



## STATEMENT

### PRE-ELECTION ASSESSMENT MISSION TO ALBANIA

*March 22, 2013*

This statement is offered by an international delegation organized by the National Democratic Institute (NDI). The delegation included former Governor of Vermont and former Chair of the Democratic National Committee, Howard Dean; former Member of the Netherlands Parliament and the European Parliament, Lousewies van der Laan; Chair of the United States Federal Election Commission, Ellen Weintraub;<sup>1</sup> Robert Benjamin, Director of NDI's Central and Eastern European Region; and Ana Kadovic, Resident Director of NDI/Albania.

The purpose of the delegation's work has been to assess in an impartial manner election preparations for the June 23, 2013 parliamentary elections; review the overall political environment shaping the election cycle; examine particular factors favoring or hindering a democratic expression of the will of the people; and offer recommendations to enhance the credibility of the election process. The delegation conducted its activities in accordance with the laws of Albania and international standards outlined in the *Declaration of Principles for International Election Observation*, which has been recognized by the United Nations General Assembly and other relevant international bodies.

The delegation held meetings with the President of the Republic of Albania; the Prime Minister, the president of the Socialist Party, representatives of other parliamentary and non-parliamentary parties; the Speaker of the Assembly; the Chairman and Deputy Chair of the Central Election Commission; local officials in Tirana and Elbasan; citizen election observer groups; women's, youth, and disability rights organizations, media representatives, independent analysts, and representatives of the international community. The delegation wishes to express its gratitude to its interlocutors, all of whom offered their viewpoints freely. Their perspectives have informed this statement.

NDI does not seek to interfere in Albania's election process, nor does it intend to, nor could it, render a full or final assessment of the election process. A comprehensive assessment of any election must take into account all aspects and phases of an electoral process. These include: 1) conditions set up by the legal framework for the elections; 2) the pre-election period before and

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<sup>1</sup> Chair Weintraub participated in this assessment in a personal capacity.

during the official campaign; 3) the voting process and casting of ballots; 4) the tabulation of results; 5) the investigation and resolution of complaints and disputes; and 6) the conditions surrounding the formation of an ensuing government. As part of a complete assessment, therefore, the pre-election period, including electoral preparations and the political environment, must be given weight in evaluating the democratic nature of elections.

Ultimately and inalienably, the citizens of Albania will determine the credibility of their elections. In this spirit, the delegation offers this pre-election statement to support and strengthen the efforts of Albanians to advance their democratic institutions and processes, commensurate with NDI's ongoing support to the country's democratic transition.

The delegation wishes to express its appreciation to the National Endowment for Democracy (NED), which has funded the work of the delegation and funds NDI democracy assistance programs in Albania.

### **SUMMARY OF FINDINGS**

Albania's election framework has improved measurably. If it is properly, consistently, and impartially implemented, in line with international standards, the country is capable of holding an election meriting public confidence and acceptance of the results. This opportunity can be lost if partisan misconduct undermines the process, shaking public confidence in the integrity of the elections and reducing public trust in the country's political institutions. Albania's citizens, along with political parties, have a critical role to play in ensuring that their votes are properly counted and the elections' overall integrity upheld.

The degree to which Albania's citizens view these elections as credible turns largely on the extent to which the entire electoral process is administered in a professional and nonpartisan manner and made transparent through active and nonpartisan election observation. It also requires that the election outcomes are properly and transparently reviewed and disputes adjudicated with fealty to the law. Each of these factors in turn depends greatly on the responsibility of the political parties contesting the elections, as regards their actions in creating a political environment conducive to fair competition and informed voter choice; scrupulously adhering to the principle of political non-interference in the administration of the process and tabulation of results; and enabling full transparency of all election proceedings. A democratic election process equally depends on active citizens—as voters, observers, but also as candidates, election commissioners, ballot counters, and security personnel, among others—to both demand and uphold the principles of fairness, peaceful comportment, transparency and accountability.

An election that merits public confidence on the basis of democratic standards is within grasp. Election frameworks and administrative capacities have improved in the past 10 years, in such areas as voter lists and the role of security personnel. Election day voting procedures in the 2009 parliamentary and 2011 local elections unfolded in an orderly and peaceful fashion. The current election framework affords Albania its strongest foundation to-date to see through a professional,

neutral, and transparent process, and in many ways the process is unfolding in a proper manner – but a democratic election could also be placed beyond reach if the present level of political polarization is not mitigated and the prospect of political manipulation of the process is not checked. The leading political parties bear heightened responsibility for an election system that they designed to be largely under their control. The political contest between the two largest parties is expected to be close; this is contributing to public concern that partisan zeal “to win at all costs” could lead to political manipulations in the pre-election, voting, ballot counting/tabulation, and post-election dispute resolution phases of the process.

The principal tasks are for the leading political parties to ensure that the election process is free of undue partisan interference and manipulation, and for the electorate to participate energetically in the election process—as voters, advocates, and observers—to promote transparency and accountability that can lead to higher public confidence in the conduct of the elections.

The delegation notes that confidence-building measures are already in place that can strengthen prospects for a democratic election: citizen groups are monitoring the pre-election process as part of comprehensive, standards-based observation efforts; political parties are reaching out to voters on substantive issues; and major constituency groups, such as women, are organizing initiatives to advocate on behalf of reform issues.

## **CONTEXT**

No election can be viewed and assessed in isolation of the context in which it takes place. The context in which this election cycle is unfolding can be described as both promising and concerning. Albania is an open society based on fundamental human rights of freedom of speech, assembly, and association. Albania is a member of the North Atlantic Treaty Organization (NATO) and an aspiring member of the European Union (EU). Its constitutional and legal frameworks conform to international democratic standards. Albania has a developed multi-party system and civil society. The country has organized elections per constitutional provisions and on the basis of consensual and internationally sanctioned legal and administrative frameworks. Many of these achievements are extraordinary when considering the particularly isolationist brand of communism from which Albania extricated itself in 1991.

For all of the above, Albania has yet to hold an election deemed fully credible from the standpoint of democratic standards. International and domestic election observers have cited past substandard election performance as evidenced by partisan conflict, improper political influence over independent electoral bodies and use of state resources, administrative deficiencies in voter lists and vote tabulation, legal imprecisions and questionable legal interpretations of adjudication procedures, significant under-representation of women in both the election process and ensuing elected bodies, and alleged vote-buying and voter disenfranchisement schemes have produced substandard election performance. There has been widespread public concern over the conduct

of elections, as reflected in recent NDI public opinion research, among other similar inquiries. Albania's election shortcomings form part of a broader set of democratization challenges the country faces in securing participatory, transparent and accountable political and governing institutions and processes.

Achieving international standards for democratic elections is required for Albania to move forward in its EU accession process.

In recognition of the above, political leaders have taken important steps to improve and/or correct many administrative deficiencies and legal imprecisions experienced in past elections. In 2012, parliament passed by consensus a package of electoral code revisions that addressed many, though not all, recommendations provided by domestic and international election observers.

## **OBSERVATIONS**

An election assessment necessarily examines a wide array of legal, administrative, political, social, and human rights topics. The observations below reflect the most salient concerns raised during the assessment.

### **Political Environment**

Political environments shaping previous election cycles in Albania have been marked by high levels of partisan acrimony, low levels of public discourse on substantive issues, episodic violence in the pre- and post-election periods, and partisan disputes over official results that have metastasized into long-running political conflict between government and opposition parties.

Overall, the delegation notes that the political environment shaping this election cycle features many of the above deficiencies at the present time. However, the entry of new political forces, a discernible sentiment among the public to be more engaged with political parties in dialogue on policy issues, and in turn promising indications that political parties are incorporating policy discourse into their campaigns, have engendered a more dynamic political environment than in past cycles.

Political Polarization. Democratic elections feature peaceful political contestation. It is appropriate for political parties to draw contrasts with their opponents and this can and often does include commentary that can be critical or negative. There is, however, an important line to draw between reasonable political and partisan criticism on the one hand and, on the other, criticism that is unnecessarily incendiary, hostile, and/or derogatory of one's opponents, and at times unacceptably misogynistic.

Albania's politicians at times cross that line, with a severity of personal and partisan invective inconsistent with expected modes of political speech in democratic societies. Over the long-term, such behavior denigrates public discourse, harms the political institutions that elected officials jointly occupy and purport to uphold, impinges upon the objectivity that many public servants

wish to maintain, alienates citizens from political discourse, and can create a permissive environment for election-based conflict.

Many voters may be tempted, based on economic need, to select a political option with the hope of deriving tangible benefit, such as employment. This is not uncommon in transitioning societies confronting difficult economic realities. Albanian citizens nonetheless express a strong desire to engage politicians on ways to solve the very issues—corruption and unemployment chief among them—that would often appear to constrain their political choices.

With this in mind, the delegation underscores the importance of cross-party debate in this election campaign and applauds party efforts to-date on policy dialogue as a critical element in motivating citizen participation in the election process, enabling voters to make informed choices, and enhancing post-election governance by having political parties more clearly identify the policy directions they would pursue in office.

#### Recommendations:

Political parties can promote public confidence in the election process by enabling voters to make informed choices through the following:

- Political parties should engage each other constructively through neutral, moderated debates and other such forums, draw contrast with each other on substantive policy and political issues, and refrain from speech and other behavior that denigrates opponents and lowers public confidence in the political process.
- Political parties should expand and deepen their policy outreach to citizens so as to give them a vision of how social and economic constraints can be reduced and opportunity expanded.
- Political parties should refrain from extending direct material benefits to citizens in exchange for their vote.

Fairness of Competition. The delegation received reports of partisan abuse of public resources for campaigning purposes, for example in facilitating party outreach events or campaigning during public appearances in an official governmental capacity. This contravenes election code prohibitions against such actions.

Albania's smaller parties allege electoral disadvantage owing to what they consider to be an election system devised by the largest parties to perpetuate their power. Certain parties, particularly those contesting elections for the first time, are not permitted to nominate representatives to sit on electoral commissions.

### Recommendations:

- Relevant authorities should investigate and prosecute instances of campaign misuse of public resources.
- Political parties should publicly state their commitment to refrain from the misuse of public resources in the campaign period, investigate all reported incidents thereof, and take immediate steps within their campaigns to prohibit subsequent transgressions.
- Independent domestic observers can contribute to the public's understanding by closely monitoring misuse of public resources in the run up to the elections.

### **Legal and Administrative Framework for the Elections**

International election observation recommendations from the 2009 parliamentary and 2011 local elections largely guided the country's electoral reform process. This resulted in the multipartisan adoption of amendments to the electoral code in July 2012, including rotational membership in the Central Election Commission (CEC), enforcement provisions for candidate registration deadlines, and better delineation of voter list compilation and review. The revised code – along with the constitution, law on political parties, and penal code, which defines fines and other penalties for electoral violations – are seen to provide a sound legal framework for the implementation of democratic elections.

The Central Election Commission and its subsidiary bodies—Commissions of Election Administration Zones (CEAZs), Voting Center Commissions (VCCs), and Ballot Counting Commissions (BCCs)—are the executive authority and implementing agencies of the elections, with direct support by the Ministry of Interior and other government agencies. The Electoral College is the judicial body charged with ruling on appeals arising from electoral disputes adjudicated by the CEC. Electoral College rulings are final.

Central Election Commission. Constituted nearly one month past the legal deadline for the appointment of commissioners, the CEC has moved ably and consensually in passing a number of acts setting the election process in motion, although some measures have been delayed. The audit of voter lists by two auditors appointed by the CEC Chair and Deputy Chair respectively, has been undertaken in a nonpartisan fashion. CEC meetings are fully public and televised. Party and nonpartisan observers regularly attend proceedings.

Principal tasks at present are to constitute, train, and equip subsidiary electoral bodies as per election code deadlines, the most immediate being the creation of CEAZs by March 25, which in turn will form voting center and ballot counting center commissions closer to the elections; implement an action plan to pilot the use of electronic technology in voter verification in the region of Tirana and ballot counting in the region of Fier; supervise the process of voter list preparations and the lists themselves; and provide for official voter education initiatives, especially but not limited to the use of new electronic technology.

The CEC is susceptible to inappropriate political party pressures that could jeopardize electoral integrity. It is challenged by political divisions that affect its institutional independence and neutrality. This is tied to longstanding partisan mistrust that permeates multiparty institutions. The CEC has foundered in reaching qualified majorities on politically consequential decisions, such as the number of parliamentary mandates conferred upon each of Albania's 12 electoral regions and the determination of the number of election administration zones within the 12 regions. Commissioners have stuck to party-ordained positions and not found their way to compromise on matters for which consensus positions should be attainable in applying administrative and other neutral criteria. The CEC's present elaboration of internal rules of procedure is slowed by what appears to be partisan calculations over administrative procedure, impinging institutional integrity and timely action.

Building and sustaining an institutional culture of professionalism and neutrality cannot occur as long as commissioners maintain unyielding positions they appear compelled to uphold. In this respect, the CEC's political challenges are aggravated and indeed animated by external actors. Political party observers appointed to the Commission appear too engaged in guiding Commission deliberations and decision-making. It was noted to the delegation that some CEC member requests for information have gone unanswered, allegedly owing to the political allegiance of the requester.

#### Recommendations:

- Political party leaders should uphold the institutional independence of the CEC. They should take demonstrable steps to preclude situations in which the CEC is removed from its obligation to decide consensually on electoral matters for which it is responsible.
- As the sole multipartisan electoral authority, the Central Election Commission should redouble efforts to achieve consensus on critical issues using objective criteria and avoiding rigid partisan positions.
- In monitoring proceedings and defending party interests, political party observers to the CEC should refrain from steering CEC deliberations that could risk its institutional independence.
- In the coming weeks, CEC instructions should provide clear guidance to subsidiary bodies in order to ensure consistent application of the code in all facets of the process, including but not limited to voting procedures, ballot counting and ballot validation, the admittance and regulation of party observers and citizen election monitors to electoral proceedings. Information gathering and aggregation by local election authorities should be improved so that CEAZs and, when needed, the CEC can act expeditiously in resolving problems and investigating and redressing irregularities. This is made more important given the approximately 30 percent increase in the number of Election Administration Zones from the 2009 parliamentary elections, as it substantially raises the

number of individuals appointed to CEAZs and BCCs who will require training and oversight.

Voter Lists. The 2009 parliamentary elections were the first in which voter lists were extracted from the central, computerized National Civil Status Register (NCSR) database, a significant step in improving the overall quality of voter lists by allowing for nationwide crosschecks for errors, omissions, and duplications. The legal framework has also been strengthened in this regard, with the provision of two CEC-appointed auditors to check voter lists. Through them the supervisory competencies of the CEC have been strengthened. Initial problems identified by the two CEC auditors regarding the accuracy and completeness of voter lists for 2013, which stem from deficiencies in the electronic NCSR, are being progressively resolved.

The electoral code specifies that, in addition to voters being able to locate their voting station on the internet, they need to be notified in writing. Financing for this written notification comes from the Ministry of Interior, though there may be confusion on this matter.

Recommendation:

- Continued efforts are needed to purge the voter lists of duplicative entries, ensure that all entries are made with complete information, make voter lists readily accessible for citizen verification and correction, and inform voters in writing of their voting center, location and address, and their registration number. This last legal obligation requires ministerial funding for all local government units charged with implementing the notification process.

New Election Technology Applications. As part of the 2012 electoral reform package, parties agreed to pilot electronic voter registration and identification technologies in Tirana and ballot counting in Fier – the country’s two largest election districts, comprising approximately 20 percent of the voting population.

The CEC has developed action plans for both districts that it must formally approve. Vendors have been identified and software testing, which is open to observers, is slated to begin in April following postponement. A short implementation and testing timeframe is among the biggest concerns in realizing this pilot project.

Technical issues concerning electronic ballot counting include a special ballot design that must meet technical specifications and remain user-friendly for the voter, preventing voters from folding their ballots in ways that would preclude electronic counting. According to the election code, all ballot counting centers in Fier will undertake both manual and electronic counting of the first two ballot boxes as a means of accuracy verification. If the differential between the two stands at or exceeds 0.5 percent, then electronic counting can be suspended.

### Recommendations:

- Timely and comprehensive voter education concerning ballot design and use in Fier district is essential to a successful debut of electronic ballot counting technology and public acceptance of this new practice.
- Political party and nonpartisan citizen observers should have access to all ballot design deliberations, all testing venues and testing reports, as well as continuous access throughout election day to assess whether or not election authorities follow proper procedure in implementing these projects and whether the technologies perform properly.
- Decisions affecting the suspension of electronic technologies are reached consensually to enhance public confidence.
- Immediate post-election audits and project management reviews of the use of electronic technologies should be undertaken. Political party and nonpartisan citizen observers should participate, both to contribute to lessons learned and to help the public understand how the technologies performed, including whether or not security safeguards were effective and ballot secrecy was protected.

### **Civil Society**

Role of Women in the Election Process. The presence of women in Albanian political affairs has traditionally been limited, but women are slowly gaining ground in both formal political structures and informal or grassroots political life. Women's forums within major political parties are becoming more dynamic and seeking cooperation across party lines. Civic groups are increasingly focusing on socioeconomic issues concerning women, such as reducing domestic violence, promoting equal access to the labor market, and removing barriers to women's political participation. These steps are occurring as certain segments of broader society are evolving to favor women in leadership and decision making roles.

There has been incremental progress to address the formidable barriers faced by women in the political arena, particularly with respect to running for and winning elected office. Albania introduced a soft gender quota in 2008 and strengthened certain provisions that, if respected, can lead to more women elected to political office—although certain aspects, such as fines levied in cases of noncompliance—are not seen as effective deterrents. Some parties may voluntarily go beyond the minimal quota specified by law.

Women are increasingly active at the grassroots level, campaigning for their respective political parties, but their efforts and merit are not being duly recognized. Many women are marginalized by centralized candidate selection procedures. Moreover, they are often excluded from branch leadership positions that are regularly used to win local elected office, which in turn would position women to run for national office. Women who do run for office often cannot access sufficient material resources and other forms of support within party structures.

In addition to higher numbers of women candidates, party platforms are noticeably quiet on how to address major socioeconomic issues, such as unemployment, on behalf of women.

Recommendations:

- Political parties should, at least, comply with standing legal provisions concerning the placement of women on candidate lists, and voluntarily surpass those provisions to demonstrate commitment toward gender equality in decision making.
- Party leaders should use their selection authority to place women in competitive positions on candidate lists, consulting with relevant party structures to identify electable women candidates. They should take measures to ensure that women candidates benefit from support throughout the party structure.
- Political parties should include in their platforms policy measures concerning, *inter alia*, women's economic empowerment, social equality, access to security and justice, and political representation.
- Politically active women should continue to build cross-party linkages, along with networks with civil society, media, and the private sector, and use these venues to construct policy agendas that serve the many and varied interests of women in Albanian society and build a stronger female constituency.
- Citizen observer groups should monitor compliance with gender provisions in the election code and CEC enforcement of sanctions when violated.
- Post-election consideration should be given to provisions of the electoral code that go further in securing more women to elected office, such as alternating gender on every other or every third position on candidate lists, and disqualification of candidate lists for compliance failure.

Citizen Election Observation. Nonpartisan citizen election observers, recruited, trained, and deployed by independent civic organizations according to international standards and Albania's elections law, will perform a critical role in ascertaining and reporting on pre-election, election-day, and post-election processes, and calling for changes to election proceedings as warranted. In so doing they can offer citizens a neutral and informed understanding and evaluation of the election process from the perspective of democratic standards.

Several civic organizations have formed initiatives to monitor the entire process and have commenced their work in the pre-election period, in monitoring the work of the Central Election Commission in particular and publishing their findings. Their work, conducted through the entirety of the election process, is vital in establishing a holistic appraisal of the conduct of the elections. They will be joined by international observation groups closer to the election.

### Recommendations:

- Election authorities should enable accredited citizen observers full access to all electoral proceedings. This should include direct physical proximity to ballot counting tables in order to observe the entirety of the counting process, from ballot box/documentation verification to placement of ballots once counted and tabulated.
- The Central Election Commission should ensure that all subsidiary bodies are duly informed and accommodating of the presence of nonpartisan observers.
- Civic organizations leading citizen observer initiatives should ensure that all accredited observers are properly trained, knowledgeable of their rights and obligations, and, through a code of conduct, committed to the standards of nonpartisan observation, as vested in the *Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations*.
- Political parties, civic groups and the international community should familiarize themselves with the findings and recommendations of citizen observer groups because of their ability to apply international democratic standards of electoral conduct to the unique characteristics of Albanian elections, particularly in the context of long-term democratization and social and economic change.

Role of the Media. According to international standards, the media should be able to gather and impart news free from interference or intimidation; parties and candidates should have equitable access to the media; political coverage of parties and candidates should be fair and balanced, and voters should have adequate information to make responsible choices. State-run media outlets have a special responsibility to raise public awareness of the election process and citizens' rights.

The Albanian election law mandates media to provide impartial, complete, and truthful reporting, respecting principles of pluralism of information. It requires media outlets to provide balanced coverage of comments made by all parties and candidates and private broadcasters to have consistent pricing for all parties and candidates participating in the elections. Private media are obliged to submit pricing structures to the CEC for publication on the latter's website.

Albania has a prolific, diverse, pluralistic, but not necessarily independent media. Citizens have a wide array of media sources at their disposal to garner information on public affairs in general and the elections in particular. However, primary media outlets feature a level of partisan and/or business control over reporting and editorial policy that is inconsistent with the principles cited above. They are commonly perceived as biased toward either the government or the opposition, particularly in regards to content of coverage. The state broadcaster has particular obligations to upholding standards of an impartial and unbiased press, in particular because a significant minority of citizens, mainly residing in rural areas, can access only state television.

### Recommendations:

- Governing authorities should respect and uphold freedom of the media and investigate alleged restrictions thereof on a timely basis.
- Media owners, publishers, editors, and journalists should take concrete steps within their organizations to uphold the principles of journalistic freedom and integrity, along with the principles cited above, and to demonstrate this commitment publicly to citizens. This should include disclosure of conflicts of interest.

### **Electoral Rights**

Family Voting. Many women see their electoral rights violated through “family voting,” in which they surrender their vote to family members or are unduly pressured by family to vote for a certain political option. New legal provisions target election officials condoning this practice.

Disabled Voters. Parliament recently ratified the United Nations Conventions on Rights of Persons with Disabilities which, among other provisions, specifies government commitments to facilitate the political participation of disabled citizens. A prominent disabled rights group has called upon election authorities to provide funding and other resources to improve physical access to polling stations, among other measures. The Central Election Commission apparently has reserved funding to facilitate disabled voter participation, but no budget or action plan has been announced. Home-bound voters are not permitted to vote outside of polling stations.

Voter Coercion. The delegation heard of reports that partisan pressure is allegedly visited upon public sector employees to vote for a specified political option. This can entail threats of job loss or demotion or other material penalty, and curtail or fully violate the right to free political expression.

### Recommendations:

- Relevant authorities should ensure that citizens have recourse to report coercive actions related to their voting rights without fear of reprisal and meaningful expectation of investigation and, where warranted, redress. Penalties should be enforced for substantiated violations.
- The Central Election Commission, subsidiary bodies, and local authorities should ensure that efforts are made to make voting centers accessible to physically disabled voters, by placing voting places on ground floors, near to parking places, etc. In the longer-term, consideration of home-bound voting would be warranted.
- Political party leaders and government officials should publicly commit themselves to refrain from practices that coerce voter support or nonparticipation by improper means, investigate alleged incidents of voter coercion, and take punitive and remedial steps to demonstrate to the public that such actions are neither tolerated nor repeated.

*The National Democratic Institute is a nonprofit, nonpartisan, nongovernmental organization working to support and strengthen democratic institutions worldwide through citizen participation, openness and accountability in government. NDI has been present in Albania since 1991, promoting citizens' political participation through civic education and issue advocacy, helping to increase public participation in decision-making at the local and national levels, organizing and supporting election monitoring and voter education, and fostering the development of political parties and emerging political leaders. For more information about NDI, please visit our website, [www.ndi.org](http://www.ndi.org).*