



European Union
Election Observation Mission

KOSOVO 2021

Final Report

Municipal Elections

17 October – 14 November 2021



EU EOM KOSOVO

2021 Municipal Elections

FINAL REPORT

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FINAL REPORT

I. SUMMARY

- The 2021 municipal **elections were well organised**. Fundamental freedoms were respected during the campaign and a plurality of contestants offered voters a real choice, with the exception of the Kosovo-Serb municipalities where political competition was limited. Voting in both rounds (17 October and 14 November) was assessed as overwhelmingly positively by EU observers. Following the first round, members of all 38 municipal assemblies were elected as well as 17 out of 38 mayoral candidates who received over 50 per cent of the valid votes. Runoff mayoral elections took place in the remaining 21 municipalities, including the two biggest cities Pristina and Prizren.
 - The municipal elections were conducted just eight months after the early legislative elections reshaped the political landscape in Kosovo following the landslide victory of *Lëvizja Vetëvendosje* (LVV) movement. The party, which for many years was in the opposition, won over 50 per cent of the votes and formed a new government. The municipal elections constituted a major test for the ruling LVV and an opportunity to enlarge its presence at the local level. For the main opposition parties such as the Democratic Party of Kosovo (PDK), the Democratic League of Kosovo (LDK) and the Alliance for the Future of Kosovo (AAK) – which have dominated Kosovo’s political landscape in the aftermath of the armed conflict but registered their worst results ever in the February elections – these elections were about maintaining their standing in the municipalities.
 - While the **legal framework** provides an adequate basis for the elections, previously identified shortcomings are yet to be addressed. A comprehensive electoral reform which could consider numerous recommendations issued by EU EOMs since 2013 is long overdue. The longstanding weaknesses include loopholes and contradictory provisions on candidate eligibility, electoral campaign rules, the lack of effective oversight and enforcement of political party and campaign finance, Out-of-Kosovo voting process, electoral dispute resolution deficiencies, campaign rules on online platforms, etc.
 - The **candidate registration** was inclusive despite procedural shortcomings and legal restrictions contradicting international standards. A total of 89 entities, including 34 political parties, presented 166 mayoral candidates and 5,199 candidates for municipal assemblies. However, in some municipalities, the *Srpska Lista*’s (SL) candidate was the only Kosovo-Serb candidate running for mayor or SL was the only Kosovo-Serb list in the race for municipal assemblies, which limited political competition and voters’ choice. The restrictions for candidates with criminal records are disproportionate and not in line with international standards. Moreover, the verification of these records revealed some shortcomings.
 - The very low number of women in the mayoral races reflected the harsh reality of **women’s political participation** in Kosovo. While a total of 14 mayoral candidates were women (8 per cent), only two were placed in the strongholds of their political party; both were elected, representing SL. A total of 1,937 women (37 per cent) ran for municipal assemblies in respect of the minimum 30 per cent gender quota, and 36 of them (12 per cent) headed their lists. Despite nominating the legally required number of women candidates, political parties, which are
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overwhelmingly male dominated, have not yet seriously addressed the issue of gender inequality in their programmes and statutes.

- The CEC conducted the **electoral preparations** in a professional manner in respect of all legal timelines and enjoyed a high level of confidence among the stakeholders. The composition of the Municipal Election Commissions (MEC) and the Polling Station Committees (PSC) was inclusive and transparent, with a nomination formula that generally balanced the complexities of the representation of political entities in the Kosovo Assembly and municipal assemblies. It also ensured that non-majority communities with significant presence in a municipality were represented. However, women were significantly underrepresented in all levels of the election administration.
- **Voter registration** was inclusive but problems with accuracy of data persist, including the verification of Out-of-Kosovo voters. The Final Voter List (FVL), based on extracts from the Central Civil Registry, contained nearly 1.9 million voters, 90,586 more than in the February 2021 legislative elections. The number of citizens who registered for Out-of-Kosovo voting was 15,532, which was 86,568 less as compared to the February elections. Following the clean-up of the civil registry conducted in 2019 and before the 2021 legislative elections, the accuracy of the FVL has improved. Yet, problems regarding the records of deceased voters and the absence of a unified address system remain. Furthermore, the Out-of-Kosovo voter registration and verification process lacks essential safeguards to protect its integrity from manipulation and fraud.
- The **campaign** was generally decentralised and competitive, dominated by mayoral races. Given the pandemic measures and scarce financial resources, candidates reduced the scope of their initially planned activities and focused on their social media and TV appearances. Predominantly small, mostly outdoor gatherings, usually with a targeted audience and in respect of sanitary restrictions, were held all around Kosovo. Rallies intensified shortly before both rounds with many gathering several hundred participants, in violation of the sanitary measures. Many events were attended by leaders of the major parties as well as government officials, including Prime Minister Albin Kurti and his ministers. Allegations of vote-buying and misuse of administrative resources in a few municipalities as well as pressure on voters in the north of Kosovo were reported to the EU EOM.
- As the legal framework does not stipulate any sanctions for campaigning outside of the **official campaign period** and the CEC did not take any enforcement measures, most contestants in the runoffs resumed their campaign activities shortly after the first round disrespecting the official 5-day campaign period.
- **Campaigning online** started immediately after the first round and, in contrast with the respectful rhetoric observed in the first round, the tone became harsher. While candidates shared useful information through online platforms and used paid advertisement to promote their messages, opaque Facebook pages were used to discredit contestants through misleading paid content. Online ads appeared to be used widely but the absence of transparency rules undermined accountability. The legal framework does not reflect the increased importance of digital communication in elections, leaving dissemination of political advertising online unregulated.
- **Media** contributed to inform voters and granted access to contestants. The public broadcaster, *RTK*, fulfilled its public service role by offering balanced and neutral editorial coverage of

contestants, and by organising well-structured and informative debates among mayoral and municipal assembly candidates. However, RTK was not balanced on its online version. Private broadcasters offered a very limited news coverage of local races, but organised election debates for most of the municipalities. Their editorial coverage was overall fairly balanced with TV channels reflecting the pluralistic media environment and giving marginally more space to various parties. The Independent Media Commission (IMC) sanctioning system lacked clarity and consistency. During the 30-day long first round election campaign IMC did not timely sanction broadcast media violations, while it did during the five-day campaign for the runoffs.

- In line with international good practice, the legal framework foresees limits on **campaign donations and expenditures** but, due to substantial shortcomings, it does not ensure accurate reporting, timely disclosure and meaningful enforcement. Lack of regular auditing and selective application of sanctions by the CEC resulted in a *pro-forma* oversight of campaign finance and did not provide incentives for contestants to comply with the rules. This, in turn, has led to a blatant lack of transparency and accountability with concerns about the longstanding issue of undisclosed financial ties between parties and influential businesses.
- The **adjudication of complaints and appeals** was conducted by the Election Appeal and Complaint Panel (ECAP) and the Supreme Court (SC) in a generally transparent and impartial manner. ECAP was able to deal with a high number of referrals, especially for the municipal assembly elections, within very tight legal deadlines. Certain ECAP decisions ordering a significant number of recounts for the municipal assembly elections, cancelling the Out-of-Kosovo ballots for one municipality or annulling the municipal elections in another one, revealed some weakness in the legal framework, which need to be addressed to better protect the fundamental right to vote. Two of ECAP's decisions regarding appeals were not fully in line with the law, but both were rectified by the SC's judgements after appeals.
- Both rounds of **voting** were calm and orderly and were assessed very positively by EU observers. However, a significant number of cases of assisted voting was observed and the rules for acceptance of expired IDs as voter identification were not consistently followed. Only around 67 per cent of polling stations visited were accessible to voters with reduced mobility.
- The **vote count** was transparent in both rounds, as EU observers reported. However, during the first round, counting was assessed negatively in six out of the 31 polling stations observed, mostly due to inconsistencies in following the procedures. The count was assessed as good and very good in all polling stations visited during the runoffs, but there were some difficulties with ballot reconciliation in about one-third of polling stations observed which did not impact on the integrity of the process.
- The **tabulation** of the first-round results, while thorough and transparent, lasted until the eve of the runoff elections and revealed significant weaknesses in counting and completion of the results' forms. A total of 987 polling station results for mayoral and municipal assembly elections had to be recounted, which points out to a need for a holistic review of the design of ballot papers, of candidate tally sheets and result forms, and of the training of PSC members. The number of invalid ballot papers for the assembly elections amounted to almost 7 per cent, indicating insufficient voter information activities and excessively complex ballot design. The tabulation of the second round of mayoral results was smoother and quicker than in the first round, due to the smaller number of municipalities where voting took place as well as the simplicity of the result form that had to be

filled. Nevertheless, the annulment of the Out-of-Kosovo results from Dragash/Dragaš by the ECAP revealed a loophole on how the CEC should address suspicious Out-of-Kosovo ballots.

PRIORITY RECOMMENDATIONS:

- 1. Modernise the method for registration as Out of Kosovo voter for instance via a link on the CEC website with safeguards such as a two-step verification of the applicants in order to protect against fraud and impersonation.*
- 2. Ensure an independent mechanism is in place for effective oversight of party and campaign finances which is given the mandate, the authority, as well as the financial and human resources to effectively and proactively monitor and investigate alleged party and campaign finance irregularities, including unreported income and expenditures, and impose sanctions.*
- 3. Include provisions on electoral advertising on online platforms, and explicitly extend the existing campaigning rules to the digital sphere.*
- 4. Appoint in a timely manner all members of the IMC and the IMC Appeal Board through a competitive and transparent selection process to foster independence, oversight and the sanctioning power of the regulatory body.*
- 5. Redesign ballot papers for municipal assembly elections to improve understanding of voters and enhance voter information on how to properly mark the ballot so as to reduce the number of invalid votes.*
- 6. Include provisions on challenging the final election results published by the CEC. Clarify the ambiguities concerning the complaints related to voting, counting, the CRC process and their respective deadlines.*

II. INTRODUCTION

Upon an invitation by the President of Kosovo, the EU deployed an Election Observation Mission (EOM) to observe the municipal assembly and mayoral elections held on 17 October 2021 in all 38 Kosovo municipalities, and the runoff mayoral elections on 14 November 2021. The mission was present in Kosovo from 5 September to 5 December 2021. The mission assessed the extent to which the electoral process complied with Kosovo's laws, as well as with international standards for democratic elections. Since 2013, the European Union has deployed five EOMs to Kosovo, including for the municipal elections in 2013 and 2017, and one election expert mission for the early legislative elections in February 2021.

The EU EOM was led by Mr Lukas Mandl, member of the European Parliament from Austria. The Mission comprised a Core Team of 10 members, 22 long-term observers (LTOs), who arrived in Kosovo on 13 September, and 34 short-term observers (STOs) who were present in Kosovo from 12 to 20 October for the first round of elections. Prior to the runoff elections which took place in 21 out of 38 Kosovo

municipalities, the number of LTOs was reduced to 14. The runoff elections were also observed by 28 STOs who were present in Kosovo from 10 to 17 November.

The EOM was reinforced by locally recruited observers – 26 in total for the 17 October election day, and nine for the 14 November election day – from diplomatic representations of EU Member States, as well as from the EU Office/EUSR and EULEX. In total, the mission deployed 94 observers from 22 EU Member States, Norway and Switzerland for the 17 October election day, and 62 observers from 21 EU Member States, Norway and Switzerland for the 14 November election day. In addition, a delegation of six members of the European Parliament led by Ms Viola von Cramon-Taubadel also observed the 17 October election day. EU observers visited 400 polling stations on 17 October, and 269 polling stations on 14 November, observing voting and counting.

The EU EOM operated under a specific mandate and was independent of the EU institutions including the EU Office/EU Special Representative in Kosovo. The mission was bound by a code of conduct which requires strict neutrality and non-interference, undertaking its work also in accordance with the Declaration of Principles for International Election Observation. This report includes developments observed by the mission until 4 December 2021.

The EU EOM wishes to express its appreciation to the Kosovo authorities, the Central Election Commission, the Election Complaints and Appeals Panel, the Public Prosecutor's Offices, the Independent Media Commission and other institutions, the Police, political parties, media, and civil society for their cooperation and assistance throughout the Mission's presence. The EU EOM also expresses its appreciation to the EUSR/EU Office, EULEX, KFOR, the OSCE and the diplomatic representations of the EU Member States, Norway and Switzerland for their support.

III. POLITICAL CONTEXT

The 2021 municipal elections were conducted just eight months after the early legislative elections reshaped the political landscape in Kosovo following the landslide victory of LVV movement. The party, which for many years was in the opposition, won over 50 per cent of the votes and 58 out of the 120 seats in the Kosovo Assembly. The new government, led by the LVV leader Albin Kurti, was formed on 22 March 2021. Vjosa Osmani, who had run on the LVV list, was elected president by the Kosovo Assembly on 4 April. Since then, the LVV controlled both the legislative and the executive branches of the government.

From among 120 MPs in the Assembly, 100 represent the Kosovo-Albanian community, 10 the Kosovo-Serb community and 10 other “non-majority” (non-Kosovo-Albanian) communities (the quota system is prescribed by the 2008 Constitution). LVV with its 59 MPs¹ is the largest party in the Assembly followed by PDK with 18 MPs, LDK with 15 MPs, the AAK with 8 MPs and SL with 10 MPs. The governing coalition comprises 59 MPs from the LVV caucus and eight MPs representing non-majority communities.²

Since the 2017 municipal elections, there have been fluctuating political dynamics in different municipalities – changing coalitions, not necessarily reflecting the Kosovo Assembly coalitions, mayors

¹ 58 MPs as per electoral results and one former PDK MP who shifted to LVV during the session on the election of the president.

² Consisting of three Kosovo-Bosniak, two Kosovo-Turkish, one Kosovo-Roma, one Kosovo-Ashkali and one Kosovo-Egyptian MPs.

and municipal assembly members shifting from one party to another and new elections in some municipalities. SL won nine mayors in 2017, followed by LDK with eight (it lost one in 2020) and PDK with five. LVV won three mayoral positions but lost two of them after a split within the party, and later gained one. PDK and LDK won the majority of seats in eleven and eight municipal assemblies, respectively. SL won the majority in all ten assemblies in the municipalities with Kosovo-Serb majority.

The 2021 municipal elections constituted a major test for the ruling LVV and an opportunity to enlarge its presence at the local level. For the main opposition parties which have dominated Kosovo's political landscape in the aftermath of the armed conflict but registered their worst results ever in the 2021 legislative elections, these elections were about maintaining their standing in the municipalities.

During the campaign period before the first round, the politics in Kosovo concentrated around the conflict between Belgrade and Pristina over vehicle number plates. On 30 September, an arrangement was reached under EU auspices which *inter alia* led to the withdrawal of the special Kosovo police in the north and temporary deployment of KFOR, the removal of the roadblocks at two crossing points and an agreement to start negotiations between the Parties on the way forward with the licence plates. Although this issue has dominated the information space, it did not generally affect the electoral campaign or administrative preparations for the elections. Shortly before the end of the campaign for the first-round, the Kosovo police, jointly with the custom authority, conducted an anti-smuggling operation in several municipalities, including in North Mitrovica where the action led to mass and sometimes violent protests.

IV. IMPLEMENTATION OF PREVIOUS EU EOM RECOMMENDATIONS

Almost all recommendations offered by previous EU EOMs since 2013 remain unaddressed.

Despite the fact that all stakeholders acknowledge the need for a comprehensive electoral reform, which would include the implementation of EU election recommendations, no such reform has taken place in Kosovo since the first EU EOM was deployed in 2013. One of the main obstacles quoted by EU EOM interlocutors was the frequency of early parliamentary elections (conducted nearly every two years) which did not leave the Kosovo Assembly sufficient time to amend the election laws via a sufficiently inclusive consultation mechanism.

As a consequence, almost all recommendations issued by previous EU EOMs, most of which would require legal changes, remain unaddressed. These recommendations include *inter alia* addressing inconsistencies, gaps and ambiguities of the legal framework as a whole, revising the candidate eligibility criteria, enhancing the transparency of campaign financing, effectively enforcing campaign finance requirements, regulating political sponsored programmes in broadcast media, extending the deadlines for filing and deciding election complaints, challenging the results at all levels, additional safeguards for Out-of-Kosovo voting, etc.

Some recommendations of previous EU EOMs that did not require legal change were partially implemented prior to these elections, including by CEC decisions. For example, the Independent Media Commission has imposed timely sanctions on TV stations for violations of electoral campaign rules and progress has been achieved in the protection of personal data with regard to the Out-of-Kosovo voters list. Nevertheless, in the absence of a comprehensive legal reform, these recommendations are not addressed in a sustainable and holistic manner.

V. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

While the legal framework provides an adequate basis for the elections, previously identified shortcomings and contradictory provisions are yet to be addressed.

The electoral legal framework provides an adequate basis for the conduct of democratic elections, in line with international standards to which Kosovo has committed in its Constitution. According to the fundamental law, seven international human rights instruments³ relevant to the elections are directly applicable and, in case of conflict, supersede Kosovo's laws. Furthermore, the courts are required to interpret human rights and fundamental freedoms guaranteed by the Constitution consistently with the judgments of the European Court of Human Rights.⁴

The 2021 municipal elections were primarily regulated by the 2008 Constitution, the 2008 Law on General Elections (last amended in 2010) and the 2008 Law on Local Elections (LLE).⁵ In addition, important aspects of the electoral process are contained in twenty CEC regulations rather than in the primary law.⁶ This does not safeguard against potential last-minute changes, contrary to international good practice.⁷

The right to protection of personal data is guaranteed under the Constitution and the 2010 Law on Protection of Personal Data (LPPD), substantially amended in 2019 in line with the General Data Protection Regulation (GDPR).⁸ Despite some positive developments, the electoral legal framework is not fully harmonised with the LPPD, for example in regards to securing data processing and storage, data retention and destruction.⁹ The authority responsible for ensuring compliance with data protection principles, the National Agency for Personal Data Protection (NAPDP), became fully operational only in June 2021 when its Chief National Supervisor was finally appointed.¹⁰

With few exceptions, the electoral legal framework remains essentially unchanged since 2010. Longstanding weaknesses, including loopholes and contradictory provisions throughout the electoral

³ According to art. 22 of the Constitution, these are: Universal Declaration of Human Rights (UDHR); European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols; International Covenant on Civil and Political Rights (ICCPR) and its Protocols; Council of Europe Framework Convention for the Protection of National Minorities; Convention on the Elimination of All Forms of Racial Discrimination (CERD); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and, since 2020, the Council of Europe convention on combating violence against women and domestic violence (the Istanbul Convention).

⁴ While not a signatory state of any international treaties, on 11 June 2014, Kosovo joined the European Commission for Democracy through Law (Venice Commission), thus the 2002 Venice Commission's Code of Good Practice in Electoral Matters also applies in Kosovo.

⁵ Other applicable legislation includes the laws on Financing of Political Entities and Election Campaigns (2010, amended in 2013), the Law on Political Parties (2004), the Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (LPPRC), the Law on the Use of Languages; the Law on Local Self-Government; the Law on Special Protective Zones, the Law on Administrative Proceedings, and the Criminal Code of 2019.

⁶ ECAP and CEC rules of procedure concerning *inter alia* campaign rules, political party registration, Out-of-Kosovo voting and counting and tabulation.

⁷ Venice Commission's Code of Good Practice in Electoral Matters, Section II, 2, a. "*Apart from rules on technical matters and detail – which may be included in regulations of the executive – rules of electoral law must have at least the rank of a statute.*" Statutes are enacted by the legislative branch and are amended by the same process as first enacted.

⁸ General Data Protection Regulation (EU) (GDPR) 2016/679 became directly applicable in the European Union on 25 May 2018.

⁹ In 2021, the CEC adopted a regulation addressing some data protection shortcomings related to the Out-of-Kosovo voters list, and ECAP appointed a data protection officer.

¹⁰ The Kosovo Assembly appointed the commissioner after three failed attempts since 2019.

cycle, concern *inter alia*: candidate eligibility, electoral campaign rules, the lack of effective oversight and enforcement of political party and campaign finance, Out-of-Kosovo voting process, electoral dispute resolution deficiencies, campaign rules on the online platforms, underrepresentation of women in political party structures and elected offices etc.

ELECTORAL SYSTEM

Municipal elections are held every four years for mayors and members of the municipal assemblies. The mayors of the 38 municipalities are elected directly by voters of the municipality in a two-round majority system. The members of municipal assemblies are elected under a proportional representation system, with open lists, where voters vote for one political entity and can mark one preferential candidate from its list other than the head of list who automatically gets the votes for the political entity.

The number of seats in municipal assemblies is proportional to the number of residents in the municipality, varying from 15 to 41, with the exception of Pristina, which has 51. A gender quota of at least 30 per cent of the less represented gender is applicable both for the certification of political entities and distribution of seats in the municipal assemblies and in the Kosovo Assembly.¹¹

VI. ELECTION ADMINISTRATION

Inclusive composition of MECs and PSCs and timely electoral preparations in line with legal deadlines.

The municipal elections were administered by a three-tier election administration composed of the Central Election Commission (CEC), 38 Municipal Election Commissions (MECs) and 2,477 Polling Station Committees (PSCs) located in 883 Polling Centres.

The CEC, composed of a chair and ten members, is established as a permanent independent authority mandated to administer elections and referendums in a professional and impartial manner.¹² While the mandate of its chair is seven years, the members are not appointed for a fixed term as their mandate is linked to the election cycle.¹³ The management of the electoral operations is entrusted to the CEC Secretariat (CECS), which has been facing significant problems of limited office space and a shortage of permanent staff.¹⁴

Following the 14 February 2021 early legislative elections and the subsequent election of a new President of Kosovo on 4 April, eight new CEC members were appointed on 12 May, upon nomination by the

¹¹ For example, for the municipal assembly, the seats are first allocated to a political entity according to election results. But if this allocation does not respect the 30 per cent minority gender quota, then the last elected candidate of the majority gender will be replaced by the next eligible candidate of the minority gender to reach the 30 per cent quota.

¹² Article 139 para.1 of the Constitution.

¹³ Pursuant to Article 61.4 of the LGE, the mandate of the CEC members “shall begin no later than 60 (sixty) days after the certification of the Assembly elections results”. The only exception is in Article 61 para.3 (e) of the LGE, that provides for the automatic extension of the mandate to 90 days after the certification of the results, if it expires 90 or fewer days before an election or up to 90 days following the certification of the results.

¹⁴ Especially four CECS departments have only one staff member: these are the Field Coordination, IT, Training, and Logistics.

eligible political entities.¹⁵ Alleging a lack of legal clarity,¹⁶ the President of Kosovo refrained from appointing the last two members and addressed the Constitutional Court (CC) with a request for interpretation of this provision. The CC dismissed the referral on 2 July and consequently, PDK appointed a second member and VAKAT (Bosnian community) appointed one, which led to the completion of the CEC composition later than the legal deadline.¹⁷

The LGE includes guarantees for the independence and transparency in the functioning of the CEC, such as the seven-year mandate of the chair, renewable once, and provisions ensuring that the commissioners cannot be recalled for a minor omission, thus reducing the potential for political interference. However, the vague wording of paragraph (d) of article 61.5 LGE allowing for the removal of the chair or a member if they behave or act “in a manner that seriously affects the status and integrity of the CEC”,¹⁸ is not in accordance with international best practices which stipulate that the grounds for recall should be “clearly and restrictively specified in law.”¹⁹

Notably, the decision of the President of Kosovo to dismiss the former CEC chairperson on 14 June, four years before the expiration of her second mandate and just one day before the call for the mayoral and municipal elections, was considered by opposition parties and civil society as politically motivated. This decision alleged *inter alia* that the Chair undermined the independence and integrity of the CEC, exerted unprecedented pressure on CEC staff during one of the meetings, and that the CEC ignored the problems related to the voter lists, training of the commissioners and voter education. Although the Ombudsman dismissed the petition of the former CEC chair who challenged her dismissal, it is questionable whether the reasoning of the decision of dismissal would give rise to a credible conclusion of liability of the CEC chair.²⁰

¹⁵ The new eight members were appointed as following: two from LVV and one from LDK, PDK, AAK, IRDK (Roma, Ashkali and Egyptian Communities), KDTP (Turkish community) and *Srpska Lista* (Serbian community).

¹⁶ The issue concerned Article 139 para.4 of the Constitution in regards to the “largest parliamentary groups” that are entitled to nominate CEC members. This question had been already clarified by the Court in the past, which had ruled that “the composition of the CEC is intended to reflect the composition of the Assembly according to the election results, which means that political entities that have participated in the elections and which won the largest number of seats for the Assembly have the right to nominate CEC members who are appointed by the President”.

¹⁷ The deadline was 12 May 2021.

¹⁸ Pursuant to Art. 61.5 of the LGE, the mandate of the CEC Chair or any member may be terminated in the following circumstances: a) the member fails to meet the conditions and criteria of this law, b) the member fails to attend without any reasonable motive three consecutive meetings of the CEC and the termination of the mandate is approved by 2/3 of the majority vote of the CEC, c) the member is convicted of a criminal offence, d) the member behaves or acts in a manner that seriously affects the status and integrity of the CEC, e) the member is unable to perform his or her duties for more than six consecutive months.

¹⁹ The Code of Good Practice in Electoral Matters of the European Commission for Democracy Through Law (the “Venice Commission”), highlights in Point 3.1f that “*The bodies appointing members of electoral commissions must not be free to dismiss them at will*” while paragraph 77 states that “*Broadly speaking, bodies that appoint members to electoral commissions should not be free to recall them, as it casts doubt on their independence. Discretionary recall is unacceptable, but recall for disciplinary reasons is permissible - provided that the grounds for this are clearly and restrictively specified in law (vague references to “acts discrediting the commission”, for example, are not sufficient).*”

²⁰ For instance, the specific decision fails to take into account, *inter alia*, that the CEC chair does not have a decisive vote on decisions adopted by the CEC, for which she was accused of wrongdoing, such as the manner of verification of applications for registration of the Out-of-Kosovo voters, that all CEC members unanimously voted to adopt, who would also be *in pari delicto*. The “ongoing recommendations by local and international organisations to improve the process” which the chair was accused of ignoring, necessitate legal amendments that are outside of competence of the CEC chair. Or, the other ground for dismissal stating that “the former Chair contributed to the escalation of the situation during the CEC meetings”, is not in line with what was reported by all national and international observer missions in regards to

Recommendation: Amend the LGE to clearly and restrictively prescribe the grounds for dismissal of the CEC chair and members.

The MECs were formed within 15 days of the call for elections, in accordance with the legal deadline. The nomination of the PSCs members was based on a formula elaborated by the CEC, reflecting the structure of MEC members that generally balanced the complexities of the representation of political entities in the Kosovo Assembly and municipal assemblies, and also strived to ensure that non-majority communities with significant presence in a municipality were represented. Women were underrepresented in all levels of the election administration (*see* Participation of Women).

ELECTION PREPARATIONS

Deliberations during CEC meetings attended by the EU EOM took place in a collegial atmosphere, open to media and observers; EU EOM observers also noted the good cooperation among MEC members.²¹ Most CEC decisions have been adopted unanimously; however, they were neither posted on the official website in a consistent manner nor within a reasonable time of their adoption.²² The EU EOM interlocutors generally expressed trust and confidence in the ability of the election administration to conduct their duties professionally.²³ Many MEC members had previous election experience.

The management of operations by the CECS was positively assessed by all EOM interlocutors. The CECS respected all legal deadlines and the preparations at central and municipal level were conducted according to the CEC operational plan,²⁴ except for the training of the PSC members, which was seriously delayed due to complications with the tender for the printing of the training manuals.²⁵ Nevertheless, this did not affect the duration of the training.²⁶ However, as the EU observers noted, the information delivered during the training regarding the use of expired IDs was not always consistent.

The governmental restrictions related to the COVID-19 pandemic led the election administration to limit the number of attendees of trainings and participants at MEC meetings and to encourage the vaccination of all electoral staff and observers. Voters in quarantine due to COVID-19 were allowed to vote from home, following verification by the CEC of their data and of the information received from the health authorities.²⁷ In observance of the LPPD, the list of such voters was not made public but only distributed to the mobile teams administering homebound voting.

verbal attacks and filibustering by some CEC members during meetings.

²¹ With the exception of the MEC in Gračanica/Graçanicë, where the LTO team reported that its members representing Albanian political parties appeared to be disengaged from the process and the chairperson was working mainly alone.

²² Decisions are published randomly on the CEC website, while some adopted in August 2021 were not published by beginning of December.

²³ To date, only candidates competing in the mayoral elections in Dragash/Dragaš municipality expressed concerns to the LTO team about the neutrality of the local MEC.

²⁴ The CEC operational plan for the first round was approved on 17 June and for the second round on 10 November.

²⁵ The printing of training manuals and of result forms, the supply of the COVID-19 protection equipment and the badges for observers were procured by the CEC in an open tender in June 2021. However, due to complaints submitted to the Procurement Review Body (PRB) by the companies who lost, the signing of the contracts was suspended pending the PRB's decisions whereas at the same time the PRB is inoperative since March 2021. During their meeting of 2 October, the CEC members unanimously decided to initiate negotiations for the printing and supply of the materials with the winners of the tenders, as the Law on Public Procurements allows in cases of extreme urgency.

²⁶ The PSC members training, scheduled to be conducted between 3 and 15 October, started only on 9 October.

²⁷ CEC Administrative Instruction No.01/2020.

For the second round, the CEC extended the registration of special needs voters (SNV) who were homebound, for four days to 9 November.²⁸ Although increasing the inclusivity of the process, this decision failed to consider the potential impact on MECs in case of a large increase of SNV voters and the preparation of mobile teams, as the new deadline was less than a week before election day.

After the first round, the CEC adopted a new PSC composition formula to ensure that candidates participating in the runoffs would be represented in the PSCs. It also organised additional trainings, for both the members who already worked in the first round as well as for new PSC members, following the replacement by the CEC of 806 members and by some political entities of other PSC members due to poor performance during counting and inaccuracies in the completion of the results forms.

Recommendation: Introduce a non-partisan clerical position of the PSC secretary to provide necessary advice and assistance to the PSC to improve their efficiency and performance.

VOTER EDUCATION

The CEC began to provide voter information in June 2021 in traditional and social media,²⁹ with all material developed in five different languages.³⁰ Implementing previous EU EOM recommendations,³¹ radio and video spots were produced for each part of the process, such as the certification of political entities and candidates, observers' accreditation, voter registration, objections to the voter list, registration of persons with special needs, documents accepted for voter identification, marking the ballot, Out-of-Kosovo registration and voting and COVID-19 safeguarding measures. In line with previous EU EOM recommendations, special focus was placed on informing voters on how to properly mark their ballots and, according to the CEC, the frequency of broadcasting and publication of this information was increased. Whereas the video spots in all languages also included sign language, as article 108.2 of the LGE requires, there was no voter education material provided in Braille. For these elections, the Kosovo Association of Blind People trained some 1,200 visually impaired voters across Kosovo on how to mark their tactile ballots.

Despite the fact that article 107.3 of the LGE instructs the CEC when conducting the voter education campaign to “pay particular attention to target the rural, the disabled and the illiterate voters” the activities conducted by MECs, which have better access and understanding of the needs of rural voters in their municipalities, were limited to posting informational posters sent by the CEC. The pandemic did not allow for door-to-door activities as was the case in the past.

Recommendation: Allocate more responsibilities to MECs regarding voter education and information activities and also engage civil society organisations across Kosovo. Special target groups should be addressed, such as women, voters in rural areas, first-time voters, and people with disabilities.

Although there was a slight improvement in comparison to the 2017 municipal elections in regards to the share of invalid ballots, which for the first round amounted to almost 7 per cent for the municipal assembly elections and 1.6 per cent for the mayoral races, all EU EOM interlocutors indicated that the voter

²⁸ CEC Decision No.2976/5-11-2021.

²⁹ The CEC signed distribution agreements with six news portals, three national TV stations, three national radio stations, three cable TV stations and seven regional TV stations, as well as used their Facebook, Instagram and YouTube accounts to disseminate voter information, including through sponsored content.

³⁰ In Albanian, Serbian, Turkish, Bosnian and Roma.

³¹ Such recommendations were proposed by the 2013, 2014 and 2017 EU EOMs.

information activities were insufficient (*see* Results Tabulation).³² This was also proved by the high rate of assisted voting in both rounds, under the reasoning of lack of knowledge of voting procedures which is not included in the reasons for assisted voting in the LGE.

VII. VOTER REGISTRATION

Inclusive and comprehensive final voter list but further continued efforts are required to improve its accuracy, including for the Out-of-Kosovo process.

Under the Constitution Article 45, “every citizen (...) who has reached the age of eighteen, even if on the day of elections, has the right to elect and be elected, unless this right is limited by a court decision.” The LGE expands the right to vote not only to citizens registered in the Central Civil Registry, but also to persons residing “outside Kosovo and left Kosovo on or after 1 January 1998, provided that they meet the criteria for being a citizen of Kosovo”, as well as to persons who “obtained the status of a refugee on or after 1 January 1995 and are eligible to be registered in the Central Civil Registry”. Disqualifications apply for persons declared mentally incompetent by a final court decision, persons serving a sentence imposed by the International Criminal Tribunal for the former Yugoslavia (ICTY) or those under indictment by the ICTY who have failed to comply with an order to appear before it.

A “passive” voter registration system is in place, based on extracts provided to the CEC by the Civil Registry Agency (CRA) at three different intervals. However, the fact that these extracts originate from the database of produced IDs, which includes deceased persons whose ID is still valid, or persons who renounced their citizenship but are still in possession of their IDs, instead of the Civil Registration Status database which indicates the deceased, leads to inaccuracies.³³

The Final Voter List (FVL) contains a total of 1,885,448 voters, representing an increase of 90,586 voters (or 5 per cent) compared to the February 2021 legislative elections.³⁴ The increase results from persons coming of age and becoming eligible to vote, the addition of 7,378 holders of old UNMIK ID cards who received Kosovo IDs after a CEC decision of February 2021 to remove from the voter list all voters registered with UNMIK IDs,³⁵ and the reincorporation of a significant number of voters who had successfully registered for Out-of-Kosovo voting in January.³⁶ The CEC removed 18,252 records of deceased persons and, for the first time, it also removed those who renounced their Kosovo citizenship.³⁷

³² The total rate of invalid ballots for the 2017 municipal elections was 8.7 per cent with the share of invalid ballots in the mayoral elections being 2.6 per cent, including blank ballots.

³³ The reason that the extracts submitted to the CEC originate from the database of produced IDs is that immediately after the war, UNMIK started creating a registry of citizens, which then was used for the ID production. For several years it was considered to be the most reliable database.

³⁴ The number of first-time voters who reached the age of 18 after the previous elections amounts to 24,697 while the voters who were included for the first time in the Central Civil Registry is 8,937.

³⁵ UNMIK Identity cards were issued as of November 2000 to “*habitual residents of Kosovo*” over the age of 16 years upon registration with the Central Civil Registry (CCR). Habitual residents were defined as those persons born, or with one parent born, in Kosovo, or those who could prove that they have resided in Kosovo for at least five years continuously.

³⁶ EU observers in northern municipalities were informed about cases of Kosovo Serbs who faced difficulties in obtaining a Kosovo-issued ID. According to the CRA, applying for a Kosovo ID is possible in only three villages in the northern municipalities, notably Bistrica in Leposavic, Lipa in Zvecan and Caber in Zubin Potok.

³⁷ CEC Decision No. 1935/12.08.2021.

Addressing a recommendation of the EU EEM 2021³⁸ related to insufficient protection of citizens' data in the publication of the Out-of-Kosovo voter list, the CEC decided to replace the date of birth with the year of birth.³⁹

Following a decision of the Ministry of Internal Affairs of 14 July 2021 to extend the validity of Kosovo expired IDs for six months due to the shortage of production, the CEC decided to accept these expired IDs for registration and voting for Out-of-Kosovo voters and for voter identification in the polling stations on election day.⁴⁰ Notably, this decision was not extended to expired Kosovo passports and driving licences.

The accuracy of the voter list was a major point of contention in all past elections, mainly due to the reported large number of deceased persons on the list. A thorough update of the voter list was conducted between the 2019 and the 2021 legislative elections, which led to some 143,000 voters being removed (about 7 per cent of the 2019 list).⁴¹

The analysis of the voter list is hindered by the fact that accurate population data is not available for the Kosovo-Serb municipalities, where the 2011 Census was boycotted. The EU EOM analysis of the data on elderly voters confirms that progress has been made on the removal of deceased persons. However, the clean-up process has not been uniform, with larger municipalities appearing to have been more efficient than smaller ones. Further challenges to the accuracy of the voter list concern the lack of a unique address system in Kosovo, as the Civil Registry Agency (CRA) extracts do not include street codes, and the absence of a standard system that would be used by municipal and central level for street naming.⁴²

Recommendation: Introduce a mechanism for automatic removal of deceased persons from the civil register and database of issued IDs once the CRA has received information from hospitals and religious institutions.

Recommendation: Expedite the development of a unique address system to render more accurate the assignment of voters to polling locations.

While acknowledging that the voter list can be further improved, EU EOM interlocutors did not consider that the lack of accuracy could be instrumentalised for manipulation on election day; it remains however an issue of concern for most stakeholders.

OUT-OF-KOSOVO VOTER REGISTRATION

Permanent residents of Kosovo registered in the Central Civil Registry and residing temporarily abroad, as well as those registered as Out-of-Kosovo voters for the previous elections, could submit an application by email to the CEC to be included in the Out-of-Kosovo voter register for the municipal elections, a burdensome procedure that inevitably leads to errors.⁴³ For these elections, the 40-day registration period for Out-of-Kosovo voters lasted from 10 July to 18 August 2021; the confirmation and objection period

³⁸ To “align the election legislation and the CEC regulations with the Law on Personal Data Protection to provide for protection of citizens’ rights to privacy of their personal data”.

³⁹ CEC Decision No. 2004/24.08.2021.

⁴⁰ CEC Decision No. 1948/12.08.2021.

⁴¹ 133,000 of those removed were holders of old UNMIK ID cards.

⁴² The Cadastral Agency started in 2010 the implementation of a EU-funded project to introduce an address system, which also would create street codes. The project is still ongoing.

⁴³ As several staff of the CECS have stated, the method of Out-of-Kosovo application by email inevitably leads to human error when entering manually the applicants’ data into the system.

was from 24 August to 7 September. The CEC received 18,852 applications, of which it rejected 3,320 because applicants did not fulfil the eligibility criteria, were under 18 years of age, and/or had renounced their Kosovo citizenship.

After withdrawing its contested decision taken during the February 2021 elections to verify all Out-of-Kosovo applications for registration by phone, the CEC adopted another decision to randomly verify only two per cent of all applications. In addition, applications that used the same phone number or email address for applicants with more than two different last names, and also those cases that the CECS found suspicious were verified. Despite CEC's efforts to prevent any fraudulent actions regarding OoK voter registration, this method of verification cannot fully guarantee the integrity of the process.

A total of 1,172 of the rejected applications were submitted by applicants residing in Montenegro from email accounts considered suspicious and that could not be verified, due to repeated phone calls not being answered, phone numbers that did not exist or the persons who answered stating they did not apply.⁴⁴ A total of 583 of these rejections were challenged at the ECAP, which refused 561 and approved 22, ordering the CEC to include these applicants in the Out-of-Kosovo voter list. The EU EOM reviewed 265 of randomly selected ECAP decisions and assessed them as reasonable and justified.⁴⁵

For these elections, the Out-of-Kosovo list contained 15,532 voters, representing 0.82 per cent of the total number of voters.⁴⁶ Registered applicants could vote by mail between 15 September and 15 October for the first round, while for the second round of the mayoral elections, the voting period ran from 29 October to 12 November. To be considered valid and included in the final election result, Out-of-Kosovo ballots had to be received 24 hours prior to election day.⁴⁷ Storage of the envelopes containing the ballot papers until their tabulation at the CRC was provided by the Ministry of Infrastructure.

Recommendation: Modernise the method for registration as Out of Kosovo voter for instance via a link on the CEC website with safeguards such as a two-step verification of the applicants in order to protect against fraud and impersonation.

VIII. REGISTRATION OF CANDIDATES

The candidate registration was inclusive despite some procedural shortcomings, but the law contains disproportionate restrictions contradicting international standards.

⁴⁴ Based on CEC decision no.1977/2021 of 18.08.2021, which enables the rejection of suspicious applicants who cannot be reached through the phone number they provided.

⁴⁵ Notably, out of the 260 complaints rejected, 254 were from Montenegro, while among the rest two were from USA, three from Austria and one from Germany. Only three of them included some supporting documents but the ECAP did not consider them sufficient to substantiate the claim. The ECAP found that the complainants' application to register as a Out-of-Kosovo voters was incomplete and that they did not meet the criteria set in art 5.1.a LGE and art 3.1 of Reg 03/2013.

⁴⁶ Germany with 37.1 per cent of applications and Switzerland with 31.9 per cent accounted for over two thirds of the Out-of-Kosovo voters; the third placed, Austria, accounted for only 5.9 per cent of applications. On the other hand, only twenty Out-of-Kosovo applications were received from Serbia.

⁴⁷ The legality of the requirement for delivery of Out-of-Kosovo ballots after the deadline of 24 hours prior to elections was challenged in the past before the ECAP and the Supreme Court, with the Constitutional Court finally ruling unanimously on 5 January 2021 that the legal deadline for arrival of the votes from abroad was in compliance with Article 55 of the Constitution.

The certification of political entities and candidates was generally smooth and inclusive.⁴⁸ A total of 89 entities have been registered to contest the 2021 municipal elections, including 34 political parties. These entities presented 166 mayoral candidates and 5,199 candidates for municipal assemblies. The three biggest political parties (LVV, PDK and LDK) registered a total of 933 (38 per cent women), 905 (38 per cent women) and 847 (30 per cent women) candidates respectively.

In order to be certified, a political entity had to submit a list of candidates, a set of required documents, and pay a €200 fee per list. In line with international good practice, political entities were also required to collect 100 supporting signatures of registered voters in the municipalities where they intended to compete.⁴⁹ As required by the LGE, the CEC requested a verification of the criminal records of all candidates from Kosovo Judicial Council (KJC), which manages the Central Criminal Records System of Kosovo. This key procedural step revealed some shortcomings, as in a few cases the information on the criminal record arrived late or was never transmitted to the CEC.⁵⁰ For example in the case of Ivan Todosijević who led the *Srpska Lista* for the municipal assembly in Zvečan/Zveçan, the information on his final criminal conviction from June 2021 never reached the CEC, and he was certified as a candidate and won a seat in the municipal assembly. It was only on 23 November, after the announcement of the certified results, that the CEC cancelled his election due to his criminal record.⁵¹

Recommendation: Ensure a mechanism is in place for accurate and timely data transmission by KJC to allow the CEC to conduct an efficient and reliable verification of candidates' criminal records.

The CEC finally excluded 176 candidates because of their criminal records in the last three years, according to the LGE.⁵² This legal provision is at odds with the international standards as it disregards the gravity of the crime⁵³ and in the past was a source of various interpretations as it is also not in line with the provisions of the Constitution and the Criminal Code.⁵⁴ The political entities were allowed to replace the rejected candidates and, with the exception of 16 candidates who were never substituted, the political entities nominated other eligible candidates, and the process was concluded without controversies.

⁴⁸ Entities are political parties, coalitions, citizen initiatives and individual candidates.

⁴⁹ Venice Commission, Code of Good Practice in Electoral Matters art.1.3 “*The law should not require collection of the signatures of more than 1% of voters in the constituency concerned*”. According to the LGE, the political entities that won at least one seat in the previous municipal elections are not required to submit support signatures.

⁵⁰ For example, a candidate for the municipal assembly in Kline with final criminal conviction from August 2021 was initially cleared by KJC, but later decertified by the CEC, before the publication of the final list of candidates and the start of the electoral campaign.

⁵¹ Based on art 29.4 LGE, the CEC could decertify him, as due to the final criminal conviction he was ineligible to stand as a candidate (art 29,1,q).

⁵² LGE, art.29.1.q “*a person found guilty of (any) criminal offence by a final court decision in the past three years*” is not eligible to stand as a candidate.

⁵³ International Covenant on Civil and Political Rights (ICCPR) General comment 25, art.4 “*Any conditions which apply to the exercise of the rights protected by article 25 should be based on objective and reasonable criteria*”; Section I.1.1.d Venice Commission Code of Good Practice in Electoral Matters “*i. provision [...] for depriving individuals of their right to vote and to be elected, [...] must be provided for by law; the proportionality principle must be observed; [...] may only be imposed by express decision of a court of law.*”

⁵⁴ Constitution, art. 45 “*Every citizen of the Republic of Kosovo who has reached the age of eighteen, even if on the day of elections, has the right to elect and be elected, unless this right is limited by a court decision.*” According to the 2019 Criminal Code, art. 60, only those convicted for eleven types of electoral offences or a criminal offence punishable by imprisonment for over two years may be disqualified as candidates for up to four years.

Recommendation: Prescribe candidate ineligibility in the election law only for a final criminal conviction for serious criminal offences and pursuant to a court decision explicitly depriving the convicted individual of the right to stand.

The law also allows ECAP to forfeit a person's eligibility for up to six years in case of committing violations undermining the integrity of elections. These provisions are more restrictive than the ones of the Criminal Code, according to which a court may impose this sanction for up to four years. They are also in contradiction with the Constitution and international standards for democratic elections.⁵⁵

During the certification process, ECAP received 16 appeals, which were all rejected as ungrounded or for procedural flaws. Five rejected candidates further appealed to the Supreme Court (SC), which upheld all ECAP decisions. The EU EOM assessed that the decisions were in line with the legal provisions.

IX. CAMPAIGN ENVIRONMENT

Peaceful campaign which intensified before the runoffs with all fundamental freedoms respected.

THE CAMPAIGN BEFORE THE FIRST ROUND

The election campaign before the first round started on 16 September and lasted for 30 days. Given the high number of COVID-19 infections, several opposition political parties suggested to officially shorten the campaign to five days. The notion, however, was rejected by the ruling party while the CEC did not find legal grounds for such a limitation.

The campaign was generally low-key. Given the pandemic measures and scarce financial resources resulting from an exhausting and costly campaign before the 14 February legislative elections, candidates reduced the scope of their initially planned activities and focused on their social media and TV appearances (debates). Predominantly small, mostly outdoor gatherings, usually with a targeted audience and in respect of sanitary restrictions, were held all around Kosovo. Door-to-door activities were also observed. The campaign intensified two weeks before the elections, primarily in the municipalities where a second round of mayoral elections was expected.

The contestants met by the EU EOM stated that they enjoyed equal rights to freedom of assembly, expression, and movement. While all public meetings and rallies had to be approved by MECs and Kosovo police, EU EOM interlocutors did not express concerns regarding this procedure. According to CEC data, a total of 1,023 rallies were approved, out of which 28 did not respect the COVID-19 measures.⁵⁶

All the campaign events observed by the EU EOM were assessed as calm. EU long-term observers attended 66 campaign events (in 21 municipalities) including 28 rallies and 16 smaller gatherings with voters. 47 of these events took place in urban areas and 19 in rural areas. The EU observers did not witness any instance of intimidation or violence.

⁵⁵ Idem 55 and 56.

⁵⁶ All public meetings and rallies need to be approved by the Municipal Election Officers (MEO) who were also responsible for keeping a record of any serious violations during public gatherings and must have reported them to ECAP. The law prohibits the use of public resources or employees, the intimidation of voters, the use or threat of violence, displaying electoral materials, hate speech and attempts of vote buying.

Mayoral races dominated the decentralised and competitive campaign. While party leaders, high level officials and members of the Kosovo Assembly actively took part in the public events, the campaign was driven by the personalities of candidates rather than the programmes of their parties. The main political entities did not have centralised platforms, except for LVV which reiterated its traditional anti-corruption agenda. The municipal infrastructure was the main topic, followed by health, education, development of agriculture and industry, investment plans and economic development, unemployment, environment and water management as well as the situation in the north. The reciprocity measures for car number plates were often part of the political discourse. Accusations of mismanagement, corruption, lack of transparency, misuse of administrative resources as well as potential electoral fraud, including vote buying, intensified in the second week of the campaign. In a number of municipalities, the competition was tight, and the results were difficult to predict.

Several municipalities did not assign any free public space to electoral contestants and in a few municipalities such spaces were allocated exclusively to outdoor advertising companies.⁵⁷ Contrary to the legal provisions, no MEC reported to ECAP any violations of the campaign regulations.⁵⁸

In the last days of campaign, Prime Minister Kurti and the government ministers were actively campaigning in favour of the LVV candidates, frequently promising investments from the central budget. While the interlocutors from LVV rejected accusations that such actions constituted a violation of campaign regulations, the opposition parties argued that this was a clear misuse of administrative resources. Several large events with up to 600 participants were organised on the last day of the campaign by the prominent mayoral candidates (mostly from LVV) in violation of the sanitary measures. Allegations of vote-buying were reported to the EU EOM, but none could be confirmed.

Following the first round of municipal elections, members of all 38 municipal assemblies were elected as well as 17 out of 38 mayoral candidates who received over 50 per cent of the valid votes. The Kosovo-wide turnout for the 17 October elections was 43 per cent, but in the Kosovo-Serb majority municipalities it was significantly higher at 61 per cent.

⁵⁷ For example Deçan/Deçane and Glllogoc/Glogovac.

⁵⁸ For example MECs in Ferizaj/Uroševac, Glllogoc/Glogovac, Vushtrri/Vučitrn, Skënderaj/Srbica, North Mitrovica, South Mitrovica, Zubin Potok, Zveçan/Zvečan, Leposaviq/Leposavič.

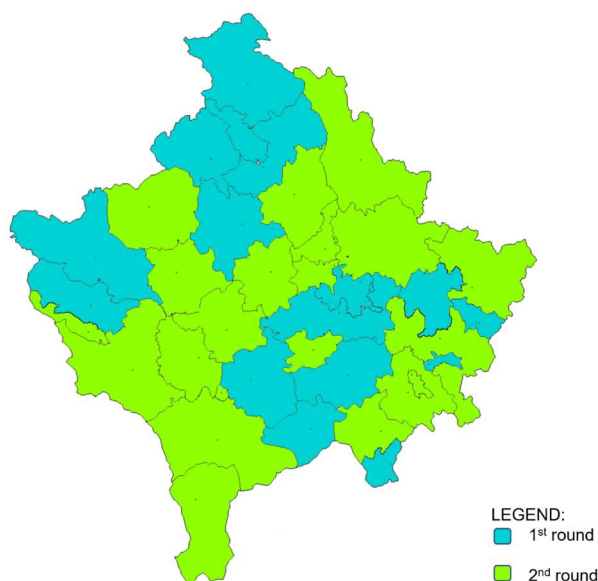


Figure 1. Municipalities where mayors were elected in the first round (in blue) and where the runoffs took place (in green).

THE CAMPAIGN BEFORE THE RUNOFF ELECTIONS

Runoff elections took place in the remaining 21 municipalities, including two biggest cities Pristina and Prizren, between the two leading candidates in each municipality. A multitude of *ad hoc* coalitions among the political entities to support the runoff candidates were concluded between the two rounds. Frequently, these were tactical alliances formed despite ideological divides and disregarding the balance of power at central level.⁵⁹

The runoff campaign officially began on 8 November and lasted only five days until 12 November at midnight, in accordance with the relevant CEC decision.⁶⁰ As the legal framework does not stipulate any sanctions for campaigning outside of this period and the CEC did not take any measures,⁶¹ most of the contestants resumed their campaign activities shortly after the first round, particularly in social media, disrespecting the official 5-day campaign period.⁶²

Recommendation: Introduce measures to enforce the official campaign period limitations for the runoff elections or allow the campaign to start immediately after the first round.

⁵⁹ The parties which were in opposition to the ruling party in the Kosovo Assembly frequently formed coalitions with one another at a municipal level.

⁶⁰ However, this CEC decision was not harmonized with the Law on General Elections (LGE) which stipulates 24 hours campaign silence period before the opening of polling stations at 7.00. As a result, campaigning was observed on online platforms even shortly before 7.00 on 13 November.

⁶¹ According to art.126 of the LGE, the CEC could have issued a regulation defining sanctions and fines for violations of the LGE provisions.

⁶² ECAP rejected the only complaint related to pre-campaign activities on social media (submitted by LDK) explaining that it can only sanction violations of the code of conduct during the official campaign period.

The campaign remained competitive and decentralised, almost exclusively driven by the personalities of candidates rather than the programmes of their political parties. The contestants met by the EU EOM stated that they continued to enjoy equal rights to freedom of assembly, expression, and movement. The municipal infrastructure continued to be the main topic, followed by health, education, agriculture and economic development.

All campaign events observed by the EU EOM were assessed as peaceful although the campaign's tone was somewhat harsher than in the first round, mainly because of mutual attacks between mayoral candidates. Initially, the events were predominantly small, mostly outdoor in squares, parks and cafés. The canvassing intensified two weeks before the second-round election day with larger events held already before the official campaign period. EU EOM observed 42 campaign rallies in 15 municipalities⁶³ during the runoff campaign including several gathering over 500 participants organised in the last days of campaign.⁶⁴ These rallies were conducted in a festive atmosphere, largely ignoring anti-COVID measures. Thirty of these events took place in urban areas and twelve in rural areas. All the observed campaign events were assessed as calm.

Rallies continued to be attended by leaders of the major parties as well as government officials. Members of the Kosovo Assembly engaged in the campaign to the extent that several scheduled Kosovo Assembly's plenary sessions had to be cancelled due to the lack of quorum.

LVV candidates portrayed themselves as the facilitators or even guarantors of funds and projects financed from the central budget. This message was reiterated by the prime minister, ministers and MPs from LVV. Moreover, between the two rounds, the government announced a temporary increase of social benefits for the months of November and December 2021.⁶⁵ While the government presented these measures as a part of the economic recovery package, adopted in June 2021, and a tool to fight the rampant inflation, the timing of this decision provided an undue advantage to the LVV candidates, at odds with international good practice.⁶⁶ Many EU EOM interlocutors raised concerns that these measures amounted to indirect vote-buying and misuse of state resources by the ruling party. The government rejected these claims and informed the EU EOM that a substantial part of the approved bonuses was administered to beneficiaries through the municipalities. Thus, if these measures had any influence on voters, it would have been to the benefit of the incumbent mayors across the political spectrum.

⁶³ According to CEC data, a total of 110 candidate rallies were approved.

⁶⁴ The rallies with over 500 participants observed included: AAK events in Gjakovë/Djakovica, Istog/Istok, and Junik; Democrats for Drenas (DD) meeting in Glogoc/Glogovac; LDK rallies in Gjilan/Gnjilane and Istog/Istok; LVV in Gjilan/Gnjilane, Gjakovë/Djakovica, Pristina and Prizren, NISMA in Malishevë/Mališevo, PDK in Malishevë/Mališevo, Prizren and Vushtrri/ Vuçitër.

⁶⁵ On 27 October, the government approved a onetime €100 supplement to pensions in November and doubled the payments of social aid for November and December. The budget for these measures exceeded €35 million and is expected to benefit some 300,000 families.

⁶⁶ Guideline II.B.1.3 of the 2016 Venice Commission and OSCE/ODIHR [Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) states that “to prevent the misuse of administrative resources to imbalance the level playing field during electoral competitions, the legal framework should state that no major announcements linked to or aimed at creating a favourable perception towards a given party or candidate should occur during campaigns.”

COMPLAINTS RELATED TO ELECTORAL CAMPAIGN

ECAP received 22 campaign-related complaints for both rounds, accepted three of them and imposed a total €14,100 fines on three political parties (LVV, LDK and PDK).⁶⁷ An additional 60 complaints concerned the breaking of the electoral silence and the prohibition to campaign on election day, most of them related to campaign on online platforms. ECAP approved 19 of them and imposed a total of €26,050 fines on six political entities. ECAP generally adjudicated the complaints professionally and in a timely manner, despite an insufficient legal framework regulating the electoral campaign.

X. CAMPAIGN FINANCE

Lack of effective enforcement mechanisms for campaign finance rules lead to limited compliance among contestants and, in turn, to blatant lack of transparency and accountability.

In line with international good practice, the legal framework foresees limits on campaign donations and expenditures but, due to substantial shortcomings, it does not ensure accurate reporting, timely disclosure and meaningful enforcement.⁶⁸ While many EU EOM interlocutors stressed the need for a comprehensive reform, the draft law on campaign finance (pending in the Kosovo Assembly since 2019) which would have contributed to an improvement of the framework has not yet been considered by the current legislature.⁶⁹ Party representatives across the political spectrum shared with the EU EOM their intention to amend the draft law and remove some of the requirements judged too cumbersome, such as the interim reporting of campaign finances prior to election day.⁷⁰ However, such a decision would run counter to the principle of transparency.

In the current legislation, the deadline for reporting campaign income and expenditure is set 45 days after the elections, limiting the possibility of public scrutiny prior to election day. While the spending of individual candidates can be significant,⁷¹ especially for the mayoral race, they are not required to submit separate campaign reports and parties generally do not reflect these expenses in their financial statements.⁷² Unreported spending hampers the transparency of the process and renders the spending limits ineffective. The CEC publishes the parties' annual and campaign reports on its website shortly upon

⁶⁷ This represents a significant decrease in the number of complaints, compared to 2017 local elections when 223 electoral campaign complaints were filed.

⁶⁸ Donations to a single political entity by physical and legal persons are limited respectively to €2,000 and €10,000 annually. Spending limits vary across municipalities, based on the number of registered voters (€0.5 per voter or €0.7 in the least populous municipalities). The average spending limit per municipality is €25,000, with the highest limit in Pristina (some €97,800) and the lowest in Klllokot/Klokot (around €2,600).

⁶⁹ The draft law was positively assessed by the Venice Commission, see [Opinion 922/2018 on the Draft Law on Amending and Supplementing the Law No.03/L-174 on the Financing of Political Entities](#). The draft law has already passed the first reading in two previous legislatures, and will have to pass it for a third time in the current composition of the Assembly.

⁷⁰ Interim reports refer to the disclosure of sources of funding and expenditures during the campaign period, to provide an opportunity for oversight bodies to address any potential problems encountered before election day.

⁷¹ In Deçan/Deçani, a mayoral candidate informed the EU EOM that his campaign spending exceeded the limit. Further, in a [public interview](#) the elected mayor of Pristina suggested that his individual campaign spending, financed by his private company, could be valued between €200,000 and €300,000 which would exceed the applicable limit, set at around €97,800, twice or three times.

⁷² While the law does not contain any explicit reporting requirements for the expenses incurred by individual candidates, most stakeholders interpret the legislation as posing an obligation on the political entities to reflect this type of spending. Although most party representatives agree with this interpretation, they do not implement it in practice.

their reception, compensating for the excessively generous deadline for the publication by political entities. However, it does not provide data in an easily searchable format.⁷³ On most of these aspects, the legislation departs from international good practice.⁷⁴

While the financing of the campaign by third parties remains unregulated, the EU EOM observed that close to one third of campaign ads that circulated on Facebook and Instagram prior to the second round of the mayoral elections were sponsored by third parties.⁷⁵ This raises questions as to whether third-party financing, performed online often under the shield of anonymity, is used by contestants or individuals affiliated to them to circumvent the reporting requirements and spending limits. Undisclosed spending by third parties further diminishes the transparency and accountability of campaign finance and, in line with international good practice, this phenomenon warrants the introduction of reporting requirements (*see* Digital Communication).⁷⁶

Recommendation: The law to prescribe interim reporting of the incomes and expenditures of contestants during the campaign period as well as final reporting within 30 days from the election day. Reporting should include the finances of party-nominated candidates and entities campaigning for contestants (third parties). The law to prescribe a short deadline for the oversight authorities and the political entities to publish all financial reports in an easily searchable manner.

Lack of regular auditing and selective application of sanctions by the CEC resulted in a *pro-forma* oversight of campaign finance and did not provide incentives for contestants to comply with the rules.⁷⁷ The Kosovo Assembly is required to organise financial audits of all political entities on an annual basis. In practice, audits lack sufficient funding, are conducted with several years of delay and only for parliamentary parties, hampering any meaningful verification of parties' finances and timely application of sanctions.⁷⁸ In addition, several EU EOM interlocutors questioned the proportionality and dissuasive

⁷³ Political entities are required to submit the annual reports to the CEC by March and publish them on their own websites by July of the following year. As for the campaign reports, they are required to submit them to the CEC within 45 days and publish them within six months from election day. This does not ensure timely disclosure. While the CEC is required to publish parties' financial statements on its website there is no legal deadline associated to this requirement. Both the CEC and the few parties that publish their reports on their website provide only scanned copies.

⁷⁴ Paragraph 200 of the [2011 Council of Europe's Venice Commission and OSCE/ODIHR Guidelines on the Political Party Regulation](#) states that "*Reports on campaign financing should be turned into the proper authorities within a period of no more than 30 days after the elections. Such reports should be required not only for the party as a whole but for individual candidates and lists of candidates.*" See also paragraph 259 of the [2020 Venice Commission and ODIHR Guidelines on Political Party Regulation](#).

⁷⁵ The EU EOM monitoring of campaign ads on Facebook and Instagram showed that parties and candidates purchased 279 unique ads while third parties sponsored 121. Given that these online platforms do not provide information about the cost of paid ads, it is not possible to estimate the amount of funds spent on this campaign component.

⁷⁶ Paragraph 256 of the [2020 Venice Commission and ODIHR Guidelines on Political Party Regulation](#) states that "[...] *it is important that some forms of regulation, with comparable obligations and restrictions as apply to parties and candidates, be extended to third parties that are involved in the campaign, to ensure transparency and accountability. Third parties should be subjected to similar rules on donations and spending as political parties to avoid situations where third parties can be used to circumvent campaign finance regulations.*"

⁷⁷ While in 2021, the CEC fined political entities who failed to submit their financial statements in time, it did not sanction those who did not publish them on their own websites. Only two out of 28 contestants for the 2021 early legislative elections published the campaign reports and only four made their 2020 annual statements available.

⁷⁸ The budget that should have been used for auditing the campaign reports for the 2021 local elections was exhausted to conduct the long-overdue verification of the financial reports for the past three years (2018-2020), launched in July and concluded in October 2021. According to the Kosovo Assembly representatives, lack of available funding, combined with expected lack of interest from qualified auditors, could again cause significant delays in the conduct of the audit.

power of the available sanctions (mostly fines ranging from €1,000 to €5,000), perceived too low compared to the amounts at stake in the field of party finances.

The scope of oversight is further limited since there is no mechanism to identify unreported funds and oversight institutions lack tools to monitor the spending of contestants in social media, where most parties concentrated their campaign activities (*see* Digital Communication).

Recommendation: Ensure an independent mechanism is in place for effective oversight of party and campaign finances which is given the mandate, the authority, as well as the financial and human resources to effectively and proactively monitor and investigate alleged party and campaign finance irregularities, including unreported income and expenditures, and impose sanctions.

The EU EOM noted limited awareness of, and compliance with, campaign finance rules. While some contestants informed the EU EOM to be unaware of the requirement to open a single bank account, many others indicated that contributions received at the level of municipality remain unreported. Further, the results of the latest audit showed that close to a third of the political entities that took part in the 2019 early legislative elections and around half of the parties with parliamentary representation between 2018 and 2020 did not keep proper financial accounts, preventing auditors from conducting any meaningful evaluation. Lastly, in violation of the legislation, most political entities did not implement any internal financial control.

Given the blatant lack of transparency, numerous interlocutors voiced concerns about the origin of funds spent on the campaign and the longstanding issue of undisclosed financial ties between parties and influential businesses, resulting in preferential awarding of public procurement contracts. While the law forbids donations from businesses which benefit from public contracts, there is no effective mechanism to check compliance with this requirement.⁷⁹ Despite a previous EU EOM recommendation, the cross-checking of donors against a user-friendly database of public procurement contractors has not been enabled.

XI. MEDIA

Media, including both public and private broadcasters, positively contributed to inform voters and granted access to contestants, while IMC sanctioning system lacked clarity and consistency.

MEDIA LANDSCAPE

Kosovo benefits from a pluralistic and lively media environment. The main sources of information are the television alongside social networks and news websites.⁸⁰ The public broadcaster Radio Television of Kosovo (*RTK*) is composed of four TV channels, two radio stations and a news website. *RTK* is not fully independent as it is largely financed by the state budget and without clear rules on how to define its annual budget, making it vulnerable to political influence.⁸¹ In July 2021, the Kosovo Assembly voted to dismiss

⁷⁹ Article 11 of the Law on Financing of political parties bans donations from businesses which serve a public procurement contract, including for a period of three years after it is concluded.

⁸⁰ See [Trust in the media Survey Kosovo 2021 - IPSOS](#)

⁸¹ The Law on RTK (2012) on its Art. 21.4 prescribes that for a provisional period of three-year (2012-2015), until a financing system based on subscriptions would have been introduced, RTK would have received 0.7 per cent of the Kosovo Annual Budget. Since the end of the provisional period, no further measures were introduced and RTK's

the RTK's Board asserting some serious longstanding mismanagement of its budget.⁸² Board members of RTK are appointed with a simple majority by the Kosovo Assembly, potentially leading to a board largely selected by the ruling majority. Nevertheless, the selection process for the new RTK's Board was closely observed by civil society organisations (CSOs) and assessed as transparent, with decisions on candidates taken collegially by a multiparty ad hoc Kosovo Assembly Committee. A draft law aiming at enhancing RTK's financial independence was considered and discussed by the Kosovo Assembly in recent years, but was eventually never passed.

Recommendation: Strengthen the independence of the public broadcaster from possible political interference, by revising its financing system.

Broadcast media contribute to a pluralistic media landscape, with a good number of TV channels reportedly enjoying a considerable national audience rate and offering access to a plurality of views. Though, there are very few media that invest and produce in-depth analysis and investigative journalism.⁸³ The most popular TV channels include *Klan Kosova*, *T7*, *TV Dukagjini*, *RTV21*, *KTV*, *ATV* and *Kanal 10*. Despite the existing pluralism, the Independent Media Commission (IMC) did not develop a regulatory framework to ensure media plurality and prevent concentration in the media market, at odds with international standards. Furthermore, IMC provides limited or no public information on ownership of licensed broadcasters.⁸⁴

Recommendation: Introduce specific regulatory provisions aiming at ensuring media plurality and transparency of media ownership.

The last two print media ceased their publication in 2020. While there are number of news websites active in Kosovo, few of them upheld professional and ethical standards and disclose information on their ownership.

The Kosovo media landscape remains divided between the Albanian and Serbian speaking communities, with almost no media outlets in both languages. The primary source of news for the Kosovo-Serb community is broadcast media from Serbia. There is a limited pluralism within Kosovo-Serb local media as most of them are considered to be close to Serbian authorities and few outlets are independent. Moreover, RTK2, the cable public TV channel in Serbian and non-majority languages is not accessible in the four Serb majority municipalities in northern Kosovo.⁸⁵ This is at odds with national regulations and further reduces access to information for citizens living in those municipalities.⁸⁶

annual budget is decided by the government with no clear criteria. ICCPR, article 19, General Comment 34 para 16 “States parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence.”

⁸² Reports of two Kosovo Assembly Committees in their reasoning for RTK's Board dismissal mentioned, *inter alia*, the lack of transparency of RTK's financial management and its refusal to cooperate with the General State Auditor.

⁸³ An exception is the NGO Balkan Investigative Reporting Network - [BIRN Kosovo](#).

⁸⁴ ICCPR, article 19, HRC GC 34 para 40 “States parties should take appropriate action, consistent with the Covenant, to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views.”

⁸⁵ North Mitrovica/Mitrovicë, Zvečan/Zveçan, Zubin Potok and Leposavić/Leposaviq.

⁸⁶ Art.9.2 of Regulations for the distribution of audio and audio-visual media service providers IMC by-law 2020/01 “Licensees (cable operators) are obliged to distribute free of charge the channels of the public broadcaster, as well as other commercial channels with terrestrial broadcasting which enjoy the status of must-carry.”

LEGAL FRAMEWORK FOR THE MEDIA

The legal framework for the media is generally in line with international standards and provides sound safeguards for freedom of the media. The Constitution guarantees “*freedom and pluralism of media*” and forbids censorship, while libel and defamation are not a criminal offence. The legislation includes laws on protection of journalists’ sources, protecting whistle-blowers and granting access to public information.⁸⁷ Nevertheless, the existing legal framework is often not enforced or it is enforced in a slow and at times ineffective manner, such as for investigation and prosecution by the judiciary of the isolated threats against journalists, or adjudication of lawsuits for defamation. During the election period, journalists were able to freely exercise their profession, except for one major incident not related to reporting on elections.⁸⁸

Broadcast media are regulated through by-laws issued by IMC.⁸⁹ The seven IMC members and three IMC Appeal Board members are appointed with a simple majority by the Kosovo Assembly. Most of EU EOM interlocutors from the civil society consider the regulatory body ineffective in enforcing and developing regulations.⁹⁰ During the observed election period, IMC had only four members out of seven, affecting the regulatory body’s capacity to reach the four-members quorum to take decisions. Moreover, the IMC Appeal Board was not operational as the mandate of one of its three members expired, drastically lengthening any appeal process, and diminishing the right to seek effective legal remedy. The late appointment of IMC members and IMC Appeal Board members by the Kosovo Assembly jeopardises the regulatory body activity.⁹¹

The media coverage of the election campaign is primarily regulated by the LGE, which requires, *inter alia*, broadcast media to ensure fair and equitable coverage to all certified political entities and foresees a minimum amount of free airtime.⁹² The LGE also requires broadcasters to submit to the IMC weekly reports with detailed information on free airtime and paid-for coverage offered to each political entity, including the price. Paid-for content should clearly show that it is paid and by whom, and it is not allowed outside the official campaign period.⁹³ In addition to paid political spots, contestants can purchase airtime from TV channels to air campaign-related videos with no ceiling on the amount of paid political coverage that a broadcaster can air during the election campaign.

The oversight over the conduct of broadcast media by the IMC calls into question its overall capacity to duly enforce election-related regulation. During the two campaign periods, IMC monitored a total of 22

⁸⁷ Civil Law Against Defamation and Insult (2012), Law on Protection of Journalism Sources (2013), Law on Protection of Whistle-blowers (2018) and Law on Access of Public Information (2019).

⁸⁸ On 13 October 2021 in North Mitrovica, several Kosovo-Serb and Kosovo-Albanian journalists covering the clashes between Kosovo police and demonstrators, were threatened and obstructed in their work. The [Association of Journalists of Kosovo \(AJK\)](#) and the [Journalists Association of Serbia \(UNS\)](#) in Kosovo condemned the attack. In 2020, AJK reported ten verbal threats and six physical attacks against media and one journalist being arrest.

⁸⁹ The Law on IMC (2012), which defines its responsibilities, was under revision during the period observed and a new draft law was presented by the government for public consultation on 15 November 2021.

⁹⁰ In June 2021, the IMC Executive Director and the Director of Administration and Finance were arrested by the police on suspicion of corruption further affecting the reputation of IMC. The trial was ongoing during the observed period.

⁹¹ The mandate of two IMC members expired in November 2020 and one in April 2021. One of the three IMC Appeal Board members terminated his mandate in March 2021. A selection process for new IMC and IMC Appeal Board members was ongoing during the observed period.

⁹² Only broadcast media which accepts to air political advertising are obliged to offer a minimum amount of free airtime. Broadcast media can decide when and in what format to grant the free airtime.

⁹³ Art. 2.2 and Art. 14.6 of Commercial Audiovisual Communication, IMC by-law 2017/07 forbid paid political content outside the election campaign period.

TV channels. Despite detecting *ex officio* several violations and notifying the violators, during the first round 30-day long campaign, the IMC held only one meeting to discuss election-related breaches and did not sanction any broadcaster. However, during the five-day official campaign for the runoff, IMC detected violations, held three meetings in one week, and sanctioned violators in a timely manner during the campaign. Most breaches were related to improper labelling of paid political content and use of children in campaign-related paid spots and programmes.⁹⁴ IMC did not sanction TV channels such as *TV Dukagjini*, that throughout both campaign periods repeatedly published and commented on election surveys conducted through their Facebook pages, which were in violation of the legal requirements, potentially misleading voters and damaging candidates.⁹⁵ IMC informed the EU EOM that several broadcasters, including major TV channels did not submit these reports, which should also include prices for paid political content, thus undermining the transparency over political advertising. IMC after the first and second round of elections published reports on its media monitoring indicating that in line with the law broadcasters provided a fairly balanced editorial coverage.⁹⁶

The IMC sanctioning process is not clearly defined and is not effective in the long-run. IMC sanctioned each TV channel with one cumulative fine for different violations committed during each election campaign, including for violations not directly related to the election coverage. This undermined clarity on actual sanctions applied for election-related breaches.⁹⁷ EU EOM interlocutors indicated that generally the amount of fines imposed on broadcasters does not constitute a deterrent from breaching the law.⁹⁸ Moreover, IMC informed the EU EOM that five out of eight broadcasters fined during February 2021 legislative elections, and six out of ten broadcasters fined during 2019 elections did not yet pay their fines. According to IMC, broadcasters take advantage of a lengthy appeal process to the IMC Appeal Board as well as of a similarly lengthy procedure to collect fines by private enforcement agencies.⁹⁹

Recommendation: Appoint in a timely manner all members of the IMC and the IMC Appeal Board through a competitive and transparent selection process to foster independence, oversight and the sanctioning power of the regulatory body.

In line with international good practices, news websites rely on a voluntary based self-regulatory system led by the Press Council of Kosovo (PCK).¹⁰⁰ The PCK receives and adjudicates complaints from anyone who claims to have been damaged by information published by news websites. While EU EOM interlocutors praised the positive role of this self-regulatory body, the PCK faces organisational and financial challenges which affect its overall effectiveness.

⁹⁴ Art. 9.7 of Code of Ethics, IMC by-law 2016/03, forbids the use and presence of children in political promotional content.

⁹⁵ Article 47.5 of LGE, requires opinion polls published by broadcasters to include information “on total number of respondents, the name of the implementing company, the name of the party responsible for it, and the margin of error.”. IMC Guidelines specify that “The terms poll and survey are used to include any reporting of public support measurements or attitudes towards certified political entities, or anything related to elections”.

⁹⁶ IMC published its media monitoring reports on 2nd November and 3rd December 2021.

⁹⁷ On 18 October, IMC sanctioned *RTK1*, *Klan Kosova*, *KTV*, *Kanal 10* and *TV Dukagjini* with €2,000 fine each for various violations, including election related. On 20 October, *RTV21* and *ATV* were fined with €1,000 each for election-related breaches. On 11 November, IMC fined *T7* with €4,000 and *TV Dukagjini* with €3,000 for various violations, including election related, committed during the second-round election campaign.

⁹⁸ IMC informed the EU EOM that for October Municipal elections decided to lower the fines compared to February early legislative elections to take into consideration the financial impact that COVID 19 pandemic already had on broadcasters.

⁹⁹ When the IMC Appeal Board is not operational, broadcasters should appeal IMC decisions to basic courts.

¹⁰⁰ PCK was launched as a self-regulatory body for print media, but over the years all of them turned into exclusively online media. In 2019, PCK amended its Press Code to include news websites. As of November 2021, it counts [42 members](#).

EU EOM MEDIA MONITORING

The public TV channel, *RTK1*, fulfilled its role of public service during both election campaign periods.¹⁰¹ It offered balanced and neutral coverage of contestants in its news and talks shows, though focusing on parties represented on the parliament.¹⁰² *RTK1* positively contributed to inform voters by organising election debates among mayoral and municipal assembly candidates which were well structured and allowed voters to be informed on contestants and on their proposals for governing the municipalities.¹⁰³ Nonetheless, the public broadcaster was not balanced in the campaign coverage provided on its website where it offered more coverage to PDK in the first round, and to LDK in the second round. In line with the law, *RTK* aired voter information spots received from the CEC.

Monitored private broadcasters generally abided by the election law. Yet, they offered a very limited but fairly balanced news coverage. TV channels claimed to not have the capacity to cover local races. Therefore, they contributed to inform voters mainly by organising election debates, interviews with candidates and through political talk shows. Coverage on political talk shows in the first round was overall fairly balanced with TV channels reflecting the pluralistic media environment and giving marginally more space to various parties. *Klan Kosova* offered the most balanced coverage among monitored broadcasters. *TV Dukagjini* offered more space to LVV in talk shows, 36 per cent, which is 24 points more than the third most covered party, PDK with 12 per cent. *T7* devoted most of its coverage, 52 per cent, equally divided between LDK and PDK, while *Kanal 10* offered more coverage to AAK, 26 per cent, over other main parties which received between 15 and 16 per cent each.¹⁰⁴ TV channels invited in their talk shows analysts expressing a plurality of political stances and did not display an outright positive or negative bias towards contestants. Ahead of the second round, the editorial coverage of all monitored private broadcaster focused on LVV and LDK.

Contestants welcomed the access to media provided by numerous election debates organised by private broadcasters, as well as the opportunity to use for their campaign purposes the videos of the debates live-streamed by the TV channels on Facebook.¹⁰⁵ Most debates were well-structured and informative (*TV Dukagjini*, *Klan Kosova* and *T7*), while ahead of the runoffs, they more frequently resulted in candidates resorting to personal accusations rather than addressing their plans for the municipalities, a tendency furthered by the limited moderation of TV hosts, such as in *Kanal 10* debates. In addition to mayoral candidates, election debates organised on *TV Dukagjini* included one woman candidate from each

¹⁰¹ The EU EOM monitored during the election period the prime-time coverage of two public TV channels (*RTK1* and *RTK2*), four private TV channels in Albanian language (*Klan Kosova*, *T7*, *Kanal 10* and *TV Dukagjini*) as well as the prime-time newscast of two local TV channels in Serbian language (*TV Most* and *TV Puls*). The monitoring also included a sample of news websites: *RTK Live*, *Gazetaexpress*, *Telegrafi*, *Koha.net*, *Indeksonline*, *Insjiaderi*, *KoSSev* and *Kosovo-Online*. See *Annex II* for detailed results.

¹⁰² During the first round, *RTK1* devoted 19 per cent of its prime-time news coverage to AAK, 18 per cent to PDK, 17 per cent to LDK and 16 per cent to LVV. During the runoff five-day official election campaign period, *RTK1* devoted 26 per cent of its prime-time news coverage to LVV, 21 per cent to PDK, 20 per cent to LDK and 14 per cent to AAK, fairly reflecting the number of each party candidates taking part in the runoffs.

¹⁰³ While during the first round campaign, *RTK1* was able to organise debates for 25 out of 28 municipalities in the second round succeeded to hold debates only in 2 out of 19 municipalities for which it attempted, as in most cases one of the two contenders did not participate.

¹⁰⁴ It should be taken into consideration that, reportedly, LVV representatives generally refrained from participating in *T7*'s political talk shows, as PDK representatives did for *TV Dukagjini*, alleging a bias towards them from these TV channels.

¹⁰⁵ *Klan Kosova*, *Kanal 10*, *TV Dukagjini* and *T7* during the first-round campaign organised 67 mayoral election debates for most of 28 Albanian majority municipalities, while they succeeded to organise 26 debates for 11 out of 19 Albanian majority municipalities that had a runoff. No debates were organised by *T7* for the second round.

municipal assembly list to increase the very limited media access offered to women running for office.¹⁰⁶ Local TV channels as well organised election debates and invited mayoral candidates, though contestants often preferred to participate in debates organised by the most popular TV channels, based in the capital.¹⁰⁷

In line with the law, public and private broadcasters did not air paid political content outside the election campaign periods, but the EU EOM media monitoring detected other violations of the rules for political advertising during the campaigns.¹⁰⁸ PDK purchased by far most of the paid political content across the monitored broadcasters: 78 per cent during the first-round election campaign, and 68 during the campaign for the runoffs.¹⁰⁹

Monitored news websites offered limited and at times biased news coverage of the campaign.¹¹⁰ Despite the PCK Press Code requirement to clearly distinguish between editorial and paid-for content, EU EOM interlocutors reported the practice by news websites to offer paid coverage to contestants without labelling the articles published in their websites as paid-for.¹¹¹ At odds with international good practice, the political advertising provisions in the election law for broadcast media are not adapted and applied to news websites, thus limiting transparency.¹¹²

Broadcast media in Serbian language reflected a very low-key campaign. *RTK2*, the public cable TV channel in non-majority languages, made effort to be balanced and offered extensive free airtime to non-majority candidates but only few of them made use of this opportunity. Despite the repeated attempts, the public TV channel was not able to hold any election debate as candidates did not show any interest. Monitored local Kosovo-Serb TV channels devoted the great majority of their news to report on the activities of Serbian state officials: 76 and 71 per cent respectively on *TV Most* and *TV Puls*.

XII. DIGITAL COMMUNICATION AND SOCIAL MEDIA

While candidates shared useful information through online platforms, the lack of transparency of paid political advertisement online limited accountability.

Internet penetration in Kosovo is among the highest in Europe. According to the Kosovo Agency for Statistics, 96 per cent of households had access to the Internet in 2020, 95 per cent of population accessed

¹⁰⁶ All election debates on *TV Dukajini* were organised by BIRN Kosovo.

¹⁰⁷ Among the local TV channels that organized election debates there are *TV Besa* and *TV Prizreni* (Prizren) *TV Llapi* (Podujevë/Podujev), *RTV Fontana* (Istog/Istok), *TV Syri Vizion* (Gjakovë/Djakovica), *TV Malisheva* (Malishevë/Mališevo) and *Plus TV* (Viti/Vitina).

¹⁰⁸ Violations such as improper labelling of paid political content and use of children in paid political spot and programs.

¹⁰⁹ The great majority of paid political content during both rounds was composed by paid political programs, 88 per cent, against 12 per cent of short paid political spots.

¹¹⁰ News websites are not bound to any legal requirement to offer a fair and equitable coverage.

¹¹¹ Section XII, Art. 1 [PCK Press Code](#): “Commercial and political advertisements and sponsored materials, including articles and supplements, must be distinguished from editorial content and clearly identified as such.”

¹¹² 2020 Joint Declaration on freedom of expression and elections in the digital age (UN, OSCE, OAS) “Any rules on election spending which are designed to create a level electoral playing field should be applicable to legacy and digital media, taking into account their differences, including rules about transparency of political advertising.”

the Internet through fixed connections and 55 per cent through mobile connections.¹¹³ Nearly 57 per cent used social media as of January 2021.¹¹⁴

Facebook is the leading online platform, followed by Instagram, LinkedIn and Twitter. Facebook was by far the most important social network used by contestants to communicate with the electorate and by public institutions as a main platform to share information. While Instagram is also popular, Twitter is mainly used by journalists, politicians and opinion makers to communicate messages to an international audience. Viber is the most popular instant-messaging app.¹¹⁵

LEGAL FRAMEWORK FOR THE SOCIAL MEDIA

Freedom of expression is a constitutional right, defined according to the general principles of United Nations (UN) and the European Convention on Human Rights (ECHR). In addition, Kosovo has a number of laws that aim to protect freedom of speech and freedom of the press (*see* Media).¹¹⁶ The legal framework provides for a sufficient basis to address incitement to hatred. However, digital communications remain largely unregulated.

The election legislation has remained principally unchanged for over a decade and does not explicitly reflect the increased importance of digital communication in elections. While the legal provisions concerning the misuse of public resources, the electoral silence period, as well as personal data protection are interpreted as applicable to the digital sphere, no provision on the conduct of the campaign online is in place and the dissemination of electoral advertising on online platforms remains unregulated.

Recommendation: Include provisions on electoral advertising on online platforms, and explicitly extend the existing campaigning rules to the digital sphere.

A valuable initiative of civil society organisations also supported by the CEC brought for the first time to the signature of a Declaration for Good Conduct of Political Parties and Candidates on Social Media. Its aim was to persuade political parties to avoid the dissemination of hate speech, disinformation and slanderous language on social networks, as well as to increase accountability of campaign expenditures for digital political ads and enhance transparency of contestants' campaign communication online. However, only a few EU EOM political interlocutors proved to be familiar with it, revealing that the low number of signatories limited the efficacy of the effort.¹¹⁷

¹¹³ EU progress report for Kosovo 2021

¹¹⁴ We Are Social / Hootsuite, Digital 2021, [Kosovo report](#)

¹¹⁵ [Messaging App Usage Statistics Around the World - MessengerPeople by Sinch](#)

¹¹⁶ The Constitution (Art. 40, para. 2) and the Criminal Code (Art. 141) provide for the legal basis to address incitement to hatred, further addressed by the Law on General Elections that prohibits the use of inciting or provocative language, as well as the encouragement, support or approval of threats of violence or intimidation during the electoral process (Law No. 03/L-073 on General Elections in Kosovo, Art. 33 and 34).

¹¹⁷ Only 6 parties (LDK, PDK, LV, SDU, AKR and NISMA), 6 media (KosovaLive, Telegrafi.com, Kosovo-Online.com, Reporter.net, Komisioni i Mediave te Shkruara te Kosoves and Ballkani.info) and 8 NGOs (Demokraci +, Levizja FOL, Bashkimi Rinor e Ardhmja e Nditur, NGO Aktiv, Young Active Gracanica, Instituti Kosovar i Drejtesise, D4D and Voice of Roma Ashkali and Egyptian) signed the [Declaration for Good Conduct of Political Parties and Candidates on Social Media](#) before the start of the campaign period.

SOCIAL MEDIA MONITORING FINDINGS

The EU EOM monitored the online election-related content from the beginning of the campaign for the first round until the runoff elections using a quantitative approach to analyse a sample of Facebook and Instagram posts published by mayoral candidates, parties, third-party pages, as well as by institutional actors.¹¹⁸

All parties campaigned mostly through their main Facebook pages and pages administered by their municipal branches, as well as through official and personal accounts of their candidates. To a lesser extent, Instagram was also used to campaign. Only a few candidates shared electoral content on other platforms. Overall, LVV was the most active party, followed by PDK and LDK. Online platforms were mainly used by contestants to promote their policies and to mobilise the electorate, but also to announce online and offline events, as well as participation of candidates in TV and radio programmes and voter information messages.

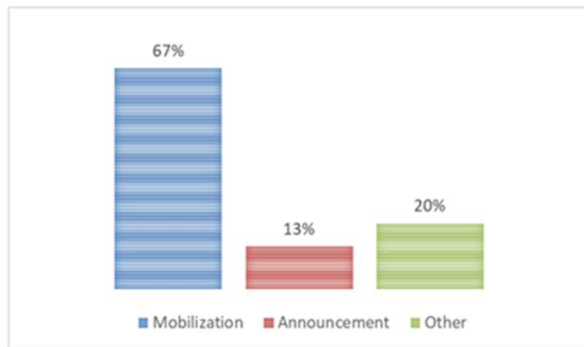


Figure 2. First round - Facebook, purpose of the post.
Base: "mobilization" 656, "announcement" 121, "other" 198.

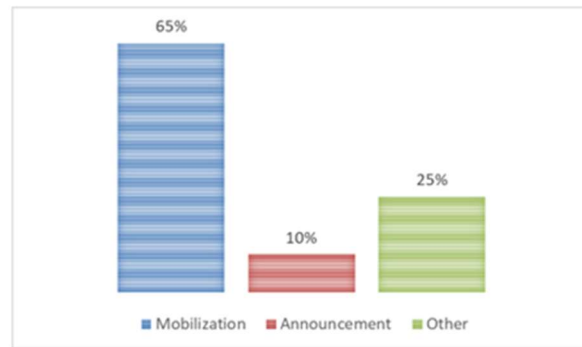


Figure 3. Second round - Facebook, purpose of the post.
Base: "mobilization" 717, "announcement" 108, "other" 283.

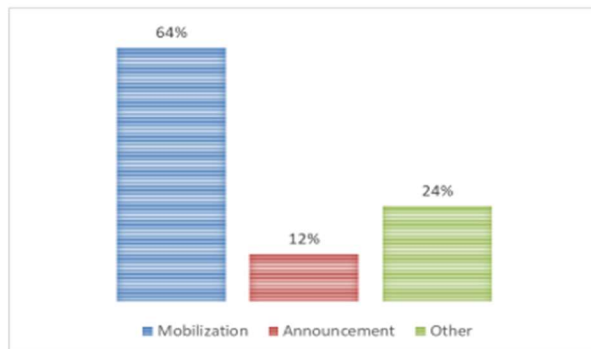


Figure 4. First round - Instagram, purpose of the post.
Base: "mobilization" 370, "announcement" 67, "other" 141.

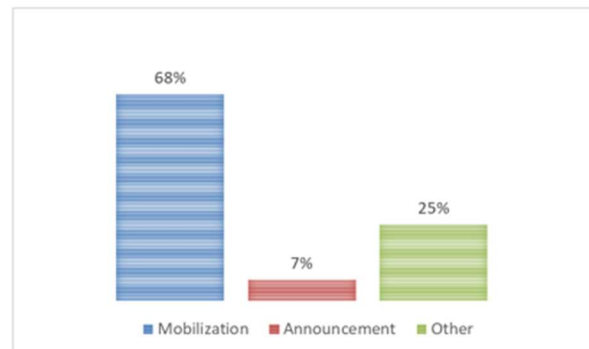


Figure 5. Second round - Instagram, purpose of the post.
Base: "mobilization" 294, "announcement" 32, "other" 104.

¹¹⁸ A random sample of 975 Facebook posts and 578 Instagram posts published by 534 Facebook public pages and groups and 145 Instagram accounts was examined during the first-round campaign. For the runoffs, the sample was adjusted to the smaller list of contestants involved in the race and consisted of 1108 Facebook posts and 430 Instagram posts published by 234 Facebook public pages and groups and 58 Instagram accounts (see *Annex III*).

With the exception of a few isolated instances of suspected violations of campaign rules by candidates on their Facebook and Instagram accounts, the applicable legal framework was generally respected.¹¹⁹

Campaigning online resumed immediately after the first round, long before the beginning of the official campaign period. In contrast with the calm rhetoric observed in the first-round, the tone became more negative during the runoffs. Some candidates addressed opponents with harsh language, at times attempting to delegitimise them. A continuous increase of Facebook ads by candidates, parties and third parties was observed between the two rounds. An analysis of their content showed that, while candidates generally used online ads to promote their programs, third-party ads were largely used to discredit contestants, including with personal accusations.

Although online paid ads appeared to be used widely, the absence of transparency rules undermined accountability (*see* Campaign Finance). Google transparency report for political ads is not available for Kosovo, thus campaign-related ads running across its products could not be comprehensively tracked and assessed.¹²⁰ In a welcome step, Meta made available the political component of its public transparency tool Ad Library in February 2021. However, it did not establish a requirement for political advertisers to register in order to place electoral ads on its platforms.¹²¹ As a result, its public repository provided access to electoral ads only on the day of their circulation and did not provide detailed information on the amount spent for the ads, their contributors as well as on the outreach of ads across multiple demographic indicators.¹²² A systematic monitoring activity of political ads on Facebook and Instagram by the EU EOM social media unit showed that this limited the users' ability to analyse the sources of paid political information spread through Meta products.¹²³ The adoption of social media advertising archives would enable a degree of scrutiny of paid content, in line with international standards for transparency and access to information.¹²⁴

¹¹⁹ Suspected violations were in relation to the use of children's image and religious figures to campaign, as well as the prohibition to use public resources for campaign purposes.

¹²⁰ Google, which owns YouTube, maintains ads archives only in Australia, the EU, India, Israel, New Zealand, Taiwan, UK and the US.

¹²¹ For Kosovo, political advertisers are only "encouraged" to become authorised. The EU EOM could identify only three candidates registered and disclosing a "paid for by" disclaimer on the ads specifying who paid for them.

¹²² While in the large majority of cases these contents remained active for several days, it is not possible to assess how many people were reached when advertisers are not required to register to boost content and Meta does not maintain public ad archives, like in Kosovo.

¹²³ The EU EOM social media unit tracked manually paid electoral advertising on Facebook and Instagram on a daily basis. Between the two rounds, the EU EOM identified and analysed 279 electoral ads spread by candidates and parties and 121 electoral ads boosted by third parties without any "paid for by" disclaimer.

¹²⁴ UN, article 7.4: "Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency [...]"; UN CAC, article 7.3: "Each State Party shall also consider taking appropriate legislative and administrative measures, [...] to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties" and article 13(b) "Each State Party shall... ensure that the public has effective access to information."; [Joint declaration on freedom of expression and elections in the digital age by UNHRC, OSCE and OAS](#), "Recommendations to States, Access to Information Relating to Elections: ii) Parties and candidates should be required to be transparent in a timely fashion, including to the media, regarding their spending on elections and, in particular, spending on legacy and digital media, and other digital communications efforts." Also see: [European Democracy: Commission sets out new laws on political advertising, electoral rights and party funding](#), European Commission Press Release, 25 November 2021.

Recommendation: Foster the cooperation between the election administration and main digital providers to encourage the adoption of mandatory archives for online electoral ads with a view to increase transparency and accountability of campaign spending. A regulation could be introduced for political entities and candidates intending to conduct campaigning on online platforms to register as political advertisers.

While candidates shared useful information through online platforms, the EU EOM observed that opaque Facebook pages were used to address contestants with a negative rhetoric through misleading content.¹²⁵ Several of these pages deceptively presented themselves as media without providing accurate information to verify their authenticity, some were created in the six weeks before the runoffs and some others changed their names several times since their creation.¹²⁶ While not being part of the candidates' official campaign they contributed to generate information disorder, by disseminating deceptive electoral ads discrediting contestants with no transparency about who paid for this content. These pages aimed at misleading voters, weakening their ability to discern their sources of political information to make a fully informed decision and thus adversely affecting their right to form opinions on political matters free from manipulative interference.¹²⁷

While Facebook does not allow misrepresentation about the ownership or control of a page, the creators of a page are not required to prove their identity and the mission was informed that Facebook does not verify that the contact information made available through the "About" section of a page is accurate.¹²⁸ Strategic cooperation among stakeholders in developing fact-checking programs in election periods would positively contribute to foster a safer digital campaign environment. However, the EU EOM observed that active fact-checking initiatives were few and not consistently focused on debunking campaign-related matters.¹²⁹

¹²⁵ A video boosted by the page Podujeva Post from 3 until 14 November which falsely claimed that the party LDK had made an alliance with the party Srpska Lista for the first round touching upon the sensitive issue of ethnic divisions registered above 630.000 views. In an environment where voters follow ethnic lines, such a statement might have affected the voters' choice. In another post boosted for the last three days before the runoffs by the same page which content was [debunked](#) by the online portal Kallxo.com, one party was accused of vote-buying. Kallxo.com is part of the Poynter Institute's International Network for Fact Checkers (IFCN).

¹²⁶ The EU EOM identified 20 opaque Facebook pages, half of which claimed to be news sources without providing accurate details to verify their authenticity. These pages were used to boost 60 deceptive political ads conveying a negative rhetoric. All stopped spreading political ads after 14 November, four stopped being accessible on the day after the elections and, at the time of writing this report, 12 have been inactive since then.

¹²⁷ See United Nations (UN) Human Rights Committee General Comment No. 25 paragraph 19: "*Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.*"

¹²⁸ "*In line with our commitment to authenticity, we do not allow people to misrepresent themselves on Facebook, use fake accounts, artificially boost the popularity of content or engage in behaviours designed to enable other violations under our Community Standards. [...] Do not: [...] Conceal a Page's purpose by misleading users about the ownership or control of that Page*", [Facebook Transparency Centre](#).

¹²⁹ [Joint declaration on freedom of expression and "fake news", disinformation and propaganda](#) by UN, OSCE, OAS and ACHPR states that: "*All stakeholders – including intermediaries, media outlets, civil society and academia – should be supported in developing participatory and transparent initiatives for creating a better understanding of the impact of disinformation and propaganda on democracy, freedom of expression, journalism and civic space, as well as appropriate responses to these phenomena.*"

XIII. PARTICIPATION OF WOMEN

The very low number of women in the mayoral races reflected the harsh reality of women's political participation in Kosovo, confirmed also by the election results.

The principle of gender equality is enshrined in the Constitution of Kosovo and key human rights instruments that uphold women's rights and gender equality apply directly, superseding local laws. According to the LGE and the LLE, a gender quota of at least 30 per cent of the less represented gender is applicable, both for the certification of political entities and distribution of municipal assembly seats as well as in the Kosovo Assembly.¹³⁰ However, this does not correspond to the 50 per cent quota for all legislative, executive, and public institutions required by the 2015 Law on Gender Equality.¹³¹

For the 2021 mayoral elections, a total of 14 candidates were women (8 per cent) but only two were placed in the strongholds of their political parties (in Gračanica/Gračanicë and Ranilug/Ranillug); both were elected, representing SL.¹³²

A total of 1,937 women (37 per cent) ran for municipal assemblies in respect of the minimum 30 per cent gender quota, and 36 of them (12 per cent) headed their lists. Only 364 women were elected (36 per cent) – 221 elected through the votes received (61 per cent of all women elected) and 143 due to the quota mechanism (39 per cent).¹³³ Among the biggest parties, LVV and PDK registered 38 per cent women candidates for municipal assemblies, and LDK 30 per cent. Despite nominating the required number of women candidates, political parties, which are overwhelmingly male dominated, have not yet seriously addressed the issue of gender inequality in their programmes and statutes, and are far from fulfilling the legal obligations deriving from the Law on Gender Equality.¹³⁴

Recommendation: Political parties to consider adopting internal policies to promote women's participation and integrate gender issues into party platforms.

Only one of the 11 CEC members is a woman, while the total number of women MEC members was 46 out of 243 (19 per cent) and there were only five women MEC Chairs.¹³⁵ In these elections, for the first time, the CEC invited civil society organisations to submit women nominees for 16 MECs where the political entities did not respect the Declaration of September 2015 and did not propose women.¹³⁶ However, only 18 per cent of the PS visited by the EU observers during both rounds had a woman as PSC Chair. Women members of PSC were noted in only 31 per cent of the polling stations visited during the

¹³⁰ For the municipal assembly, the seats are first allocated to a political entity according to election results. But if this allocation does not respect the 30 per cent minority gender quota, then according to the law, the last elected candidate of the majority gender will be replaced by the next eligible candidate of the minority gender in order to reach the 30 per cent quota.

¹³¹ Article 5, para. 2, Law on Gender Equality “Any provision which is in contradiction to the principle of equal treatment under this Law shall be repealed”. Article 6, para. 8, Law on Gender Equality “Equal gender representation in all legislative, executive and judiciary bodies and other public institutions is achieved when ensured a minimum representation of fifty percent (50%) for each gender, including their governing and decision-making bodies”

¹³² None of the outgoing mayors was a woman.

¹³³ For the 2017 municipal assembly elections, 67 per cent of women won due to the quota, while 33 per cent were directly elected.

¹³⁴ Article 14, Law on Gender Equality “Political parties with their acts are obliged to implement measures to promote equal participation of men and women at authorities and bodies of the parties”.

¹³⁵ These were the MECs of Istog/Istok, Pristina, Shtime/Štimlje, Fushe Kosovo/Kosovo Polje and Zubin Potok.

¹³⁶ The Declaration of September 2015 was signed by 16 political entities for gender balanced nominations at central, municipal and polling station level. The LGE lacks provisions to ensure female participation in the election administration.

first round, and in only 25 per cent observed during the runoffs. Over 20 per cent of PSC observed in both rounds had no woman among their members.

The legal provisions related to the replacement of the members of the municipal assemblies or of the Kosovo Assembly by the next eligible candidate “of the same gender” were declared by the CC¹³⁷ as incompatible with the Constitution and ECHR and would need to be amended to be fully in line with international standards.¹³⁸ The CC decided that the replacement of candidates for deputies should be done respecting first the 30 per cent gender quota and, if the quota has been met, then the seat will be allocated according to the votes received.

XIV. PARTICIPATION OF COMMUNITIES

While the voters voted along ethnic lines, the elections in the municipalities with Kosovo-Serb majority were monopolised by SL which limited voters’ choice.

In addition to the “majority” Kosovo-Albanians, the “non-majority” communities are Kosovo-Serbs, Kosovo-Turks, Kosovo-Gorani, Kosovo-Bosniaks, Kosovo-Roma, Kosovo-Ashkali and Kosovo-Egyptians.

Kosovo has a comprehensive legal framework on the rights and protection of non-majority communities that is aligned with international human rights standards. Special protection mechanisms are in place for the representation of non-majority communities, such as reserved seats in the Kosovo Assembly, special municipal bodies such as the Deputy Mayor for Communities and Deputy Chairperson of the municipal assembly, deputy prime minister and ministers. Out of 38 mayors elected in 2017, 27 were from the Kosovo-Albanian community, ten from the Kosovo-Serb and one from the Kosovo-Turk community. The situation was replicated in these elections once again confirming that voters made their choices mainly along the ethnic lines.

Statistics concerning the ethnic composition of Kosovo are controversial and contested by the communities. They were further distorted by the fact that a vast majority of Serbs boycotted the last 2011 census according to which the Kosovo-Albanians constituted 92.9 per cent of the population, Kosovo-Bosniaks 1.6 per cent, Kosovo-Serbs 1.5 per cent, Kosovo-Turks 1.1 per cent, Kosovo-Ashkali 0.9 per cent, Kosovo-Egyptians 0.7 per cent, Kosovo-Gorani 0.6 per cent, Kosovo-Roma 0.5 per cent and others 0.1 per cent. Total population according to that census was 1,739,825 people. The new census was scheduled this year but it was postponed due to the pandemic.

Non-majority candidates campaigned almost exclusively in their communities. *Srpska Lista* has monopolised the political life in municipalities where Kosovo-Serbs are in majority thus limiting political competition and voters’ choice. In four municipalities,¹³⁹ SL’s candidate was the only Kosovo-Serb candidate running for mayor. Also, in four municipalities,¹⁴⁰ SL was the only Kosovo-Serb list in the race for municipal assemblies. Instances of intimidation and direct (often collective) pressure by SL candidates

¹³⁷ CC Judgement AGJ 1739/21, from 29 March 2021, in cases KI 45/20 and KI 46/20.

¹³⁸ ICCPR, Article 25, “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives.”

¹³⁹ Leposavić/Leposaviq, North Mitrovica, Novo Brdo/Novobërdë, Ranilug/Ranillug.

¹⁴⁰ Gračanica/Graçanicë, Leposavić/Leposaviq, Novo Brdo/Novobërdë, Ranilug/Ranillug.

and activists were mentioned by several EU EOM interlocutors. This pressure mainly consisted of threats of losing economic advantages (including jobs). None of these allegations could be confirmed.

A total of 188 members of the municipal assemblies were elected from non-majority parties including 147 members of SL, 11 KDTP and 6 from Kosovo Turk Justice Party, others being members of smaller political entities. There were very few examples of candidates from non-majority communities who were running from the lists of Albanian parties.

The Rise Roma Kosovo (ORK) movement led by five CSOs have launched a series of activities to educate Kosovo-Roma, Kosovo-Ashkali and Kosovo-Egyptian communities on the importance of voting, vote fraud, vote by conviction, political participation as well as human rights and antidiscrimination. The main objective was to prevent reportedly widespread practices of vote buying among these communities. “Public hearings” of the candidates by Kosovo-Roma, Kosovo-Ashkali and Kosovo-Egyptian voters took place in nine municipalities prior to election day. Over fifty observers were following the election day activities in the first round and around 30 in the runoffs.

Not all of these initiatives were as visible as expected and did not reduce the vote-buying according to the EU EOM interlocutors, but they certainly constitute a step forward as far as countering vote-buying in these vulnerable groups is concerned.

XV. PARTICIPATION OF PERSONS WITH DISABILITIES AND OTHER VULNERABLE GROUPS

More efforts are necessary to facilitate voters with disabilities to exercise their rights.

The Constitution prohibits discrimination based on disability and several human rights instruments that protect the rights of persons with disabilities are directly applicable. Although Kosovo is not a signatory to the UN Convention on the Rights of Persons with Disabilities (CRPD), it has adopted the CRPD’s definition of disability in its National Disability Action Plan, which aims to align Kosovo’s legislation with the CRPD and other international instruments.

Persons with disabilities are included among the persons with special needs who can register as homebound voters and, in several municipalities, disability organisations provided significant assistance in their registration.

The EU EOM social media monitoring unit observed a few LDK, PDK and LVV’s campaign posts targeting voters with disabilities on Facebook and Instagram. The CEC included sign language in voter education messages and continued to provide tactile ballot papers as well as candidates’ booklets in Braille. For the first time, a lower voting booth was available for people in wheelchair or the elderly in many polling stations. However, during the first round, the EU observers reported that only 67 per cent of the polling stations visited were accessible to voters with reduced mobility, while their layout was suitable for voters in a wheelchair in 78 per cent. During the runoff, the EU teams noted that only 65 per cent of polling stations observed were accessible for voters with reduced mobility, while the polling station layout was suitable for voters in wheelchair in about 85 per cent of polling locations visited. Tactile ballot papers were not available in 33 per cent of polling centres visited.

Recommendation: Adopt and transpose the UN CRPD into the Constitution, so as to give effect to the rights guaranteed therein.

XVI. CIVIL SOCIETY AND INTERNATIONAL OBSERVATION

Thousands of domestic short-term observers representing political entities and, to a lesser extent, civil society observed polling and counting, thus enhancing transparency.

For the first round, the total number of accredited observers and media amounted to 24,593 of whom 23,092 represented political entities; no problems were noted in the accreditation process.¹⁴¹ Out of 768 citizen observers, some 100 were from Democracy in Action (DiA), the main domestic non-partisan observation coalition, which this time did not conduct any comprehensive observation of the election process due to limited funds.

Altogether, 216 international observers were accredited, including from the EU EOM, European Network of Election Monitoring Organizations and several embassies.

During the second round, the DiA coalition deployed some 100 citizen observers on election day, as in the first round. Only half of the observers of civil society organisations accredited for the first round confirmed to the CEC their participation for the second round, while 12 new CSO observers were accredited. Political entities accredited 814 additional observers and had to confirm to the CEC their representatives already accredited for the first round.

XVII. ELECTORAL DISPUTES

The complaints and appeals process was generally conducted in a transparent and impartial manner, despite a very short adjudication deadline. Several loopholes and anomalies in the legal framework remain to be addressed.

The ECAP adjudicates all election complaints and appeals except for challenges to the voter list and media-related complaints. It is composed of ten judges, including the chairperson, who is appointed from amongst the judges of the Supreme Court (SC). Complaints and appeals can be filed at various stages of the electoral process by anyone who has a legal interest or whose electoral rights have been violated.¹⁴² However, the legal framework contains confusing and contradictory provisions, scattered in various chapters of the LGE, concerning certain deadlines for complaints and appeals.¹⁴³ According to the law, complaints and appeals can be filed within a 24-hour deadline to ECAP, which has 72 hours to reach a decision. An appeal can further be filed within 24 hours to the SC, the final instance, which has 72 hours to decide.

¹⁴¹ As per article 54.1 of the LGE, “certified political entities, NGOs and governmental and inter-governmental organisations as well as international organisations (...) have the right to request the accreditation of observers”; therefore, the law does not make a distinction in the use of the word “observers” based on whether they represent a political entity or civil society organisation.

¹⁴² Candidates, political entities, voters.

¹⁴³ According to art. 122.1 of the LGE, appeals against CEC decisions must be filed within 24 h after the announcement of the CEC decision, whereas art.10 of ECAP rules of procedure set a five-day deadline for the same appeals.

These deadlines were assessed by all EU EOM interlocutors as extremely tight, both for the parties to gather strong evidences and for the appeal bodies to assess and examine them comprehensively.¹⁴⁴

Recommendation: Extend the deadlines for filing an election complaint or appeal, and for ECAP and the SC to adjudicate them (three to five days both for lodging complaints and appeals and for their adjudication).

There is an anomaly in the legal framework concerning the timeframes for dispute resolution and the announcement of results. The law does not provide for appeals against the final results, but only for complaints related to voting and counting in the polling stations and the tabulation process at the CRC.¹⁴⁵ These should be filed within a 24-hour deadline with ECAP,¹⁴⁶ which then has 72 hours to decide. However, this creates difficulties for ECAP which would have to assess the impact of the alleged violations on the final election results before results are published by the CEC. ECAP acknowledges this anomaly and, in practice, rejects such complaints as inadmissible or premature but allows the complainants to resubmit them after the CEC announces the final results.

Recommendation: Include provisions on challenging the final election results published by the CEC. Clarify the ambiguities concerning the complaints related to voting, counting, the CRC process and their respective deadlines.

The adjudication process was generally conducted by ECAP and the SC in a transparent and impartial manner. ECAP was able to deal with a high number of referrals, especially for the municipal assembly elections, within the very tight legal deadlines. Certain ECAP decisions ordering a significant number of recounts for the municipal assembly elections, cancelling the Out-of-Kosovo ballots for one municipality, annulling the municipal elections in another one, revealed certain weaknesses in the legal framework which need to be addressed to better protect the fundamental right to vote. All complaints, appeals and decisions were published on ECAP's website, although the accessibility could be more user-friendly.

Regarding voting, counting and the tabulation process, a total of 60 complaints were filed with ECAP following both rounds of elections, before the publication of the final results. ECAP rejected 37 of them as inadmissible and one for submission after the deadline.¹⁴⁷ Thirteen complaints were rejected as no relevant evidence was submitted, and in six cases ECAP partially accepted the complaints and sanctioned some of the PSC members for minor irregularities. Only three of these complaints were approved by ECAP. In two of the cases, the EU EOM concluded that ECAP's decisions were not fully in line with the law but both were rectified by SC's judgements after appeals.

In a first case, ECAP surprisingly cancelled the mayoral election results in Hani I Elezit/Elez Han due to alleged vote buying and pressure on voters by the PDK mayoral candidate. The complaint was not well adjudicated by ECAP as the evidence provided by the complainant was weak and ECAP's legal reasoning scarce. The decision was annulled by the SC and a new ECAP panel fined PDK with €10,100 for breaking the electoral silence. The SC upheld the decision.

¹⁴⁴ Venice Commission, Code of Good Practice on Electoral matters, Guideline II 3.3. g, Explanatory Report, para. 95. "Time-limits for lodging and deciding appeals must be short (three to five days for each at first instance)".

¹⁴⁵ Final election results refer to the preliminary results, according to the terminology used by the CEC.

¹⁴⁶ 24 hours from the closing of the voting centre or from when the complainant became aware of the alleged violation, respectively.

¹⁴⁷ The complainants were allowed to resubmit them after the CEC announcement of the final results.

In a second case, ECAP approved the PDK complaint concerning the mayoral elections in Dragash/Dragaš and, following an investigation, annulled all the Out-of-Kosovo ballots due to manipulation practices (*see* Results' tabulation).¹⁴⁸ This reversed the final election results, as ECAP did not order to repeat the Out-of-Kosovo voting in this municipality as provided by the law.¹⁴⁹ The legal basis of the decision was not clearly indicated and some of the reasons for invalidation were not foreseen in the legal framework.¹⁵⁰ The SC ordered the CEC to repeat Out-of-Kosovo voting in this municipality. This case demonstrated the weak legal framework for the Out-of-Kosovo voting, which lacks, *inter alia*, comprehensive rules for the invalidation of Out-of-Kosovo envelopes and essential safeguards for the protection of the votes.

ECAP also approved a complaint of GI *Srpska Narodna Sloga* against *Srpska Lista* in Klllokot/ Klokot for vote-buying and intimidation practices between the two rounds of elections and fined *Srpska Lista* with €10,100. The SC upheld this decision.

Only seven appeals were filed with ECAP against the CEC decision on the final results for both rounds of the mayoral elections, concerning various inconsistencies or alleged manipulation of the results. Five of them were rejected by ECAP as ungrounded, one as *res judicata* and one was approved.¹⁵¹

The biggest number of appeals concerned the final results for the municipal assembly elections, against which 352 appeals were filed with ECAP due to claims of counting errors or various discrepancies between the polling station results forms and the CEC final results. ECAP issued 92 decisions for 630 recounts, including almost full recounts in Podujevë/Podujevo and South Mitrovica.¹⁵² However, according to the EU EOM analysis of results, in many cases, the scale of errors claimed by the complainants would have been insufficient to overturn the outcome, and the evidence provided was sometimes limited or not clearly described in the legal reasoning of the decision.¹⁵³ The recounts led to changes in the results in three cases.

After the exhaustion of all legal remedies (at ECAP and SC), in case of violations of individual rights and freedoms, complainants can still refer the case to the CC, within a four-month deadline from the SC decision. In practice, through several decisions, the CC has ruled on the application of unclear LGE provisions, concerning for example the deadline for receiving Out-of-Kosovo ballots, the procedure for

¹⁴⁸ It concerns 308 Out-of-Kosovo ballots received in 132 packages of envelopes sent by post from Austria, Slovenia, Switzerland and Germany, France. ECAP considered that the voting was organized in an illegal way, as the stamps on the envelopes had approximately the same time and date, and various packages had the same handwriting on them (Nine out of 94 packages from Austria, five out of 11 packages from Germany, 19 out of 25 packages from Switzerland).

¹⁴⁹ According to art. 120.1.b, LGE, while cancelling the results of a certain polling station or centre ECAP should also order CEC to repeat the voting.

¹⁵⁰ 24 ballot envelopes were from addresses different than the one indicated as residence when the voters registered, and this was considered illegal by ECAP. However, the law is silent on the matter.

¹⁵¹ One appeal was filed by GI *Srpska Narodna Sloga* against *SL* in Klllokot/ Klokot, denouncing vote-buying during the first round of the mayoral elections, by four persons who were arrested for this electoral offence and are currently under indictment. ECAP approved it and fined *SL* with €8.100. The SC upheld the decision.

¹⁵² The remaining appeals against the final results for the municipal assembly elections were rejected by ECAP generally for lack of evidence. Against these decisions, 26 appeals were filed to the SC, which rejected 24 of them as ungrounded. Only one was accepted and the SC ordered the CEC to verify the votes won by the appellant Dardan Krasniqi (Democrats for Drenas), in the municipality of Glllogoc/Glogovac, due to discrepancies between the number of votes the appellant had in the CRFs and the final results published by the CEC. However, following this verification the results did not change.

¹⁵³ The EU EOM analysis of the 92 ECAP decisions approving recounts indicates that: in 11 per cent of the cases the appellant already won a seat in the MA based on the final results; the difference in the number of voters between the appellant and the last eligible candidate who got a seat in the MA was between zero and ten votes in 14 per cent of the cases, between eleven and fifty votes in 22 per cent of the cases, and more than 51 votes in the rest of the cases.

replacement of deputies and certain conditions for the certification of candidates. These rulings could be included in a future electoral reform to avoid unconstitutional applications of the law by the CEC and the appeal instances.

XVIII. POLLING AND COUNTING

A well-organised voting, but counting and especially the completion of results forms were characterised by difficulties in half of the polling stations visited.

FIRST ROUND OF MAYORAL AND MUNICIPAL ASSEMBLY ELECTIONS, 17 OCTOBER 2021

On Election Day¹⁵⁴, EU observers reported from some 385 polling stations in all 38 municipalities. Overall, voting was conducted in a calm and orderly manner and election day was assessed by EU observers as very good or good in 99 per cent of polling stations visited.

The opening of polling stations was observed in 41 polling stations in 28 municipalities. Some 22 per cent (9 PS) of the polling stations visited opened with a delay of 10 minutes, while only one opened with a delay of thirty minutes. Campaign material was present within 100 metres of the vicinity in four per cent of the polling stations visited.

During voting, procedural problems were noted in two per cent of polling stations visited, such as not properly checking for ink upon entering the polling station; this however did not affect the overall integrity of the polling. Notably, in 78 out of the 385 polling stations visited, voters with expired IDs were not allowed to vote, contrary to the relevant CEC decision. This indicates deficits of the training. In only 18 per cent of observed polling stations as the PSC Chair was a woman while in 20 per cent of these stations there was no woman among the PSC members.

Assisted voting was observed in 72 per cent of polling stations visited. The reason for assistance was noted in the poll book as required in 92 per cent of those polling stations.¹⁵⁵ In nine per cent of the polling stations visited, group/family voting was observed. EU observers reported the presence of political party' observers in 92 per cent of polling stations visited and of domestic non-partisan observers in only 14 per cent.

No instances of tension were observed, except from a polling centre in Mamushë/Mamusha where the excessive number of party observers present during closing led to disturbance and police intervention. In

¹⁵⁴ For the first round, the Out-of-Kosovo voting period ran for 31 days from 15 September to 15 October. A total of 5,649 Out-of-Kosovo ballot packages with 10,934 postal ballots were received; out of these, 9,610 were confirmed as valid before being transferred to the CRC for counting.

¹⁵⁵ Art. 89.5 of the LGE stipulates that a person, who shall not be a PSC member or an observer, may assist only one voter to cast his/her ballot. However, there is no practical way for the PSC chair to verify if the person has assisted other voters in other polling stations. Aiming to deter voter manipulation through assisted voting, during the current electoral process the CEC introduced the requirement for the PSC chair to keep records of the persons who assisted voters and to note on the Poll Book the reason for assistance in each case.

five municipalities, six election-related incidents that were investigated by the State Prosecutor led to the arrest of thirteen persons for allegedly committing various electoral offences under the Criminal Code.¹⁵⁶

The counting of the ballots was less positive. In six out of the 31 counts observed, it was assessed as bad or very bad, mostly due to the inconsistencies in following some procedures. The presence of unauthorised persons was noted in five polling stations, while persons unduly interfering in the process were observed in also five polling stations. Notably, these persons were chairpersons of other polling stations in the same PC or coordinators of the PC, helping the PS chairs of these polling stations to fill in the results forms in order to speed up the process. The counting was conducted in the presence of political party observers in 93 per cent of the polling stations observed, while domestic non-partisan observers were present in only five out of the 31 polling stations observed. Problems with ballot reconciliation were noted in seven out of the 31 polling stations observed. Difficulties in completing the mayoral and assembly results forms were noted in 16 polling stations and the assembly candidate results forms in 12 polling stations out of the 31 observed. Overall, significant procedural errors or omissions were noted in seven out of the 31 polling stations observed.

The EU teams observed the intake of materials from polling stations in 28 MECs; there were no other observers present in any MEC. In 13 MECs corrections had to be made before accepting the materials. In all but one MEC the process was characterised as good or very good by the EU observers.

Recommendation: Intensify training of polling staff to address recurring shortcomings such as not consistently following the vote count procedures and incorrect filling of results' forms.

SECOND ROUND OF MAYORAL ELECTIONS, 14 NOVEMBER 2021

During the second round of mayoral elections,¹⁵⁷ EU observers visited 263 polling stations in all 21 municipalities where runoffs took place. The opening of polling stations was observed in 19 out of the 21 municipalities. EU observers reported that most polling stations opened on time or with a short delay of less than 10 minutes. The PSC chairperson was male in 81 per cent of polling stations visited while only 31 per cent of all PSC members in the polling stations visited were women. Additionally, 24 per cent of observed PS had no woman within the PSC members.

Voting proceeded throughout the day in a peaceful and orderly manner, with the exception of isolated incidents in Junik.¹⁵⁸ Two persons were arrested for alleged vote buying in Kamenicë/Kamenica.

The secrecy of the vote was respected in all polling stations visited. However, in 13 per cent of the visits, voters with expired Kosovo IDs were not allowed to vote, while in many polling stations visited, different kinds of expired voter identification documents were accepted (including passports and driving licenses), all these not in line with the relevant CEC decision.

¹⁵⁶ In Kllokot/Klokot, Suharekë/Suva Reka, Malishevë/Mališevo, Skënderaj/Srbica, Fushë Kosovë/ Kosovo Polje. Incidents regarded offences such as vote buying, obstruction of the voting process, violation of secrecy and falsification of results.

¹⁵⁷ For the second round of the mayoral elections, the Out-of-Kosovo voting period ran for 15 days from 29 October to 12 November. A total of 1,571 Out-of-Kosovo ballot packages with 2,658 postal ballots were received and 2,379 were confirmed as valid before proceeding to counting.

¹⁵⁸ The son of the LDK candidate threatened the polling centre manager for denying him entry into the polling centre (he was not an accredited observer). In another case, a former LVV assembly member quarrelled with a polling official. The police had to intervene in both cases.

Assisted voting was recorded in the poll books of 70 per cent of the polling stations visited. Not being familiar with voting procedures, advanced age, poor eyesight and illiteracy accounted for the vast majority of reasons provided for assisted voting. According to preliminary data shared by the CEC extracted from 67,28 per cent of polling stations in Kosovo, 32109 cases of assisted voting were noted. Group/family voting was observed in 6 per cent of polling stations visited.

Recommendation: Assisted voting in the polling stations to be more strictly regulated, for example by requiring the person who assists a voter to be registered in the same polling station.

The presence of political entities' accredited observers during voting was noted in 97 per cent of polling stations visited but citizen observers in only 4 per cent. Overall, EU EOM observers assessed polling as very good or good in 99 per cent of polling stations visited, in all 21 municipalities.

The counting was conducted in a transparent manner with political party observers present in all 22 polling stations where the EU EOM observed counting; citizen observers were present in only two of the polling stations visited. Procedures related with ballot reconciliation were not completely followed in about one-third of the 22 polling stations observed, which led to difficulties in completing the Reconciliation and Result Form (RRF) in three of those polling stations. Nevertheless, the overall conduct of the counting was assessed as very good in 64 per cent and good in 36 per cent of the polling stations observed.

Intake procedures at the MECs were assessed as smooth, quick and efficient by all the EU observers. In six out of the 20 MECs visited by EU observers, corrections had to be made regarding materials not properly packed and results forms not fully completed. No procedural errors were noted in any of the MECs visited. Overall, the EU observers assessed the conduct of the reception of materials as very good in 80 per cent and as good in the remaining 20 per cent of MECs visited.

XIX. RESULTS' TABULATION AND POST-ELECTION ENVIRONMENT

Well-organised and efficient tabulation of results conducted in full transparency but numerous recounts demonstrated weaknesses of counting at PSC level.

TABULATION OF THE MUNICIPAL ASSEMBLY AND FIRST ROUND MAYORAL ELECTION RESULTS

Throughout the election days of both rounds, the CEC published on its website data on the voter turnout and, after the end of counting, the early preliminary results of the mayoral elections and the political entities' results of the municipal assembly elections, but not the candidates' preferential votes. While the MECs prepare preliminary results based on the RRF, as article 68.1(g) LGE foresees, this is not done in a consistent manner neither published, as the CEC relied on the K-Vote data collected by staff deployed on all polling centres. This provided political entities with the possibility to compare the CEC early results with the results collected by their observers at the polling stations.

Sensitive election materials were transferred by the MECs to the Count and Results Centre (CRC) in Pristina. During the intake process, the CRC identified a small number of polling stations with problems related to changed ballot box security seals' numbers, unsigned results forms and discrepancies between the number of voters' signatures on the Conditional Voters List (CVL) and the number of Conditional

Ballot Envelopes (CBEs). For these reasons, recounts were conducted for eight ballot boxes for the mayoral elections and 15 for the municipal assembly elections.

After the “double-blind” data entry process and the audit of forms that presented problems, another eight ballot boxes for the mayoral elections were recounted. The tabulation of results for the municipal assembly elections proved to be more complicated, as 35 ballot boxes were ordered for a recount due mostly to mathematical errors in reconciliation.

The subsequent audit process¹⁵⁹ identified other inconsistencies and proceeded to new recounts of 91 ballot boxes for a variety of reasons, mainly discrepancies in the results forms of municipal assembly elections between the number of votes received by political entities (Reconciliation and Results Form – RRFs) and by their candidates (Candidates Results Form – CRFs). The full recount of additional 200 municipal assembly elections’ ballot boxes was also ordered mostly for the same reason. These recounts started on 30 October and were concluded on 2 November.

The CEC announced the results of mayoral elections on 28 October and certified those of 34 municipalities on 29 October. Following the adjudication of complaints by ECAP, the mayoral results of three municipalities were certified on 3 November and the mayoral results of the last municipality (Kilokoti/Klokot) were certified on 5 November, while the municipal assembly results were also announced on the same day.

In total, municipal assembly ballots cast in 341 polling stations as well as mayoral ballots from 16 polling stations were ordered to be recounted by the CEC/CRC after the reception of materials from the MECs and after the data entry process. While the high level of scrutiny of the tabulation at the CRC, which operates without time constraints due to the absence of time limits for the CEC to announce the results, proved to be essential for the accuracy of the results, these recounts significantly slowed down the announcement of the results as well as their certification. However, there is an improvement in comparison to the last elections of February 2021, as in these elections, the 357 recounts ordered by the CRC/CEC, which is the main indicator of errors and omissions of PSC members, is lower in the previous elections.¹⁶⁰

After examining the numerous complaints against the municipal assembly election results, the ECAP ordered the recount of an additional 630 polling stations. Notably, these recounts led to the tabulation process still ongoing until the eve of the 14 November runoff elections.

The large number of recounts of the municipal assembly election results points not only to a serious problem with the reconciliation and completion of the results forms by the PSC members, the overwhelming majority of which successfully passed the written exam following their training for the first round, but also to mistakes during the transfer of data from tally sheets to the CRF and to potential misconduct by some PSC members.¹⁶¹

¹⁵⁹ As foreseen in the CEC Regulation 06/2013, the CRC conducted an audit of a 10 per cent random sample of polling station results for the municipal assembly elections. Out of the randomly selected and audited 255 polling stations, the CEC ordered on 29 October a full recount of 91 of them (or 36 per cent). The list of the polling stations that would be audited was created before the election day. To safeguard the authenticity of the random sample, it was not made public neither to the MECs nor to the PSCs.

¹⁶⁰ There were 564 recounts ordered by CEC/CRC in February 2021 elections and 730 recounts ordered by CEC/CRC during the first round of the 2017 municipal and mayoral elections.

¹⁶¹ According to the CEC final report on the training activities, out of 14,855 PSC members who were trained for the first round, only 20 failed at the written exam.

During the tabulation process, the CEC posted the scanned polling station result forms on its website. The number of invalid ballots in the first round of the mayoral elections, according to EU EOM calculations based on data disaggregated by municipality as published by the CEC, was 1.6 per cent and the number of blank ballots nearly 1 per cent. On the other hand, the number of invalid ballot papers for the assembly elections amounted to almost 7 per cent, indicating insufficient voter information activities or excessively complex ballot design, and the number of blank ballots to 1.6 per cent.

Recommendation: Redesign ballot papers for municipal assembly elections to improve understanding of voters and enhance voter information on how to properly mark the ballot so as to reduce the number of invalid votes.

Overall, the EU observers assessed the tabulation as transparent and well organised. The activities at the CRC were conducted in the presence of observers from political entities, who did not file any complaints against the tabulation process or report any problems to the EU EOM observers. To increase transparency, the CRC had placed 50 cameras at the data entry and the counting tables while also sharing daily progress reports and detailed data on every part of the process with stakeholders. However, the data was not always structured in a way that would facilitate analysis and the correlations between various sets of data were sometimes unclear, making it difficult to assess their coherence.

The EU EOM analysed the municipal assembly election results sheets of the polling stations where recounts were conducted due to discrepancies in the results forms between the political entities' votes (RRFs) and the candidates' votes (CRFs).¹⁶² In these, the EU EOM identified a pattern of errors from which all political entities benefited, but mostly the major ones.¹⁶³ In particular, in most of these polling stations, several candidates were attributed, during the completion of the CRFs, more votes than they received and this higher number was predominantly identical with their ordinal number on the ballot paper. This pattern indicates likely human error due to fatigue and the complexity of the candidate tally sheets and CRF, although isolated cases of deliberate wrongdoing could not be excluded.

As the thoroughness of the tabulation is indispensable for the acceptance of the results by the election stakeholders and their trust in the electoral process, a total of 987 recounts (40 per cent) conducted for the first round of elections points out to a need for a holistic review of all results' forms and candidate tally sheets, of the criteria for recruitment as well as of the training of PSC members and mostly of the necessity to review the setup of the Polling Station Committees.

TABULATION OF THE SECOND ROUND MAYORAL RESULTS

Overall, the tabulation of the second round of mayoral results was smoother and quicker than in the first round, due to the smaller number of municipalities where voting took place, as well as the simplicity of the result form that had to be filled.

During the intake of sensitive materials from the MECs, there were no ballot boxes that had to be recounted due to irregularities, except from one polling station in Prizren where there were two conditional

¹⁶² In particular, the EU EOM analysed the results sheets of the 291 polling stations that the CRC/CEC ordered a recount and focused on these results where the candidates received higher number of votes than their political entity (154 polling station results out of the 291).

¹⁶³ PDK, LDK, LVV and AAK and occasionally NISMA and AKR.

ballot envelopes (CBEs) but only one signature in the CVL.¹⁶⁴ After entering the results forms in the system, there were none that did not pass the audit and no recounts were conducted.

During a CEC meeting on 16 November, some CEC members raised the issue of similar handwriting in the package envelopes of the Out-of-Kosovo postal ballots for Mamushë/Mamuša, Junik and Dragash/Dragaš; the postponement of the counting for these municipalities so that the CECS would investigate the matter, was put for voting, with only four members voting in favour.¹⁶⁵ Subsequently, the counting started immediately after the meeting and was finalised on the same day. The Out-of-Kosovo ballots for the mayoral election in Dragash/Dragaš had a decisive impact on the results, as the LDK candidate obtained 244 Out-of-Kosovo votes and therefore took the lead from the PDK candidate who was initially ahead by 47 votes after the counting of the regular ballots.

The counting of the conditional and SNV ballot papers, which was the last part of the tabulation at the CRC, started on 18 November and was concluded within a few hours, in full transparency with the presence of observers and media. There was a total of 10,303 conditional and SNV votes; out of which, 9,313 were confirmed and 990 were denied.¹⁶⁶

The CEC announced the final results on 20 November. Ensuing appeals submitted to the ECAP (*see* Electoral Disputes) resulted to the Out-of-Kosovo results for Dragash/Dragaš being annulled. The invalidation of 298 Out-of-Kosovo ballots cast for this municipality points out to a deficit in the regulation of procedures for registration and verification of Out-of-Kosovo voters. Although the CECS conducted a verification of the postal ballots' envelopes and votes' data before the CRC proceeded to counting, this was done in accordance with the criteria set by Election Rule No.03/2013 and is not extended to issues related to the authenticity of handwriting on which the CEC lacks expertise, and any potential wrongdoing.¹⁶⁷ In the absence of legal basis or procedures that would allow the CEC to postpone the counting of the Out-of-Kosovo ballots from this municipality for an investigation to be conducted by other competent authorities, such as the police or forensic services, the decision to proceed to the counting seemed the only judicious one that the CEC could have taken.

FINAL RESULTS

The turnout in the first round was 42.72 per cent and in the runoffs 37,08 per cent. As in 2017, SL candidates won the mayoral elections in all ten municipalities where Kosovo-Serbs are in majority (nine in the first round, one in the second). PDK won nine mayoral posts (four in the first round and five in the runoffs) significantly reinforcing its presence in the regions as it had five mayors thus far. LDK maintained the same number of mayors securing seven posts (two in first and five in the second round) and AAK won five seats comparing to six in 2017 (two in first, three in second). Twelve mayoral candidates of the ruling LVV candidates qualified to the second round but only four managed to win. While the LVV slightly reinforced its political assets, mostly in the assemblies, the defeats in the mayoral races in particular in Pristina and Prizren were portrayed as the party's failure.

¹⁶⁴ The CEC decided to annul, before opening, the CBE that did not have a corresponding signature in the CVL of that polling station.

¹⁶⁵ The two PDK members and the ones from AAK and SL voted for postponement of the counting.

¹⁶⁶ The reasons for denial was that the conditional voter had voted more than once, or was not on the FVL or was not registered in the municipality where s/he voted conditionally.

¹⁶⁷ The CECS verifies if the senders are successfully registered as Out-of-Kosovo voters, if they have sent a copy of their ID together with their ballot paper as required by the law, and if their package is sent within the legal deadline.

Out of 29 incumbent mayors who were running 20 secured their re-election, including five from AAK and four from SL, LDK and PDK each. Nine won in the first round, eleven in the runoffs.

As far the seats in the municipal assemblies are concerned, LDK, PDK, and AAK generally maintained the status quo from the 2017 elections with LDK and PDK receiving 206 seats each and AAK 120 seats. LVV won 193 assembly seats, increasing their representation by over 30 per cent. SL with 147 seats dominates the municipal assemblies in the Kosovo-Serb majority municipalities, in some of them being the only political force.

XX. RECOMMENDATIONS

NO.	FR page	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL / REGIONAL PRINCIPLE / COMMITMENT
ELECTORAL ADMINISTRATION						
1.	Pg.10	The vague wording of paragraph (d) of article 61.5 LGE allowing for the removal of the chair or a member if they behave or act “in a manner that seriously affects the status and integrity of the CEC”, is not in accordance with international best practices which stipulate that the grounds for recall should be “clearly and restrictively specified in law”.	Amend the LGE to clearly and restrictively prescribe the grounds for dismissal of the CEC chair and members.	Law on General Elections (LGE) Art. 61.5 (d)	Kosovo Assembly (KA)	<p>Genuine elections that reflect the free expression of the will of the voters</p> <p>Good Practice Venice Commission, Code of Good Practice in Electoral Matters, 2002, Point 3.1 f: “The bodies appointing members of electoral commissions must not be free to dismiss them at will” and Para. 77: “Broadly speaking, bodies that appoint members to electoral commissions should not be free to recall them, as it casts doubt on their independence. Discretionary recall is unacceptable, but recall for disciplinary reasons is permissible - provided that the grounds for this are clearly and restrictively specified in law (vague references to “acts discrediting the commission”, for example, are not sufficient).”</p>

2.	Pg.11	<p>After the first round, the CEC adopted a new PSC composition formula to ensure that candidates participating in the runoffs would be represented in the PSCs. It also organised additional trainings, for both the members who already worked in the first round as well as for new PSC members, following the replacement by the CEC of 806 members and by some political entities of other PSC members due to poor performance during counting and inaccuracies in the completion of the results forms.</p>	<p>Introduce a non-partisan clerical position of the PSC secretary to provide necessary advice and assistance to the PSC to improve their efficiency and performance.</p>	<p>LGE CEC Election Regulation No.19/2016</p>	<p>KA CEC</p>	<p>Genuine elections that reflect the free expression of the will of the voters</p> <p>Good practice Venice Commission, Code of Good Practice in Electoral Matters, Exploratory Report - “104. The quality of the voting and vote-counting systems and proper compliance with the electoral procedures depend on the mode of organisation and operation of the polling stations.”</p>
3.	Pg.11	<p>Despite the fact that article 107.3 of the LGE instructs the CEC when conducting the voter education campaign to “pay particular attention to target the rural, the disabled and the illiterate voters” the activities conducted by MECs, which have better access and understanding of the needs of voters in their municipalities, were limited to posting informational posters sent by the CEC. Invalid ballots, amounted to almost 7 per cent for the</p>	<p>Allocate more responsibilities to MECs regarding voter education and information activities and also engage civil society organisations across Kosovo. Special target groups should be addressed, such as women, voters in rural areas, first-time voters, and people with disabilities.</p>	<p>No legal change.</p>	<p>CEC</p>	<p>Right and opportunity to vote Transparency and access to information</p> <p>ICCPR, General Comment 25, para. 11 “<i>Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.</i>”</p> <p>ICCPR, General Comment 25, para. 12 “<i>Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have</i></p>

		municipal assembly elections. All EU EOM interlocutors indicated that the voter information activities were insufficient.				<i>adequate information on which to base their choice.”</i>
VOTER REGISTRATION						
4.	Pg.13	The EU EOM analysis of the data on elderly voters confirms that progress has been made on the removal of deceased persons. However, the clean-up process has not been uniform, with larger municipalities appearing to have been more efficient than smaller ones.	Introduce a mechanism for automatic removal of deceased persons from the civil register and database of issued IDs once the CRA has received information from hospitals and religious institutions.	Administrative Instruction (MIA) No.17/2015 on the General Registration Procedures of the Fact of Birth, Marriage and Death	CRA	<p>Universal suffrage Right and opportunity to vote</p> <p>ICCPR article 25 <i>“elections which shall be by universal and equal suffrage.”</i></p> <p>Venice Commission, Code of Good Practices in Electoral Matters, 2002, Section I, art. 1.2.ii <i>“There must be regular updates (of electoral registers), at least once a year.”</i></p>
5.	Pg 13	Challenges to the accuracy of the voter list concern the lack of a unique address system in Kosovo, as the Civil Registry Agency (CRA) extracts do not include street codes, and the absence of a standard system that would be used by municipal and central level for street naming.	Expedite the development of a unique address system to render more accurate the assignment of voters to polling locations.	No legal change.	Cadastral Agency	<p>Universal suffrage Right and opportunity to vote</p> <p>ICCPR article 25 <i>“elections which shall be by universal and equal suffrage.”</i></p>

6.	Pg.14	After withdrawing its contested decision taken during the February 2021 elections to verify all Out of Kosovo applications for registration by phone, the CEC adopted another decision to randomly verify only two per cent of all applications. In addition, applications that used the same phone number or email address for applicants with more than two different last names, and also those cases that the CEC Secretariat found suspicious, were also verified.	Modernise the method for registration as Out of Kosovo voter for instance via a link on the CEC website with safeguards such as a two-step verification of the applicants in order to protect against fraud and impersonation. (priority recommendation)	CEC Election Regulation No.3/2013	CEC	Universal suffrage State must take the necessary steps to give effect to rights ICCPR, article 25 <i>“elections which shall be by universal and equal suffrage.”</i> ICCPR, article 2.2 <i>“Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.”</i>
REGISTRATION OF CANDIDATES AND POLITICAL PARTIES						
7.	Pg.15	As required by the LGE, the CEC requested a verification of the criminal records of all candidates from Kosovo Judicial Council (KJC), which manages the Central Criminal Records System of Kosovo. This key procedural step revealed some	Ensure a mechanism is in place for accurate and timely data transmission by KJC to allow the CEC to conduct an efficient and reliable verification of candidates’ criminal records.	No legal change. Enforcement of art.29.1.q LGE	Kosovo Judicial Council (KJC)	Right and opportunity to participate in public affairs and hold office ICCPR, art.25 <i>“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of</i>

		shortcomings, as in a few cases the information on the criminal record arrived late or was never transmitted to the CEC.				<i>public affairs, directly or through freely chosen representatives;”</i>
8.	Pg.16	The CEC finally excluded 176 candidates because of their criminal records, in the last three years, according to the LGE. This legal provision is at odds with the international standards and in the past was a source of various interpretations due to contradictory legal provisions	Prescribe candidate ineligibility in the election law only for a final criminal conviction for serious criminal offences and pursuant to a court decision explicitly depriving the convicted individual of the right to stand.	Art.29.1.q, LGE	KA	<p>Right and opportunity to participate in public affairs and hold office</p> <p>ICCPR, General Comment 25, art.4 <i>“Any conditions which apply to the exercise of the rights protected by article 25 should be based on objective and reasonable criteria”;</i></p> <p>Good practice: Venice Commission, Code of Good Practice in Electoral Matters, 2002, Section I.1.1.d <i>“i. provision may be made for depriving individuals of their right to vote and to be elected, but only subject to the following cumulative conditions: ii. it must be provided for by law; iii. the proportionality principle must be observed; conditions for depriving individuals of the right to stand for election may be less strict than for disenfranchising them [...]”</i></p>

CAMPAIGN ENVIRONMENT						
9.	Pg.18	The runoff campaign officially began on 8 November and lasted only five days until 12 November at midnight, in accordance with the relevant CEC decision. As neither the legal framework stipulates any sanctions for campaigning outside of this period nor the CEC took any measures, most of the contestants resumed their campaign activities shortly after the first round, particularly in social media, disrespecting the official 5-day campaign period.	Introduce measures to enforce the official campaign period limitations for the runoff elections or allow the campaign to start immediately after the first round.	CEC Election Regulation 13/2012 Introduce the legal provisions in the LLE.	CEC KA	<p>Freedom of assembly, Freedom of opinion and expression</p> <p>ICCPR, General Comment 25, para.25 <i>“In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. It requires the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.”</i></p> <p>ICCPR, art.19.2, <i>“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds.”</i></p>

CAMPAIGN FINANCE						
10.	Pg.21	Contrary to international good practice, the deadline for reporting campaign income and expenditure is set 45 days after the elections, party-nominated candidates and third parties are not subject to reporting requirements and the financial statements are not published in an easily searchable format. All these aspects diminish transparency, accountability and limit the possibility of public scrutiny.	The law to prescribe interim reporting of the incomes and expenditures of contestants during the campaign period as well as final reporting within 30 days from the election day. Reporting should include the finances of party-nominated candidates and entities campaigning for contestants (third parties). The law to prescribe a short deadline for the oversight authorities and the political entities to publish all financial reports in an easily searchable manner.	LGE Law on Financing of Political Parties	KA	<p>Transparency and access to information</p> <p>Good practice Council of Europe, Committee of Ministers Recommendation (2003)4, art. 11 “<i>States should require political parties and the entities connected with political parties mentioned in article 6 [entities related to political parties] to keep proper books and accounts.</i>”</p> <p>Council of Europe, Committee of Ministers Recommendation (2003)4, art. 13 “<i>States should require political parties to present the accounts [...]regularly, and at least annually, to the independent authority[...]States should require political parties regularly, and at least annually, to make public the accounts[.]or as a minimum a summary of those account.</i>”</p> <p>Venice Commission, Guidelines on Political Parties, Para. 200 “<i>...reports on campaign financing should be turned into the proper authorities within a period of no more than 30 days after the elections. Such</i></p>

						<i>reports should be required not only for the party as a whole but for individual candidates and lists of candidates.”</i>
11.	Pg.22	The Kosovo Assembly is required to organise financial audits of all political entities on annual basis. In practice, audits lack sufficient funding, are conducted with several years of delay and only for parliamentary parties, hampering any meaningful verification of parties’ finances and timely application of sanctions. Lack of regular auditing and selective application of sanctions by the CEC resulted in a <i>pro-forma</i> oversight of campaign finance and did not provide incentives for contestants to comply with the rules. Interlocutors informed the EU EOM that numerous sources of income and expenditures remain unreported.	Ensure an independent mechanism is in place for effective oversight of party and campaign finances which is given the mandate, the authority, as well as the financial and human resources to effectively and proactively monitor and investigate alleged party and campaign finance irregularities, including unreported income and expenditures, and impose sanctions. (priority recommendation)	LGE Law on Financing of Political Parties	KA	Prevention of corruption/fairness in the election campaign <i>United Nations Convention against Corruption (UNCAC), art. 6.2 “Each State Party shall grant the body or bodies [...]the necessary independence [...] to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.”</i> Good practice Parliamentary Assembly of the Council of Europe (PACE) Recommendation 1516 on Financing Political Parties, art. 8.d “States should establish independent auditing bodies endowed with sufficient powers to supervise the accounts of political parties and the expenses linked to electoral campaigns.”

						<p>Council of Europe, Committee of Ministers Recommendation (2003) 4, art. 15 “States should promote the specialisation of the judiciary, police or other personnel in the fight against illegal funding of political parties and electoral campaigns.”</p> <p>Art. 16 “States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions.”</p>
MEDIA						
12.	Pg.23	The public TV channel <i>RTK</i> is not fully independent as it is largely financed by the state budget and without clear rules on how to define its annual budget, making it vulnerable to political influence.	Strengthen the independence of the public broadcaster from possible political interference, by revising its financing system.	Law on RTK	KA	<p>Freedom of opinion and expression</p> <p>ICCPR, art. 19, General Comment 34, para 16. « States parties should ensure that public broadcasting services operate in an independent manner. Actions to ensure independence may include the setting out of the mandate of such broadcasters in law and the provision of legislative guarantees of independence</p>

						<i>and editorial freedom, as well as the provision of funding in a manner that does not undermine independence.”</i>
13.	Pg.23	At odds with international standards, the Independent Media Commission (IMC) did not develop a regulatory framework to ensure media plurality and prevent concentration in the media market. Furthermore, IMC provides limited or no public information on ownership of licensed broadcasters.	Introduce specific regulatory provisions aiming at ensuring media plurality and transparency of media ownership.	Law on the Independent Media Commission Independent Media Commission regulations	KA IMC	<p>Freedom of opinion and expression</p> <p>ICCPR, art. 19, General Comment 34, para 40 “<i>States parties should take appropriate action, consistent with the Covenant, to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views.</i>”</p> <p>Good practice</p> <p>Joint statement on the media and elections by UN, OSCE, OAS and ACHPR, Overall environment for media and elections I) “<i>States should put in place a range of measures, including [...] obligations of transparency of media ownership, licensing of different types of broadcasters to promote diversity, rules to prevent undue concentration of media ownership...</i>”</p>

14.	Pg.25	<p>During the observed election period, IMC had only four members out of seven, affecting the regulatory body capacity to reach the four-members quorum to take decisions. Moreover, the IMC Appeal Board was not operational as the mandate of one of its three members expired, drastically lengthening any appeal process, and diminishing the right to seek effective legal remedy. The late appointment of IMC members and IMC Appeal Board members by the Kosovo Assembly jeopardizes the regulatory body activity.</p>	<p>Appoint in a timely manner all members of the IMC and the IMC Appeal Board through a competitive and transparent selection process to foster independence, oversight and the sanctioning power of the regulatory body.</p> <p>(priority recommendation)</p>	No legal change	KA	<p>Good practice</p> <p>Joint statement on the media and elections by UN, OSCE, OAS and ACHPR, Overall environment for media and elections VIII, <i>“Oversight of any rules relating to the media and elections should be vested in an independent administrative body which should address any complaints promptly. The decisions of this body should be subject to judicial review.”</i></p>
DIGITAL COMMUNICATION AND SOCIAL MEDIA						
15.	Pg.28	<p>The election legislation has remained principally unchanged for over a decade and does not explicitly reflect the increased importance of digital communication in elections. No provision on the conduct of the campaign online is in place and the dissemination of electoral advertising on online platforms remains unregulated.</p>	<p>Include provisions on electoral advertising on online platforms, and explicitly extend the existing campaigning rules to the digital sphere.</p> <p>(priority recommendation)</p>	LGE CEC Electoral Regulations	KA CEC	<p>Transparency and access to information</p> <p>UNCAC, art. 7.3: <i>“Each State Party shall also consider taking appropriate legislative and administrative measures, ... to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.”</i></p>

16.	Pg.31	<p>Although online paid ads appeared to be used widely, the absence of transparency rules undermined accountability. The adoption of social media advertising archives would enable a degree of scrutiny of paid content, in line with international standards for transparency and access to information.</p>	<p>Foster the cooperation between the election administration and main digital providers to encourage the adoption of mandatory archives for online electoral ads with a view to increase transparency and accountability of campaign spending. A regulation could be introduced for political entities and candidates intending to conduct campaigning on online platforms to register as political advertisers.</p>	CEC Electoral Regulations	CEC	<p>Transparency and access to information</p> <p>UNCAC, art. 7.4: “Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.”</p> <p>UNCAC, art. 13(b) “Each State Party shall... ensure that the public has effective access to information.”</p> <p>Joint declaration on freedom of expression and elections in the digital age by UNHRC, OSCE and OAS, “<i>Access to Information Relating to Elections: ii) Parties and candidates should be required to be transparent in a timely fashion, including to the media, regarding their spending on elections and, in particular, spending on legacy and digital media, and other digital communications efforts.</i>”</p>
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17.	Pg.32	Despite nominating the required number of women candidates, political parties, which are overwhelmingly male dominated, have not yet seriously addressed the issue of gender inequality in their programmes and statutes, and are far from fulfilling the legal obligations deriving from the Law on Gender Equality	Political parties to consider adopting internal policies to promote women’s participation and integrate gender issues into party platforms.	No legal change	KA CEC	<p>Women's participation in public affairs, Rule of law</p> <p>ICCPR, art.3. <i>“The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”</i></p> <p>Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), art 4, para.1 <i>“Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination “</i> CEDAW, General Recommendation 23, para. 22 <i>“The system of balloting, the distribution of seats in Parliament, the choice of district, all have a significant impact on the proportion of women elected to Parliament. Political parties must embrace the principles of equal opportunity and democracy and endeavour to balance the number of male and female candidates.”</i></p>
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PARTICIPATION OF PEOPLE WITH DISABILITIES

18.	Pg.34	<p>Although Kosovo is not a signatory to the UN Convention on the Rights of Persons with Disabilities (CRPD), it adopted the CRPD's definition of disability in its National Disability Action Plan, which aims to align Kosovo's legislation with the CRPD and other international instruments.</p>	<p>Adopt and transpose the UN CRPD into the Constitution, so as to give effect to the rights guaranteed therein.</p>	<p>Kosovo Constitution</p>	<p>KA CEC</p>	<p>Right and opportunity to vote</p> <p>ICCPR, art. 25: <i>“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: ... b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors”.</i></p> <p>CRPD, art. 29: <i>“States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others.”</i></p> <p>CRPD, art. 9: <i>“To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and</i></p>
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						<i>communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.”</i>
ELECTORAL DISPUTES						
19.	Pg.36	Complaints and appeals can be filed within a 24-hour deadline to ECAP, which has 72 hours to reach a decision. An appeal can further be filed within 24 hours to the Supreme Court, the final instance, which has 72 hours to decide. These deadlines were assessed by all EU EOM interlocutors as extremely tight, both for the parties to gather strong evidences and for the appeal bodies to assess and examine them comprehensively.	Extend the deadlines for filing an election complaint or appeal, and for ECAP and the SC to adjudicate them (three to five days both for lodging complaints and appeals and for their adjudication).	LGE art.105; art.118.2,4; art.119.1; art.122.1 ECAP rules of procedure 02/2015 art.5, art 10.5	KA	<p>Right to an effective remedy, Rule of law</p> <p>ICCPR, article 2.3 “(a) <i>To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy{..}.”</i></p> <p>Good practice Venice Commission, Code of Good Practice in Electoral Matters, 2002, para. 95 “<i>In addition, decisions on the results of elections must also not take too long, especially where the political climate is tense. {..}Time limits must, however, be long enough to make an appeal possible, to guarantee the exercise of rights of defence and a reflected decision. A time limit of three to five days at first instance (both for lodging appeals and making rulings) seems reasonable for decisions to be taken before the elections. It is, however, permissible to grant a little</i></p>

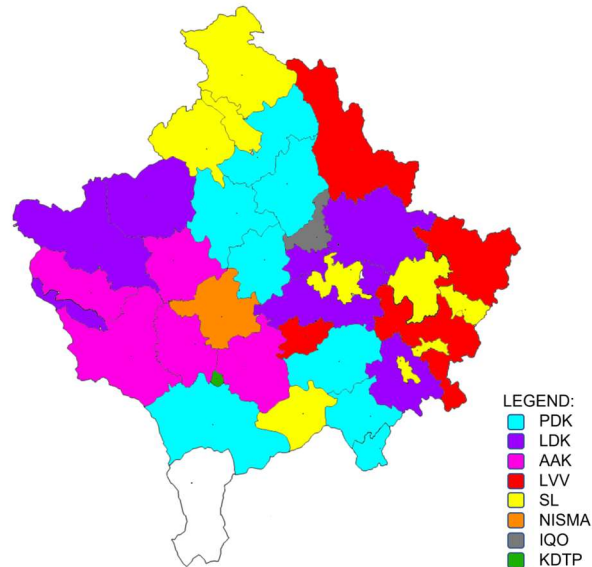
						<i>more time to Supreme and Constitutional Courts for their rulings.”</i>
20.	Pg.36	The law does not provide for appeals against the final results, but only for complaints related to voting and counting in the polling stations and the tabulation process at the CRC. These should be filed within a 24-hour deadline with ECAP, which then has 72 hours to decide. However, this creates difficulties for ECAP, which would have to assess the impact of the alleged violations on the final election results before results are published by the CEC. ECAP in practice, rejects such complaints as inadmissible or premature but allows the complainants to resubmit them after the CEC announces the final results.	Include provisions on challenging the final election results published by the CEC. Clarify the ambiguities concerning the complaints related to voting, counting, the CRC process and their respective deadlines. (priority recommendation)	LGE art.105.1; art.106; art.119.1, art.112.1 ECAP rules of procedure 02/2015 art.5, art10	KA ECAP	Right to an effective remedy, Rule of law ICCPR, article 2.3 (a) <i>“To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy{..}.”</i> ICCPR, GC 25 para. 20 <i>“There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes”</i> Good practice Venice Commission, Code of Good Practice in Electoral Matters, 2002, para. 97 <i>“It is also vital that the appeal procedure, and especially the powers and responsibilities of the various bodies involved in it, should be clearly regulated by law, so as to avoid any positive or negative conflicts of jurisdiction.”</i>

POLLING, COUNTING AND TABULATION						
21.	Pg.39	Difficulties in completing the mayoral and assembly results forms were noted in 16 polling stations and the assembly candidate results forms in 12 polling stations out of the 31 observed. Overall, significant procedural errors or omissions were noted in seven out of the 31 polling stations observed.	Intensify training of polling staff to address recurring shortcomings such as not consistently following the vote count procedures and incorrect filling of results' forms.	No legal change. Enhance training curriculum, materials and exams	CEC	Genuine elections that reflect the free expression of the will of the voters ICCPR, General Comment 25, para. 20 <i>"An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws."</i>
22.	Pg.40	Assisted voting was recorded in the poll books of 70 per cent of the polling stations visited. Not being familiar with voting procedures, advanced age, poor eyesight and illiteracy accounted for the vast majority of reasons provided for assisted voting.	Assisted voting in the polling stations to be more strictly regulated, for example by requiring the person who assists a voter to be registered in the same polling station.	LGE CEC Electoral Regulation No.9/2013	KA CEC	Genuine elections that reflect the free expression of the will of the voters ICCPR, General Comment 25, para.11: <i>" Any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced."</i> and para.19: <i>"Persons entitled to vote must be free to vote for any candidate for election and for or against any proposal submitted to referendum or</i>

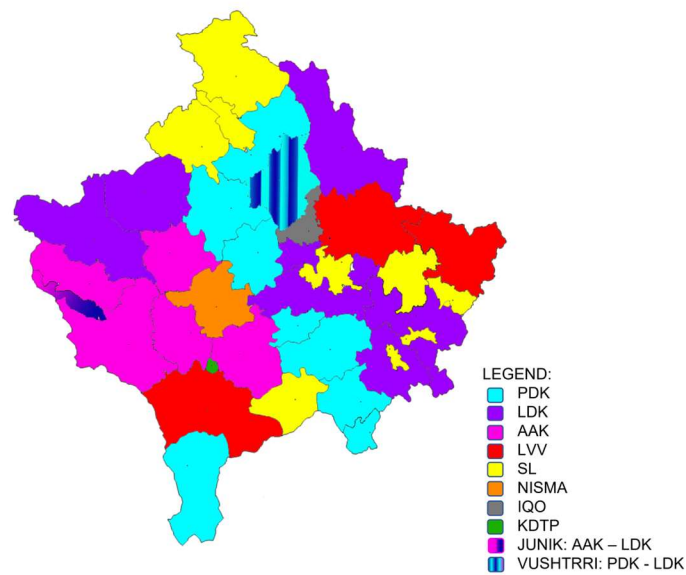
						<p><i>plebiscite, and free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind</i></p>
23.	Pg.42	<p>The number of invalid ballots in the first round of the mayoral elections, according to EU EOM calculations based on data disaggregated by municipality as published by the CEC, was 1.6 per cent and the number of blank ballots nearly 1 per cent. On the other hand, the number of invalid ballot papers for the assembly elections amounted to almost 7 per cent, indicating insufficient voter information activities and excessively complex ballot design, and the number of blank ballots to 1.6 per cent.</p>	<p>Redesign ballot papers for municipal assembly elections to improve understanding of voters and enhance voter information on how to properly mark the ballot so as to reduce the number of invalid votes.</p> <p>(priority recommendation)</p>	No legal change.	CEC	<p>Right and opportunity to vote Transparency and access to information</p> <p>ICCPR, General Comment 25, para. 11 “<i>Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.</i>”</p> <p>ICCPR, General Comment 25, para. 12 “<i>Information and materials about voting should be available in minority languages. Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have adequate information on which to base their choice.</i>”</p>

ANNEX I. ELECTION RESULTS

The results of the elections for mayors per political entity and per municipality¹⁶⁸:



The results of elections for municipal assemblies per political entity which won the most seats per municipality:



¹⁶⁸ White colour on the map represents the municipality of Dragash/Dragaš where the results of elections will be determined after 13 December 2021 by Out-of-Kosovo voters.

No.	Name of party	Number of Mayors Elected	Number of Councilors Elected
1	(SL) Srpska Lista	10	147
2	(PDK) Democratic Party of Kosovo	8	206
3	(LDK) Democratic League of Kosovo	7	206
4	(AAK) Alliance for the Future of Kosovo	5	120
5	(LVV) Lëvizja Vetëvendosje	4	193
6	(NISMA) Social Democratic Initiative	1	21
7	(IQO) Civic Initiative Obiliq	1	9
8	(KDTP) Kosovo Democratic Turk Party	1	11
9	Independent List Bekim Jashari	0	10
10	(DD) Democrats for Drenas	0	8
11	(AKR) New Kosovo Alliance	0	8
12	(KATP) Kosovo Justice Turk Party	0	6
13	(PSD) Social Democratic Party	0	5
14	(PSHDK) Albanian Democratic Christian Party of Kosovo	0	4
15	(VAKAT) Vakati Coalition	0	4
16	(LB) Unity Movement	0	4
17	(GI NS) Civic Initiative National Harmony	0	3
18	(IQGPD) Civic Initiative Green for Drenas	0	2
19	(JGP) Singular Goran Party	0	2
20	(IFKEA) Egyptian – Ashkali Initiative for Fushe Kosovo	0	2
21	(PD) Justice Party	0	2
22	(BPSH) United for Shterpce	0	2
23	(RDF) Democratic Reform for Ferizaj	0	2
24	(NS) National Harmony	0	2
25	(NJ) National Unity	0	2
26	(IQM) Civic Initiative Mitrovica	0	2
27	(LQV) Civic Initiative Vatra	0	1
28	(GIBI) Civic Initiative Bosniaks for Istog	0	1
29	(LN) The Different List	0	1
30	(FED) Diaspora Force	0	1
31	(PAI) Ashkali Party for Integration	0	1
32	(BI-PEC) Bosniak Initiative Pec	0	1
33	(IBJ) Bosniak Unity Initiative	0	1
34	(OBKD) National Democratic Front Organization	0	1
35	(NDS) New Democratic Party	0	1
36	(SDU) Social Democratic Union	0	1
37	(YTHP) Innovative Turkish Movement Party	0	1
38	(GISS) Civic Initiative Freedom Strpce	0	1
39	(Iniciativa e Therandës) Theranda Initiative	0	1
40	(Ne Mundemi) We Can	0	1
41	(LA) – Ashkali List	0	1
42	(GIZP) Civic Initiative Zubin Potok	0	1
43	(ASH) Albanian Alliance	0	1
44	(IQM) Civic Initiative for Mogilla	0	1
45	(IQK) Civic Initiative for Klllokot	0	1

ANNEX II. MEDIA MONITORING RESULTS

Municipal Elections Kosovo 2021

Introduction

Broadcast media monitoring

Eight TV channels were monitored: **RTK1**, public TV channel (in Albanian), **RTK2**, public TV channel (in Serbian and non-majority languages), **KLAN KOSOVA**, private TV channel (in Albanian), **TV DUAKGJINI**, private TV channel (in Albanian), **T7**, private TV channel (in Albanian), **KANAL 10**, private TV channel (in Albanian). In addition, the media monitoring included the daily prime-time newscast of two local TV channels broadcasting in Serbian language, **TV MOST** and **TV PULS**.

First round of elections monitoring: 16 September – 17 October 2021 daily from 18:00 to 24:00 and all day during the silence period. Prime-time newscasts of TV MOST and TV PULS were monitored daily.

Second round of elections monitoring: 18 October – 14 November 2021 daily from 17:00 to 24:00 and all day during the silence period. TV channels in Serbian language (RTK2, TV Most and TV Puls) were not monitored after the first round as in 9 out of 10 Serb majority municipalities there has not been a runoff.

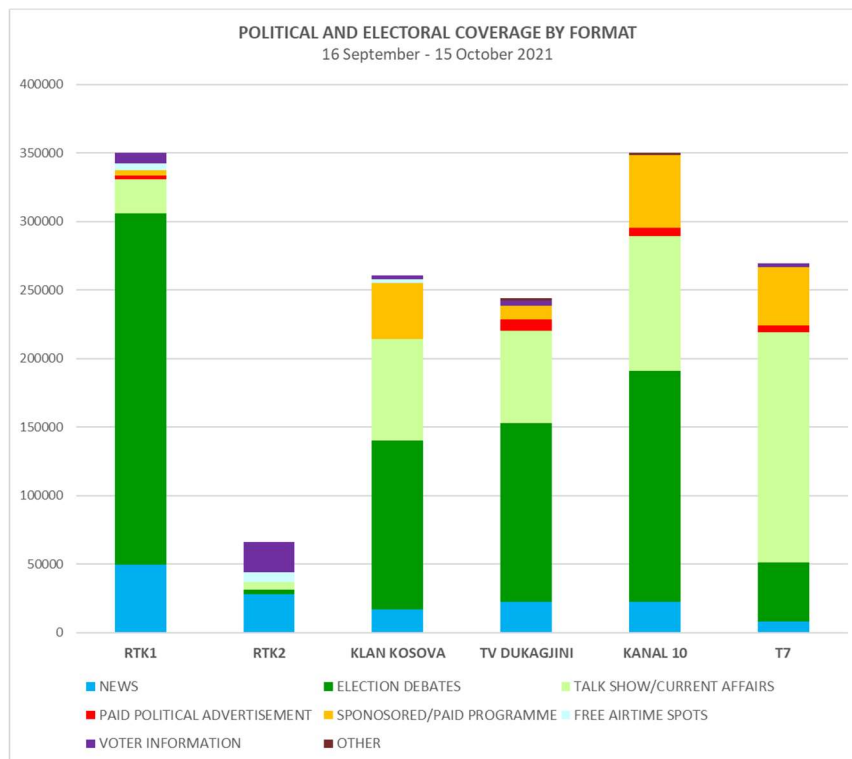
The methodology employed for the broadcast media monitoring was both quantitative and qualitative. The quantitative component of the monitoring consisted of the analysis of the time allocated to the relevant political actors. The qualitative analysis included the way relevant actors were portrayed, namely the tone used by media towards the contestants and political actors (negative, neutral, or positive). During the monitored period, the tone used by broadcast media to cover contestants was neutral or almost completely neutral. Therefore, we did not include charts showing the tone of the coverage.

News websites monitoring

Eight news websites were monitored: [RTK Live](#) – news website of the public broadcaster, [Koha](#) – Albanian language, [Telegrafi](#) - Albanian language, [Gazetaexpress](#) - Albanian language, [Indeksonline](#) - Albanian language, [Insajderi](#) - Albanian language, [KoSSev](#) and [Kosovo online](#) – Serbian language.

Most news websites created an ad hoc section, “Elections”, where they published their election-related news articles, though the number of articles published was limited. This allowed the EU EOM to monitor all election-related articles published by these news websites. Whereas online media are not bound to any legal requirements to be balanced, the aim of the monitoring was to assess if they were being biased in their coverage, if they were spreading hate speech, and if they were abiding by some provisions of the Press Code, a code of conduct of the Press Council of Kosovo, a self-regulatory body. All monitored news websites, except the website of the public broadcaster, were signatories of the Press Code. RTK Live did not have an ad hoc section on elections. Therefore, the EU EOM monitored all articles covering political entities published on its homepage. During each period ahead of first and second round of elections *Telegrafi*, *KoSSev* and *Kosovo Online* published less than 40 news articles covering the political entities campaign. The same applied for *Koha* and *Gazetaexpress* ahead of the second round. Given their very limited campaign coverage, it was not possible to define to what extent they were balanced or not, therefore results for these news websites are not included in the charts.

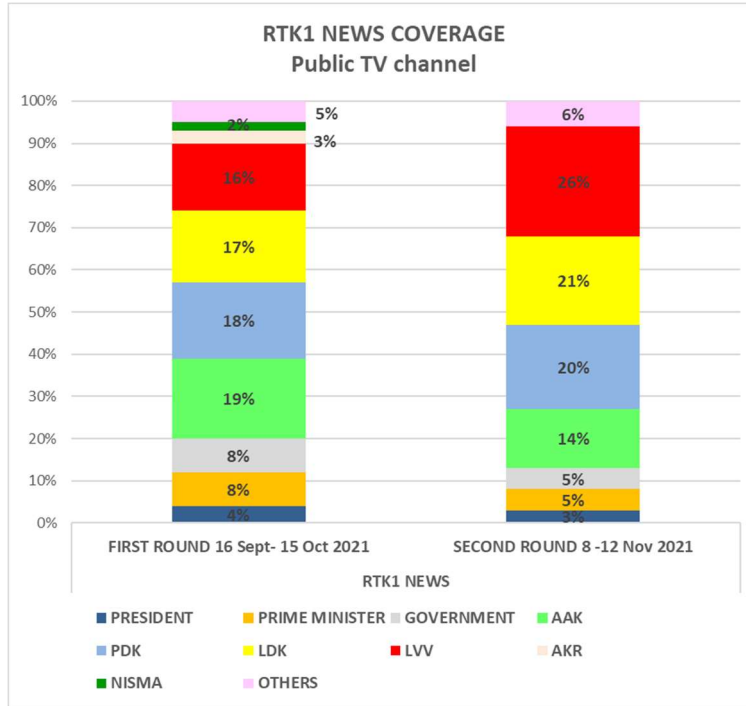
POLITICAL AND ELECTORAL COVERAGE
ELECTION CAMPAIGN FIRST ROUND (16 September – 15 October 2021)



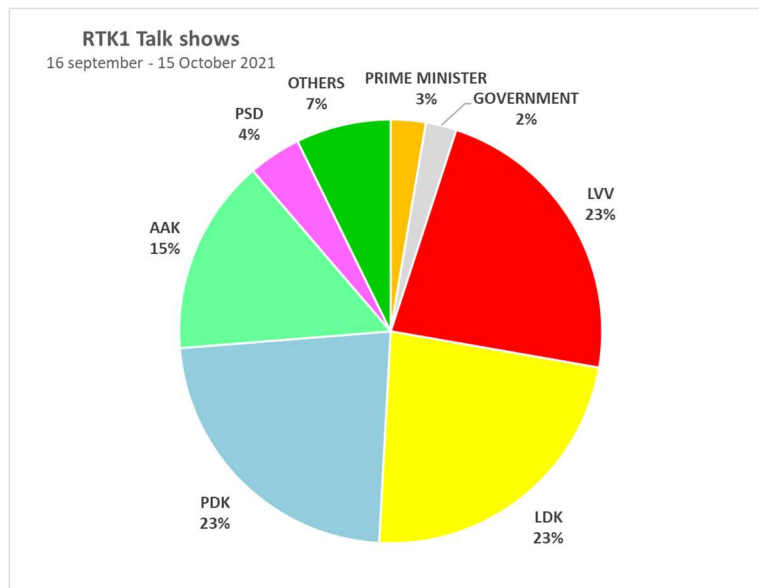
	RTK1	RTK2	KLAN KOSOVA	TV DUKAGJINI	KANAL 10	T7
NEWS	14%	42%	7%	9%	6%	3%
ELECTION DEBATES	73%	5%	47%	53%	48%	16%
TALK SHOW/CURRENT AFFAIRS	7%	9%	28%	28%	28%	62%
PAID POLITICAL ADVERTISEMENT	1%	-	-	3%	2%	2%
SPONSORED/PAID PROGRAMME	1%	-	16%	4%	15%	16%
FREE AIRTIME SPOTS	2%	11%	1%	-	-	-
VOTER INFORMATION	2%	33%	1%	1%	-	1%
OTHER	-	-	-	2%	1%	-

	Total political and electoral coverage
RTK1	97 hours 13 minutes and 21 seconds
RTK2	18 hours 28 minutes 9 seconds
KLAN KOSOVA	72 hours 21 minutes and 16 seconds
TV DUKAGJINI	67 hours 48 minutes 24 seconds
KANAL 10	97 hours 18 minutes 53 seconds
T7	74 hours 53 minutes 26 seconds

RTK1 – PUBLIC TV CHANNEL



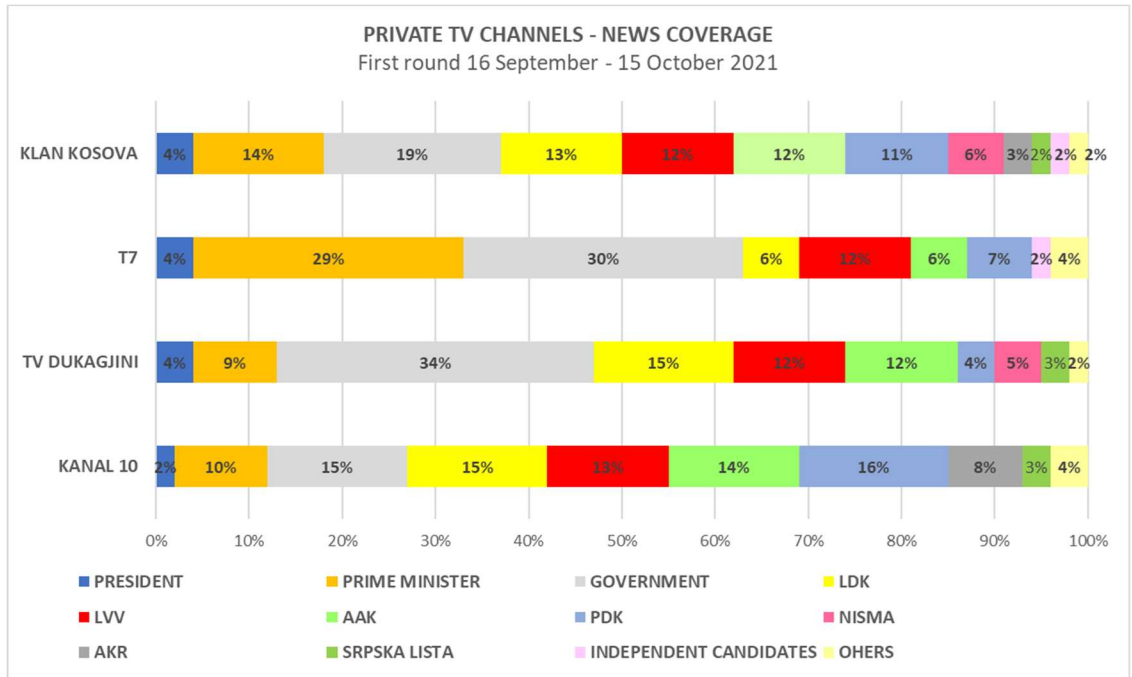
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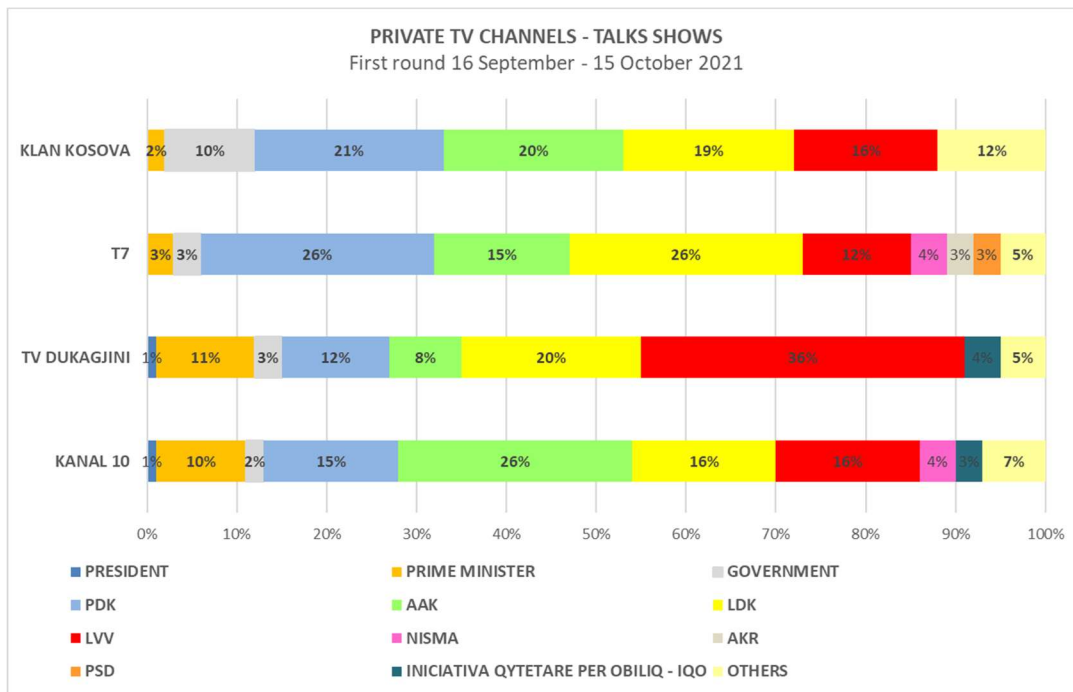
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169 Total news coverage first round: 18 hr 10 min 17 sec - Total news coverage second round: 3 hr 35 min 5 sec
 170 Total time for talk shows/analysis programs: 6 hr 41 min 2 sec. Ahead of the second round, RTK1 did not almost have talk shows, as they were usually organised to comment on the election debates held on the same evening, but only two election debates took place before the runoffs.

COVERAGE BY PRIVATE TV CHANNELS – First round

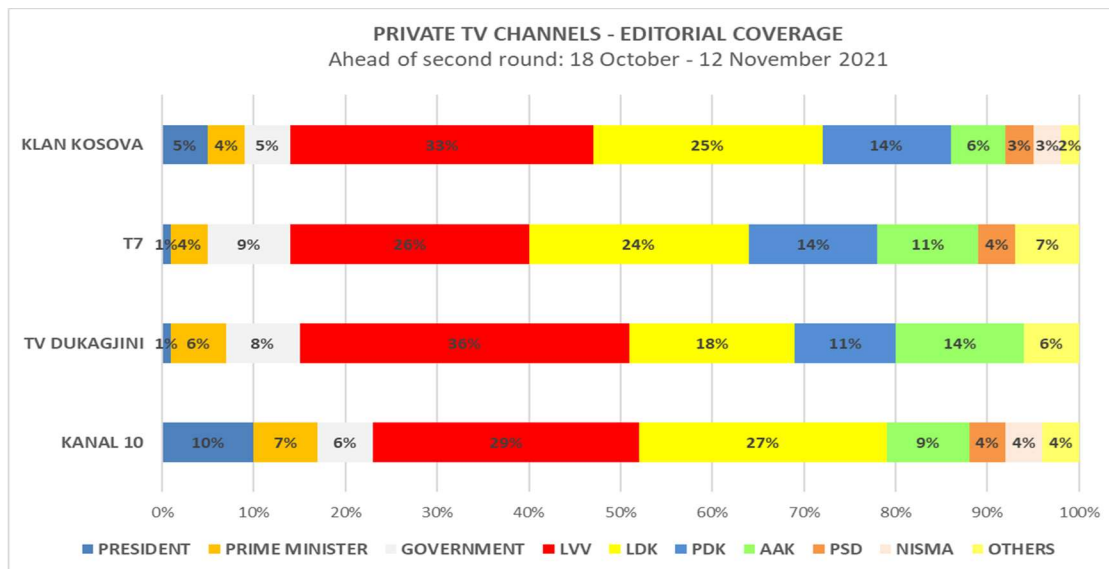


¹⁷¹ Total news coverage first round by TV channel - Klan Kosova: 4 hr 32 min 26 sec; T7: 2 hr 7 min 50 sec; TV Dukagjini: 6 hr 8 min 7 sec; Kanal 10: 5 hr 53 min 6 sec.



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EDITORIAL COVERAGE BY PRIVATE TV CHANNELS – second round

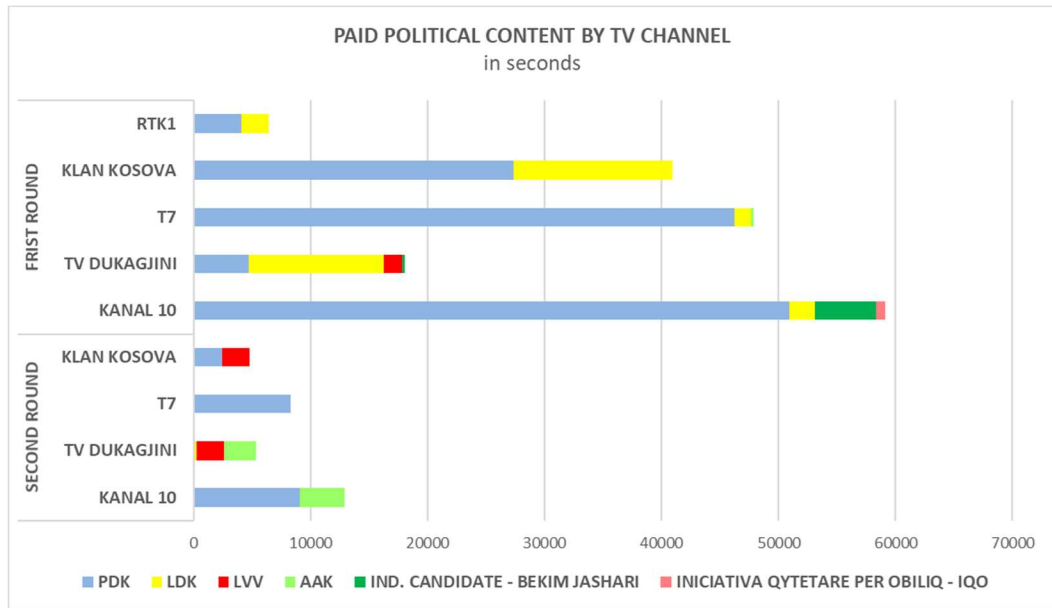


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¹⁷² Total political and electoral coverage on talk shows by TV channels – Klan Kosova: 2 hr 13 min 14 sec; T7: 46 hr 39 min 55 sec; TV Dukagjini 18 hr 24 min 27 sec; Kanal 10: 26 hr 57 min 32 sec. It should be taken into consideration that, reportedly, LVV representatives generally refrained from participating in T7’s political talk shows, as PDK representatives did for TV Dukagjini, alleging a bias towards them from these TV channels.

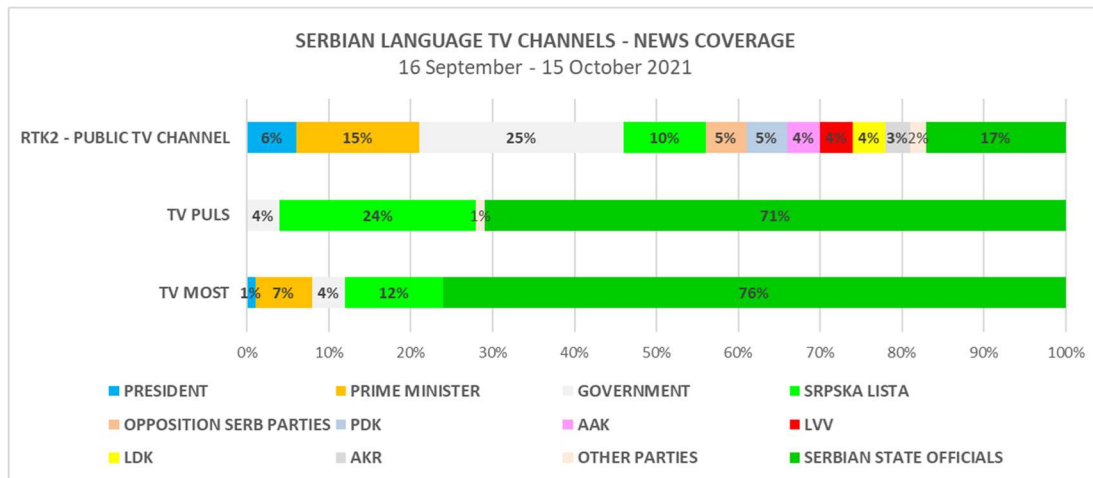
¹⁷³ The editorial coverage includes news, interviews with candidates and political talk shows. In addition to the editorial line of each broadcaster, the coverage provided by TV channels ahead of the second round, was influenced by other elements, such as the political parties having a different number of candidates in the runoffs, TV channels focusing on the most important municipalities or where the competition was tighter. Total editorial coverage by TV channels –

PAID POLITICAL CONTENT



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SERBIAN LANGUAGE TV CHANNELS – NEWS COVERAGE



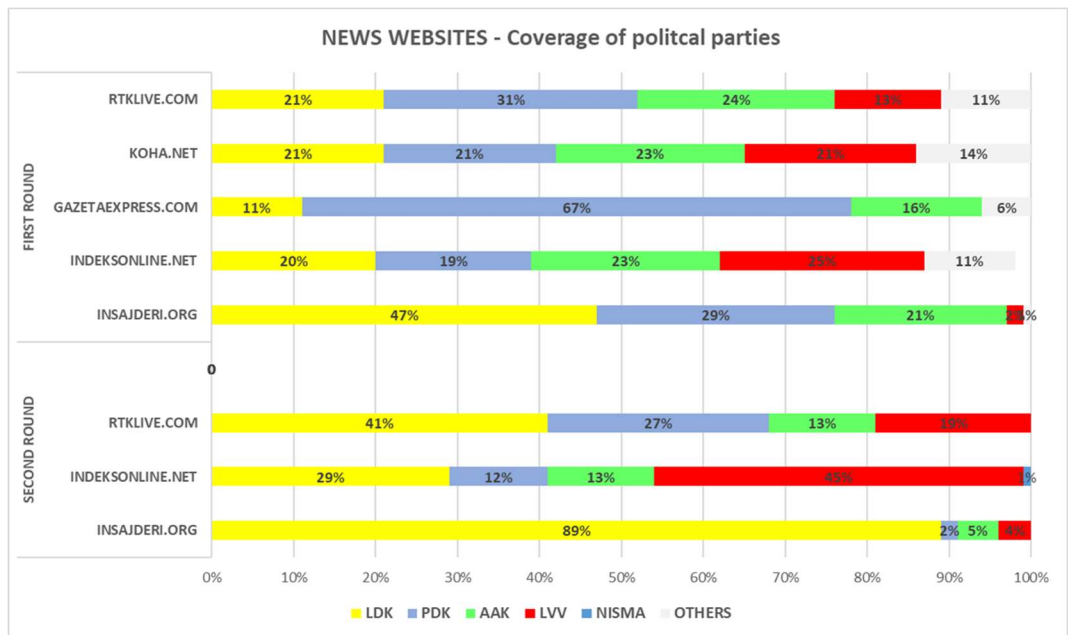
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Klan Kosova: 18 hr 30 min 9 sec; T7: 31 hr 56 min 55 sec; TV Dukagjini: 29 hr 44 min 22 sec; Kanal 10: 28 hr 11 min 13 sec.

174 During the 30-day first round campaign, PDK purchased 78 per cent of paid political content across the monitored TV channels, followed by LDK with 18 per cent. During the five-day campaign for the runoffs, PDK again purchased most of paid political content, 68 per cent, followed by AAK, 21 per cent, and LVV with 15 per cent. The great majority of paid political content during both rounds was composed by paid political programs, 88 per cent, against 12 per cent of short paid political spots.

175 Total time prime-time news coverage by TV channel – RTK2: 7 hr 32 min 16 sec; TV PULS: 2 hr 57 min 36 sec; TV Most: 6 hr 15 min 8 sec. These TV channels were monitored only during the first round election campaign as in nine out of ten municipalities there has not been a runoff.

NEWS WEBSITES – CAMPAIGN COVERAGE



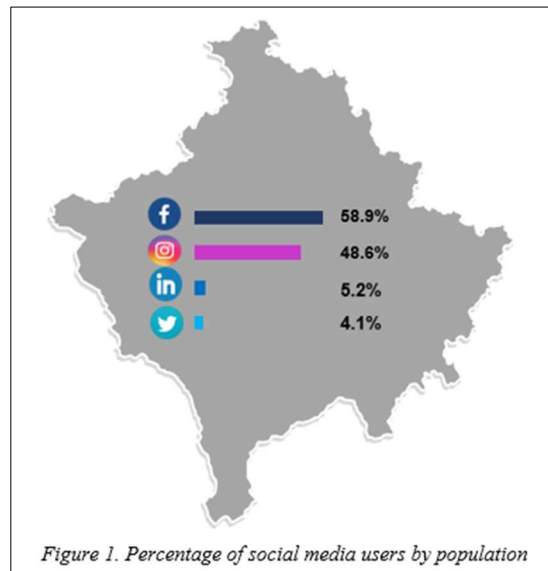
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¹⁷⁶ Number of articles by news websites, first round (16 Sept – 15 Oct): RTKLive.com 586; Koha.net 136; Gazetaexpress.net 17; Indeksonline.net 210; Insajderi.org 649. Second round (18 Oct – 12 Nov): RTKLive.com 192; Indeksonline.net 128; Insajderi.org 99.

ANNEX III. SOCIAL MEDIA MONITORING RESULTS

Internet penetration in Kosovo stood at 91 per cent in January 2021 and is among the highest in Europe. Nearly 57 per cent of the population use social media, with about 1.10 million social media users. Facebook is the leading social network, followed by Instagram, LinkedIn and Twitter.¹⁷⁷ Instant-messaging apps are also quite popular, with Viber leading in terms of use.

The SMMU started its monitoring activity by mapping the digital landscape in order to clarify to which extent contestants were actively using the most popular online platforms to campaign. Based on this, a decision to focus the quantitative analysis on Facebook and Instagram was made.



The social media monitoring activity started on 16 September, the first day of campaign, and included the election silence periods and e-days. Different monitoring projects were designed. The monitoring period for the first-round campaign covered from 16 September to 17 October 2021; the monitoring period for the runoffs campaign lasted from 18 October to 14 November 2021, including both the pre-campaign and the 5-days official campaign period. The selection of the sample was made according to multiple analytical purposes, later reflected in different reports. Pages, groups and accounts with a nationwide and municipal relevance were included.

For Facebook – in total, 487 Facebook pages for the first round and 187 Facebook pages for the second round, as well as 47 public group.

LISTS	FIRST ROUND	POSTS	SECOND ROUND	POSTS
Political entities ¹⁷⁸	228	302	52	223
Mayoral candidates	106	238	34	357
Public Institutions	68	59	68	157
Third-Party pages	85	243	33	270
Public groups	47	133	47	101

For Instagram – in total, 145 Instagram accounts for the first round and 58 for the second round.

LISTS	FIRST ROUND	POSTS	SECOND ROUND	POSTS
Political entities ¹⁷⁹	42	161	17	158
Mayoral candidates	69	366	24	180

¹⁷⁷ Source: ‘We Are Social’ / Hootsuite, Digital 2021, [Kosovo report](#)

¹⁷⁸ Including 25 political parties, 192 party branches, 10 civil initiatives and 1 coalition.

¹⁷⁹ Including 13 political parties, 21 party branches and 8 initiatives.

Public Institutions	17	51	17	92
Third-party pages	17	n/a	n/a	n/a

Overall, a random sample of 975 Facebook posts and 578 Instagram posts published by 534 Facebook public pages and groups and 145 Instagram accounts was examined during the first-round campaign. For the runoffs, the sample was adjusted to the smaller list of contestants involved in the race and consisted of 1108 Facebook posts and 430 Instagram posts published by 234 Facebook public pages and groups, as well as 58 Instagram accounts.

The social media monitoring findings showed that the tone of the digital campaign was generally respectful for the first round and became more negative in the run to the second, with instances of candidate using online platforms to address opponents with harsh language, at times attempting to delegitimise them.

A preliminary analysis of the mayoral candidates’ activity on Facebook and Instagram revealed that 106 mayoral candidates out of 166 running for the first round and 34 out of 42 competing for the second round owned a Facebook public page. Sixty-nine mayoral candidates also owned an Instagram profile, out of whom 24 competed for the runoffs.

Overall, only 16 mayoral candidates owned verified accounts showing a blue verification badge on Facebook and none on Instagram.



Figure 2. Mayoral candidates’ presence on Facebook

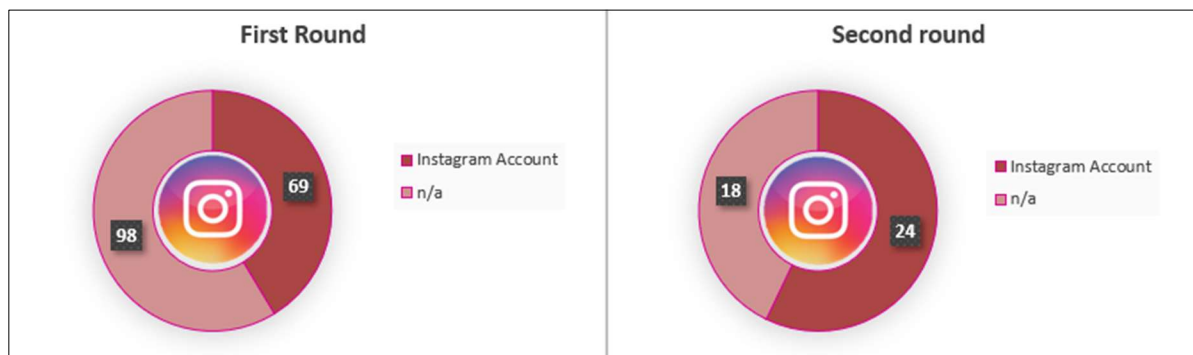


Figure 3. Mayoral candidates’ presence on Instagram

Social media monitoring tools used to conduct the quantitative analysis:

- *CrowdTangle* for Facebook and Instagram data scraping;¹⁸⁰
- *Facebook Ads Library* for paid political advertisement;
- Visual and SMM forms for content analysis were created in cooperation with the Data Analyst using the *E-Day Election Observation App*.

Most of the Facebook posts analysed during the first-round campaign addressed the general public (860). Women voters (52) and youths (45) were also targeted often. Thirty posts addressed diaspora voters. In a few cases, non-majority communities (11) or persons with disabilities (7) were also addressed.¹⁸¹

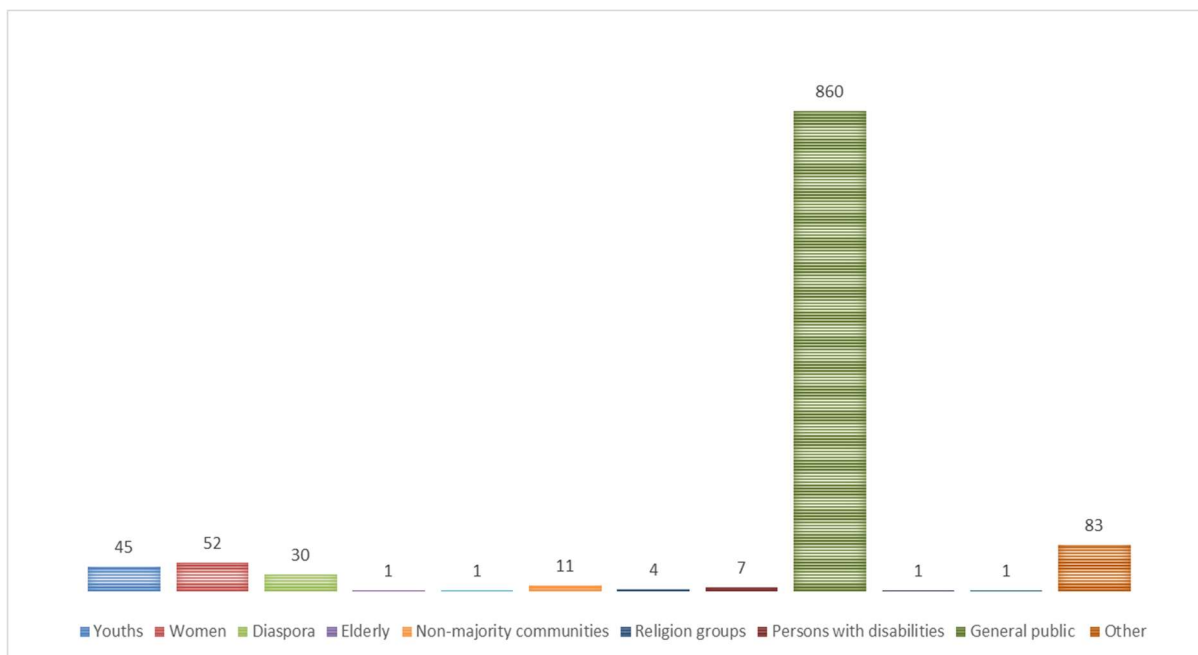


Figure 4. First round: Facebook, target groups by post

¹⁸⁰ CrowdTangle is a public insights tool owned and operated by Facebook.

¹⁸¹ In some cases, posts addressing multiple targets were observed.

On Instagram, most of the posts examined addressed the general public (502), followed by youths (50) and women voters (29). Only a few isolated cases of posts targeting the diaspora (2) and the voters with disabilities (2) were observed.

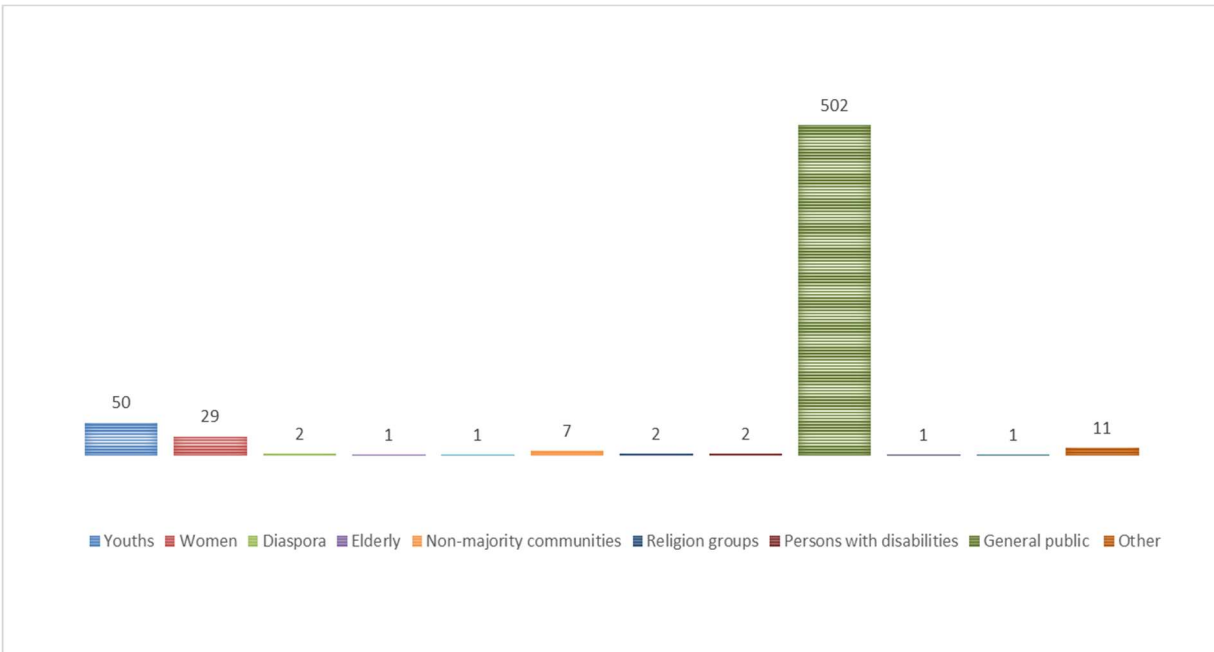


Figure 5. First round: Instagram, target groups by post

The majority of the Facebook posts analysed during the campaign for the second round addressed the general public. The EU EOM noticed an increase of posts addressing diaspora between the two rounds (79 posts). In a few cases, non-majority communities (9) or persons with disabilities (8) were also addressed.

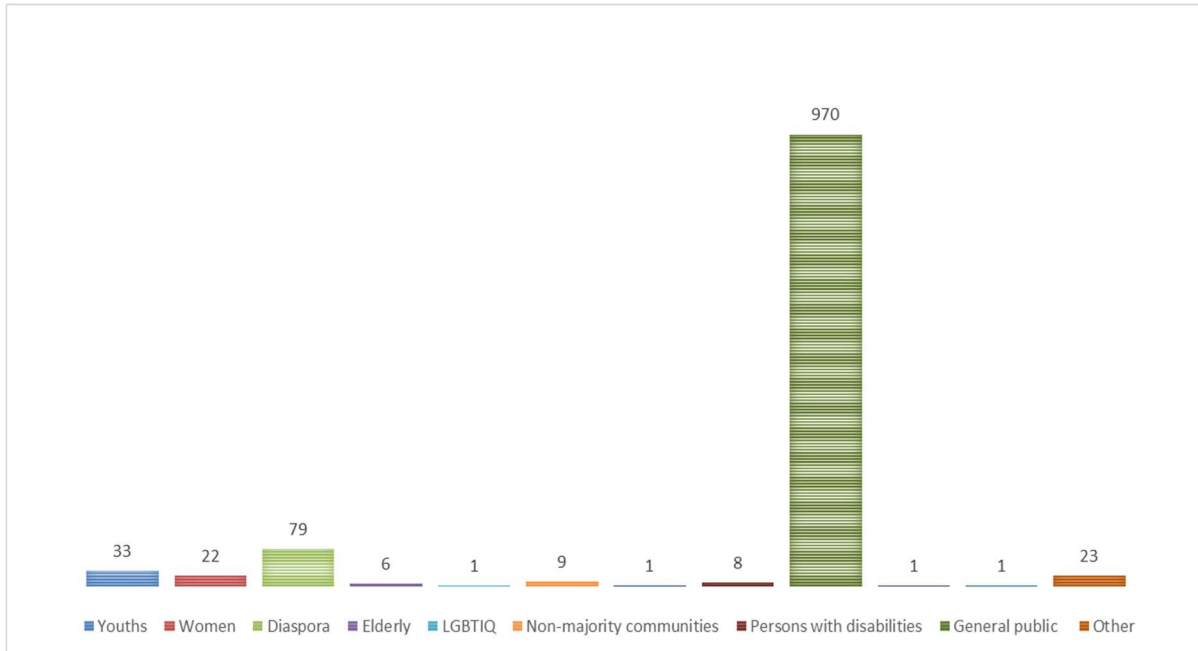


Figure 6. Second round: Facebook, target groups by post

Apart from the general public (408), youth (18), women voters (10) and diaspora (10) were the most frequent target groups on Instagram during the second-round campaign.

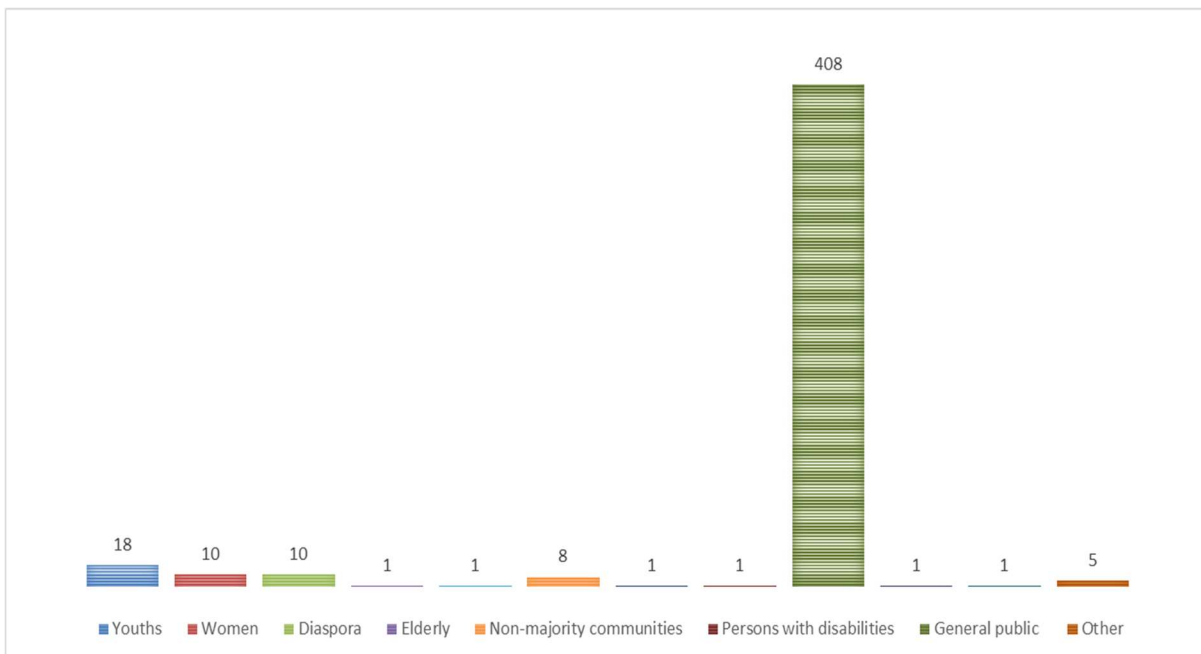


Figure 7. Second round: Instagram, target groups by post

Infrastructure prevailed among the campaign topics – with a particular focus on urban projects and construction – followed by economy. The charts below offer an overview of the main campaign topics during the campaign for the first and second rounds.¹⁸²

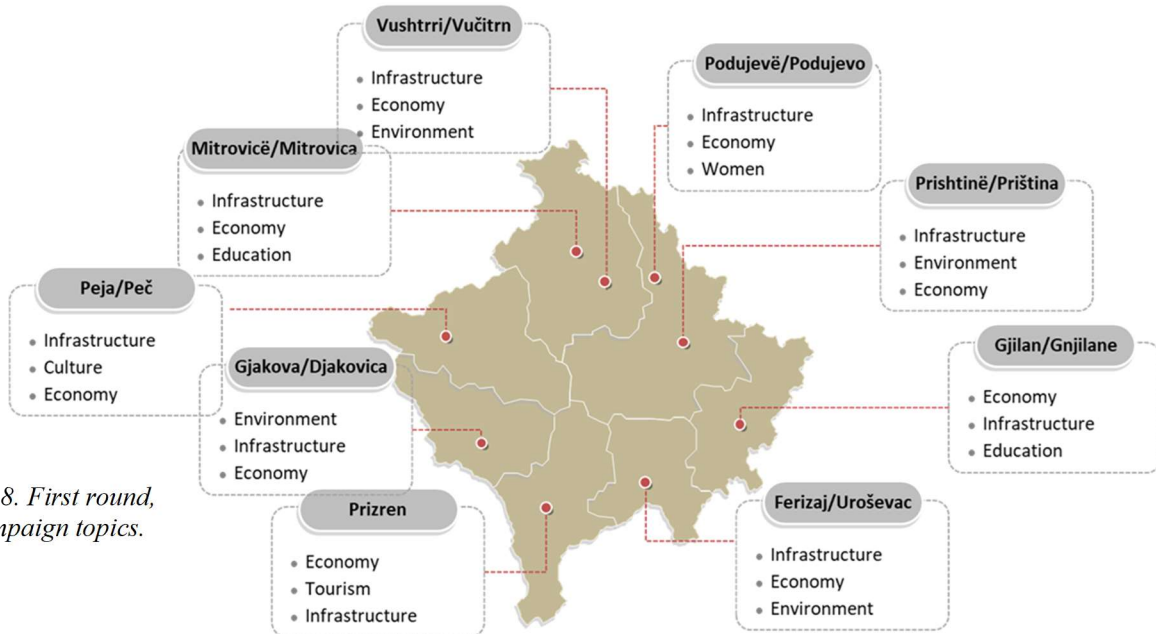


Figure 8. First round, campaign topics.

main

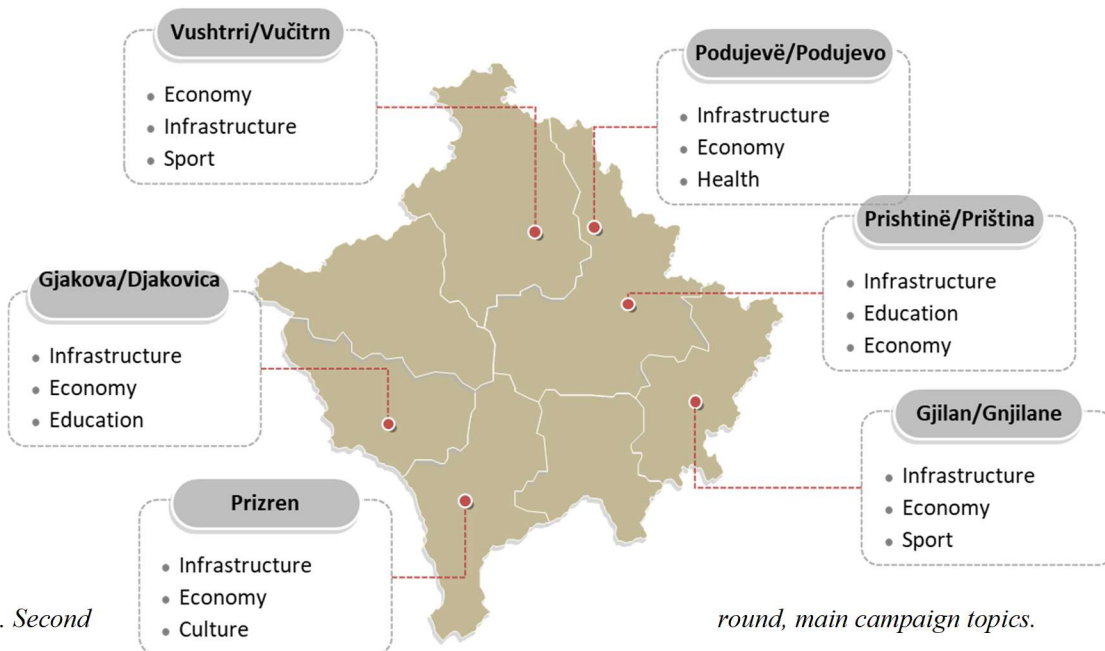


Figure 9. Second

round, main campaign topics.

¹⁸² The EU EOM social media monitoring exercise analysed the digital campaign for all the municipalities holding elections. The charts included in this annex provide data from those with a population higher than 60 thousand inhabitants according to the last census. See [Estimation of Kosovo Population 2011](#), Kosovo Agency for Statistics.

PAID POLITICAL ADVERTISING ON FACEBOOK AND INSTAGRAM

First Round - The EU EOM social media unit tracked manually paid political advertising by 106 mayoral candidates and 37 political entities on Facebook and Instagram on a daily basis from 3 to 17 October. The period of observation comprised the last two weeks of campaign, including the election silence period and e-day (red). A continuous increase of electoral ads was observed, the large majority of which remained active for several days. The charts below show the trend observed. Despite the clear drop with the approach of election day, a total number of 58 violations of election silence by contestants was detected.

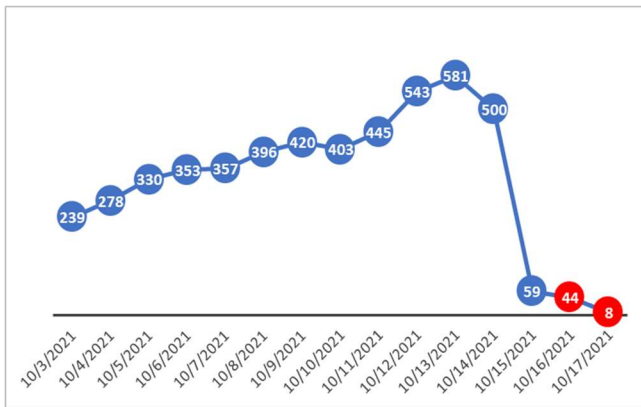


Figure 9. First round, mayoral candidates' active

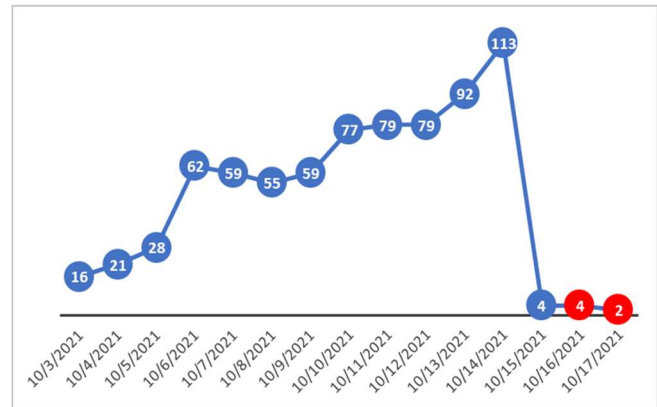


Figure 10. First round, political entities' active ads

Second Round – A similar trend was observed between the two rounds, when the EU EOM monitored on a daily basis the electoral ads boosted on Facebook and Instagram by the 42 mayoral candidates competing for the runoffs, as well as 13 political entities. The monitoring activity lasted from 21 October to 14 November and included the pre campaign period (orange), the 5-days official campaign (blue), the election silence period and e-day (red). A total number of 279 ads were observed, the large majority of which remained active for several days. The charts below summarize the trend observed. A total number of 25 violations of election silence by contestants were identified during the two rounds.

