



REPUBLIKA E SHQIPËRIË

MINISTRI I SHTETIT  
PËR DIASPORËN

**OUT-OF-COUNTRY VOTING**

**FOR**

**CITIZENS OF THE REPUBLIC OF ALBANIA**

**TO**

**THE PARLIAMENTARY COMMITTEE ON ELECTORAL REFORM**



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## ***INTRODUCTION***

This information aims at providing an overview and assessment of the legal and administrative voting options for Albanian citizens who live abroad. Since the Constitution of the Republic of Albania does in principle guarantee the right to vote for every citizen who is 18 years of age, there is a need to find ways so that persons living abroad (for short or long periods of time) can vote on E-Day. The suggestions provided in this document are open for discussion and are not exhaustive.

# I- PURPOSE OF THE VOTE REFORM





## PURPOSE OF THE VOTE REFORM

Enabling the right to vote for Albanian citizens living abroad poses some challenges. However, such challenges are not unsurmountable and actually fade away when confronted with arguments supporting the right to vote.

Albania has not enabled voting rights for its citizens living abroad. On the other hand, 115 countries worldwide and 41 countries in Europe allow their citizens to vote when abroad, and still, the majority of those countries do not have such a high degree of migration compared to the population as Albania does.

If we take into account the very large number of Albanian citizens living abroad, it is deemed that elections in Albania and the institutions deriving from them have incomplete “legitimacy”. Almost half of voters, Albanian citizens, are currently being denied the right to vote.

The right to free, secret, and equal vote is one of the fundamental and inalienable human rights, recognized as such from the Universal Declaration of Human Rights. The declaration does not mention out-of-country voting as an integral part of the voting right. Subsequent conventions, such as the 1990 International Convention on the Protection of Migrants' Rights (signed also by Albania), recognizes the right of migrants to vote in their country of origin and foresees the obligation of the State of origin to enable them to exercise the right to vote.

The Albanian Constitution provides for two basic conditions for the right to vote: being a citizen of Albania and being at least 18 years of age on E-day (Article 45 of the Constitution). This right may be restricted only for mentally impaired persons if they are declared as such by court decision.

When referring to long-term or short-term migrants, the Constitution states: “The Republic of Albania protects the rights of Albanian citizens who temporarily or permanently reside outside its borders” (Article 8 of the Constitution). It also states that the Republic of Albania provides assistance to Albanian citizens living and working abroad to preserve and develop ties with the national cultural heritage.

The “de facto” protection and enjoyment of the constitutional rights of migrants, including political rights and the right to vote, requires that state bodies take additional measures, which are regulated by specific legal and subordinate legal acts. The Law on Albanian Citizens’ Emigration for Employment Reasons foresees the care, protection, preservation of the national identity of Albanian citizens, and the strengthening of ties with the country of origin (Article 11 of the Law on Albanian Citizens’ Emigration for Employment Reasons). It reaffirms the migrants’ right to representation through the elected representatives of their organizations or associations, the right to contact and cooperate with the central and local government bodies of the Albanian State, as well as with diplomatic and consular representation offices of the Republic of Albania in the host countries, to express and protect their interests, while respecting the applicable legal provisions (Article 7 of the Law on Emigration...).

Regarding the right to organization and the right to vote, Article 6 of the Law on Emigration stipulates that:

1. Albanian emigrants shall enjoy political rights and freedoms set forth in the Albanian legislation, as well as the right to actively participate in the political life of the country.
2. The responsible authorities shall enable necessary modalities so that emigrants can exercise the right to vote in accordance with the applicable legislation.

Even though the law addresses only one category of migrants - those who left the country for employment reasons - determining the obligation of the state to facilitate voting for migrants is important. Voting should be facilitated not only for migrants who left for employment reasons, but for all migrants who are out of country temporarily or for a long period, as long as they have Albanian citizenship.

The National Strategy on Migration and the National Action Plan on Migration (2005-2010) provided for the conduct of a feasibility study on the possibility of emigrants to vote in the host countries, to be followed by the amendment of the Electoral Code and the Law on Consular Services, based on conclusions from the study. Such a study was not undertaken while the National Strategy on Migration and the National Action Plan were still effective. Consequently, no concrete measure has been taken in implementing the goals of the National Strategy for Migration (2005-2010).

Currently the Electoral Code of the Republic of Albania provides that:

“Every Albanian citizen, who has reached the age of 18, including on Election Day, without distinction according to race, ethnicity, gender, language, political conviction, religious belief, physical ability or economic condition, has the right to vote and to be elected in accordance with the rules provided for in this Code.” (Article 3)

When specifying the criteria for the inclusion of voters in the voters' lists, Article 44 of the Electoral Code, as amended by law No. 74/2012, stipulates these criteria:

- a) hold Albanian citizenship;
- b) be 18 years of age, including those who reach this age on the election date;
- c) be not found incapable to act by a final court decision;
- ç) be registered with the National Civil Status Register;
- d) have the registered domicile in the territory of one of the voting centres;

So, “domicile” in the territory of one of the voting centres is one of the criteria for being registered on the voters' list. Many of the migrants have as permanent residence registered in the country near a voting centre, that of the domicile they own or used to have, depending on the civil registry office where they are registered, even though their usual dwelling abroad is a different one. They potentially have the (legal) opportunity to vote, but distance does not make it possible.

The Electoral Code also specifies that general elections and local elections are held simultaneously throughout the territory of the country within a period from 15 March to 30 June or from 15 September to 30 November (exceptions to this rule are described in points 3, 4, 5 and 6 of Article 9 of this Code).

It is clearly noted that the Electoral Code has ruled out any possibility for a process held abroad, as it specifies “voting in the country’s territory.”

This specification practically invalidates the provisions of “The Law on Emigration...,” which sets forth the obligation of responsible authorities to facilitate voting of migrants.

The legal framework on voting right in Albania is deemed to be incoherent.

- The Constitution sets forth a universal right, without imposing territorial limitations.
- The Law on Emigration, which in line with the relevant constitutional provision requires the practical guarantee of voting right for a category of citizens, who due to the general dynamics of the Albanian society are out of the country’s territory.
- The Electoral Code sets forth detailed criteria for being part of the electorate, adding domicile besides age and citizenship.
- The inclusion of the domicile criterion excludes citizens who are abroad on E-day and constitutes a limitation of the constitutional right to vote. Currently, no justification has been given on such limitation of this right.

The Assembly should take into account that the Constitution of the Republic of Albania provides for the right of every citizen to elect and to be elected. This universal principle is not embedded in the Electoral Code of the country, which practically does not allow Albanian citizens living in another country to vote for general elections or national referenda in Albania.

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*II- PROS AND CONS*



## II ARGUMENTS “AGAINST” AND “IN FAVOUR”

Out-of-country voting remains a disputed topic at international level. It is a complex issue due to challenges related to its implementation in practice. There are arguments in favour and against providing the opportunity for external voting. Some of the arguments were expressed by the ECtHR case-law and the Venice Commission as follows:

### **1. Arguments to limit voting right only to persons residing in the national territory:**

- Supposedly, non-residents are less connected and less interested or have less information about the country's daily issues;
- It is practically difficult to present MP candidacies to persons living abroad;
- The impact that residential citizens have on the selection of candidates and drafting of their programmes;
- There must be a relationship between the voting right in parliamentary elections and effective influence by the elected political bodies;

### **2. Arguments in favour of migrants' external voting:**

- Voting right exists because of citizenship and entails the sense of citizenship and related rights;
- Ensures effective participation in the political life, regardless of distance;
- Ensures equality between citizens living in the country and the ones abroad, i.e. puts citizens on the same footing;
- Citizens maintain ties with their country of origin, strengthen their connection and sense of belonging, regardless of economic situation, etc.

Countries have various arrangements for persons who are abroad on a short stay, personal or business trip, studies or employment for a short or indefinite period, as well as those on a long-term stay, depending on the category. Arrangements also depend on the type of elections - general or local. In principle, countries allowing external voting grant this right to short-stay citizens and for general elections. As for long-term residents and local elections, the legal landscape is quite varied. Countries allowing external voting for parliamentary elections include Algeria, Belarus, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, Georgia, Germany, Hungary, Italy, Korea, Kirgizstan, Latvia, Lichtenstein, Lithuania, Luxembourg, Moldova, Monaco, Netherlands, Peru, Poland, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Macedonia, Ukraine and UK, but not all these countries allow external voting in local elections. Only Switzerland, Sweden, Spain, Monaco, Lithuania, Lichtenstein, Finland, Belarus and Algeria allow external voting in local elections. At the level of Council of Europe, only Albania, Andorra, Cyprus and Malta do not recognize the right to external voting for their citizens (Andorra allows only early voting for citizens on a short stay abroad, whereas Malta reimburses 90% of the travelling costs).

There is also variation in the time of stay abroad. For example, in Denmark, only persons residing temporarily abroad and normally living in Denmark are allowed to vote. In Germany, citizens on a long stay abroad may vote only in general elections (provided that they do not reside more than 25 years out of Germany).

The constitutions of some countries enshrine external voting right for non-resident citizens, whereas others stipulate it in specific laws (Italy, France, Portugal and

Switzerland recognise external voting by Constitution. Greece has a constitutional provision foreseeing the obligation of the legislative branch to adopt laws that govern modalities for external voting). In other countries, this issue is regulated through specific laws.

Article 3 of Protocol 1 of the European Convention on Human Rights (ECHR) foresees that member States hold free elections at reasonable intervals by secret ballot, under conditions which ensure the free expression of the citizens' opinion in general elections. The Protocol falls short of any provisions about external voting.

The Parliamentary Assembly of the Council of Europe encouraged States to allow their citizens living abroad to participate in the electoral process to the fullest extent possible. This is foreseen in two documents: Resolution 1459 (2005) and Recommendation no. 1714 (2005) on the right to vote.

The Venice Commission's Code of Good Practice in Electoral Matters stipulates that "...the right to vote and to be elected may be accorded to citizens residing abroad..." But, when it referred to the case of Armenia which sought to abolish the voting right to Armenians living abroad, the Venice Commission stated that: "Countries considering arrangements for external voting will have to balance universal suffrage against transparency and security during elections. It is also a matter of costs to what extent can external voting be accommodated for large groups. However, a reform withdrawing the right to vote from certain citizens (in this case expatriates) should be carefully justified."

Another case that brought changes in the approach at the level of EC and ECHR is the "case of Sitaropoulos and Giakoumopoulos v. Greece". In this case, Greek officials employed in European Commission structures filed a claim against Greece for failure to take measures to ensure effective exercise of the right to vote for the Greek citizens residing abroad. Article 51 of the 1975 Greek Constitution tasked the parliament to provide legal conditions for citizens abroad to exercise their right to vote. For 35 years, no action was undertaken to fulfil such objective. Therefore, ECHR acknowledged the applicants' claim that their right to vote outside the territorial State - as enshrined by the Constitution - had been violated.

The ECHR stated that the existence of a legal/constitutional basis leads to expectations for citizens about enjoying a certain right... as a result, such right must be effectively enabled. The case of Albania is similar to the Greek one. Even though it is not a constitutional provision, the Law on Albanian Citizens' Emigration for Employment Reasons leads to expectations of migrants on potential facilitations for out-of-country voting. Analysis of other countries' experiences in voting rights shows a tendency to allow external voting.

The image features a blue-tinted background with a blurred office or library setting. A large, stylized scale of justice is positioned on the left side. In the foreground, a stack of books and papers is visible on a desk. A black rectangular box is placed over the text. 

### **III- LEGAL FRAMEWORK**

### III LEGAL FRAMEWORK

Ensuring the constitutional right to vote from abroad will require the establishment of a proper legal framework. This will require the Albanian Electoral Code to take into account the following points:

- model of political representation for out-of-country voting;
- voting procedures;
- creating out-of-country voters' lists;
- establishing structures to administrate the process;
- budget to cover out-of-country voting costs.

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## IV- PARTICIPATION IN ELECTORAL PROCESSES



## **PJESËMARRJA NË PROCESET ELEKTORALE**

### **- TYPES OF VOTING**

Ensuring out-of-country voting requires implementing measures and procedures that enable voting to all voters who are temporarily or permanently abroad and who have Albanian citizenship.

The question as to which elections should out-of-country voting be allowed represents an important issue, as it determines which institutions, or levels of government will be affected by out-of-country voters.

According to the Constitution of Albania, there are three types of elections:

- general elections
- local elections
- referenda

An option for the electoral reform is to enable out-of-country voters to participate in:

- general elections
- national referenda

This model of participation estimates that local elections directly affect Albanian citizens living within the territory of Albania and within administrative units, without having a major impact on the interests of citizens who live abroad. This reasoning affects the constitutional principle of the right to vote in elections. It values elections, which have an impact on the Albanian national developments, by allowing out-of-country vote for legislative representation and for matters of national interest.

### **- POLITICAL REPRESENTATION**

The issue of representation of out-of-country voters in the case of national referenda can be considered as a simpler issue, since voting is held countrywide and there is no division in electoral regions. On the other hand, voting for general elections poses more challenges. There are several different political representation models for out-of-country voters. Such models reflect the electoral systems of respective countries. The implementation of a given model of representation also determines the influence that voters will have in the electoral processes.

The electoral system of a country is the main factor to take into account when deciding the representation model that will give the opportunity to vote to citizens living outside the country's territory.

The national proportional model is the easiest model to apply in terms of out-of-country voting, because in this case all voters are registered in a single electoral region.

There are three different political representation models for out-of-country voters, which bear the challenges posed by the regional proportional system itself.

The territory of Albania is divided into 12 electoral regions. When it comes to registration and out-of-country voting, one can see the following challenges with the political representation versions below:

### ***1- Representation of migrants in one “extraterritorial” electoral region***

This model is one in which out-of-country voters are assigned one (or several) “extraterritorial” electoral regions. Such a model is used by few countries where migrants are recognized the right to elect members of parliament in an external electoral region (in the case of Croatia, the number of MPs from this region varies and is determined through a formula that divides the total number of out-of-country votes with the average number of votes per member of parliament within the territory of the country). So, this system takes into account the participation in elections of citizens living abroad, while making an effort not to distort democratic representation in the country's political life.

This model worked well in the case of Croatia. It is a way of solving voting difficulties for a country that has a regional proportional electoral system. For Albania, there are some challenges when it comes to applying such an electoral system.

- First, this model would require essential constitutional amendments, because the Albanian constitution does not allow for extraterritorial electoral regions;
- Second, considering the huge number of potential voters abroad in the case of Albania, in order to have a fair democratic representation, it would be necessary for almost half of the members of the Albanian Parliament to be elected from a hypothetical extraterritorial region. Of course, such a proposal would face strong political objections.
- The third reason is related to another aspect of political

representation. This is due to the large geographic distribution of Albanian citizens living and working abroad and the interest of these communities in elections in Albania is not related to any “abstract extraterritorial region”, but rather to the fate of their families living within the territory of Albania.

### ***2- Representation of migrants in one of the electoral regions inside the country***

Such practice is used in several countries, including Poland and Latvia. In this case, all out-of-country voters are placed on the voting lists in one of the existing electoral regions inside the country's territory, mainly in the capital. Such a solution facilitates the administrative aspect of the process as all citizens abroad vote in one electoral region. Their votes are collected by state structures assigned this duty by law and are immediately transferred to the respective electoral region.

From a political aspect, this model gives unfair “weight” to out-of-country voters in the electoral system. It is criticized because it can serve to change the results in a particular region. This may also put the legitimacy of out-of-country voting into question. For example, if citizens living abroad vote in the capital, there is a possibility that parties that lose in the elections object the results and that citizens of the capital think that out-of-country voting is denying them the opportunity to have a say in the future of their region.

### ***3- Representation of migrants according to existing electoral regions in the country***

In this model, citizens living abroad vote in the electoral regions of their domicile before leaving the country, or where they are registered. It does not distort democratic representation, thus giving out-of-country voters real influence in the life of the country. Given the size of the Albanian community abroad, this model avoids a biased, arbitrarily-assigned regional concentration of voters. In this case, the interests of out-of-country voters are related to the interests of their families in Albania and this model allows them to have a more direct influence in determining the future of the country as a whole and of their place of origin in particular. This model does not cause distortions of democratic representation.



Experience of many countries has shown that the more difficult and complex the registration procedure for out-of-country voters, the lower is their election turnout. In order to ensure the highest possible turnout in external voting, registration procedures must be as simple as possible, without overlooking the requirements for the process security.

Albania has no accurate data yet about Albanian citizens living abroad and their addresses. Hence, these citizens are required to proactively express their will to vote:

1. by mailing a request for this purpose;
2. by addressing via electronic mail the specific structure established with the competent authority (at the CEC) responsible for the voter registration process;
3. by personally going to the diplomatic missions of Albania.

The request to register must include their mailing address and possibly an email address. This way, the competent Albanian bodies would have a clear estimate of the number of citizens abroad wishing to participate in elections.

Citizens living abroad, who express their interest to participate in elections, would be sent - by registered mail prepaid by the Albanian state authorities or electronic mail - information describing the registration procedures, as well as a registration form. The form would contain questions about citizens' personal details, passport number, and information about the administrative unit in Albania where they are (or were), registered prior to leaving the country. These citizens would be also asked whether they wish the next registration steps to take place through postal service or electronic mail. The registration procedure would proceed based on this choice.

At the same time, Albanian citizens abroad would be requested to sign a statement of consent for their names to be cleared off the in-country voter lists, in order to be placed on a special out-of-country voter list.

- Registration by postal service (registered mail) implies that the Albanian citizens living abroad would receive materials [and the mailing costs would be] prepaid by the Albanian state authorities. When registered mail is used, it is mandatory for the addressee – who should receive the order only in person – to present a valid identification document, such as a passport or residence card, in order to receive the materials. As far as the concrete matter is concerned, such practice is aimed at confirming the identity of the citizen who express their interest to become an "out-of-country voter", and avoid any potential abuse. Once the post service reports the list of persons who have received the registration materials with the purpose of becoming "out-of-country voters" and submits the filled-in applications to the competent structure prescribed by the electoral law, such structure checks the applications and the identity of Albanian citizens against the data available to the Albanian state authorities.

The names of citizens who submit their request to vote are included in the list of "out-of-country voters". They are assigned to the electoral regions where their name is registered in Albania. Simultaneously, their names are removed from the in-country voter lists in order to avoid overlapping.

Citizens residing abroad are sent an individual registration code in the form of a scan-read barcode to be used as a key identification element, which contains both personal details as an "out-of-country voter" and information about the electoral region where their vote is to be counted. The information contained in the bar code is encrypted and will refer to the information from the out-of-country voters' central database established by the competent structure tasked with administering the vote of Albanian citizens living abroad. The individual registration code is sent through registered mail no later than 60 days prior to Election Day. This timeframe is intended for citizens abroad to have the possibility to lodge a complaint in case they have not received the code. This process must start at least 6 months in advance of the Election Day and must be completed at least 60 days ahead of the Election Day.

- Registration may be done also through internet on an official website set up exclusively for this purpose. Once these citizens receive a reply from the Albanian authorities that their voting application has been registered as well as information about the registration procedure, they can apply online by filling in the registration form. These citizens must also state their consent to be included in the "out-of-country voters" list. After submitting their personal details in the system, such as first name, last name, date of birth, passport number, address in the host country and their previous address in Albania, the competent authorities will check these details. Within a period of 1-2 weeks, the system shall generate a scan-read individual code which each of these citizens may print only once.
- Out-of-country voters may register their name in the voter lists in consulates / embassies. They may be registered as immigrants – in the civil registry offices abroad (e.g. Netherlands), whereas in Switzerland their status can be obtained from the information available in tax offices. Registration may be done within 180 days or even 3 days ahead of the Election Day, depending on the country. The registration request to vote may be submitted in a written form or as a verbal statement. In most cases, an application is submitted to the consulate / embassy, local offices and national authorities.

## - **VOTING PROCEDURES**

There are two modalities for external voting:

- 1) DIRECT VOTING IN DESIGNATED VOTING CENTRES;

## 2) VOTING BY MAIL.

### **DIRECT VOTING**

Direct voting in designated voting centres would undergo the same procedure as any voting centre in the territory of Albania. Out-of-country voters go to the voting centre designated for this purpose, present the passport and the individual registration code and vote for the electoral region they are registered in.

### **VOTING BY MAIL**

Citizens registered as out-of-country voters have two options to obtain the ballot paper:

- download it from the official website;
- receive it by mail.

The ballot paper must be sent to Albania via registered mail.

Citizens having no internet access may obtain the ballot paper through registered mail service paid by the Albanian state authorities. They must show their individual registration code and passport and sign the mail receipt, in order to get the ballot paper. This process can hardly be manipulated, as each out-of-country voter is subject to a set of security measures to obtain the individual registration code.

Voters having internet access may print the ballot paper from the official website, once they enter their personal details and the registration code. Any voter may print only one ballot paper. Voters using this option will not be sent a ballot paper by mail. From this website, they may also download information about the political parties and the candidates running in their respective electoral regions. All citizens wishing to become “out-of-country voters” must clearly indicate their preferred option between the two. One option chosen means that the other is automatically excluded.

Any ‘out-of-country voter’ must put their ballot paper inside an unmarked envelope which they must - together with a copy of the passport and the individual registration code (i.e. the bar code printed or received by mail) - put inside a second envelope to be given by the postal service. Another alternative is that the ‘second envelope’ that is sent to the out-of-country voter by the postal service contains already the individual registration code. Same as above, the ‘out-of-country’ voter must present a valid ID to the postal company tasked with the administration of this process (simultaneously sending a copy of his/her passport).

Once the envelopes arrive in Albania, the competent vote administration structure checks the personal details of each citizen, i.e. scans the bar-code or enters the data in the computer, to determine the electoral region the ballot paper belongs to. Only after this step, the unmarked envelopes containing the ballot papers of out-of-country voters are distributed to the respective electoral regions, ensuring the secrecy of each external vote.

# V-COMPARISON OF VOTING SYSTEMS

## - PARTICIPATION

The main difficulty associated with any external voting alternative is linked with representation, i.e. establishing a system that allows the biggest possible number of voters to participate in elections. In this view, voting by mail has several advantages over direct voting.

Direct voting in voting centres, located either in Albanian diplomatic missions or designated voting centres, would exclude a significant number of potential voters. Voting in diplomatic missions would be impossible, given the high number of Albanian citizens living abroad, like in Greece or Italy. Therefore, many citizens would prefer abandon the idea of voting due to lack of time or financial constraints. The same holds true if the Albanian state authorities opened designated voting centres, as these would hardly ensure adequate territorial coverage for all Albanians living abroad, e.g. on a remote island in Greece or a town in Canada or US. Another disadvantage is that there are countries where Albania has no diplomatic missions, or that immigration host countries like Switzerland do not allow direct voting by foreign citizens in their territory.

On the other hand, voting by mail has no such setbacks. It can guarantee voting of any Albanian citizen regardless of their location. This voting procedure ensures a higher participation in elections.

The US has granted external voting right to their citizens being away from the country on Election Day. They may vote electronically by email or download the ballot paper from the internet and send it by postal service or fax. For this purpose, citizens apply in advance and give their address, fax number or residential address online. The ballot paper may be retrieved around 45 days before Election Day. Information campaigns and websites thoroughly describe the voting modalities. For any explanations, a US citizen may get instructions at the closest US embassy in the host country. The voter may send the ballot paper by international mail to the embassy or consulate which sends it to the US. The envelope must include the postage cost. Alternatively, the ballot paper may be send by courier service.

Another specific procedure applies when the ballot paper has not been received until 30 days prior to the elections. Without elaborating further on this, the important conclusion is that each voting option could be suitable to Albanian citizens abroad, as they comprise a multitude of choices: electronic mail, fax, simple international mail, courier service, and embassies. These choices are applied in other countries, too. A study by the Venice Commission found that voting by mail for out-of-country citizens is applied in countries like Austria, Germany, Ireland, Italy, Lichtenstein, Luxemburg, Mexico, Slovakia, etc. Other countries allow external voting in embassies or consulates provided that the individual votes personally, and these include: Brazil, Bulgaria, Croatia, Czech Republic, Hungary, Georgia, Moldova, Montenegro, Morocco, Poland, Romania, Russia, Serbia, Ukraine, etc. This option is used also in Algeria, Belarus, Norway, Belgium, Bosnia and Herzegovina, Denmark, Estonia, Finland, France, Lithuania, Latvia, etc. Electronic voting is being used in Estonia, Netherlands and Switzerland, whereas some countries – like Belarus, Denmark, Andorra, Finland, Lithuania Kyrgyzstan, etc. – allow early voting for persons going abroad on a short

stay varying from a few days to 3 months. United Kingdom, Algeria, Belgium, France, Monaco, Netherlands and Sweden also recognise proxy voting.

The Venice Commission report on out-of-country voting provides guidelines and recommendations on ways that can be followed to ensure that citizens abroad exercise their right to vote.

### - ***ELECTORAL LOGISTICS***

The process of external voting will face some logistical difficulties.

In direct voting, opening of voting centres in all countries where Albanians live and reside would become a logistical “nightmare”. It is supposedly possible and would be a solution to national referenda, but not for parliamentary elections. The current electoral system with 12 electoral regions would require 12 ballot boxes in each voting centre abroad and a number of ballot papers that must accurately match the electoral regions where the out-of-country voters are registered in. Transportation of these electoral materials from Albania to the voting centres and back would be a challenging task. In logistic terms, direct voting would be inappropriate to a regional proportional electoral system (Indonesia introduced such a model, until the division in a number of electoral districts made the entire process unmanageable).

Voting by mail has no such shortcomings. It addresses all the logistic challenges posed by the regional proportional electoral system. A specialized postal service could distribute and collect ballot papers much more quickly and efficiently, compared to the scenario where the Albanian state authorities takes on the organisation of this process.

### - ***PROCESS SECURITY***

In theory, direct voting seems to ensure more transparency and security to the voting process. If carefully examined under this perspective, voting by mail enjoys a number of advantages over direct voting. Direct voting would necessarily be handled by Albanian diplomatic missions, which – although are theoretically independent and non-political – are often viewed in practice by political parties as filled with “connections” to the ruling parties. This means that political interests might be involved in the process administration in favour of the ruling party. Even if diplomatic missions were non-political, a perceived political bias would suffice for arguments by those seeking to question election results. Voting by mail, on the other hand - given the distribution and collection of ballot papers by a specialised postal service - would keep political interests away from the process.

Direct voting poses additional security problems. It leaves open the issue how electoral materials and ballot boxes will be secured during transportation or after the voting ends. Security in transportation or counting in tens or hundreds of voting centres needed for direct voting falls short of safeguards. By contrast, voting by mail addresses these loopholes much better, placing the process under the responsibility of postal companies like DHL or UPS that have extensive experience in the distribution of sensitive documents. This way the Albanian state authorities would not be involved in the process and ballot tampering would be out of the question. These companies are interested in upholding their reputation and have no “political backup” in a potential confrontation with the law, as is often the case with party militants.

The only aspect where direct voting competes with voting by mail is the risk of 'family voting' or 'group voting'. Also, 'lobbying influences' by host countries are not to be excluded, as they might exert lateral pressure on Albanian citizens over the right to vote. However, it is worth noting that Albanian emigrants live in the West, in societies with consolidated standards and a solid culture of freedom that would limit any negative influences over the right to vote.

#### - **TIME FRAMES**

External voting would create a time gap, as 'external votes' would not be counted simultaneously with the 'in-country' votes.

However, external voting will take place in advance of the elections in Albania. Collected ballot papers would be sent to and counted by the structure set up for this purpose, either before or after the Election Day in Albania. Preferably, external votes would be counted in advance of the elections in Albania, so that their result would be announced simultaneously with the in-country result, thus avoiding or minimising the possibility of contesting the results.

Voting by mail is the best option in terms of time frames. Postal services specialised in mail distribution and collection have a service delivery efficiency that cannot be matched by any Albanian state body or authority, due to objective reasons linked with the lack of experience or adequate infrastructure.

#### - **FINANCIAL COSTS**

Costs associated with voting by mail are lower than in direct voting. A rough estimate indicates that voting by mail costs \$20-25 per 'out-of-country voter'; such cost would decrease while voter participation increases. Considering the economic contribution of citizens living abroad to our national economy, such a cost is reasonable. It becomes acceptable given that elections in the territory of Albania cost approx. \$22 per voter (estimate before 2009).

## **VI- PROCESS ADMINISTRATION**

The external voting process, from voter registration to ballot counting, will be administered by a special and independent structure within CEC, called the Central Commission for External Voting (CCEV). This structure will be tasked with the verification of data of citizens who express their willingness to vote and will administer their registration by sending them the registration code and by managing the dedicated website. This structure, in cooperation with CEC, will also clear off the names of 'out-of-country voters' from the lists of voters voting within the territory of Albania.

CCEV will also be responsible for the selection of the postal service that will distribute and collect ballot papers. Selection will be tender-based, awarded on the basis of prices and security conditions provided by each bidder.

CCEV will also assist the postal service in sending the proper ballot papers to the out-of-country voters and in counting and distribution thereof, according to the regions for which the vote is cast.

## - **CONCLUSIONS**

There is no uniform position about the voting modalities or the category of citizens who may vote from abroad. Nevertheless, most countries entitle their citizens to vote outside their country - mainly those on a short stay abroad, and generally for parliamentary elections.

The number of countries that do not allow external voting for any category of citizens is extremely limited, Albania included... Countries not recognising this right include some that have adopted some other facilitations, such as early voting or reimbursement of travel costs. This approach to the right of vote for citizens staying abroad is also in line with the principle of universal suffrage which, on the other hand, calls for encouragement of citizens to vote by removing any barriers.

The Parliamentary Assembly of the Council of Europe, the Venice Commission and even the ECtHR case-law are guiding states towards finding mechanisms that ensure effective external voting. This approach takes account of the growing mobility of human society and its benefits to the countries of origin, as well as the right to representation. The Venice Commission is in favour of external voting where there is a considerable number of out-of-country voters.

Specific actions must be taken to ensure real representation of migrants, considering the development dynamics of Albanian society with migration becoming a national trend and the migration impact on the domestic economy.

A feasibility study weighing the best external voting options that do not compromise the transparency of the process would be useful. The study might refer to the best practices in other countries and the Venice Commission recommendations in this area, striking a balance between the findings and the characteristics of elections in Albania as well as the related costs. This step must be followed by amendments to the Electoral Code coherent with the constitutional provision for comprehensive suffrage and the Law on Emigration of Albanian Citizens for Employment Purposes.

Comparison of the two voting procedures/options (electronic and by mail) shows that voting by mail has advantages in the case of Albania. It is simpler and more convenient in terms of costs, administration and security safeguards compared to direct electronic voting.

It is up to the parliamentary Electoral Reform Committee to make the final proposals based on which the Assembly of Albania will decide on the voting right of almost half of the Albanian citizens abroad. This would start a new chapter for politics and Albania.

STATE MINISTER FOR DIASPORA

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