

Composition of Central Election Commission in Kosovo in the Perspective of International and Comparative Standards in the Region

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INTRODUCTION

In each country, the Central Election Commission is the independent body responsible for the organization and administration of elections, both national and local level. This appointed group of experts is set to improve the integrity and inclusive participation of electoral processes and strengthening the capacity of election management bodies and public administrations. The Central Election Commission's role for a working democracy should not be underestimated.

As a so-called newborn democracy in Europe, the Republic of Kosovo is a multi-party, parliamentary, representative democratic republic. Since its independence in 2008, the country has undertaken many electoral system changes, which, certainly improve the process, but also render it unsteady. Electoral system reforms are at the core of a country's democratic stability and, for this reason, must be well-structured, executed and informed. As things stand, electoral reform in Kosovo has been called by civil society actors' international actors alike, as well as the Central Election Commission itself. In this Policy Analysis, we will particularly target one element of the new electoral reform in sight in Kosovo – the composition of the Central Election Commission.

The paper starts by laying out the Kosovar legislative framework establishing the Central Election Commission as an independent and permanent institution in the country, and its structure. It then goes into the international standards advocated by the Council of Europe's Venice Commission and the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) on what a Central Election Commission should look like in a liberal democracy. This paper is therefore solely focused on the structural element, comparing the Central Election Commission in Kosovo's composition with, that of other neighboring countries in the region, and the international standards, and not informing comparisons on mandate or competences of each actor's body. The Policy Analysis finishes with some recommendations informed by the comparison exercise, and what can be improved in the particular case of the Republic of Kosovo.

I. CENTRAL ELECTION COMMISSION IN KOSOVO

Article 139 of the Constitution of Kosovo provides for the establishment of the Central Election Commission (CEC), a permanent independent body responsible for organization and implementation of elections in Kosovo. The CEC is set up to ensure the electoral process is regulated per approved Election Rules, and to monitor the election process in view of it meeting international standards. The Constitution, the country's supreme legal document, further establishes the CEC's composition, whereas the body's responsibilities and functioning are set in the Law on General Elections.

Within the institutional setting of Kosovo's proportional representation electoral model, the main level of elections management is precisely the Central Election Commission. As per the Constitution, the **CEC is composed of 11 members**, including the Chairperson to be appointed by the President of Republic of Kosovo¹. The Chairperson is to be selected from among Supreme Court judges, and has a mandate which runs for 7 years from the date of appointment. The current Chairperson is of the CEC is Mr. **Kreshnik Radoniqi**, who was appointed on 14 June 2022

¹ Kosovo's Constitution of 2008 with Amendments through 2016, Article 84, accessed 5 January 2023, online via https://www.constituteproject.org/constitution/Kosovo_2016.pdf?lang=en.

14 by President Vjosa Osmani². Of the remaining 10 other members, six must represent the six biggest political parties represented in the Assembly, and four are reserved for minority groups in Kosovo, which means their candidacy and eventual appointment must result from a nomination from within their own party. Among the four members reserved for smaller communities, one must belong to the Kosovo Serb Community.

Looking at the **procedure for appointment of CEC members**, this is stipulated in Article 16 of the Law on General Elections LAW NO. 03/L-073³. While the Chairperson of the CEC “shall serve for not more than 2 consecutive mandates; the Members of the CEC shall serve for not more than 3 consecutive mandates”⁴. For someone to be eligible as CEC member they must not⁵: already be a member of the national or a municipal Assembly, be up for an elected public office role in or outside the country, hold a senior public or high political party office, be a member of the Kosovo Protection Corps, a police force, or an NGO monitoring election, have served a court sentence (including by the international courts in The Hague), or be ineligible to vote in Kosovo. Should a mandate’s termination fall 90 days or less before an election or a after the certification of election results, it is “automatically extended to 90 days after the certification of the results of an election”⁶. On the other hand, a mandate can be extraordinarily terminated by the President of Kosovo if the conditions call for it (such as being convicted for a criminal offence or putting in jeopardy the integrity of the CEC)⁷.

The CEC’s work is assisted by a **Secretariat**, including the Office for Registration, Certification and Financial Control of Political Entities (RCFCPE, or The Office). Its existence is stipulated in Article 11.1 of the Law on General Elections LAW NO. 03/L-073. the Office is “responsible for maintaining the registry of political entities, certification of all political entities that will be included in the ballot, accreditation of all election observers, limiting the campaign expenditures and financial control of political entities”⁸. In terms of execution of its mandate by means of organizing elections in the country, the CEC has overseen, for instance, Kosovo Assembly Elections, including Early Elections (as was the case in 2021, 2019, 2017, 2014 and 2010), as well as Local Elections (be it Municipal Assembly Elections or Municipal Mayor Elections)⁹. Finally, on the regularity of meetings, in 2022 the CEC held a total of 44 meetings, 84 in 2021, 40 in 2020, 9 in 2019, 8 in 2018 and 72 in 2017¹⁰.

All in all, it can be argued that the composition of the Central Election Commission in Kosovo is **not the most suitable to ensure a sound mechanism to oversee elections**, namely in a

² Kosovo Central Election Commission, “Kreshnik Radoniqi”, accessed 6 January 2023, online via <https://kqz-ks.org/an/portfolio-items/kreshnik-radoniqi/>.

³ Official Gazette of the Republic of Kosova: YEAR III / NO. 31 / 15 JUNE 2008, Article 16, accessed 5 January 2023, online via https://kqz-ks.org/wp-content/uploads/2017/12/LAW_NO_03_L-073_ON_GENERAL_ELECTIONS_IN_THE_REPUBLIC_OF_KOSOVO.txt.

⁴ Official Gazette of the Republic of Kosova: YEAR III / NO. 31 / 15 JUNE 2008, Article 61(b) and (c).

⁵ Ibid, Article 61.8.

⁶ Ibid, Article 61(e).

⁷ Ibid, Article 61.5.

⁸ Kosovo Central Election Commission, “Office for Registration, Certification and Financial Control of Political Entities”, accessed 6 January 2023, online via <https://kqz-ks.org/an/office-for-pprc/>.

⁹ Kosovo Central Election Commission, “KOSOVO ASSEMBLY ELECTIONS”, accessed 6 January 2023, online via <https://kqz-ks.org/an/kosovo-assembly-elections/#>.

¹⁰ Kosovo Central Election Commission, “CEC Meetings 2022”, accessed 6 January 2023, online via <https://kqz-ks.org/an/cec-meetings-2022/>.

way that can find a way to represent all existent parties. Moreover, it does not have guarantees for gender representation, and neither for sound oversight of the appointment processes of the 11 CEC members and Chairperson. In addition, it also does not seem to be the most suitable in effectively executing its mandate without political party interference – after all, it is a body composed of partisan members. An element of the proceedings of the Central Election Commission that is also very much mentioned is flagged is the lack of independence of the Office. Indeed, on the oversight role over elections and party politics, any forthcoming reform must include strengthening transparent and independent bodies who regulate election cycles – particularly, it has been suggested that the Office of Political Party Registration should be reinforced in its resources, capacity and staff integrity¹¹. This is in order to adequately handle the challenges marring the Kosovar electoral system (i.e., informal decision-making among senior or high-profile party members).

The Republic of Kosovo is currently in the process of **undertaking a significant electoral reform**. In fact, a call for electoral reform has been on the political agenda so far as the 2010 general elections, with ad hoc committees set up for this reason for yet unable to deliver concrete outcomes. The last national legislative or parliamentary elections took place in February 2021, which led to the win of current Vetevendosje incumbent, Mr. Albin Kurti since March 2021. The European Commission's 2021 annual report on Kosovo highlighted that "overall, the legislative **elections** of February 2021 were well-administered, transparent and competitive, despite several shortcomings. Kosovo's electoral process remains in need of comprehensive strengthening to address long-standing weaknesses throughout the electoral cycle"¹². The current reform has been sought after and recommended for some time now by the European Union (EU), as mandated by the EU's 2021 Election Observation Mission's 23 recommendations and more recently monitored by the **EU Election Follow-up Mission (EFM)** as a means to discuss ways to achieve further advance on electoral reform. Main topics of interest for the electoral reform to tackle have been flagged as campaign financing and a review of the Central Election Commission's regulations¹³. Throughout November 2022, the EFM met with representatives of the Assembly's Ad Hoc Committee on Electoral Reform, the Central Election Commission, the Election Complaint and Appeal Panel, the Independent Media Commission, political parties, civil society organizations, and the international community¹⁴.

Notwithstanding, the EU is not the only international actor pushing for Kosovo to improve its Central Election Commission regulations. Also the Council of Europe's Venice Commission and the OSCE's Office for Democratic Institutions and Human Rights have officially issued joint decisions, opinions or published codes or handbooks of good practice on electoral matters to help countries build up their electoral system and render it more robust. After all, sound electoral laws and bodies are linked to wider sustenance of democracy, the rule of law and fundamental rights.

¹¹ KIPRED-CeMI, "Electoral and Party System – A Perspective of Internal Party Democracy Development", no date, pg. 29.

¹² European Commission, "Key findings of the 2021 Report on Kosovo", 19 October 2021, online via https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_5278.

¹³ European Office in Kosovo, "The EU welcomes the ongoing electoral reform and encourages the legislators to draft and adopt amendments to the relevant laws in an inclusive manner", 2 December 2022, online via https://www.eeas.europa.eu/delegations/kosovo/eu-welcomes-ongoing-electoral-reform-and-encourages-legislators-draft-and-adopt_en.

¹⁴ Ibid.

II. THE VENICE COMMISSION AND THE ODIHR'S INTERNATIONAL STANDARDS

After looking at the national reality of the CEC composition and working procedures in Kosovo, the means to best assess its functionality and efficiency is by looking at the international standards or best practices in electoral matters as advocated by the Venice Commission and the ODIHR. These are the two leading international bodies to follow on what a CEC should look like in a liberal democracy.

The Council of Europe's Venice Commission

The Council of Europe has within its institutional context the Venice Commission, officially named the European Commission for Democracy through Law. It is an advisory body established in 1990 and composed of independent experts or senior academics in the field of constitutional law. The core objectives of the Venice Commission are to improve the functioning of democratic institutions and the protection of human rights by means of strengthened confidence in elections and the independence and accountability of state institutions supporting good governance.

On 25 October 2018, the Council of Europe's Venice Commission (VC) published a **Code of Good Practice in Electoral Matters**, part of the Venice Commission and the Council of Democratic Elections development of principles of the European electoral heritage. Concerning the focus of this Policy Analysis on the procedural and composition elements of the CEC, we focus on pages 10, 23 and 24 of the guidelines report. First and foremost, it is important to contextualize that the guidelines stress that any best practices or core principles of European electoral systems imply certain conditions are fulfilled, specifically the "respect for fundamental human rights, and particularly freedom of expression, assembly and association (...) and enjoy a certain stability, protecting it against party political manipulation"¹⁵.

The report is clear in flagging some recurrent procedural shortcoming concerning the electoral commissions among the 61 Member States of the VC: lack of transparency in the Central Electoral Commission's activities, politically polarized election administration, controversial appointments of Central Electoral Commission members, and a dominating position of the ruling party in the election administration¹⁶.

In order to ensure the stability of electoral law, the report presupposes the existence of "an impartial body must be in charge of applying electoral law"¹⁷. Further, as can be argued is the case of Kosovo's 15-year-old history, "where there is no longstanding tradition of administrative authorities' independence from those holding political power, independent, impartial electoral commissions must be set up at all levels, from the national level to polling station level"¹⁸.

Looking at the central electoral commission specifically, the guidelines already want that "the composition of a Central Electoral Commission can give rise to debate and become the key political issue in the drafting of an electoral law. Compliance with the following guidelines should facilitate maximum impartiality and competence on the part of the commission"¹⁹. As such, the VC believes it must be permanent in nature and include: at least one member of the judiciary

¹⁵ Venice Commission, Code of Good Practice in Electoral Matters – Guidelines and Explanatory Report, adopted 18-19 October 2018, published 25 October 2028, pg.23.

¹⁶ Ibid, pg.24.

¹⁷ Ibid, pg. 10.

¹⁸ Ibid, pg.10.

¹⁹ Ibid, pg.25.

(judge or law officer), as well as representatives of parties already in Parliament or with at least a given voting percentage. Further, it may include a representative of the Ministry of the Interior, representatives of national minorities. This diverse representation would be to ensure that political parties are equally (or proportionally) represented on electoral commissions in order to promote the impartiality of the body. In order to prevent political pressures, the guidelines further suggest that electoral commissions take decisions by a qualified majority or by consensus. On the CEC members themselves, the VC highlights the need for all “Members of electoral commissions must receive standard training”²⁰.

The Council of Europe’s VC 2018 Code of Good Practice therefore is clear on the minimal and best practice rules to ensure compliance with democratic principles. It also advises

The OSCE’s Office for Democratic Institutions and Human Rights

Within the Organization for Security and Cooperation in Europe (OSCE)’s structure, in 1990 the Office for Democratic Institutions and Human Rights (ODIHR) was founded. The ODIHR currently comprises 57 participating States in its mission to support governments in the area of elections, human rights, democracy, rule of law and non-discrimination. This institution is also known for conducting election observation to assess the extent to which elections respect fundamental freedoms and are characterized by equality, universality, political pluralism, confidence, transparency and accountability²¹. As such, the ODIHR has developed a comprehensive election observation methodology and asserted itself as a leading global actor in this matter. The renowned election monitoring methodology takes into account the environment before, during, and after an election.

In 2010, ODIHR released the sixth and latest edition of its **Election Observation Handbook**, where we find its guidelines for a given central election commission. In page 52, the report lists its principles for the composition of the election administration: “A national election administration, such as a central election commission or equivalent body, is usually responsible for administering an election efficiently, transparently and impartially”²². This means that being independent from state authorities and other political influences or considerations is key for the good functioning of a country’s democracy, as well as to promote the confidence of election stakeholders.

On the member themselves, their affiliations should be diverse so as to assure different political interests are represented – “the balance of party representatives can serve as a check on potential misadministration or abuse of office, particularly if parties are represented at all levels of the election administration”²³. Which, in turn, boost public confidence in the CEC’s activities and decisions. In this sense, the Handbook flags that “Election administrations enjoy the most public confidence when they are able to work on the basis of consensus or collegiality”²⁴. An important caveat, however, is that “if the members of election commissions are nominated by political parties, they should be prohibited from campaigning and should be able to

²⁰ Ibid, pg.25.

²¹ OSCE, “OSCE Office For Democratic Institutions And Human Rights – Elections”, accessed 7 January 2023, online via <https://www.osce.org/odihr/Elections>.

²² OSCE-ODIHR, “Election Observation Handbook - Sixth edition”, pg.52, 2010, online via <https://www.osce.org/files/f/documents/5/e/68439.pdf>.

²³ OSCE-ODIHR, “Election Observation Handbook - Sixth edition”, pg.52.

²⁴ Ibid, pg. 53.

act professionally, impartially and independently without fear of retribution or recall”²⁵. Still on the topic of public confidence, the ODIHR recommends as CEC meetings be open to accredited observers.

Moreover, the Handbook expertly warns of common shortcomings, such as ²⁶ : Commissions that do not enjoy broad confidence among election stakeholders, lack independence or are under political pressure, do not implement laws fairly and impartially, lack transparency, are composed by inexperienced Members who lack specialized training, lack adequate guidance or coordination with lower-level commissions, have members constantly being recalled.

III. International opinions on the CEC in Kosovo

This section delves into the mandate of each body, the international standards it advocates, and the opinions it has published on Kosovo, particularly related to the CEC.

Venice Commission (June 2018)

In a letter dated 16 April 2018, then-Prime Minister of Kosovo Ramush Haradinaj sought the Venice Commission prepare an opinion on Law no. 003/I-073 on General Elections” (Amended and Supplemented by the Law no. 03/I-256)” (CDL-REF (2018)018)²⁷. It was the first ever request submitted by Kosovo to the Venice Commission for a legal opinion, which happened four years after Kosovo became a full member of the Council of Europe’s advisory body in 2014. The **report published on 25 June 2018** is a result of many discussions and meetings that took place between the Venice Commission rapporteurs and Government representatives, as well as other relevant actors in Kosovar politics and public opinion.

The legal opinion starts by making note of the national context and views on the current electoral state of play. Page 5 of the document reads that: “Many interlocutors expressed their view that the legal framework governing elections and political parties needs to be reformed in a far more comprehensive way. They also advocated the elaboration of a comprehensive Election Code, of a Law on Political Parties and a Law on the Central Election Commission – the latter being in need of more complete regulation which should be aimed at strengthening its role and independence”²⁸. Furthermore, even more so linked to the previous section’s points on shortcomings of the Central Election Commission and the Office for Registration, Certification and Financial Control of Political Entities in Kosovo, page 13 highlights that “interlocutors in Pristina raised concerns about the Office’s independence, as it will be established by the Central Election Commission and will be closely linked to it. They indicated that the Central Election Commission whose chair is appointed by the President of the Republic and whose other 10 members are appointed by political parties, has been repeatedly subject to political pressure. They were also critical about the weak position of the Central Election Commission chair”²⁹. The report notes that, while the CEC chairperson is expected to independence of that body, the single

²⁵ Ibid, pg. 52.

²⁶ Ibid, pg. 53.

²⁷ Venice Commission, “Kosovo - Opinion on the “draft law on amending and supplementing the Law no. 03/I-174 on the Financing of Political Entities and the Law no. 003/I-073 on General Elections”, adopted 22-23 June 2018”, 25 June 2018, online via [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2018\)016-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2018)016-e).

²⁸ Venice Commission, “Kosovo - Opinion on the “draft law on amending and supplementing the Law no. 03/I-174 on the Financing of Political Entities and the Law no. 003/I-073 on General Elections”.

²⁹ Ibid.

individual does not have the mandate or yield the power to ensure this task, for it only enjoys “voting rights as other members and the responsibility to lead CEC sessions”³⁰.

In this way, there is great will and momentum for reforms to the CEC in Kosovo, which the Venice Commission’s legal opinion of June 2018 supports and justifies. The legal opinion is clear in stressing that it is crucial the CEC be perceived as independent supervisory body functioning free of “pressure and committed to impartiality”³¹. On the second point, of the Office’s perceived lack of independence, the legal opinion mentions that it is “highly commendable that according to draft Article 11 of the LGE, the Office shall – contrary to the “Office of political party registration and certification” in its current form – enjoy operational independence, have its own budget and not be part of the CEC Secretariat”³².

The OSCE’s Office for Democratic Institutions and Human Rights

In what is one of the OSCE’s largest field operations, the OSCE Mission in Kosovo has been operational since 1999 on matters of human rights, democratization and public safety. Linked to the focus of this Policy Analysis, the Mission “monitors the work of governmental, municipal and independent institutions”³³ and, more specifically, supports the Kosovar Central Election Commission and the Election Complaints and Appeals Panel with “technical advice and expertise for the revision of election by-laws and managing the electoral process, in order for them to meet international standards and follow the recommendations of international election observation missions”³⁴.

As is recommended and presupposed by both the VC and the ODIHR, the OSCE Mission in Kosovo, concentrating on Kosovo in particular of course, provides commission members with specialized training in order to best exercise their functions. Most recently in April 2022, the Mission organized a four-day workshop with the Central Election Commission on reviewing electoral rules based on lessons learned from previous electoral processes³⁵.

IV. Regional comparisons in the Western Balkans

In order to have a better understanding of the Central Election Commission in Kosovo’s standing, composition, best practices, and shortcomings, it is important not only to look at internationally-renowned Codes and Handbooks, but also other country’s examples. And there is no better place to look than at other neighboring countries in the Western Balkans. For means of comparison on the composition of a CEC, in this section we will present a general comparison between the CEC compositions of Albania, North Macedonia and Serbia.

Central Election Commission in Albania

The Republic of Albania designed its Central Election Commission as per Law no. 101/2020, which put forth a new architecture of election administration with the formation of

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ OSCE, “OSCE Mission in Kosovo”, accessed 7 January 2023, online via <https://www.osce.org/mission-in-kosovo> .

³⁴ OSCE, “OSCE Mission in Kosovo - Elections”, accessed 7 January 2023, online via <https://www.osce.org/mission-in-kosovo/elections>

³⁵ OSCE, “OSCE Mission support integrity of election processes in Kosovo”, accessed 7 January 2023, online via <https://www.osce.org/mission-in-kosovo/516681> .

three governing bodies of the Central Election Commission: the State Election Commissioner, the Regulatory Commission, and the Complaints and Sanctions Commission (CSC). The procedure and mandate of these bodies is based on the guiding legislation present in the Electoral Code and by-laws, as well as law no. 44/2015 Code of Administrative Procedures of the Republic of Albania³⁶.

The Commissioner is to have a management and supervision role over the election administration, electoral subjects, state bodies and media related to elections and referendums. It will enjoy a renewable 7-year term (while the Deputy only 4 years) and, as expected, its role is expected to be one guided by fairness and impartiality³⁷. The Regulatory Commission concerns the establishment of election rules, and all its members shall have a 5-year mandate³⁸. The current incumbents were defined in 9 October 2020, with Mr. Ilirjan Celibashi elected State Election Commissioner by the Albanian Parliament's decision no. 56/2020, and Mrs. Ilirjana Nano being elected Chairperson of the Regulatory Commission by the Albanian Parliament's decision no. 58/2020. The latter also defined the other 4 members of the Regulator Commission body. Whereas Celibashi received 106 votes in favor, the runner-up and current Deputy State Election Commissioner, received 105 votes in favor – a mere one vote difference³⁹.

The composition of the CEC in Albania, however, is **arguably not a good model because it is somewhat intended to serve the parliamentary majority at the time the CEC is elected**. This is noticeable in the voting procedure for State Election Commissioner and Deputy State Election Commissioner by the Members of Parliament. According to Article 17(1) of the Albania Electoral Code, "The Commissioner, members of the Regulator and members of the CSC shall be elected by the Assembly of the Republic of Albania by no less than three-fifth of the votes of all deputies. (...) For the examination and selection of candidacies, the Assembly shall set up an ad hoc parliamentary committee with proportionate representation by each parliamentary group. The Commission shall submit the list of candidates, with the names of up to 20 shortlisted candidates with the highest score, to the Assembly."⁴⁰.

Looking now at what the VC and the ODIHR have assessed in Albania, the most recent joint opinion by these two advisory bodies for Albania was in 11 December 2020. It was a result of many videoconferences held in November 2020 with the President of the Republic, the Prime Minister, representatives of parliamentary groups of the National Assembly, extra-parliamentary parties, the Minister of Justice, the Central Electoral Commission, the Ombudsman and NGOs in Tirana. The intent was to have an informed opinion on electoral amendments with the aim of a sounder legal framework for democratic elections⁴¹. The main issue noted is that "the procedure for the adoption of the amendments to the Constitution as well as of Law No. 118 was extremely

³⁶ Komisioni Qendror i Zgjedhjeve, "Responsibilities", accessed 7 January 2023, online via <https://kqz.gov.al/pergjegjesite/?lang=en>.

³⁷ Komisioni Qendror i Zgjedhjeve, "The Commissioner", accessed 7 January 2023, online via <https://kqz.gov.al/komisioneri/?lang=en>.

³⁸ Komisioni Qendror i Zgjedhjeve, "The Regulator", accessed 7 January 2023, online via <https://kqz.gov.al/rregullatori/?lang=en>.

³⁹ SOT, "Celibashi whitewashes the names: The new CEC is constituted!", 12 October 2020, online via <https://www.sot.news/politike/eshtje-e-nxehte-nga-politika-celibashi-zbardh-emrat-konstituohet-kqz-ja>.

⁴⁰ The Electoral Code Of The Republic Of Albania, Tirana, 2021, Article 17, online via <https://kqz.gov.al/wp-content/uploads/2021/04/Electoral-Code-of-Albania-english-2.pdf>

⁴¹ Venice Commission and OSCE/ODIHR, Albania- Joint Opinion on the Amendments to the Constitution of 30 July 2020 and to the Electoral Code of 5 October 2020, pg.2, online via <https://www.osce.org/files/f/documents/7/2/473655.pdf>.

hasty”⁴². The way to improve is to ensure wider consultations among all relevant national and local stakeholders before moving forward with important amendments. In line with this, concerns raised by the Central Electoral Commission must be appeased – for instance, the report mentions that “during the meetings held with the Albanian stakeholders, members of the newly-established Central Electoral Commission and representatives of NGOs argued that the implementation of the amendments under consideration raised several difficulties in terms of legal certainty”⁴³. The 2020 report ends with the reminder that “The Venice Commission and ODIHR are at the disposal of the Albanian authorities, and in particular the Central Electoral Commission, to provide any assistance needed to facilitate the implementation of the law”⁴⁴.

Republic Electoral Commission in Serbia

In the Republic of Serbia, the CEC is called the Republic Electoral Commission (RIK). The electoral system currently in place in the country is of proportional representation (closed lists). Parliamentary elections occur every 4 years and are organized by the Republic Electoral Commission⁴⁵. However, members of other levels’ electoral committees are appointed for each election⁴⁶.

As per Article 17 of the Law on Election of Members of Parliament, the Republic Electoral Commission is a permanent body composed of: a chairperson, 16 members, a Representative of the country’s Statistical Office of the Republic of Serbia, and a secretary⁴⁷. The two last roles are to participate in the work of the Commission, yet without the right of decision-making. The Chairperson and 16 members are appointed by the National Assembly for a mandate of 4 years, which is also the established period between parliamentary elections – “The term of office of the standing composition of the Republic Electoral Commission shall cease when the new legislature of the National Assembly appoints a new standing composition of the Republic Electoral Commission”⁴⁸.

All appointed members must be proposed the parliamentary groups, proportionally to their representation in the total number of MPs belonging to parliamentary groups. Moreover, Article 17 of the same law also provides that: No parliamentary group may nominate more than half of the members of the Republic Electoral Commission in the standing composition. A parliamentary group that has more than half of the total number of MPs shall nominate the chairperson, deputy chairperson, seven members and seven deputy members of the Republic Electoral Commission in the standing composition, while the remaining members and deputy members of the Republic Electoral Commission in the standing composition shall be nominated by other parliamentary groups proportionately to their total representation”⁴⁹. This means that the RIK in Serbia certainly

⁴² Venice Commission and OSCE/ODIHR, Albania- Joint Opinion on the Amendments to the Constitution of 30 July 2020 and to the Electoral Code of 5 October 2020, pg.3.

⁴³ Ibid, pg.7.

⁴⁴ Ibid, pg.7.

⁴⁵ The Republic of Serbia, “Republic Electoral Commission – Parliamentary Elections”, accessed 10 January 2023, online via <https://www.rik.parlament.gov.rs/tekst/en/269/parliamentary-elections.php> .

⁴⁶ National Assembly of the Republic of Serbia, “Elections and Electoral System”, accessed 10 January 2023, online via <http://www.parlament.gov.rs/national-assembly/role-and-mode-of-operation/elections-and-electoral-system.502.html> .

⁴⁷ The Republic of Serbia, LAW ON THE ELECTION OF MEMBERS OF PARLIAMENT, no date, accessed 10 January 2023.

⁴⁸ Ibid.

⁴⁹ Ibid.

does favor majority and otherwise big parliamentary groups and, perhaps even more worrisome, does not have specific guarantees in place for ethnic minority groups, unlike the case of Kosovo. On expertise of the members comprised in the RIK, while “The Chairperson, members of the Republic Electoral Commission and their deputies/substitutes must be bachelors of law”, the law does not foresee the need for them to have any further specialized training⁵⁰. In addition, each member is to have a deputy (or substitute), with equal rights and responsibilities.

Electoral improvements have also been sought in Serbia, be it by national and international actors. In 2021, members of the government entered into discussions with Members the European Parliament concerning a draft document on enhancing election conditions, including changes to the composition of the Republic Electoral Commission. The final document as approved in states that the Republic Election Commission’s by-laws must highlight that each of its members “has the right to inspect the entire election material, to count the election material from each polling station and to check whether voted by a voter who submits his address and unique citizen identification number”⁵¹. It also enhanced representation and inclusivity assurances in the RIK’s composition, namely “places for the opposition in the RIK and other electoral committees and municipal election commissions”⁵².

Composition and legal framework aside, the most important shortcoming of the Central Election Commission, or in the case the Republic Electoral Commission in Serbia, is that **the body is clearly not operating with independence and impartiality**. Rather, as is the case with other state bodies, this intuition which should in principle be free and fair and carry and oversight role over election administration, is under the grip of the Vucic and his leading national political party. Voter intimidation was flagged during the last general election day, on 3 April 2022, and several irregularities flagged by the OSCE observers present at the Novi Sad level⁵³. In fact, two opposition parties organized a protest in front of the Republic Election Commission’s headquarters building the following day, 4 April 2022, with hundreds of protesters taking part. The frustrated voters claimed an ‘election theft’ took place and called for the RIK to publicly count all valid ballots, as well as for all other opposition actors to step up and join the calls in protest⁵⁴.

⁵⁰ The Republic of Serbia, “Republic Electoral Commission – Organisational Structure”, accessed 10 January 2023, online via <https://www.rik.parlament.gov.rs/tekst/en/24/organisational-structure.php>.

⁵¹ NOVA, “Detalji sporazuma Vučića i opozicije iz Skupštine [Details of the agreement between Vučić and the opposition from the Assembly]”, 29 October 2021, online via <https://nova.rs/vesti/politika/ekskluzivno-detalji-sporazuma-vucica-i-opozicije-iz-skupstine/>.

⁵² DANAS, “Sporazum sa vlašću: Dveri i DJB potpisali, ali nisu sasvim zadovoljni” [Details of the agreement between Vučić and the opposition from the Assembly], 29 October 2021, online via <https://www.danas.rs/vesti/politika/sporazum-sa-vlascu-dveri-i-djb-potpisali-ali-nisu-sasvim-zadovoljni/>.

⁵³ DANAS, “Posmatrači OSE tvrde da su primetili niz nepravilnosti u Novom Sadu” [OSE observers claim to have noticed a series of irregularities in Novi Sad], 29 October 2021, online via <https://www.danas.rs/vesti/politika/izbori22/posmatraci-ose-tvrde-da-su-primetili-niz-nepravilnosti-u-novom-sadu/>.

⁵⁴ N1 SRB, “Održan protest ispred RIK-a, Čuta traži javno prebrojavanje svih glasova” [A protest was held in front of the REC, Čuta demands a public counting of all votes], 29 October 2021, online via <https://n1info.rs/izbori-2022/protest-ispred-rik-a-cuta-kaze-da-ce-traziti-javno-prebrojavanje-svih-glasova/>.

CONCLUDING REMARKS AND RECOMMENDATIONS

Following the examination and comparative analysis with international standards and other cases in the region put forth in the previous sections of the Policy Analysis, this final and concluding section offers some recommendations on what and how can be improved in terms of the composition of the Central Election Commission in Kosovo.

To ensure a solid democracy, electoral law must be stable and election administration must be fair, impartial and independent from political pressure. This will not only ensure a solid liberal democracy, but also boost general public confidence in elections, its management and results. This Policy Analysis has delved deep into the Central Election Commission (CEC) in Kosovo's composition. Leaving aside mandate, rules of operation and election observation, recommendations on improving procedures are below:

- The procedural safeguard of **prioritizing the fact that CEC members are free of political pressure, intimidation or manipulation** is key. To cite the Venice Commission's Code of Good Practice in Electoral Matters, "Only transparency, impartiality and independence from politically motivated manipulation will ensure proper administration of the election process, from the pre-election period to the end of the processing of results"⁵⁵. This implies heavy due diligence when appointing candidates;
- On the composition and selection of CEC members, **specialized training** should be foreseen and arranged for incoming members, as well as a refresher course offered when a mandate is renewed (should that be the case). This plays into expectations of both the Venice Commission and the ODIH, specifically as flagged in point III.3.1. (g) and page 54, respectively, of each organization's core guidelines. The specialized training should be comprised of technical advice and expertise in line with international standards and lessons learned from previous election observation missions or general elections at national and/or local levels. Additionally, should an electoral reform take place during a mandate, a new focused training should be offered to CEC members, to ensure their expert situational awareness regarding electoral rules and processes.
- **Boost the role of the CEC's Secretariat supporting office**, the Office for Registration, Certification and Financial Control of Political Entities. It is key for the administrative office linked to the CEC have a pristine track record and reputation when it comes to independence, impartiality and fairness. Much closer attention, due diligence and scrutiny must be applied to appointed members of the office, as well as careful audit to their activities, as needed. This is importantly especially since their composition and mandate in support of the CEC has been flagged as lacking by Kosovar civil society actors;
- Make steps towards a **greater oversight role from different relevant stakeholders** involved with elections, namely civil society. Civil society actors have been making longstanding calls for an electoral reform, and have been included in the assessment discussions held with the EU Election Follow-up Mission late 2022, considering their useful insight and monitoring side. This also goes in line with the ODIHR **Election Observation Handbook**, which flags that the most effective and sustainable CECs are those that enjoy broad confidence among election stakeholders, among which civil society is an important factor in mobilizing the electorate, ensuring voter and outreach to diverse different audiences. Lacking public confidence in the body can lead to occurrences such as the one noted above following the last Serbian general

⁵⁵ Venice Commission, Code of Good Practice in Electoral Matters – Guidelines and Explanatory Report, adopted 18-19 October 2018, published 25 October 2028, pg.23.

election of April 2022, wherein voters from the opposition flocked to the building of the Serbian Republic Electoral Commission.

- Finally, a guarantee on **gender representation** should also be added to the standing composition of the CEC in Kosovo, in order to meet gender mainstreaming ambitions, the country's constitutional principles stand behind.

Overall, these recommendations based on the comparative analysis put forth seeks the longer-term objectives of improving the Kosovar election framework and the environment in which elections take place, which in turn reinforces the independence and accountability of public bodies and good governance generally.

Policy Analysis

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