



**REPUBLIC OF ALBANIA
CENTRAL ELECTION COMMISSION**

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**RECOMMENDATIONS
ON POTENTIAL IMPROVEMENTS TO THE ELECTORAL CODE**

INTRODUCTION

Honourable Speaker of the Assembly of Albania,

Honourable MPs of the Assembly of Albania,

The Central Election Commission, being continuously engaged to optimally fulfil its institutional mission and legal obligations deriving from the Electoral Code, has analysed with responsibility and critical spirit the progress of each stage of the June 2013 electoral process. The CEC has particularly focused on the observed issues, but also on the achievements, aiming at meeting the internationally recognised standards in the next electoral process.

This activity started with the analysis of the institutional activity carried out for the organisation and administration of the 23 June 2013 elections, immediately after the issuance of the OSCE/ODIHR report. The analysis aimed to focus and analyse the issues and challenges in the framework of the findings and recommendations of OSCE/ODIHR report which is important for the CEC, but not only.

In valuing the conclusions of this analysis, which also focused on the important role that other actors have in the election process, their fulfilment of obligations and cooperation, which conditions the progress, organisation, and management of the process, the Central Election Commission undertook the initiative to bring forward in the agenda of the five technical roundtables some of the most important aspects of the election process. For these aspects there is a clear identification of the need for improvements in the organisational level and better coordination of work with other actors, as well as the need for improvement of the electoral law.

Through the support of our international partners: OSCE Presence in Albania, Office of the Council of Europe, UN Women, five technical roundtables were organised addressing the following:

- Exercise of the right to vote by persons with disabilities (24 October 2013);
(with the support of the OSCE Presence in Albania)
- Equal chances and meeting the electoral gender quota (22 January 2014);
(with the support of UN Women)
- Electoral campaign and media (3 March 2014);
(with the support of the OSCE Presence in Albania)
- Best practices and platforms for the training of electoral commissioners (31 March 2014);
(with the support of the OSCE Presence in Albania and the Office of the Council of Europe)
- Financing of political parties and electoral campaigns (14 May 2014);
(with the support of the OSCE Presence in Albania)

The open and inclusive discussions by representatives of political parties, civil society organisations, central and independent state institutions, media representatives, experts, CEC and its administration, provided, for each aspect of the topics addressed, findings and conclusions which will serve to solve successfully the challenges related to the election process. These challenges, by taking into account their nature, cannot be considered as such only by the state body in charge of election administration, but also by all the actors and factors with a direct or indirect role in the process. This institutional activity, which lasted for seven months and was conducted outside the electoral period, December 2013 - June 2014, will not just lead to the improvement of the institutional work in the future, but it also introduced a different approach in the relation between the CEC, as the leader institution in charge of the administration and completion of the process, and all the other actors and factors with a direct or indirect role in the election process.

The institutional initiative of the CEC to address the issues or lack of achievements identified during the electoral process of 23 June 2013, some of which also identified during previous electoral processes, would not have been made possible without the continuous support and assistance of international partners. This initiative was concluded by the joint efforts of the CEC, the OSCE Presence, the Office of the Council of Europe, UN Women for the organization of the Conference entitled “Electoral Code: Options for improvement.”

The findings of the five technical roundtables - a product of broad and inclusive discussions of actors, factors, and groups of interest presented in the Conference “Electoral Code: Options for improvement” - aim at improving different aspects of elections’ organisation and management, strengthening the institutional role of the CEC, by presenting recommendations on potential improvements to the Electoral Code in areas which set the standard for electoral processes.

The CEC has the honour and privilege to forward to the Assembly of Albania this package which puts together the technical opinions and proposals of electoral actors and factors: CEC, political parties, civil society, media, groups of interest, technical experts. The CEC acknowledges and expresses its gratitude for the support of international partners and all participants in the roundtables, who gave precious contribution to the drafting process with their engagement (involvement), opinions, and ideas.

The CEC evaluates that this inclusive discussion producing this package of proposals forwarded to the Assembly of Albania meets one of the important OSCE/ODIHR 2011 recommendations, which states that in the discussions on the electoral reform, not only political parties should be involved, but also the CEC, relevant state authorities, and groups of interest. The CEC expresses its full confidence on your attention to the proposed suggestions and recommendations aiming at improving the electoral law in a potential electoral reform.

I. RECOMMENDATIONS ON THE EXERCISE OF THE RIGHT TO VOTE BY PERSONS WITH DISABILITIES

The Central Election Commission, with the support of the OSCE Presence in Albania, brought together in a roundtable representatives of institutions, international organizations and groups of interest, who have responsibility, cooperate, or contribute in enabling and facilitating the exercise of the right to vote in an electoral process by persons with disabilities.

This roundtable, organised in two sessions, aimed to **i.** express the interest and stances of all actors and factors that have an impact in taking joint responsibilities; and **ii.** identify means, tools and techniques to guarantee, in the near future, the conditions for the exercise of the right to vote by persons with disabilities.

This document lists several proposals in a summarised manner and articulated in a form and substance that complies with common interest and the constitutional obligation of guaranteeing the application of the right to vote. We hope these proposals will receive the attention of the Assembly and of the Government of Albania on the improvements that need to be made to the Electoral Code.

More concretely, these recommendations consist of the below-listed points:

- It is indispensable for the Electoral Code to strengthen the provisions which refer to measures that must be taken to guarantee that the right to vote is exercised by persons who cannot vote themselves;
- This attention must start with the obligation to establish an “*Ad-hoc*” Committee with representatives of all responsible institutions and groups of interest, so that the solution of every problem related to the exercise of the right to vote by any category of persons with disabilities and the monitoring, realization and success of this process become a joint challenge, commitment and will of all responsible institutions. There may be several options concerning the period for the establishment and the duration of this Committee: **i.** once the electoral reform starts in the Assembly, **ii.** once the Decree on Election Day is issued, or **iii.** both previous options taken together;
- The Electoral Code shall be changed and amended in line with the spirit of the UN Convention on the Rights of Persons with Disabilities;
- The Electoral Code shall envisage sanctions against local government, in case the law and the obligations which guarantee the conditions for the exercise of the right to vote by persons with disabilities are not observed;
- The Electoral Code shall determine as an imperative provision and not as an alternative solution the obligation of local authorities to provide supporting infrastructure at any voting centre where voters who cannot vote themselves are registered. This obligation shall be monitored by the CEC, which must have at its disposal the legal mechanisms which enable it to take administrative measures against heads of local government who fail to comply with the legal requirements and the monitoring authority;
- The Electoral Code shall envisage the right to vote for persons with intellectual disabilities, which remains an issue left aside and which, in fact, has not had any cases of restrictions. From this point of view, the Electoral Code shall specify the ways and needs for adaptability by referring to notions/type of disability, and not in a generalized manner;
- Moreover, the Electoral Code shall not determine procedures which deal with division of institutional responsibilities in preparing the list of persons who cannot vote themselves, since this fact, not only distributes and mostly avoids the institutional responsibilities, but it also leaves room for procedural abuses. In order to improve this provision, the Electoral Code shall envisage that when public institutions (especially local authorities) responsible for persons with disabilities propose and take decisions, the associations of persons with disabilities are also heard;
- During the process of amending the Electoral Code, the Assembly of Albania shall consider and involve as part of it the representatives of groups of interest of persons with disabilities who, due to their experience and expertise, can offer much more efficient legal and technical solutions;

- Apart from the recommendations to change electoral law, which is only one aspect of solving the problem, the Groups of Interest can publicly ask the Government of Albania in writing to initiate a monitoring project across the country in order to set up supporting infrastructures for persons with disabilities in any premises that offer public and social services.

With regards to these findings and recommendations, the CEC suggests the following amendments to be made to the Electoral Code:

Article 1

The following changes are made to Article 2:

- Point 2 is reworded as follows:

“Special institutions” are prisons, places of pre-trial detention, hospitals or other healthcare institutions that accept patients for more than three days, as well as institutions for the rehabilitation/recovery of persons with disabilities and elderly care homes”.

- Point 2/1 is added as follows:

“Voters with disabilities” are voters with physical, sensory or intellectual disabilities, born or gained during life or coming from the advanced age, as certified by an official document which proves the type and category of the disability.

Article 2

Article 108 is reworded as follows:

1. In order to have in place voting centres adapted for persons with disabilities, local government units shall carry out the following tasks:

- a) Identify the persons with disabilities in their units, as per the voter lists they possess and the information requested from other institutions. The identification concerns the number of persons with disabilities and type of disabilities;
- b) Identify their voting centres and their level of accessibility;
- c) Make sure that the voting centres are adapted in accordance with the findings under point 1, a, b.

2. In case the local government unit cannot adapt the voting centre where persons with disabilities vote, the voting centre may be located in different premises from the one of last elections.

3. A voter who is unable to perform the voting procedures him/herself due to the disability, may request the assistance of a family member or another voter who is on the voter list for that polling unit. Both voters shall be present at the voting centre.

4. A person may assist only one voter who cannot vote him/herself.

5. Before marking the ballot paper, a person who assists another voter makes a statement in the Meeting Records Book of the Voting Centre Commission that he/she will vote as instructed, will not influence the voter’s decision, will not make the vote public and has not voted on behalf of any other voter.

6. Members and the secretary of the election commissions may not help any voter who is unable to vote him/herself.

7. The mark on the ballot paper shall necessarily be made inside the voting booth.
8. Within the period for the revision of voter lists, voters specified in point 1 (a) of this Article have the right to request the mayor of the local government unit to register them as voters who need a reasonable adaptation of the voting centre. The request for registration under point 8 is accompanied by a copy of the official documentation that proves the type of disability. This documentation is submitted by the person him/herself or one of his/her family members to the local government unit where the person's residence is, within the period for the revision of voter lists. To this aim, the local government unit issues a form template.
9. Within the period for the revision of voter lists, the mayor of the local government unit, who prepares the voter lists for the respective voting centre, prepares at the same time the list of persons with disabilities in his/her unit, in accordance with point 1 (a) and point 8.
10. In case of blind voters, the mayor of the local government unit notifies the CEC on the number of blind voters and their voting centres, in line with the information received under point 8 of this Article. The CEC, in accordance with the procedures and deadlines for the distribution of the electoral materials, supplies the commissions of these voting centres with special voting devices that allow the voters to read or understand the ballot paper and to vote independently. A blind voter is informed by the VCC of the manner of voting with special voting devices and is supplied with them upon his/her request. Otherwise, the voter shall vote in accordance with point 3.

II. RECOMMENDATIONS ON SOME SPECIAL MEASURES IN THE ELECTORAL CODE AIMING TO INCREASE WOMEN'S PARTICIPATION IN ELECTED BODIES

The Central Election Commission, with the support of UN Women (United Nations Entity for Gender Equality and the Empowerment of Women), organized a joint roundtable focusing on the increase of women's participation in elected bodies.

Equal rights of women and men are sanctioned in the fundamental act of the Republic of Albania – the Constitution of the Republic of Albania. Article 18 of the Constitution guarantees equality for women and men before the law. Albania has ratified the Convention to Eliminate all Forms of Discrimination against Women in 1993 and the relevant Optional Protocol in 2003. Albania regularly reports to the Committee on the Convention to Eliminate all Forms of Discrimination against Women over its progress regarding the fulfilment and implementation of the Convention's provisions.

The gender legislation and policies in Albania also reflect the continuous process of the country's integration in the European Union, which started officially with the signing of the Stabilisation and Association Agreement in 2006. Since equality is one of EU's main principles, Albania's obligations for harmonisation are focused on the five areas of policies stated in the EU strategy for equality between women and men, 2010-2015.

Equality between women and men in all areas of private and public life is further addressed by legislation, such as Law No. 9970 "On gender Equality in Society," which entered into force in 2008. The aim of this law is to: i) ensure effective protection against gender-based discrimination; ii) specify the measures to guarantee equal opportunities for men and women, so to eliminate gender-based discrimination; and iii) specify the responsibilities of state authorities of any level to draft and apply the normative acts and policies which promote gender equality.

The Law "On Gender Equality in Society" aims to achieve gender harmonisation, as a strategy to achieve gender equality through the integration of a gender perspective in all law-making,

policymaking, implementing, and monitoring processes. This law, inter alia, puts forward temporary specific measures to the political and public decision-making authorities (to guarantee at least 30% of participation of the least represented gender) as well as specific measures to collect gender statistics.

After the '90s, the issue of gender quota has become a relevant part of the public debate and almost part of the daily vocabulary of political structures, state administration, not-for-profit organisations, as well as international partners. In general, five main arguments have been elaborated to-date in favour of mandatory inclusion and application of gender quota in the political and public life of a country.

The first argument is related to the representation of elements such as interests, needs, or perspectives of women. Women share such interests partially because of biological characteristics and especially because of the social gender appointment of roles and tasks.

The second argument is the one which in the Anglophone systems is called “the argument of justice” and in the Francophone literature “the argument of democracy“. The argument is based on the issue of proportionality. Having the standard of an as-inclusive-as-possible definition, it is unfair for women, who are half of the population, to be structurally underrepresented in the decision-making processes and public life. This argument is focused on the enhancement of women participation in politics and it presumes there are no differences in readiness between men and women when it comes to being represented in politics or that representation is conditioned by gender. The argument to encourage the participation of women in politics is a direct indicator and it aims at improving the access of women in decision-making positions, since there is no legitimate argument for political bodies to be dominated by men. And if this is the reality in practice, the foundations of the democratic power should be corrected in a way or another.

The third argument derives from the first two arguments. If women massively participate in politics, then we will have qualitative changes of politics and policies. Political decision-making processes and, as a result, public policies and strategies, would more fairly reflect the diverse character of society. This is very similar to the argument of essential representation in society. On the other hand, since the government’s policies would take into account the diversity, requirements and needs of the society, it would unavoidably improve the democratic legitimacy of institutions and their policies. A better balance for women in politics would reduce the masculine functioning of politics in the society and would facilitate the functioning of political decision-making.

The fourth argument is more of an economic nature and it emphasizes the damage to human potentials if women are excluded from political decision-making. This argument does not focus on the most adequate representation of all individuals, but on the more effective use of human resources in the society. This argument seeks inclusion of gender equality in the normative framework, which seems to be more appealing to decision-making actors.

The fifth argument seeks a broader involvement of women because of the need to have women as role models for other women in the society.

In general, in a comparative perspective, gender quotas have brought changes of structures and procedures, since they require the reorganisation and change of election institutions and rules. However, such change of electoral rules must be related to a broader range of efforts and debates on gender inequality and privileged representation in political institutions. This would inevitably require a detailed analysis of the role of women within political parties, recruitment and promotion of women, and in a more general level, a full analysis of the functioning of the political arena in the country.

In analysing the above, the roundtable reached some conclusions and recommendations:

- In the frame of general principles, establishing the connection between the Electoral Code, as a law of special importance, and the issue of gender equality.
- Respecting gender quota in the composition of the CEC and CEAZ, by guaranteeing that even in case of replacement, when the outgoing member belongs to the least represented gender, he/she has to be replaced with a person of the same gender.
- Making gender quota a legal obligation at the level of VCC and Counting Teams and guaranteeing respect of gender composition during the entire activity of the VCC.
- Envisaging the obligation of the CEC to include in the Election Bulletin statistical data on the participation of the least represented gender in elections and the electoral results of candidates from that gender. The CEC shall also publish gender statistical data on the composition of elected bodies or bodies appointed by the Assembly, with the data being updated over the years.
- Envisaging that the voter list which is sent to the VCC should identify voters by gender, for the purpose of processing the data and publishing accurate official statistical reports. The identification of gender is made with the sole purpose of collecting statistical data.
- Solving once and for all the imposition and implementation of gender quota in the composition of the Assembly and municipal and commune councils by establishing that the ranking of candidates is made in an alternative mode according to gender. The legal wording must be clear and it should guarantee a presence of at least 30 percent of the least represented gender in the composition of these bodies.
- Establishing by law that multi-name lists for the parliamentary elections will be refused in case gender quota is not respected. The CEC shall declare null and void any mandate won in the elections for local government units, in case the electoral subject has not respected the gender quota obligation in the multi-name lists.
- Giving an end to the “games” at the expenses of the law which are currently being played in Albania by political parties through the stimulated resignations of women candidates in the multi-name lists. The Electoral Code shall guarantee that whenever a vacancy is created it is filled with women candidates from the multi-name lists, and in case there are no more women candidates in the party list, the vacancies are filled with women candidates from other parties within the coalition.
- Guaranteeing the implementation of gender quota in the composition of elected bodies, by envisaging the mechanics which guarantee its implementation as well.

In relation to these findings and recommendations, the CEC suggests the following amendments to the Electoral Code:

Article 1

Article 2 shall be amended as follows:

- Point 21 shall be reworded as follows:

“Voting for third parties” is the practice whereby a voter casts a vote on behalf of and for other persons who may or may not be present in the voting centre. Voting for third parties is illegal and punishable by the Criminal Code, except for the case envisaged in Article 108 of this Code.

- Point 21/1 shall be added to read as follows:

“Family voting” is a form of voting for third parties whereby a family member – by rule it is the head of the household – votes on behalf of and for the other family members.

Article 2

After Article 3, Article 3/1 shall be added to read as follows:

“Article 3/1

The Electoral Code and gender equality

1. This Code guarantees the principle of gender equality, in accordance with the respective stipulations in the applicable legislation of the Republic of Albania. A direct and active participation of the least represented gender in the political and public life constitutes a key instrument for the consolidation of a democratic system. No provision of this Code may be applied or interpreted in contradiction or violation to this principle.

2. The obligation set forth in the first point of this Article lies with electoral subjects, the electoral administration and courts. The Central Election Commission shall be entitled to intervene at any time in relation to the discretions granted to the electoral subjects by this Code, to request the electoral subjects to stop violating this principle and, in case of omission, to intervene *ex officio* to ensure its application.

3. The Electoral Code shall promote gender equality in elected bodies and the electoral administration by:

a) deciding gender quotas of no less than 30 percent of the composition of the Assembly of Albania and of the composition of local government units,

b) deciding gender quotas of no less than 30 percent of the composition of the electoral administration at all levels,

c) taking measures to reduce and eliminate voting for third parties, family voting, as well as to preserve and guarantee secret balloting.

ç) drafting and publishing operational statistics on the participation of the least represented gender on the Election Day, as well as accurate statistics on its participation in the voting process and the results of elections. The aim of these statistics is to raise awareness and take proper measures to further encourage such participation.”

Article 3

In Article 19, at the end of point 2 the following sentence shall be added: “In case of early termination of the mandate of a CEC member of the least represented gender, the new replacing member shall always be from the least represented gender.”

Article 4

Article 21 shall be amended as follows:

- The following sentence shall be added at the end of point 12:

“The election bulletin shall include statistical data on the participation in elections of the least represented gender, as well as the election results for candidates of this gender.”

- After point 12, point 12/1 shall be added to read as follows:

“12/1. The CEC shall publish statistical data on gender issues in the composition of elected bodies or appointed by the Assembly, and it shall update these data over the years.”

Article 5

In Article 32, point 4 shall be added to read as follows:

“4. In case the CEAZ member or secretary who is released or discharged from duty belongs to the least represented gender, the proposing subjects shall nominate a replacing candidate belonging to the least represented gender. Otherwise, their request for replacement shall be rejected. If there is lack of quorum for the CEC to be able to function or take decisions, it [CEC] shall nominate *ex officio* CEAZ members of the least represented gender, in accordance with point 5 of Article 29 of this Code.”

Article 6

In Article 36, the second sentence of point 1 shall be amended as follows: “The VCC is established in accordance with the manner and criteria provided for in Article 29 of this Code for all types of elections. Thirty percent of the list of VCC members at EAZ level, proposed by the largest party of the parliamentary majority and by the largest party of the parliamentary opposition, respectively, shall belong to each gender.”

Article 7

Point 3 shall be added in Article 39 to read as follows:

“3. In case the VCC member or secretary who is released or discharged from duty belongs to the least represented gender, the proposing subjects shall nominate a replacing candidate belonging to the least represented gender. Otherwise, their request for replacement shall be rejected. If there is lack of quorum for the CEAZ to be able to function or take decisions, it [CEAZ] shall nominate *ex officio* VCC members of the least represented gender, in accordance with point 5 of Article 36 of this Code.”

Article 8

In Article 48, point 2, letter “b”, after the first sentence, the following sentences shall be added:

“This list identifies the gender of voters. This information does not constitute an electoral component by this Code and it cannot be used, in any case or circumstance, by the VCC as an excuse to prevent voters from voting. Identification of gender according to this provision is done only for purposes of collecting statistical data.”

Article 9

In Article 61, point 1/1 shall be added after point 1, to read as follows:

“1/1. When the General Directorate of Civil Status publishes the extract of electoral components in accordance with Article 51 of this Code, and upon expiry of the time limit provided for in point

1 of Article 56, the General Directorate of Civil Status shall submit to the CEC, in addition to the number of voters at national level, the following statistical data:

- a) the number and percentage of voters by gender at national, electoral zone and voting centre level;
- b) the number and percentage of first-time voters at national, electoral zone and voting centre level;
- c) the number and percentage of voters up to 30 years old at national, electoral zone and voting centre level;
- ç) the number and percentage of voters from 30 to 50 years old at national, electoral zone and voting centre level;
- d) the number and percentage of voters above 50 years old at national, electoral zone and voting centre level.

Upon their receipt, these data are updated regularly and published by the CEC even on the Election Bulletin.”

Article 10

Article 67, point 6 shall be amended as follows:

“6. For each electoral zone, no less than one in three consecutive names on the multi-name list shall belong to each gender.”

Article 11

In Article 95, at the end of point 1, the following sentence shall be added:

“Each list of the Ballot Counting Team members shall contain no less than 30 percent members belonging to the least represented gender. Otherwise, the list shall be rejected and the respective counting teams shall continue the count with fewer members. In case the counting team has less than two members, the CEAZ shall appoint *ex officio* members of the least represented gender, in accordance with point 3 of Article 95 of this Code.”

Article 12

Article 164, point 2 shall be reworded as follows:

“2. The interrupted mandate is transferred to the next candidate on the list of the same political party in the respective electoral zone. When the vacancy arises from an interrupted mandate won in accordance with point 6 of Article 67 of this Code, it shall be filled with the first candidate in the list belonging to the respective gender, regardless of the ranking in the list. The other names belonging to that gender go up in the list taking the ranking of the preceding candidate of the same gender. If the names of the respected gender have been used up, the mandate is transferred to the candidate of the respective gender from the political party of the coalition with the highest quotient. This replacing process continues and guarantees that vacancies be always filled by candidates of the same gender.”

Article 13

After Article 166, Article 166/1 shall be added to read as follows:

“Article 166/1

Interruption of the mandate and replacement of vacancies in municipal or commune councils

The interrupted mandate in the municipal or commune councils is transferred to the next candidate on the list of the same political party in the respective electoral zone. When the vacancy arises from a mandate won by someone from the least represented gender, it shall be filled with the first candidate in the list belonging to the respective gender, regardless of the ranking in the list. The other names belonging to that gender go up in the list taking the ranking of the preceding candidate of the same gender. If the names of the respected gender have been used up, the mandate is transferred to the candidate of the respective gender from the political party of the coalition with the highest quotient. This replacing process continues and guarantees that vacancies be always filled by candidates of the same gender.”

Article 14

Article 175 shall be reworded as follows:

“Article 175

Sanctions related to gender equality

1. Failure by the electoral subject to comply with the obligations specified in point 6 of Article 67 of this Code results in the rejection of the registration of the multi-name list by the CEC or the CEAZ for local elections.
2. Failure by the electoral subject to comply with the obligation that one in three names in the multi-name list for municipal or commune councils shall belong to the least represented gender results in absolute invalidity of all mandates won by that electoral subject in that electoral zone. The absolute invalidity shall be determined immediately by the CEC during the allocation of mandates in accordance with Article 163 of this Code or, at any time, by the Electoral College upon request of the electoral subject that has a legitimate interest in it. In this case, the CEC or the Electoral College, respectively, decides to transfer the mandates to the political party of the coalition with the highest quotient and conduct the nominal allocation of these mandates.”

Article 15

In Article 178, point 7 shall be added to read as follows:

“7. During the implementation of point 6 of this Article, the CEC shall process the data on the participation of the least represented gender on the election day in order to produce statistics. The statistics are produced by processing the voters list for each voting centre by respecting confidentiality and in compliance with the applicable legislation on protection of personal data. The terms, procedure, confidentiality, and the categories of statistical information shall be determined by decision of the CEC”.

APPENDIX

During all these years and electoral reforms undertaken in Albania, the actors have been mainly focused on general elections, keeping the same *status quo* and without trying to reform local elections. This represents a constant deficiency throughout all electoral reforms undertaken in Albania.

In the gender equality perspective, the local elections system and the results it produces about the least represented gender are seriously negative and not promising at all when it comes to the fulfilment of the legal obligations, international obligations and the major objectives of European integration.

We deem that the first efforts for achieving gender equality even in the local elections system, should be made to reform this system in the Electoral Code.

In more concrete terms, the roundtable recommended:

1. Local elections should be carried out by proportional system. The reasons that made lawmakers decide to have a proportional system in the general elections are just as valid for local elections. Voters should vote for the electoral subject, which has preliminarily registered a multi-name list of candidates. During the day of elections for the bodies of local government units, voters should be equipped with one ballot paper only through which they can vote for both the mayor and the council. There should be two ballot papers in Tirana, since it is organised in boroughs, and the second ballot paper should be used to vote for the borough mayor and council.
2. The individual who holds number 1 in the multi-name list of the electoral subject, is also the candidate for municipal or commune mayor. The other individuals in the list are candidates for the municipal or commune council.
3. In case position number 1 in the multi-name list is a man, it should be followed by two women candidates. Therefore, in case of vacancy of the mayor, the replacement is made by women candidates.
4. We deem that this proposal does not have any incompatibility with the provisions of the Constitution, but it seeks fundamental amendments of the Electoral Code and technical changes in a series of other provisions of a technical nature, such as the ballot paper, voting procedure, announcement of the result, tabulation, etc.

III. RECOMMENDATIONS ON ELECTORAL CAMPAIGN AND MEDIA

The roundtable organized by the CEC with the support of the OSCE Presence in Albania, with media representatives, members of the Media Monitoring Board (MMB), lecturers from the Journalism Faculty of Tirana University, and representatives of several international organizations operating in Albania, was of a major importance. All the participants admitted and confirmed that media in Albania, as the fourth power, has reached some high standards at elections, which are widely-accepted even by international partners.

Given that a large number of national, local, cable, radio, print media, and particularly the newest medium widely used, the electronic media, operate in Albania, these constitute a good platform for citizen information and education on electoral campaigns, and the programs and mission of each electoral subject running for election. Nowadays, freedom of expression and media in Albania, as an important constitutional principle, is guaranteed. A positive tendency is seen from one election to another, not only regarding consolidation of legal regulations, but also increase of

professionalism and accountability of media in informing on electoral processes, citizen education and the work of election administration bodies.

The majority of central media monitored during the last elections did generally cover the electoral campaign of the main political parties in a balanced manner.

But surely, apart from the consolidation of these practices, the roundtable identified issues covered not only by the OSCE/ODIHR reports, but also issues from the last two elections identified by the analysis of Media Monitoring Board (MMB) members, media experts, and other issues related to the administrative and practical aspects of these relations.

In analysing them, the roundtable reached some conclusions and recommendations.

- Article 84, point 1 of the Electoral Code and the CEC decision on coverage of electoral campaign with the pre-made tapes of electoral subjects was not interpreted correctly and sparked debates among a part of election-related actors. Therefore, this provision needs to be revised so that it clearly envisages media's right to choose whether they will themselves produce the piece of election news/story or will accept the pre-made materials of electoral subjects. The roundtable agreed on the need to improve the Electoral Code so that any campaign-related material prepared by electoral subjects is clearly considered as propaganda material, to be aired as part of political advertising.
- The existence of criminal provisions in the Criminal Code (2012, Article 120) which foresee fines of 50 thousand up to 3 million ALL for persons who disseminate false statements or information causes concern during electoral campaigns, as they limit the freedom of expression.
- The roundtable suggested the abrogation of this criminal provision, so that libel is no longer classified as a criminal offence against morality and dignity, but it is rather foreseen as a civil relation by the Civil Code.
- The roundtable suggested the revision of the formula used for selecting the MMB members, thus making the process more transparent, more inclusive, and more professional.
- The roundtable proposed several options, one of which was to select MMB members with a similar lottery procedure used for selecting the audit experts. Several media subjects, public and private, the University of Tirana (Faculty of Journalism), NGOs that operate in media sector, etc. may propose candidates, who are then selected as MMB members through a lottery organized by the CEC.
- The Electoral Code should envisage clear criteria for the appointment of MMB members.
- The Electoral Code foresees that fines are imposed against audio-visual operators as an administrative sanction in case its provisions are violated. Given that the fines foreseen by the Electoral Code are deemed relatively high for the economic capacities of the operators, the MMB hesitates to propose to the CEC to impose the administrative sanction of fine. It is recommended to revise the level of fine in cases of violation, in order to make it more effective and applicable.
- The roundtable recommended specifying by law that the Audio-Visual Media Authority is obliged to enable the MMB to monitor all the national and local media in the entire territory, avoiding the lack of balance and double standards in the monitoring and reporting on the last

two elections. This form would avoid those cases when the MMB did not manage to monitor media in certain regions due to limited technical or human capacities.

- It results that political parties start the electoral campaign much earlier than the 30-day timeline before elections foreseen by law. In order not to allow media to cover political parties' activities when parties and electoral subjects start their electoral campaigns earlier than the start of electoral period, the monitoring by the MMB should cover a longer period than the electoral one.
- The roundtable deemed fair the critics and the suggestion to oblige media by law to comply with the gender criteria concerning information on candidates, and on the need for the MMB to change its monitoring methodology by introducing a gender component.
- The roundtable recommended specifying by law that the political parties are obliged to dedicate half/30 percent of the free media air time in favour of the women candidates.
- The legal requirement to establish free airtime for candidates supported by voters in the Public Radio and Television, in order to avoid double standards among electoral subjects running for elections.
- The roundtable recommended that the law should require the media to provide information to people with disabilities, especially to the blind and deaf people.
- The roundtable recommended that is necessary to organize training courses to increase the professionalism, ethics and performance of all the actors involved in the media coverage of electoral campaigns. Training should include - apart from MMB members and technical staff supporting it - journalists, editors and media employees who work directly with electoral campaigns, so that they are informed in details about the electoral system, administrative system and other details related to the integrity of the process and public information.

IV. RECOMMENDATIONS ON FINANCING OF POLITICAL PARTIES DURING ELECTORAL CAMPAIGNS AND NON-ELECTION YEARS

In the technical roundtable “Financing of political parties and electoral campaigns” organized by the Central Election Commission with the support of the OSCE Presence in Albania, it was identified that:

- In the last years, the attention of the wide public to issues of political parties' financing has increased considerably;
- Media, civil society, scholars and citizens have become more active in asking for an increased monitoring of political parties finances;
- Despite the fact that the legal framework on political parties' financing has continuously improved over the last years, its proper implementation is still lagging behind;
- The monitoring done by a civil society organization reveals that the *de facto* expenses of political parties amount from two to fourfold of what they officially declare;
- The Central Election Commission should carry out proactive investigations to verify the financial accounts of political parties;

- Channels of communication should be established with representatives of civil society, and a clear cooperation should be established between the CEC and civil society organizations that monitor elections;
- During a period of around 23 years, the Albanian regulatory framework on the financing of political parties and electoral campaigns has undergone a thorough transformation. Further reforms are needed, and they are to be achieved firstly through a broad cross-party consensus. To this aim, the roundtable concluded with a list of recommendations, which can be translated into legal language at a later stage.

Findings and recommendations:

1. Disclosure of financial information by political parties should be regulated by specific legal provisions and monitored by the CEC. Political parties in Albania have failed to disclose their financial information to the public, party members and voters. This is considered the main indicator of non-responsibility and lack of transparency.

A specific legal provision to regulate the disclosure of such information by the parties themselves is necessary.

Therefore, Article 23 of the law “On political parties” should be amended accordingly.

2. Clear provisions to be included in the law in order to separate the reporting format of parties’ annual finances from the reporting of election campaign finances in case of electoral years. The law should provide exact deadlines for submission of reports by political parties to the CEC and the obligation of the CEC to make public these reports within well-defined timelines. On the other side, the Electoral Code should have a provision for a “report” on electoral campaign financing. Article 23/4 of the law “On political parties” refers to the election campaign finance report, though this is not yet provided in Electoral Code.

Therefore, Article 23 paragraph 4 of the law “On political parties” should be amended accordingly.

3. The current auditing format required by law is too detailed and makes auditing a voluminous task. A “stripped down” form of accounts should be required, containing what is important like revenues, expenses, loans, etc. The experts of the Institute of Authorized Chartered Auditors of Albania (IEKA) recommend mentioning in the law the accounting standard known as “EVR” (*Expenditure Verification Report*). This standard must be provided in the law as a general rule, and the CEC in cooperation with IEKA should be delegated to approve the technical subsidiary rules and regulations.

Therefore, Article 23, paragraph 5 of the law “On political parties” and Article 91 of the Electoral Code should be amended accordingly.

4. For the year 2012 the CEC was obliged to provide the audit of 123 political parties registered in the Register of Political Parties in Tirana District Court. The audit reports were presented by 13 political parties. 21 political parties were not contacted at all by the CEC, because they did not provide the CEC with an accurate address. For the remaining 89 political parties there is no information at all on their finances.

The law “On political parties” must offer a legal solution for these circumstances. In case of change of address, parties must be obliged by law to officially inform the CEC within a fixed time period, either directly by the parties themselves or through Tirana District Court.

In case this obligation is not respected, the law should provide a mechanism and procedure that must be followed (like public announcements) and the proportionate sanctions to such situation.

Therefore, Article 11 of the law “On political parties” should be amended accordingly.

5. Financial reports are submitted to and disclosed by the CEC in different periods of time. There is a legal loophole regarding the deadline of submission, because the law “On political parties” does not specify reporting date.

Therefore, Article 23 of the law “On political parties” should be amended accordingly.

6. The law “On political parties” provides that the control of party financing must be done every year for each of the 140 political parties registered with the Court. But around 50 % of political parties registered with Tirana District Court have not run for the last four elections.

The law should provide an effective mechanism of party financing control under restricted budget and human resources. Priorities for party financing control should be explicitly provided for by law. Priority, for example, is the annual control for those parties that are funded by public funds.

Therefore, a new Article should be added in the law “On political parties” accordingly.

7. Article 23/1 of the law “On political parties” foresees that the list of persons donating more than ALL 100,000 (circa EUR 720) should be disclosed to the public. Article 90, paragraph 2 of the Electoral Code provides that non-public funds exceeding ALL 100,000 shall be donated only through a special bank account of the electoral subject and the finance officer of the electoral subject declares the number of the bank account opened for this purpose.

This threshold is very high and creates possibilities to hinder the transparency of funding sources under this amount.

According to Open Data Albania: *Electoral campaign 2009*: 59% of the value ‘Donations’ has as source donors of a value below ALL 100,000. In absolute value, this is ALL 64,435,904 million. The other part, that is 41%, are donors of values above ALL 100,000. *Electoral Campaign 2011*: 78,8% of the value ‘Donations’ are from donors with a value below ALL 100,000 which are not subject to the provisions of Article 90 of the Electoral Code. *Electoral Campaign 2013*: 30% of the value ‘Donations’ are donations with a value below ALL 100,000.

Therefore, these provisions should be amended in order to lower this threshold (up to 150 EUR as the minimal wage) in order to disclose all donations made to the political parties.

8. Article 88 of the Electoral Code should address more rigorously the prohibition on using public resources to support electoral subjects. The CEC shall have the competence to adopt all the necessary mechanisms in order to prevent political parties from abusing with state resources. If this happens, the CEC should react immediately and take all necessary measures and penalties that the same will not be repeated in the following days of the electoral campaign.

Therefore, Article 88 of the Electoral Code should be amended accordingly.

9. Article 89 of the Electoral Code provides that donation of funds by a legal person or any of its shareholders is prohibited if he/she has received public funds, public contracts or concessions in the last 2 years, exceeding ALL 10 million; exercises media activity; has been a partner with public funds in different projects or has monetary obligations towards the State Budget or any public institution.

However, the Electoral Code does not provide for the conflict of interest for post-election period, too. The conflict of interest in party financing is not only before Election Day, but must be extended also after it.

Furthermore, restrictions should be provided for individual donors so that party donors must not hold after elections any public office in state administration or state owned companies.

The Electoral Code should specify the institution that should exercise control on these issues and the respective sanctions in case of their violations.

Therefore, Article 89 of the Electoral Code should be amended accordingly.

10. The Law “On political parties” lacks regulation concerning political advertising in media during political parties’ annual activity (non-electoral campaigns). Even though the law does not

guarantee price equality to parties for media advertising, actually parties do have access to paid media advertising. The frequency of advertising is high, especially during electoral campaigns or even prior to the official start of campaigns. Comparing the regular prices set by media companies, the cost of airtime and advertising seems to be high; parties should disclose the details of these costs in their financial reports. Decision-makers must carefully consider whether the length of electoral campaign needs to be enforced more effectively (or advertising outside electoral campaign banned) or whether advertising should be restricted (for example banned on private televisions or quantity restricted much more in order to reduce spending).

Therefore, it is needed to insert Articles in the law “On political parties” that would guarantee fiscal incentives for media companies to disclose information on the airtime and costs of advertising paid by political parties.

11. The Electoral Code and the law “On political parties” should clearly provide the competence of the CEC to submit its findings for further consideration to the Prosecutor’s Office or tax administration office.

12. The Electoral Code and the law “On political parties” should provide some sort of guarantees or protection for audit experts to guarantee their performance in a non-biased, honest and professional manner, free from external political pressure and intimidation, especially when they audit financing of the main parties in power or parties that won elections.

13. Article 84, paragraph 6 of the Electoral Code creates an additional financial resource for the major political parties. The way it is implemented implicates in financial transactions and fiscal activities even media institutions creating confidential economic situations among parties and radios/televisions. This is an Article which is very difficult to be monitored and it involves several monitoring structures (Media Monitoring Board, tax office, etc.).

This Article has been implemented in an arbitrary way in the 2011 elections by at least one party and two media companies, though it should be implemented for parliamentary elections only.

Article 84 paragraph 6 of the Electoral Code provides that: *“For elections to the Assembly, private national and satellite radios and televisions that accept paid advertisements in accordance with this Article are obliged to make available to the electoral subjects, free of charge, half of the total airtime for advertisement provided for in point 5 of this Article. The cost for making the free airtime available to the electoral subjects by private radio/televisions is calculated as a deductible expense for tax purposes. The CEC, the National Council on Radio and Television and the Minister of Finance are responsible for issuing the respective instructions.”* There are two issues here: i) the financing of 50% of the time by the state is extra hidden funding and moreover its size is not clear, because the provision says half of the airtime, not half of the costs, *and* ii) in practice, Open Data Albania observed that one political party reported that for the 2011 local elections it had benefited, on the basis of Article 84, point 6, of the Electoral Code, free airtime by private radio/televisions for political advertising, which was calculated as a deductible expense for tax purposes. This particular accounting item was recorded as a separate budget line by the auditor.

14. Article 90, paragraph 2 of the Electoral Code allows the public to access information about donations with a value higher than ALL 100,000. The law provides that these data should be made “always public”, which means that the right to information starts at the moment the donation is recorded in the respective bank account.

During the 2013 Electoral Campaign, the team that worked for Open Data Albania requested in a written form to the eight main parties to reveal their donors from the beginning of the campaign. Although the request was made in an official written form, it was never replied with information be it during or after the campaign. The political parties tried to argue that they are not subject to this legal provision, and some of them even replied that they are not subject to the right to access

information, i.e. they are not obliged by the Albanian Law on the Right to Information to provide information.

Therefore, the Electoral Code should be amended to guarantee transparency and the right to information on financing of political parties accordingly. The law should not only foresee that information of a general nature is provided, but also that effective remedies are found and sanctions are imposed in case of violation.

15. The role of the CEC should be strengthened by providing it with enough budget and human resources to exercise the competences defined by law in an effective and timely manner. This can be achieved through a detailed regulatory impact assessment.

16. The law should provide mechanisms to make participation in the auditing of political parties financing more attractive for IEKA members. The task of the audit experts is very delicate and the law obliges them with the duty of finding and signing reports on accounting regularities or irregularities of very powerful subjects (executive and legislative).

The issue of unpaid salaries must be fixed through the CEC budget. The CEC, as an administrative body that assigns duties to audit experts by drawing lots, has the obligation to guarantee the payment for a job that the CEC itself orders. In case the political parties do not fulfil the obligation for payment, the CEC should pay for the services of the audit experts and should calculate the amount as an obligation the parties owe to the CEC.

17. The Electoral Code should be amended to provide that the political parties in electoral campaigns will have a proportionate reduction of financing by public funds, if they do not respect the gender quota requirements provided by the Electoral Code.

V. FINDINGS OF THE ROUNDTABLE ON “BEST PRACTICES AND PLATFORMS FOR TRAINING OF ELECTORAL COMMISSIONERS” AND RECOMMENDATIONS ON IMPROVEMENTS TO THE ELECTORAL CODE IN THIS REGARD

Training of electoral commissioners is the most important element that guarantees their professionalism. Such training has been discussed for more than a decade now, and it has been part of the agenda of every parliamentary committee on electoral reform in Albania, but no optimal solution is yet found.

The CEC organized a comprehensive discussion about this substantial aspect that would ensure a better organized and better managed electoral process. This was done because, regardless of the CEC dedication and flexibility to ensure as an efficient training as possible, and sustainable electoral processes from one election to another based on the experience gained, there are still issues that affect the training effectiveness. These issues are also reflected in the OSCE/ODIHR report on the 2013 elections, stating that “*the training conducted by the CEC for the 2013 elections was positive but that their effectiveness was often limited due to late nominations and changes in the lower-level election administration bodies*”. The OSCE/ODIHR Final Report and reports of other observers, or complaints by the media/electoral subjects, continue to point out that there are still obvious issues with the level of understanding of the electoral law and procedures by the people who are directly or indirectly involved in electoral processes.

The open consultative roundtable “Best practices and platforms for training of electoral commissioners”, organized by the CEC on 31 March 2014 and supported by the OSCE Presence in Albania and the Office of the Council of Europe in Albania, included representatives of

political parties, election-related organizations, representatives of international organizations, groups of interest, trainers, CEC staff, and the directors of the Georgian and Moldovan Training Centres, who presented the electoral training models applied in these two countries, which have similar characteristics and challenges with Albania.

The participants assessed the need for the entire election administration, regardless of who appoints or selects them, to be more independent, more professional, and more credible for the public. They agreed that the main problems that reduce the effectiveness of the training organized by the CEC, thus affecting the professionalism of the electoral administration, remain the following:

- Continuous dismissal/appointment of second level commissioners (CEAZ) up to the day of elections, appointment of third level commissioners (VCC) and counting teams by extremely exceeding the legal deadline. In the 23 June 2013 elections, 35.5% of the second level commissioners (CEAZ) were dismissed/replaced;
- Given that nomination in time of the third level (VCC and Counting Teams) commissioners and their subsequent replacements (although in contradiction with the law) depend on political will, the effectiveness of the training process for this level of election administration remains limited, and at the same time testing their knowledge remains almost absolutely impossible;
- A large number of voting centre commissioners and members of the counting teams have served without having received the professional training provided by the CEC, regardless of the clear provisions of the Electoral Code according to which failure to participate in the CEC training/failure to pass tests represents a legal reason for dismissing them from duty.

The roundtable, referring also to the international documents like “The Code of Good Practices in Electoral Matters”, re-emphasized the need to turn the process of electoral training into a unique, inclusive and functional system. The experience shared by the directors of the training centres of Georgia and Moldova, two countries which have gone through similar problems through their transition, showed that organizing training through an institutional centre has turned out to be successful. The roundtable discussed some of the best forms and similarities between the models of the other two countries and Albania, and concrete issues of election processes in Albania.

Main findings and conclusions of the roundtable

NEED AND NAME:

- According to the experts’ point of view and the best practices presented to the roundtable, the institutional and long-term training of commissioners and other election-related officials, and the election education process, must be performed through a sustainable and permanent mechanism with a special status, budget and structure. In the first phase of the project this can be achieved within the frame of the CEC, and later on by establishing a centre for continuous training and election education, as an independent and functional unit.
- The CEC remains committed to fulfilling with accountability the obligation and responsibility for training election administration.
- The roundtable was unanimous in evaluating that the training process in any case involves the political actors. Therefore it should be open to any request coming from electoral subjects for training topics and requests that do not interfere with the essence of the training process and its professional integrity, and the fact that any influence from political interests should be avoided.
- Besides the regional practices presented in the roundtable, an important reference for the establishment, functioning and practical implementation of the Centre remain the best training and electoral practices presented by the international documents of OSCE/ODIHR and the Council of Europe. Their value doubles in the Albanian electoral practices – as a legal and

administrative reference source, as a certified practice for models, for the implementation of which there is political will and expectation.

- The name remains an issue that is related to the basic training and educational functions and to the status that this institution will have in relation to the respective legislation, the CEC and other election-related institutions or organizations.

CURRENT LEGAL BASIS, MAIN FOCUS AND ACTION PLAN

The training of commissioners of any level, voter education, relations between training, certification and engagement in the electoral administrative process, is an integral part of the Electoral Code of the Republic of Albania (Law No. 10019, dated 29.12.2008, amended by Law No. 74/2012, dated 19.07.2012).

In concrete terms:

- One of the main powers and responsibilities of the CEC (Article 21) is that of organizing at its own expense training courses, as well as to issue the respective certificates upon the testing. The same Article recognizes the CEC the responsibility to organize training sessions on electoral legislation for the members of the Voting Centre Commissions, as well as programs on the electoral education of citizens.
- Regarding non-election periods, the Electoral Code (Article 21, point 10) specifically recognizes the right of the CEC to organize periodical training courses on election administration for all interested persons, and to issue the respective certificates.
- Articles 32 and 39 of the Code recognize the right to dismiss the members of the Commissions of Electoral Administration Zone (CEAZ) or the Voting Centre Commissions (VCC) if they do not participate in the training or do not pass the test organized by the CEC. Meanwhile, Article 36 of the Electoral Code specifies that *“as a rule, VCC members and the secretary are replaced by persons who have been trained in electoral legislation”*.
- In relation to the wide institutional concept of training all election-related groups, the periodic continuous training in non-election periods, the establishment of a well-developed system through which derive all selections and decisions related to the three levels of commissioners, observers and other administrative steps, and also well-known experiences from other countries – the above-quoted legal basis from the Electoral Code remains incomplete. But it is still sufficient to enable the start of the project for an all-inclusive training in the pre-election period.
- The start and implementation during the pre-election period of an inclusive training project, by establishing the Training Centre which would carry out the training process in accordance with the Electoral Code, could be accompanied by suggesting to include and clarify in the Electoral Code the best institutional practices for regulating the legal status of the training institution, as well as other issues related with it.
- Taking into consideration the importance of the support that the CEC needs to have from the main parliamentary political parties for its initiatives, a wide consensus is needed for the continuous electoral training, and concrete administrative mechanisms should be established for enabling such consensus. Thus, a Memorandum of Understanding needs to be signed between the CEC and the main parliamentary political parties for enabling this project, with the active support of the OSCE and CoE Offices in Tirana. Such memorandum would create a more solid basis of public support for the project, its structure and methods, as well as for the CEC as the main body approving all training-related regulations, modules, and plans.
- Being an all-inclusive process (CEC, commissioners, political parties, NGOs, media, groups of interest, Police, local government, education institutions, etc.), it becomes necessary that immediately after starting the implementation of the Centre’s project, to draft and implement memoranda (agreements) of understanding with any other institution involved in the process, especially official and public institutions.

- Political parties' engagement requires not only good will but also the issuing of administrative acts falling within their structure and scope of work, in order to regulate the deriving representation, participation, conditionality and responsibility; hence, such agreements are of a bilateral interest and help to preliminarily resolve the issues around long-term collaboration.

Based on the current legal framework:

- The roundtable (organizers, supporting institutions and experts) suggested that an **Ad-hoc** group established at the CEC, with the participation of supporting international organizations, as well as representatives of civil society that deal with elections, should draft an action plan for all issues related to the Centre and should suggest the concrete administrative measures to be taken for its implementation.
- The measures include not only administrative and technical suggestions related to training, but even the methods used for the financing, organization, structuring and relations with the other institutions, political parties, NGOs or other interested institutions.
- The concept of conditional selection based on certification, according to the CEC and the experts, matches with the final mission and purpose of the Centre and the spirit of the Electoral Code. The opposite remains a problematic source for the integrity of the process and the value of the Centre's mission.
- The practical application of this concept, not only for commissioners, but even for other employees involved in the process, creates links and consequences in the status of all categories involved. Hence, it requires an organic, long-term and highly consensual handling of the whole preliminary legislative practice.
- Through the preliminary training process, according to the experience shared by the two referring countries, the Centre creates a national database of all persons involved in classified trainings (as per phase, level and topic). This database should be transparent, public and certified, therefore it might serve as a main source for the human resources engaged in electoral processes, such as commissioners or observers, for the political actors, candidates and other involved and interested groups. The roundtable discussed whether to put as an obligation or not for the electoral subjects the compulsory participation in the process of institutional training of commissioners. It discussed as well whether, in case of CEC revision, put as an obligation that every appointment of commissioners in the future should be done only within the database created and certified by this training institution.
- The programs, structure, mission and rules of procedure of the Centre should be an outcome of the CEC decision-making, based on the memoranda among political parties, the CEC and institutions involved in the project. After reaching a broad consensus and having in place the legal amendments needed to establish the Centre (within or without the CEC), then it may be operated with a long-term action plan. Until then, it is necessary for political parties to take a supportive stand – an opinion which was supported by the experts, the CEC and almost all the participants in the roundtable.
- The establishment and functioning of the Centre for continuous training, on the basis of the current legal framework and political support, shall be an interim phase which will serve to gain public trust in the efficiency of an open and all-inclusive training. The representatives of political parties at first supported mostly the idea of continuing with the current legal and administrative framework, rather than establishing an independent training unit/centre.

IN CASE OF AN ELECTORAL REFORM

The Electoral Code should foresee:

- The establishment of a Continuous Electoral Training and Education Centre with a well-defined legal and administrative status, and with its own staff and budget;

- The legal amendments regarding the legal status, budget, structure, and the legal statute of the persons involved need to adopt the best approaches and practices brought to this roundtable by other countries, in concrete terms:

In case the Georgian model is applied:

The Electoral Training and Education Centre (ETEC) shall be a state-budget public institution within the electoral system that enjoys legal personality. It will carry out its activity in an independent manner and in accordance with the applicable legal and regulatory framework. In this case, the provisions on CEC power to deliver training need to be amended in the Electoral Code, and a new law needs to be approved for enabling the creation of the ETEC, and defining its mission, purpose, orientation and powers of its steering bodies, and the procedures and rules for the operation of the school/centre. The law in this case would need to clearly define the decision-making actors, criteria, and interest groups.

In case the Moldovan model is applied:

The Electoral Training and Education Centre (ETEC) would have the status of a legal person under the CEC, and it would have financial and organizational autonomy in delivering training, and other attributes like its own bank account, institutional stamp, etc. The ETEC budget would be part of the CEC budget. In this case, amendments to the Electoral Code need to be made to create the Centre, giving the CEC the power to approve the status and structure of the ETEC, determining the reporting lines between the ETEC and the CEC, giving the CEC Chair the power to select the director of the ETEC. The structure of the centre in this case would be under the powers of the CEC, and the ETEC Director would report to the CEC according to the standard to be set in the ETEC status.

- Articles 31 and 38 of the Electoral Code would have to be amended, introducing certified election-related knowledge as a criterion for appointing the second and third level commissioners.

The role and impact that the Continuous Training Centre would have in the electoral processes:

- **Have the vision/create** a body of professional commissioners;
- **Unify** the professionalism of the members of second and third level commissions based on the spirit of the law, certifying thus not only their electoral knowledge, but ensuring at the same time that they are instructed in the same way (definition given under the “Procedural guarantees” of “The Code of Good Practices in Electoral Matters”, approved by the Venice Commission).
- **Gain** sustainable legal knowledge, in both theory and practical procedures, by avoiding informality;
- **Reduce** negative phenomena faced during the electoral processes in years;
- **Diminish** the phenomenon of commissioners’ politicisation, reorient them towards seeing their duty as an administrative, and not a political mission, raising awareness about the law standing above the parties;
- **Increase** public trust in the electoral process.

VI. RECOMMENDATIONS ON OTHER IMPROVEMENTS TO THE ELECTORAL CODE

Article 23, point 4

The OSCE/ODIHR Report has specified in its first priority recommendations that there is need to review the Electoral Code regarding the definition of the CEC normative act, and other acts which must be adopted by a qualified majority. According to a recommendation of the Report, there is need to unify the definition of the CEC normative act in the Electoral Code and the Law on Administrative Courts.

Moreover, there have been continuous disputes in the last parliamentary and local elections on the type of the CEC act, disputes which have been solved differently in different cases by the Electoral College, which did not manage to unify the judicial practice.

In analysing the above, the CEC concluded that point 4 of Article 23 of the Electoral Code needs to be amended as follows:

“The normative sub-legal acts of the CEC shall comply with the specifications of the Law No. 49/2012 “On the organisation and functioning of Administrative Courts and adjudication of administrative disputes.” Such acts shall be reviewed in case the law is amended or for other reasons which justify their amendment. As a rule, the acts on the preparation of elections shall be approved or amended no later than 60 days from Election Day”.

Point 3 of Article 29 to be amended as follows:

3. CEAZ members shall not work full-time. The CEC shall determine the CEAZ working hours during the election period and outside it. For the work performed, the members shall receive remuneration in an amount specified by CEC decision. **While exercising this duty, the CEAZ members and secretaries shall be suspended from their duties in case they are public administration employees, and their posts shall be preserved during the said period of time.**

Point 5 of Article 29 to be amended as follows:

If the political parties of the parliamentary majority and the parliamentary opposition that have the right to submit their candidacies for CEAZ fail to exercise this right by the deadline established in point 2 of article 28 of this Code, this right shall be automatically transferred to the parties next in rank according to the number of seats in the Assembly, within the respective grouping. When this is not possible, proposals are made according to letter “a” of point 1 of this article. If these parties also fail to propose members, **within the deadline specified by the CEC**, the CEC appoints the CEAZ members upon its own initiative until the required number of members for decision-making is reached.

The members appointed upon the CEC’s initiative stay in office until the appointment of members proposed by political parties, in accordance with this article. The replacement shall take place no later than 30 days from the election date. In the event of early elections, the replacement takes place no later than 5 days from the election date. Procedures for the selection and training of citizens that may be appointed on CEC’s own initiative are set out in a special instruction of the CEC. **For the days in office, members appointed *ex officio* shall receive remuneration in an amount specified by CEC decision.**

Point 3 of Article 32 to be amended as follows:

The member and the secretary of the CEAZ shall be released/discharged from duty by the CEC, upon its own initiative or upon the proposal of the electoral subjects, only for the reasons provided for in this article. In any case, the request for release or discharge from duty shall also contain the arguments and facts concerning the alleged violation. In the case provided for in letter “d” of point 2 of this article, this rule shall not be applicable and the request shall be accepted in any case. The proposals of **the largest party of the parliamentary majority and opposition on the release or discharge of members or secretaries of CEAZs, in any case shall belong to the same gender of the member/secretary to be replaced.**

Point “b” of Article 33, “Duties of the CEAZ”, to be amended as follows:

The CEAZ performs these duties:

b) appoints, **discharges and releases** the Chair, members, secretaries of the VCCs and members of the counting teams under the jurisdiction of the EAZ, in accordance with this Code;

The following paragraph shall be added to Article 33, “Duties of the CEAZ”, to read as follows:

gj) follows-up and informs the CEC on the training process of VCCs and CTs.

The following paragraph shall be added to Article 34, “Duties of the CEAZ secretary”, to read as follows:

- i) **Transcribes the decisions on the appointment of VCC and CT members and sends them immediately to the CEC;**
- j) **In any case informs the CEC on the release or discharge from duty of VCC and CT members, and immediately sends a copy of the decision.**

The following sentence shall be added at the end of point 2 of Article 36, “Composition of the VCC”, to read as follows:

30 percent of members proposed at CEAZ level by the largest party of the majority and the largest party of the opposition respectively, shall be from each gender.

The following paragraph shall be added to Article 41, “Duties of the VCC secretary”, to read as follows:

Forwards to the CEC and/or CEAZ data on voter turnout at hours specified by CEC decision.

Point 4 of Article 51 “Publication of the extract of electoral components” to be amended as follows:

No later than 30 days from the decree of the election date, upon approval by the mayor of the local government unit, the civil status offices print and post the extract of electoral components for all

citizens domiciling in the polling units under the jurisdiction of every office. The extract is posted in the premises of the civil status offices or in their vicinity in a free-access area for the general public. **A copy of this extract is sent (electronically or in print) to the relevant CEAZ, to be posted in the premises of its headquarters.**

Second paragraph of point 1 of Article 67 and point 1 of Article 73 of the Electoral Code

The second paragraph of point 1 of Article 67 on the election of local bodies envisages that the list of candidates for local councils shall be registered with the CEAZ no later than 50 days before Election Day.

Article 73, point 1 sets that the final deadline for the verification the CEAZ makes of the candidacy documentation is 45 days before elections. Further, point 2 envisages that the documentation returned for corrections and additions should be filed with the CEAZ no later than 42 days. The CEAZ takes the decision on the approval and refusal of candidacy documentation within 48 hours.

Referring to these provisions, the deadline left for the final approval of ballot papers by the CEC and their production by the printing company is 40 days.

Article 99, point 1 specifies that ballot papers shall be sent to the CEAZ 3 days before elections. Further, ballot papers must be divided per CEAZ and VCC before being distributed - a voluminous process which requires at least seven days (referring to all previous experiences). There is also a minimum deadline of two days for the approval of the content of the ballot papers. By taking into account all the above, the real deadline for **producing and transporting the ballot papers is only 28 days.**

Referring to all previous experiences, 8% of the CEC final decisions on registration of candidates for local government elections (approval of the ballot paper content), have been appealed to the Electoral College.

Hence, this has blocked the information the CEC sends to the company that produces the ballot papers, thus complicating and making the process difficult, because according to Article 152, point 2, electoral subjects can exercise the right to appeal within 5 days. Considering three days to be an optimal deadline for the Electoral College to review these lawsuits (according to point 1 of Article 157, the legal deadline for the College is 10 days), the real deadline for **producing and transporting the ballot papers is only 20 days.**

In a hypothetical situation where all CEC decisions on the approval of the content of ballot papers are appealed to the Electoral College, by referring to Article 73 point 1, Article 152 point 2 and Article 157 point 1, producing the ballot papers would be practically very difficult, if not impossible.

To avoid such a situation which may result in failure to conduct elections, it would be good to make the following amendments to the Electoral Code:

- *For elections for local government bodies, the registration deadline shall be no later than 60 days before election date, including all verifications and additions to the documentation of candidates (amending Article 67, point 1, paragraph 2 and Article 73, points 1 and 2 specifically for elections for local government bodies, so that the deadline for the verification of candidacy documentation is no later than 55 days before election day).*

or

- *The deadline to appeal the CEC decision on the approval of the content of the ballot paper shall be limited to 48 hours and the Electoral College shall render a decision within 48 hours (amendment to Article 152, point 2 and Article 157, point 1).*

If any of these changes was made, the CEC would have more time to produce the ballot papers. For these elections we must take into consideration that there will be two ballot papers for each local unit. Thus, the ballot papers shall be produced in many variables, their production process shall be complex and quite technical and time is the most essential element.

A point to be added to Article 94 “Location and preparation of the Ballot Counting Centres”:

The head of the local government unit shall take the logistic measures to arrange the premises approved by the CEC as a ballot counting centre.

A sentence to be added at the end of point 1 of Article 95:

1/1. The member of the Voting Centre Commission may not be also proposed as a member of the ballot counting team.

The first sentence of point 1 of Article 100 to be amended as follows:

No later than 18 hours prior to the opening of the voting, the CEAZ delivers the electoral materials...

Point 2 of Article 106 “Voting” to be amended as follows:

After making his/her mark on the ballot paper, the voter folds the ballot paper **inside the voting booth**, so that the mark cannot be seen but at least one of the stamps on the reverse side of the paper is visible. After leaving the voting booth, the voter deposits the ballot paper in the respective ballot box and leaves the voting centre.

Point 5 of Article 108 “Voters who cannot vote themselves” to be amended as follows:

The mark on the ballot paper **and its folding** shall necessarily be made inside the voting booth.

A letter with the following content shall be added at the end of point 1 of Article 110 “Persons present at the voting centre:

Members of the CEAZ, and the Regional inspector and employees of the CEC administration who are equipped with authorisation by the CEC.

Point 6 of Article 163 of the Electoral Code must be repealed, because it makes reference to point 3 of Article 67 which is no more effective. It is about the distribution of mandates for the Assembly for the chairs of political parties registered in more than one multi-name list.

Points 3, 4, and 5 of Article 178 to be amended as follows:

Point 3 of Article 178

Immediately after the announcement of results by the CEAZ, the commission shall submit to the CEC Protocol Office the original documentation as follows:

1. Aggregate Table of Results of the EAZ;
2. Tables of results for each voting centre;
3. Book of Protocol of CEAZ Meetings;
4. Official Records of Findings of the CEAZ;
5. Register of CEAZ Decisions;
6. Register of CEAZ Correspondence;
7. List of names and addresses of all members of VCC and Counting Team;
8. List of voters of the electoral zone;
9. List of names and addresses of all CEAZ members;
10. List of accredited political parties' observers in the CEAZ, VCC and Counting Team;
11. Map of electoral zone showing the boundaries of polling units;
12. A written description of the boundaries of all the Electoral Administration Zones;
13. Decree setting the election date, official election notices issued by the CEAZ, declaration of election results for the winning candidates for mayor in local government bodies,
14. A statement of the costs incurred for the administration of the elections.

Point 4 of Article 178

The CEC shall retain one copy of the documentation under point 3 of this Article and shall forward the original documents to the Central State Archive, in the manner required by it, within 24 months after the declaration of the final results of elections.

Point 5 of Article 178

Immediately after the declaration of results by the CEAZ, the commission shall submit to the CEC premises, in the manner specified by it, all ballot boxes and boxes with electoral materials, accompanied with the minutes for the handover of materials under inventory and minutes of handover with the numbers of security codes of the ballot boxes and boxes of electoral materials.