UNDP Albania
Electoral Dispute Resolution Workshop

Final report

Tirana, Albania, May 25-28, 2015

1.   Project Background

In the run-up to the June 21, 2015 local elections, UNDP Albania organized a workshop on electoral dispute resolution targeting the two main authorities that deal with the electoral complaints and appeals: the Central Election Commission of Albania (CEC) and the Electoral College (EC).

The June 2015 local elections in Albania, the first held following a major territorial and administrative reform, is an important test for the country's democratic institutions. Albania 2013 parliamentary election was in many ways a transformative event in the country's brief history as an electoral democracy. Previous election cycles had been marred by political polarization, allegations about the misuse of public resources, distortion of electoral results, outbreaks of violence, delays in establishing results, and a refusal by the losing side to recognize the outcomes. While Albania faced some of these problems again in 2013, there were a significant number of positive developments unique to this election. Above all, there was a general acceptance by the leading political parties of the outcome.

During 2013, polarization of competing parties was so great that the opposition commissioners of the CEC resigned early in the electoral cycle, which left the key decision on results and allocation of mandates up to the judicial appeals body, the Electoral College. However, the CEC is now currently fully constituted in preparation for June's local elections, and preparations continue at an accelerating rate as Election Day draws nearer.

The recently completed and somewhat politically controversial administrative-territorial reform, which has seen the creation of 61 new local government electoral units out of the existing 378, has wrought a new, significant change in the local election structure.

The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) final election observation report for the 2011 local elections has provided a number of recommendations for the improvement of elections management in Albania. The report noted the inconsistent manner in which it interpreted some provisions, particularly in the disputed Tirana Mayoral contest. It concluded by recommending that the system for adjudication of electoral disputes be reconsidered in order to provide guarantees for effective redress, and to bring that system in line with constitutional provisions and principles of due process.[1]

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[1] OSCE/ODIHR Election Observation Mission Final Report, Republic of Albania Local Elections, 8 May 2011. http://www.osce.org/odihr/81649?download=true

2. Project Context

UNDP Albania previously held BRIDGE training for the Electoral College of the Court of Appeals in Tirana, Albania in 2013. Based on the response to and success of this program, the module was organized again in 2015 before the 21 June local elections. This initiative was agreed with the Chair of the Court of Appeals in Tirana in his capacity as administrative principal to the Electoral College. Based on considerable interest by both domestic interlocutors and the international community, UNDP also offered a Gender Module of BRIDGE to a group of stakeholders consisting of representatives of the Central Election Commission (CEC) and civil society. As the implementing partner of the Strengthening Electoral Processes in Albania (SEPIA) project, these initiatives were coordinated through the CEC. The International Elections Working Group for Albania, which is chaired by OSCE, welcomed both initiatives. Both the Gender BRIDGE and Electoral Dispute Resolution BRIDGE activities were approved in UNDP's Local Project Appraisal Committee for SEPIA.

According to the Electoral Code, electoral parties have the right to file appeals against CEC decisions when these decisions affect their legal interests by appealing to the Electoral College, which is a specialized court for dealing with election dispute resolution, operating as a division of the Court of Appeals of Tirana (the Court of Appeals is the Court of second instance in Albania). Decisions of the Electoral College are final, and no appeal can be made against them. The College consists of eight judges selected by the High Council of Justice, and exercises its function for the whole duration of one legislature. The mandate of the Electoral College covers all elections in the same timeframe.

The role of the Electoral College has been critical in recent elections. During the 2013 parliamentary elections, the College was forced to take key decisions as the required qualified majority of the CEC was not present due to resignations. These decisions included ruling on the results and allocation of mandates. In 2011, the Electoral College had a number of high profile and serious disputes, such as on the results of the Tirana Mayoral contest, which was decided by the narrowest of margins and overturned from an original determination of the results.

In 2015, local elections will be held in an entirely new and different structure of electoral units, with the recent consolidation of local communities into 61 new municipalities following a Territorial Administrative Reform effort led by the government. This change poses new questions and potential challenges to the electoral process.

3. Workshop's Objectives

The aim of the EDR workshop was improved capacity of the Electoral College and CEC to implement best practices in electoral dispute management for democratic elections in Albania. In specific, the workshop was designed to achieve the following objectives:

- Review legal status and acts related to recent Territorial Administrative Reform in Albania.
- Review recent changes to the Electoral Code in Albania.
- Consider the bodies responsible and mechanisms used for managing election conflicts and disputes and their advantages and disadvantages;
- Consider accepted standards and principles for Electoral Dispute Resolution;
- Explain a typical court process and its advantages and disadvantages in dispute resolution;
- Review previous election disputes in local and parliamentary elections in Albania.

4.   Facilitation Team

The facilitation team for the workshop comprised a mix of international and national facilitators. The team consisted of three BRIDGE/electoral dispute specialists advised by a national electoral framework specialist:

- **Victoria Stewart Jolley** is an international electoral and legal specialist, with an extensive comparative experience in the adjudication of electoral disputes and complaints. She has served as a senior lawyer with the UN in a number of transitional environments.

- **Emad Yousef** is an international electoral specialist with experience working on electoral processes in more than 30 countries. He has contributed to the development of BRIDGE curricula since 2005, and is an expert-level BRIDGE facilitator. He has served as a trainer and advisor with various international organizations and other electoral assistance providers.

- **Alexandra Hoveleaque** has been working in the field of elections since 1998 in Africa, Middle East and North Africa, and Asia, as an observer or as an advisor on operational issues, capacity building, training, media and communication and campaign finance. She actively takes part in the development of BRIDGE and is an expert-level facilitator.

- **Mirela Bogdani Ph. D**. is a Lecturer at both the Law Faculty at the University of Tirana and the Magistrates' School of Albania. She has previously served as a Legal Advisor in several Rule of Law programs as well as projects to develop the capacity of the Judiciary in Albania. Ms. Bogdani has a Doctorate Degree from the University of Tirana, Law Faculty, focused on electoral administration.

The facilitation team was supported by UNDP Chief Technical Advisor for Elections, Gavin Weise, Program Officer Arben Rama, and Program Assistant Xhesi Mane.

## 5.	The Participants

In addition to CEC members and the members of the Electoral College, high-level CEC secretariat staff, especially those from the CEC legal department, and some staff of the Tirana Court of Appeals attended the workshop.

Given the timing of the workshop just a few weeks before the election on June 21, and the huge operational load on the CEC, the number of the workshop participants was forced to change daily. All participants generally attended the workshop's morning sessions, while the afternoon sessions were often comprised of select CEC staff and and Electoral College members only.

- In total, 23 participants attended the workshop. The table below shows the institutions of the participants:

Institution	# Participants
Central Election Commission	12
Electoral College	7
Tirana Court of Appeal	4
TOTAL	**23**

The selection of participants was decided by their respective institutions after consultation with UNDP. The total number was not confirmed until the last minute due to the engagement of participants and their institutions with their operational duties and emerging tasks before Election Day.

## 6.	Workshop Preparation and Course Agenda

Workshop preparation started in earnest upon the arrival of the facilitation team in Tirana. BRIDGE Facilitators met with UNDP staff and the legal specialist to discuss the context, objectives and expected results of the workshop. The team then finalized the agenda based on the 2013 workshop agenda, modified to meet the objectives of the current workshop and the new electoral context. Following the approval of the agenda, the team was divided into two parts, with one group working on the Gender workshop which was designed to take place the week prior to the EDR workshop, while the other concentrated on the EDR case studies and other practical exercises. Upon completion of the Gender workshop, both teams resumed work on the EDR workshop to finalize preparations.

The workshop agenda was designed with an operational focus based on issues connected to the local elections and referenced extensively to the electoral framework and the Electoral Code of Albania. While the workshop used the Election Dispute Resolution BRIDGE module as a starting point, the facilitation team decided that the content and methodology would have to be significantly customized to meet the highly specific knowledge requirements of the participants. This type of deep customization is fully compliant with the BRIDGE methodology, which stresses that BRIDGE programs are "most effective when it is carefully designed and customized with the clients and hosting organizations needs and requests, timing constraints and venues in mind."[2] The approach of using a mixture of experts and BRIDGE facilitators is also a recommended strategy for high-level implementation of technical modules such as the EDR module.

(Detailed workshop agenda is attached as Annex 1)

7.   Workshop Development

The resources of the workshop included a variety of old and new materials on EDR in Albania, and some relevant resources including Albanian legal framework texts, observation reports from previous elections in Albania, and global handbooks on EDR and international standards.

Day 1

Day 1 included 4 sessions designed to introduce the workshop and topics to the participants:
- Introduction to BRIDGE project including the how, when and why BRIDGE was developed, the potential target audience, the BRIDGE methodology, the curriculum and training modules, and some latest statistics about BRIDGE. This

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[2] AEC et al., "BRIDGE Implementation Manual" (BRIDGE Partnership, 2009), bridge-project.org.

introduction presentation also served as a short and compact introduction to the whole workshop.

- Open discussion on the past 2013 elections and the lessons learned from those elections. In the session both the EC and CEC had a chance to exchange views and experience as well as review some observation reports, especially the OSCE/ODIHR report and the recommendations included in other observation reports.

- Discussion on the electoral calendar and operational timeline with a focus on the EDR calendar. The main objective of the session was to identify some challenges and disputable issues in the different phases of the electoral process.

- A full voting and counting simulation. This is an area where judges benefit from having a good understanding of both the practical and legal aspects of voting procedures and counting process. The session was facilitated through a simulation whereby a group of participants was given all the materials for the voting and counting process as well as clear and detailed instructions for undertaking it in line with the law.

Day 2

Day 2 included simulations about fraud and human error; forensic audits; investigative techniques and approaches.

The group was presented with four simulations that covered over-voting, hands-on investigation of potential electoral fraud and other forms of irregularities. Each scenario covered a different type of potential fraudulent action or irregularity, and tasked the participants with investigation and adjudication. The four scenarios were rotated through each of the groups, and discussed with the full group after each had been completed.

Each scenario was designed to lead the participants to areas in the law where the Electoral College and/or the electoral administration would have some discretion in interpretation. Participants were mixed in groups (CEC, Electoral College & respective staff) in order to have a broad and full prospective of the potential conflicts arising from these scenarios.

Day 3

Day 3 included two main sessions on evidence collection and assessment for disputed matters and decisions and remedies with some international case studies.

Scenarios dealt with different cases arising from the campaign period and counting. Participants in groups were asked to discuss these cases and suggest a strategy to collect and assess evidences by first identifying what evidence is required to address each element of the scenario, who can provide it, how long it might take to receive the requested evidence, and what steps will be required to gather the evidence.

The other session focused on type of decisions and remedies EDR authorities can take and the related consequences to take into account when assessing an EDR case.

Day 4

Day 4 was designed as a half day, initially with the Electoral College only; however, it was modified to accommodate all participants based on an earlier scheduling change. Two sessions were presented on the final day: seat allocation and decision-making.

An exercise in seat allocation served to both familiarize the participants with the mathematics of the process, as well as having the necessary technical knowledge for interpretation of the law when it comes to re-running elections. Examples of seat allocation were provided both between coalitions using the *d'Hont* Method, and within coalitions using the *Sainte-Lague* formula. The participants were tasked with determining seat allocation in a simulation.

The decision-making session focused mostly on the internal aspects of the case management process within both the CEC and the Electoral College, and between the two institutions. Both parties provided some good insight on the process and put forward some suggestions on how to improve the process. The facilitators also addressed questions that participants asked after the third training day (mostly by some Electoral College members), based on international standards in EDR and best practices.
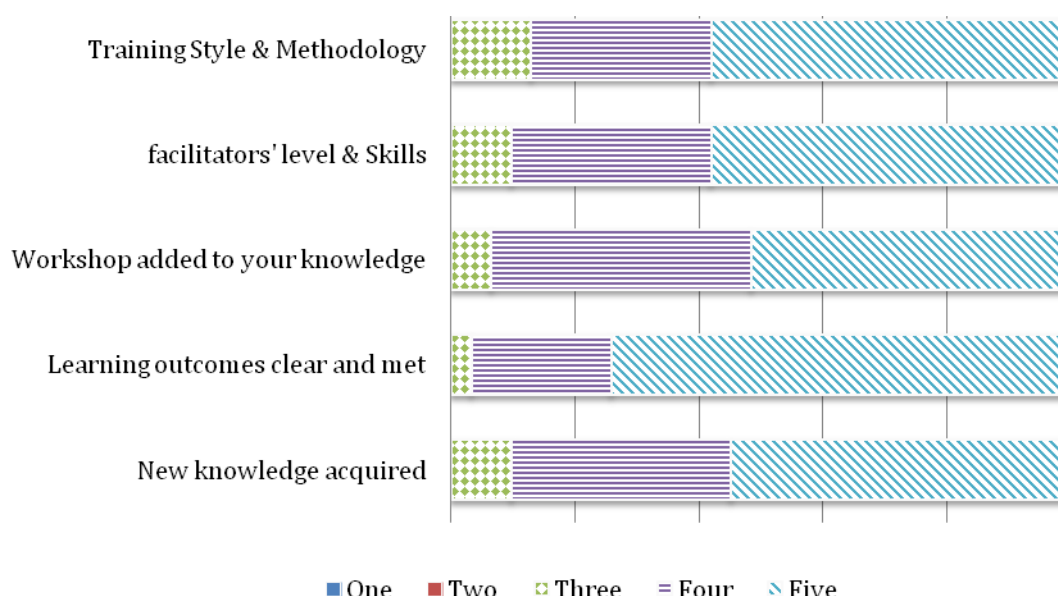
8.   Workshops Evaluation and Participants' Feedback

Daily evaluation forms have been used where participants evaluated the contents and presentation of the day's activities. A final evaluation form assessed the overall workshop, in addition to informal feedback received while engaging participants in conversation during breaks and lunches. Together these sources indicated that participants felt both the content and methodology of the program were appropriate, relevant and engaging.

The final written evaluation form provided feedback on issues related to the potential learning aspects of the workshop and expected impact on their work. In general participants agreed on the good organization and relevance of the workshop topics, and commended the skills of the facilitators.

Among key comments, participants mentioned the timing of the workshop where they, especially the CEC staff, were highly engaged with operational duties and had to skip some sessions in order to follow up on these issues. All participants agreed that the principles, skills and knowledge learned in the workshop will help them deliver better their duties.

The graph below summarizes the results of the final evaluation:

Chart legend: One, Two, Three, Four, Five

Categories (top to bottom): Training Style & Methodology, facilitators' level & Skills, Workshop added to your knowledge, Learning outcomes clear and met, New knowledge acquired

(Full final evaluation data for the workshop is attached in Annex 2).

9.   Conclusions and Recommendations

The current level of knowledge about electoral dispute resolution within the CEC and Electoral College appears to be high. Therefore, a high level of agenda and content was necessary for this group of participants, whose existing experience enabled them to ask detailed and probing questions. The interactive nature of the BRIDGE approach was appreciated by the participants, and appears to have been effective based on the workshop evaluations. The four days of the workshop were adequate to cover the agenda above, but it would be desirable to attempt to cover it in a shorter timeframe and reduce the daily training hours should another workshop will be organized in such a close time to Election Day.

The workshop is easily capable of adaptation for use with other groups of participants, such as local election commissions, political parties, and/or civil society organizations. There is clearly scope and value in the Albanian context for further versions of the workshop aimed at wider audiences.

Specific recommendations for future UNDP activities on the topic include, but are not limited to:

- While acknowledging the need for the Electoral College to be appointed and in session (which happens typically 30 days prior to Election Day), organizing

similar workshops 2-3 months before elections would allow for a more relaxed time for the participants engagement and full participation in the workshop sessions.

- Mixing the participants of the workshop proved to be successful. Both the CEC and Electoral College benefited from being together to discuss issues of interaction between the two institutions. It also allowed for a better understanding of how each of the two highest authorities on EDR works, and deals with its part of the dispute process, especially when the two institutions are involved with the same issue in those cases when the CEC decisions are appealed.

- The presence of different levels of the CEC did not appear to raise a hierarchy issue thanks to the understanding and encouragement of the commissioners for the secretariat staff.

- Second level election commissions (the CEAZs) would also benefit from such a workshop, especially in local elections, due to the decisions they must take. Future workshop should target this level.

- The workshop topic, with some adaptation, would also be highly relevant to other audience groups, including political parties, judges from Appeal Administrative Court and others, who could potentially be members of future Electoral Colleges.

- For future workshops, the emphasis on mock cases and scenarios should be maintained, with perhaps allowing for more time to discuss and compare group work.

10. Annexes

Annex 1 – Detailed Workshop Agenda

Day 1			
Start	**Duration**	**Ref.**	**Activity**
09:30	00:30		Registration and Coffee
10:00	00:15		JOINT SESSION Welcome/opening/ housekeeping + Presentation of BRIDGE
10:15	00:15		Participants introduction and presentation of Agenda
10:30	00:45		Lessons learnt from last election - exchange of experience - review of OSCE recommendations
11:15	00:15		Break
11:30	00:30		Roles and competences (CEC/EC)
12:00	00:30		Timelines: Electoral calendar /EDR calendar + identification of disputable issues in the different phases of the electoral process.
12:30	01:00		Lunch
13:30	01:00		Polling day simulation : different scenarios with irregularities/breaches of procedures (opening, operations, closing/form filling - transfer to counting center)
14:30	01:00		Counting procedures/reconciliation issues/tabulation issues
15:30	00:15	-	Evaluation and Conclusion
15:45	-	-	End of day

| **Day 2** | | | |

Start	Duration	Ref.	Activity
08:30	00:30		Registration and Coffee
09:00	00:15	-	Intro & Recap
09:15	00:45		Simulation 1 about fraud/human error; forensic audit; investigative techniques and approaches…
10:00	00:30		Debrief
10:30	00:15		Break
10:45	00:45		Simulation 2 about fraud/human error; forensic audit; investigative techniques and approaches…
11:30	00:30		Debrief
12:00	01:00		Lunch
13:00	01:00		Simulation 3 about fraud/human error; forensic audit; investigative techniques and approaches…
14:00	00:45		Debrief
14:45	00:15	-	Evaluation and Conclusion
15:00	-	-	End of day

Day 3

Start	Duration	Ref.	Activity
08:30	00:30		Registration and Coffee
09:00	00:15	-	Intro & Recap
09:15	01:00		Simulation about evidence (collection) and assessment
10:15	00:45		Debrief
11:00	00:15		Break
11:15	00:45		Decisions and remedies (international case studies)
12:00	01:00		Lunch
13:00	00:45		Decision writing
13:45	00:45		Focus on Seat allocation
14:30	00:30		Evaluation and Conclusion for 3-days / CEC members last day
15:00	-		End of day

Day 4

Start	Duration	Ref.	Activity
08:30	00:30		Registration and Coffee
09:00	00:15		Intro and recap
09:15	01:00		Open discussion: issues and challenges
10:15	00:15	-	Break
10:30	01:00		Case management and organisation of work
11:30	00:30		Conclusion/Final evaluation/closing
12:00	01:00		End of Training/Lunch

Annex 2 – Final Evaluation

2.1 Data

No.	New knowledge acquired	Learning outcomes clear and met	Workshop added to your knowledge	Facilitators' level & Skills	Training Style & Methodology
1	5	5	5	5	4
2	5	5	4	5	4
3	4	5	5	5	5
4	4	4	4	4	5
5	4	4	4	4	5
6	5	5	5	5	5
7	5	5	5	5	5
8	4	4	3	5	5
9	3	5	4	5	5
10	3	4	3	4	3
11	3	3	3	3	3
12	5	5	4	5	4
13	4	5	4	5	5
14	4	4	3	4	4
15	4	5	3	5	4
16	4	4	5	5	4
17	4	4	5	5	5
18	4	4	5	5	5

2.2 Percentages

	New knowledge acquired	Learning outcomes clear and met	Workshop added to your knowledge	Facilitators' level & Skills	Training Style & Methodology
One	0%	0%	0%	0%	0%
Two	0%	0%	0%	0%	0%
Three	17%	6%	28%	6%	11%
Four	56%	44%	33%	22%	33%
Five	28%	50%	39%	72%	56%
TOTAL	100%	100%	100%	100%	100%

2.3 Graph