

THE CONGRESS
OF LOCAL AND REGIONAL AUTHORITIES

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THE BUREAU OF THE CONGRESS

CG/BUR (10) 87

Strasbourg, 23 February 2004

Report on the local by-elections in TIRANA (Albania)
28 December 2003
Addendum to report Albania, CG/CP (10) 16

Rapporteur for the Congress Delegation: Mr. Yavuz MILDON (Turkey)

*Document adopted by the Bureau of the Congress
on 13 February 2004*

Introduction

This report follows document CG/CP (10) 16 on the observation of the local elections held in Albania on 12 October 2003, adopted by the Standing Committee of the Congress on 26 November 2003. It is an addendum to the previous report.

At the invitation extended on behalf of its government by the Albanian Central Electoral Commission, the CLRAE decided to send a delegation to observe the local by-elections held in Tirana on 28 December 2003. These by-elections were held in districts of Tirana for which the results of the 12 October 2003 elections had been annulled by the Court of Appeal of Tirana. The delegation was composed of Mr Alain Chenard (France), Mr Tomas Jirsa (Czech Republic) and Mr Yavuz Mildon (Turkey).

The delegation was accompanied by Ms Juliette Remy from the Secretariat of the CLRAE.

Mr Yavuz Mildon, Vice-President of the Bureau of the Congress, was appointed Head of Delegation. The CLRAE delegation wishes to thank the OSCE/ODIHR long-term observation mission for preparing the practical and logistical aspects of the visit.

The delegation was in Tirana from 26 to 29 December and was able, on the eve of the 28 December by-elections, to meet with representatives of the main political parties and the central election authorities, the outgoing mayor of Tirana, Mr Edi Rama, and members of the international community.

On election day the delegation split into two teams, each of which was to cover 4 of the 118 polling stations in the municipality of Tirana. On average the two observation teams on hand each visited 8 polling stations.

This report examines the situation following the local elections of October 2003, which led to new elections being held in a large number of constituencies in the municipality of Tirana, examines the conclusions of the Congress' reports on the elections held in Albania between 2000 and 2003 and makes a number of additional observations.

Summary of the situation in Albania in the wake of the local elections of 12 October 2003

Background

1. As highlighted by the Congress delegation in its report on 8 December, the local elections held in Albania on 12 October last showed further progress towards compliance with Council of Europe and OSCE standards. The general impression is that the political climate has grown more mature, although for want of political programmes the debate tends to focus on party leaders. However, while the extremely aggressive rhetoric between political parties is a thing of the past, the practice of boycotting elections remains a major cause of concern. It is up to Albania's political parties to arrive at some form of understanding to avoid the threat of boycotts or the actual boycotting of elections in the future.

2. As the Congress pointed out, one of the most notable achievements was the new electoral code prepared in 2002 by a bipartisan committee composed of members of the socialist and democratic parties and adopted in June 2003, under which the local elections of 12 October took place. The changes made to the election procedure included appeal procedures, the role of national observers, the registration of candidates, the role of the police and media coverage.

3. While the October elections took place in a calm atmosphere, the post-electoral period was marked by considerable disorganisation and political obstruction. The situation was particularly serious in Tirana, where the final results were still not available a month and a half after the ballot, which seriously undermined the credibility of the election authorities and the positive impression the local elections had initially made on the observers. On 8 December, the Court of Appeal in Tirana declared the ballot held on 12 October 2003 void in 118 polling stations in Tirana and ordered new by-elections, which were held on 28 December 2003.

I. Congress delegation talks with politicians

4. On the eve of the ballot in 118 polling stations in Tirana, the CLRAE delegation met the leaders of the main political parties, the outgoing mayor of Tirana and the president of the Central Electoral Commission in order to obtain a clearer picture of the situation in the wake of the 12 October elections and hear the views of the political parties.

5. During the first of these interviews, the leader of the Democratic Party, Mr Sali Berisha, complained to the CLRAE of the disadvantage to which his party had been put in the pre- and post-electoral period. He expressed keen discontent with the way in which the Central Electoral Commission had run the elections and, in particular, the fact that the electoral rolls had not been brought up to date, claiming that some of his voters had been unable to vote because their names had not been on the list. Some voters' names should have been on the list but were missing, while other names that had been on the previous lists had disappeared from the final list.

Mr Berisha said that 8,500 names had been missing from the electoral roll. He also reported discrepancies in some commission reports between the number of voters and the number of ballot papers, and that the 5 signatures of polling station officials required in order for the vote to be declared valid were missing in some cases.

6. Mr Berisha stressed that in spite of serious shortcomings, the Central Electoral Commission enjoyed the support of the international community, even though the results had been published more than a month after the elections. Mr Berisha explained that the Democratic Party was pursuing its investigation to determine the reasons behind these anomalies in the electoral rolls, and was thinking of asking Parliament to set up an investigation committee.

7. In answer to a question from the delegation concerning family voting, Mr Berisha said that he was ready to take the initiative to improve the participation of women in political life. The Congress delegation suggested that this should be a programme common to all the parties and offered to assist the parties in their efforts.

8. Addressing the question of decentralisation, Mr Berisha highlighted the excessive centralisation in the functioning of the municipalities. Municipal budgets currently depended entirely on the Ministry of Decentralisation. The head of delegation, Mr Milton, stressed the importance of regionalisation for Albania, as a means of organising co-operation schemes with border regions. He told Mr Berisha that the question of regionalisation had been raised at a meeting with the Prime Minister in October, when the Congress had encouraged the government to increase the powers of the regions and pursue administrative reorganisation with a view to replacing the former districts with an intermediate level of authority. In this spirit, the Chamber of Regions of the Congress will be organising a regional conference in Albania in 2004, on regionalisation in the Balkans.

9. During another interview the outgoing mayor of Tirana, Mr Edi Rama, told the CLRAE delegation that the political opposition was not abiding by the rules of democracy. According to Mr Rama, when they saw the election results on 12 October, the members of the commission who belonged to the Democratic Party had left the polling station without signing the official report required under the procedure laid down in the electoral code.

10. Mr Rama criticised the neutrality of the international community reports: in his view the elections could not be described as free and fair when the official reports had not been properly completed and a member of the commission had broken the law by abandoning the polling station. He noted with bitter regret that the international community had not singled out the guilty parties in its reports. According to Mr Rama, the neutrality of the language in the OSCE and Council of Europe reports played into the hands of the partisans of political obstructionism.

11. Furthermore, Mr Rama, who won 57 % of the votes in Tirana, told the CLRAE that he was the target of constant attacks by the opposition, of slander and accusations of corruption, and that he and his family were the object of a destabilisation campaign by the opposition, who were calling for the setting up of a parliamentary investigation committee. *"This undemocratic attitude is nothing but a witch hunt,"* said the mayor, turning to the CLRAE for support.

12. The CLRAE delegation reminded him that the Congress of Local and Regional Authorities of the Council of Europe represented elected officials and that, as an elected official and member of the Albanian delegation to the Congress, the mayor had every right to refer the matter to the Congress if he felt threatened. The CLRAE encouraged Mr Rama to refer any political, legal or constitutional questions to the Congress, where they would be carefully examined by the Council of Europe and answered in detail.

13. Mr Rama pointed out that the opposition's objection to the election results and the complaint it had brought before the Court of Appeal of Tirana focused mainly on the city centre, the only place where the election had been annulled, whereas the elections of the borough mayors had been validated and neighbourhood councils had already been set up even as new elections were being held on 28 December in 118 polling stations.

14. Mr Rama also said that the Democratic Party had obtained good scores in certain regions, particularly in the South, Centre and East of the country, scores which had not been challenged even though the same technical and procedural problems existed. He stressed that 90 % of the polling stations where new elections were being held in Tirana had voted for him. In these polling stations where problems between the two political formations had arisen, the official reports had been signed by the 7 members of the commission, but new elections were being held there too. Mr Rama's view was that the court had evidently been manipulated.

15. During the CLRAE delegation's talk with the Secretary General of the Socialist Party, the latter thanked the Council of Europe, and in particular the Congress, for its assistance with local authority decentralisation.

16. As a political force, the Socialist Party was as interested in the election results as it was in the smooth running of the elections. The holding of new elections in a large number of polling stations had come as a surprise to the Secretary General, who thought the elections on 12 October had met the requisite standards: an electoral code had been accepted by the two main political forces; the deadlines required under the code had been respected; the campaign had taken place in good conditions; the media had adopted a fairer attitude; the handling of complaints had been improved in order to guarantee effective channels of appeal and a court had been set up for that purpose; and electoral commissions had been established.

17. The Secretary General of the Socialist Party nevertheless pointed out that problems remained, and in particular the disputed electoral rolls and the publication of the results. Paradoxically, the official reports from the polling stations furthest from the capital had reached the city the same evening, whereas it had taken over a month for the results for Tirana to be published. In his view this had been a ploy of the opposition to tarnish the image of the elections and justify their continuing failure to win.

The Secretary General made the following comments concerning the electoral roll: *"The electoral roll cannot be said to be perfect. The country is short on infrastructure and registry offices. So we have not yet really been able to draw up a proper register of voters; it is a national problem"*. Some voters had not yet been registered and that led to discrepancies in the electoral rolls. He noted that the opposition claimed that 20,000 voters had not been registered. According to the Secretary General of the Socialist Party, the problems concerning the registration of voters were technical and linked to infrastructure deficiencies, rather than political.

18. Mr Milton, head of the CLRAE delegation, noted that there had indeed been technical problems, as in the October elections, and stressed that responsibility for the proper registration of voters lay with the government. The delegation was surprised to learn that 8,500 people had purportedly been unable to vote because their names were not on the lists.

19. Mr Milton referred to the complaint lodged by the Democratic Party with the court in Tirana, asking the Socialist Party if it was true that the elections of the borough mayors had been validated while that of the mayor of Tirana had been declared void. The Democratic Party's complaint actually concerned the election of the mayor of Tirana. The CLRAE delegation noted a certain inconsistency here, for when a court examines a complaint concerning part of an election and finds fault with the election process, it should, in theory, declare all the results void. The head of delegation explained that the Congress intended to review all the reports on the holding of elections

in Albania that had been drafted since 2000, and to monitor the implementation of the recommendations that had been made.

20. The Congress had returned to Tirana to observe the new elections in the polling stations there, and asked for suggestions as to which problems it might focus on in order to get a clearer picture. The Socialist Party voiced two concerns:

- a. in one part of the city the Socialist Party expected Democratic Party militants to recruit voters from a polling station where no by-election was being held and claim that they were unregistered voters;
- b. the Socialist Party had reservations about the attitude of Democratic Party electoral commission members and their strict application of the electoral code.

21. The question of family voting raised recurrent problems that had already been highlighted in the elections held in 2000, including the question of the role of women in politics. The Democratic Party appears to be ready to improve the participation of women in political life. Could this be a subject of consensus between the two parties? The Secretary General said that women already made up 20 % of the Socialist Party. In the Albanian government, three of the 19 ministers were women. This issue should be reflected in the electoral code to encourage emancipation in Albanian politics.

22. To conclude the interview, looking beyond the elections, the CLRAE delegation noted the bold programme of decentralisation upon which Albania had embarked, certain aspects of which seemed to be satisfactory.

23. As former Congress President Mr Chenard pointed out, however, actions speak louder than words. The Secretary General agreed and explained that two things were necessary: legislation on local self-government, which now existed, and financial resources for the local authorities. Local authority revenues used to be determined by the state budget. There was now a considerable disproportion, however, between the revenues allocated in the state budget and the real needs of local authorities, requiring a review of the criteria used to share out the funds.

24. During the CLRAE delegation's interview with the Central Electoral Commission on 27 December, the latter expressed its displeasure with the decision handed down by the Court of Appeal, but agreed that the court's decision was binding. It added that the decision had been taken under great political pressure. The Central Electoral Commission explained that some of the results had been declared void because certain party leaders had encouraged their commissioners to leave the polling stations without signing the official reports. According to the Central Electoral Commission, such political machination only obstructed the election and vote-counting process. Be that as it may, the Central Electoral Commission had made no changes to the electoral roll in spite of the anomalies noted in the October 2003 elections and the repeated demands of Albania's political leaders.

II. Preparations by the Central Electoral Commission, election day and vote count

25. Following the Tirana Appeal Court's announcement annulling the ballots in 118 polling stations in the municipality of Tirana, the Central Electoral Commission took steps to allow a large proportion of the electorate to vote. As the voting mainly concerned the election of the mayor of Tirana and municipal council members, the commission implemented a provision of the election law that had been neglected in the previous elections, by informing voters that they would be voting again and distributing information sheets, and bearing the recipient's name, from door to door indicating the location of the polling stations and a free telephone number people could call to ask any questions concerning the election. In order to remedy the technical problems encountered during the previous election, the Central Electoral Commission had two ballot boxes placed in each polling station. The presentation and format of the ballot papers remained unchanged, as did the electoral roll.

26. On election day the OSCE deployed 31 teams of observers in 11 boroughs of Tirana to cover the 118 polling stations. The CLRAE observers found the atmosphere on election day calm and dispassionate. The turnout was poor (the actual figures were not yet available at the time of drafting this report). As the new legislation prohibited police presence in the polling stations, any police officers present left the polling stations as soon as they opened. Election material and ballot boxes were present in sufficient quantities. The observers noted the efforts made by the commission members to carry out their task and run the elections as professionally as possible, with frequent reference to the electoral code and the handbooks prepared by the commission with the help of the OSCE. The observers also noted, however, that a number of voters went to the polling stations only to find their names were not on the list. Updating the electoral rolls continues to be a recurrent problem in Albania, and is one the Congress has pinpointed in its reports since 2000.

27. Irregularities in the election procedure and the vote counting persist, however. In order to limit inaccuracies and errors caused by ignorance of the law and to guarantee properly conducted elections, the members of the electoral commissions should receive better training, as the Congress recommended in 2000 and in 2003. Improved training would enhance their professionalism, their confidence and the confidence they inspire in the voters. The fact that the same ballot paper served to elect the mayor and the municipal councils sometimes led to confusion when the votes were counted.

28. Several instances of the on-going practice of family voting were reported by the observers. The practice is authorised by the code where necessary, subject to the prior registration of the person attending.

29. The turnout was rather limited, estimated at 23 % on average. The votes were counted in a relatively orderly manner: in most of the polling stations the tellers seemed to understand the counting procedures and the commission members generally did their job well.

30. When the ballot boxes were handed over to the Tirana local election committee, there were no particular signs of tension. The results, according to the law, should be published within 48 hours. They should not give rise to any controversy as they did in October. On 31 December, the Tirana Municipality Local Government Elections Commission has unanimously declared Mr Edi Rama as mayor of the capital city having won 58.86 % of the votes. The other key candidate, Mr Ngjela supported by the coalition PD+PR+PBL has won 37.82 % of the votes. The final results include the October 12th elections results plus those of the December 28th re-run in 118 voting centers.

31. The LGEC of Tirana Municipality could not come to a final decision on the composition of the Municipality Assembly as local commissioners could not agree on whether or not to include results of 6 voting centers, where voting was carried out on December 28.

On 7 January, the Central Elections Commission, in the presence of representatives of political parties, examined the issue of announcing the election result for the capital's municipal council. In the end, the CEC members voted for announcing the elections result of Tirana Municipal Council, but the necessary quorum of 5 votes in favour for taking the decision was not reached.

As a result, the Electoral College of Tirana Court of Appeals had to examine the case and take a final decision. The final election results for Tirana Municipal Council are as follows:

SP- 27 mandates
SDP- 2 mandates
DP- 21 mandates
RP- 1 mandate
PSD- 1 mandate
DA - 1 mandate
LMP-1 mandate
NDP –1 mandate

III. Observations on the main obstacles to the proper functioning of universal suffrage in Albania

A. Keeping the electoral roll up to date

32. The main difficulty according to the Central Commission and most of the Albanians interviewed lies in keeping the electoral roll up to date, a problem directly linked to the population census. In a country characterised by high population mobility and poorly kept civil registers, keeping accurate voter lists becomes a key issue. The fact that the lists were incomplete was the main objection raised by all the observers and politicians. For a number of years now, in spite of the efforts of national and international organisations to set up a viable system (computerisation of the lists with a view to producing voting cards; census of 400,000 displaced persons; use of the social security register), the lack of a central population register remains a major obstacle.

33. The CLRAE repeats what it said in 2000, in 2003 and again recently in the press release issued on 29 December, the day after the elections: *"It is essential to keep proper electoral rolls if universal suffrage is to be ensured"*.

34. The inaccuracy of the voter lists has been highlighted time and again over the last three years, leading to disputed results. The inexperience of the administrative authorities, the highly mobile population and the lack of interest shown by most people in checking the electoral rolls when they are made available all make it difficult to keep the rolls up to date. The CLRAE considers that it is the duty of the Albanian authorities to reflect their commitment to the democratic process by organising the computerisation of registry office files, drawing up accurate address lists and issuing identity cards.

35. In the meantime, and with a view to the next elections, the CLRAE, as it stated in its previous report, considers it necessary to set up a legal mechanism to remedy the recurrent difficulties caused by the inaccuracy of the electoral rolls. As the Congress recommended in 2000 and 2003, it is essential to reduce the number of disenfranchised voters and make arrangements to enable people whose names are not on the lists or are misspelt to vote. An administrative or judicial procedure must be introduced to enable voters whose names are not on the lists to register. The deadline for registration on the supplementary list could be 15 days before the election, or even election day itself, which would require a district court to sit on election day.

B. Encouraging greater impartiality of the election authorities

36. The present procedure gives too much influence to the political parties and seems to disregard the rights of voters. The political parties can have voters transferred from one polling station to another without having to inform them. The new electoral code lacks clarity in respect of the composition of the electoral commissions and the levels at which decisions are taken in these commissions. The CLRAE considers it necessary to observe a political balance in the composition of the zone and polling station commissions, which should reflect the results of the previous local elections. The election procedure should be reviewed accordingly.

37. Furthermore, work should continue on measures designed to increase the trust between the main political parties. In this spirit the Council of Europe and the Congress should organise training sessions open to all the parties, to encourage the moderation necessary in relations between the protagonists of political life in Albania.

C. Improving the publication of election results

38. Although the Central Electoral Commission published partial results 9 days after the 12 October election, the full results had still not been published on 8 December 2003. It should be remembered that, as stated in 2000, election results should be published in the polling stations themselves, as well as by the zone commissions in each municipality or commune.

39. The question of the posting of results was raised again by the CLRAE delegation, and the Central Electoral Commission confirmed that the law requires election results to be posted up within 48 hours.

D. Doing away with family voting

40. The CLRAE wishes to recall the importance of women's right to a free, individual and secret vote. From the point of view of fundamental rights, family voting, an old tradition in Albania, is unacceptable. There continues to be little participation by women in political life; their presence on the electoral commissions is sporadic.

41. The Congress would draw attention to the Recommendation issued by the Committee of Ministers of the Council of Europe in 2003, on balanced participation of women and men in political and public decision making, already mentioned in the 2003 report.

E. The secret ballot

42. Although no actual instances of this were witnessed, the delegation felt there was a risk of voters being influenced by officials in the polling stations.

When the ballot paper is handed to the voter, the secretary of the commission responsible for placing the official stamp on the ballot paper, once it has been signed by the president and vice-president of the commission, has an opportunity to influence the voter's choice by signalling which candidate he or she should vote for, thereby undermining the principle of the secret ballot.

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**Programme (26-30 December 2003)of the
Visit of CLRAE Delegation to Tirana**

Composed by :

Mr. Alain Chenard (France),

Mr. Tomas Jirsa (Czech Republic),

Mr. Yavuz Mildon (Turkey)

Mrs Juliette Remy (France)

Friday 26 December 2003

- 12:40 Arrival of Juliette Remy (OS 5847)
- 13:15 Check in at Sheraton Hotel
- 13:45 Arrival of Yavuz Mildon (OA 117)
- 14:15 Check in at Sheraton Hotel
- 16:05 Arrival of Alain Chenard (AZ 506)
- 16:30 Check in at Sheraton Hotel.. Meeting with COE information office
- 17:00 Meeting of ms Remy with Adelina Albrahimi/Gentiana Hasko
(English/French interpreters) @ Sheraton Hotel lobby
- 17:30 Meeting with DP representatives at DP (A. Chenard, J. Remy, Y. Mildon,)

Saturday 27 December 2003

- 10: 00 Meeting with Edi Rama,Mayor of Tirana
- 11:00 Meeting with SP representatives at SP
- 12:00 Meeting with the Ambassador of Netherlands (A. Chenard, J. Remy, Y.
Mildon)
- 12:40 Arrival of Tomas Jirsa
- 13:15 Check in at Sheraton Hotel (T.Jirsa)
- 15:00 Meeting with CEC chairman, Mr Ilirjan Celibashi (A. Chenard, J. Remy, T.
Jirsa, Y. Mildon,)
- 16:00 Briefing on Election-day by OSCE presence at Rogner Hotel

Sunday 28 December 2003

06 30 Election-Day Re-run observation (as per deployment plan)

Monday 29 December 2003

8.30 Breakfast with french chargé d'affaires

10:00 Debriefing by OSCE presence on election day

10:30 Alain Chenard departs from Sheraton Hotel to Rinas airport

12:20 Departure with AZ 507

12:30 Juliette Remy and Yavuz Mildon departs from Sheraton Hotel to Rinas airport

14:15 Departure of Ms. Remy with OS 5848

14:30 Departure of Mr. Mildon with Turkish Airlines 1447

Tuesday 30 December 2003

12:30 Tomas Jirsa departs from Sheraton Hotel to Rinas airport (OSCE driver)

12:40 Andrew Bruce and Curtis Budden departs from OSCE PiA HQ to Rinas Airport (OSCE driver)

14:15 Departure with OS 5848

**Press statement
sent to the Council of Europe press department
on 29 December 2003**

On 28 December 2003 the Congress of Local and Regional Authorities of Europe helped to observe the local by-elections in certain districts of Tirana where the ballot of 12 October 2003 had been annulled by the Court of Appeal. The elections took place in a calm atmosphere and there was no sign of feelings running high. There was a low turnout.

The question of the means whereby the electoral rolls were drawn up, which was the reason for the elections being held again, has yet to be settled. Yavuz Mildon, leader of the delegation and Vice-President of the Congress, said that the delegation was very concerned about the fact that, once again, the electoral rolls had not been updated and that the results had been published belatedly.

He added that it was essential for the Albanian authorities to address these issues, and that the Congress delegation considered that it was essential to keep proper electoral rolls if universal suffrage was to be ensured.