸³ <https://www.kqz-ks.org/an/sherbimet-per-votuesit/votimi-me-nevoja-te-vecanta/>

⁸⁴ Convention on the Rights of Persons with Disabilities, Article 29, General Comment No.1 (2014), Article 29: Political Participation, <https://bit.ly/3uUZx6i>

⁸⁵ Law No. 04/L-046 on Radio Television of Kosovo, 2012, <https://bit.ly/3DqUqhd>

⁸⁶ <https://www.youtube.com/watch?v=v9v0ITvu3Po>; <https://www.youtube.com/watch?v=rTMxs7o-wW0>; <https://www.youtube.com/watch?v=5tRbqtd3Oa8>; <https://www.youtube.com/watch?v=7-6BYRbhPpE>; <https://www.youtube.com/watch?v=Gx4Bpaa2R6A>

persons with disabilities from independently accessing polling stations. As noted by ENEMO interlocutors, physical accessibility of polling stations is the most problematic issue in respect of PWDs participation in elections, and because polling stations are not properly accessible PWDs are reluctant to render themselves to polling stations to vote. It was mentioned that even when polling stations have ramps, they do not always satisfy international standards and remain inaccessible. The set up inside the polling station and space are sometimes not adapted to the needs of disabled persons. Furthermore, the CEC website was not adapted to the needs of voters with disabilities.

Complaints and Appeals

Submission and adjudication of complaints and appeals is regulated by the Law on General Elections and the Rules of Procedure adopted by the Election Complaints and Appeals Panel (ECAP).⁸⁷

The ECAP is an independent body responsible for the adjudication of complaints. It consists of 10 members including the Chairman. The President of the Supreme Court (SC) appoints the Chairman from the judges of the SC and other members from the District Courts. The members of ECAP are appointed for a renewable four year-term. The ECAP may adjudicate complaints in panels of at least three members. Its decisions can be appealed to the SC. ECAP is assisted by the Secretariat.

Any person, who has a legal interest or whose rights were violated in relation with the elections, has a right to file a complaint to the ECAP with the exception of complaints concerning voters' list and media coverage of elections.⁸⁸ Most of the complaints, including those concerning counting at the CRC, should be filed within 24 hours to the ECAP. ENEMO assesses that 24 hours for filing a complaint is an unreasonably short deadline that can, on one hand, prevent lodging of relevant complaints and on the other hand, cause poorly substantiated complaints not supported with relevant evidence. Tight deadlines for filing complaints are at odds with international standards.⁸⁹

Deadline for filing some of the complaints is longer, for instance, CEC decisions regarding the certification of political entities and candidate lists can be appealed to the ECAP within five days.⁹⁰ The deadlines for complaints are given in different articles under different chapters of the LGE, which could create confusion and misunderstandings for complainants.

⁸⁷ Regulation NR. 02/2015.

⁸⁸ Complaint regarding a VL shall be submitted to the court of first instance. Decisions of the first instance court are final, Articles 9 and 10 of the LGE. Election related violations by the media outlets should be submitted to the Independent Media Commission. Art. 51 of the LGE.

⁸⁹ Code of Good Practice in Electoral Matters, Explanatory Report, Para.95, Venice Commission, 2002.

⁹⁰ Articles 16.5 and 26.6 of the Law on General Elections.

Additionally, Article 122 of the LGE determines the decisions of the CEC that can be appealed to the ECAP by any person whose rights have been affected.⁹¹ This limits the right to appeal to only certain categories of election related decisions of the CEC, that may affect the trust of citizens in the decision-making process of the CEC.

The ECAP should take a decision within 72 hours after the receipt of the complaint. Taking into account the high number of complaints that are submitted to the ECAP, the timeframe for rendering decisions is limited and could damage the interest of profound examination of the case and result in unsubstantiated decisions.

Complaints should be submitted to the office of ECAP in Pristina or by mail. For the 2021 Local Elections, diaspora was allowed to submit online complaints, because of the COVID-19 pandemic. ENEMO assesses that while introducing online complaints for out-of-country voters is a positive decision, taking into account tight timeframes for lodging complaints, delivering them to the ECAP office or by mail could be an additional burden also for other complainants and not only in pandemic times.

The decisions of the ECAP can be appealed to the Supreme Court within 24 hours if the fine exceeds 5000 Euro or if it affects fundamental rights. The Supreme Court should render a decision within 72 hours after the submission of an appeal. As it was noted in case of filing complaints to the ECAP, a 24 hours timeframe does not present a fair and reasonable deadline for preparing and filing a complaint.

Regarding complaints filed with the ECAP for the 2021 local elections, as of 15 October there were 609 complaints filed.⁹² The highest number of 584 complaints concerned out of country voting. Out of these only 12 complaints were upheld. The rest of the 30 complaints were related to other issues: nine- removal from the list of candidates for municipal assembly and Mayor; four – non-certification of candidates for Mayoral election; two- non-certification of candidates for Municipal Assembly elections; two - withdrawal of a candidate from the list of candidates for Municipal Assembly; one - non-certification of political party; one - appointment of MEC members; one- irregularities related with nomination of commission member; one- non-transparency of public media; nine – different campaign violations (for instance, placing the poster in private property, distribution of materials in public spaces; covering and damaging posters, pressure on voters to vote for a particular political entity, etc). Out of those 30 complaints only in two cases the ECAP found a violation, 25 were rejected based on different grounds, two were withdrawn by the complainants and one related to media transparency was referred to the Independent Media Commission. Two political parties were fined for violation of campaign rules:

- On 30 September, ECAP upheld the complaint of LVV against LDK and established that the latter violated the Code of Conduct for Political Entities - setting up tents and tables

⁹¹ Those decisions of the CEC are: a) the inclusion or exclusion of a person from participation in an out-of-Kosovo voting; b) the certification or refusal to certify a Political Entity or candidate to participate in an election; c) a candidate who after certification does not want to participate in an election; d) the accreditation or refusal to accredit an electoral observer; e) the imposition or an administrative fee on a Political Entity under article 42 of LGE; and f) the refusal to register a Political Party within the Office.

⁹² Information is based on ECAP online registry of complaints: <https://bit.ly/2X6ngEd>

with propaganda materials on public streets for electoral purposes. LDK was fined in the amount of 5100 euros.⁹³

- On 8 October, ECAP upheld the complaint of the LDK against LVV for violating the Code of Conduct for Political Parties by placing posters for election campaign in public spaces. LVV was fined 1200 Euros.⁹⁴

Election Day

On Election Day, the mission observed voting at selected polling stations in the capital Pristina, Gracanica, Kishnica, and North Mitrovica. In accordance with standard practice for limited ENEMO IEOMs, the mission did not observe Election Day in a systematic or comprehensive manner.

Election Day was, generally, conducted in a calm and peaceful atmosphere, in line with the electoral law. The management of the polling and conduct of voting was generally orderly, with few procedural violations that are assessed not to have negatively affected the legitimacy of the overall process.

Few cases of overcrowded polling stations and long queues in schools were observed by the mission, while some cases of voters and/or polling station commissioners not wearing COVID-19 preventive masks were noticed at several polling stations.

One of the serious problems observed pertained to the accessibility of the polling stations caused by the lack of ramps or location of the polling stations on second or third floors in the buildings without elevators. Additionally, not all polling stations were equipped with tactile ballot papers for voters with visual impairment.

Observers

Accreditation, rights and duties of observers are regulated by the Law on General Elections and the CEC Election Regulation No. 07/2013 on Election Observers.⁹⁵ Those regulations are in conformity with international standards on election observation.

⁹³ <https://pzap.rks-gov.net/wp-content/uploads/2021/10/7.-Anr.604-Vendim.pdf>

⁹⁴ <https://pzap.rks-gov.net/wp-content/uploads/2021/10/5.-Anr.607-vendimi.pdf>

⁹⁵ CEC Election Regulation No. 07/2013 on Election Observers, <https://bit.ly/2YNVhtN>

The LGE stipulates that Certified Political Entities, NGOs and governmental and intergovernmental organizations as well as international organizations specialized and engaged in elections or the protection of human rights, and representatives of foreign countries have the right to request the accreditation of observers to the elections. In the general provisions, the law sets the deadlines for submitting applications for accreditation and the deadline CEC has to decide upon those requests. The law does not create any differentiation between different categories of observers, but sets rights and duties for all of them without any distinguishing. ENEMO was not informed by its interlocutors about any hindrance created for observers in the course of their work.

Observers have the right to observe the preparation and conduct of elections without obstacles, to obtain copies of decisions, protocols, tabulations, minutes, and other electoral documents, submit complaints of any election related violations, etc. Law also defines that observers shall be impartial and politically neutral while observing the electoral process and shall not interfere in any way with the conduct of the election and shall respect the secrecy of the ballot.

On the other hand, the CEC regulation on Election Observers determines the procedure for accreditation of organizations, observers and media. It does not create any difference between national and international observers and mostly sets administrative and technical procedures on election observers such as application process, deadline, documents requested, badges, etc.

Based on the information provided by the CEC it has initially accredited in total 24 693 observers from different organizations, in particular, 768 local observers; 177 international observers; 39 observers from foreign embassies; 521 local media representatives; 27 foreign media representatives; 21 737 political party observers; 387 observers from election coalition; 883 observers from citizens' initiative groups; 85 independent candidates' observers; 69 observers from public institutions. However, only a day before the Election Day, the CEC Secretariat became aware of the fact that more than 400 accredited domestic observers (mostly from political entities, but also from NGOs and media) were also accredited later by the CEC to be members of PSCs. The CEC stated that they will resolve the issue promptly, yet the official decision on the matter was not available on the website.

Also, due to measures imposed by the Government related to COVID-19 pandemic, all domestic observers were instructed not to have more than one observer present at a PS at the same time, to reduce the overall number of persons in a closed space.

About ENEMO

The European Network of Election Monitoring Organizations (ENEMO) is an international nongovernmental organization that represents a network of national nongovernmental civic organizations founded on September 29, 2001, in Opatija, Croatia. It consists of 21 leading domestic monitoring organizations from 17 countries of Central and Eastern Europe and Central Asia, including two European Union countries.

ENEMO seeks to support the international community's interest in promoting democracy in the region by assessing electoral processes and the political environment and offering accurate and impartial observation reports. ENEMO's international observation missions use international benchmarks and standards for democratic elections to evaluate the electoral process and the host country's legal framework. ENEMO and all its member organizations have endorsed the 2005 Declaration of Principles for International Election Observation and the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations. Each ENEMO observer signed the Code of Conduct for International Election Observers.

ENEMO member organizations have monitored more than 250 national elections and trained more than 240,000 observers.

To date, ENEMO has organized 37 international election observation missions to 10 countries: Georgia 2021, Local Elections; Moldova 2021, Parliamentary Elections; Albania 2021, Parliamentary Elections; Moldova 2020, Presidential Elections; Montenegro 2020, Parliamentary Elections; Serbia 2020, Parliamentary Elections; Ukraine 2020, Local Elections; Moldova 2019, Local Elections; Ukraine 2019, Early Parliamentary Elections; Ukraine 2019, Presidential Elections; Moldova 2018-19, Parliamentary Elections; Armenia 2018, Early Parliamentary Elections; Moldova 2016, Presidential Elections; Ukraine 2015, Regular Local Elections; Ukraine 2014, Parliamentary Elections; Ukraine 2014, Presidential Elections; Ukraine 2013 – re-run of Parliamentary Elections 2012 in 5 MECs; Kosovo 2013, Local Elections, first round; Ukraine 2012, Parliamentary Elections; Kosovo 2011, Re – run of Parliamentary Elections; Kosovo 2010, Parliamentary Elections; Kyrgyzstan 2010, Parliamentary Elections; Ukraine 2010, Presidential Elections, second round; Ukraine 2010, Presidential Elections, first round; Kosovo 2009, Local Elections; Moldova 2009, Parliamentary Elections; Georgia 2008, Presidential Elections; Kyrgyzstan 2007, Parliamentary Elections; Ukraine 2007, Parliamentary Elections; Ukraine 2006, Local Elections in Poltava, Kirovograd and Chernihiv; Ukraine 2006, Parliamentary Elections; Kazakhstan 2005, Presidential Elections; Albania 2005, Parliamentary Elections; Kyrgyzstan 2005, Presidential Elections; Kyrgyzstan 2005, Parliamentary Elections; Ukraine 2004, Presidential Elections, second round re-run; Ukraine 2004, Presidential Elections.

ENEMO member organizations are: Center for Civic Initiatives CCI, Bosnia and Herzegovina; Center for Democratic Transition – CDT, Montenegro; Centre for Monitoring and Research – CeMI, Montenegro; Center for Free Elections and Democracy – CeSID, Serbia; In Defense of Voters' Rights 'GOLOS', Russia; GONG, Croatia; International Society for Fair Elections and Democracy – ISFED, Georgia; KRIIK Association, Albania; Citizens Association MOST, Macedonia; Promo- LEX, Moldova; OPORA, Ukraine; Society for Democratic Culture SDC, Albania; Transparency International Anti-Corruption Center (TIAC), Armenia; Election Monitoring and Democratic Studies Center (EMDS), Azerbaijan; Belarussian Helsinki Committee (BHC), Belarus; FSCI, Kazakhstan; Kosovo Democratic Institute (KDI), Kosovo; Coalition for Democracy and Civil Society, Kyrgyzstan; Center for Research, Transparency and Accountability (CRTA), Serbia; Obcianske OKO (OKO), Slovakia; Committee of Voters of Ukraine (CVU), Ukraine.