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STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS (NDI) PRE-ELECTION DELEGATION TO THE 1997 ALBANIAN PARLIAMENTARY ELECTIONS

Tirana, June 15, 1997

I. THE DELEGATION AND ITS WORK

This statement is offered by a four-member pre-election delegation organized by the National Democratic Institute for International Affairs (NDI). The delegation visited Albania from June 10 through June 15, 1997. The purposes of the delegation were to demonstrate the interest of the international community in Albania's electoral process and to examine conditions leading up to the parliamentary elections scheduled for June 29.

In addition to monitoring the 1991, 1992 and 1996 parliamentary elections and the 1996 municipal elections, the Institute has provided support and technical advice to the Society for Democratic Culture, a nonpartisan Albanian civic organization, and has sponsored seminars for Albanian civic organizers, legislators, local councillors and other citizens working to build democracy. NDI has maintained a continuous staff presence in Albania since 1993.

The members of this delegation included: Sam Coppersmith, a former member of the United States Congress; Thomas O. Melia, Senior Associate at NDI; Patrick Merloe, Senior Associate at NDI responsible for the Institute's electoral programs; and Jonas Rolett, NDI Senior Program Officer and former NDI representative in Albania. The delegation was assisted by Erin Saberi, Maura Donilan and Rahmonda Simoni from NDI's Tirana-based office.

The delegation was charged with reviewing the state of electoral preparations and gauging the political environment surrounding the elections. The delegation did not seek to interfere with or to certify the election process, and it recognized that it is ultimately the people of Albania who will judge the legitimacy of the elections and the government that results from the elections. The delegation was aware of the mandate of the Organization for Security and Cooperation in Europe (OSCE) to monitor the elections at the request of the government of Albania and the related efforts of the OSCE to assist the process.

The delegation conducted meetings with: the Chairman and members of the Central Electoral Commission (CEC); President Sali Berisha; Prime Minister Bashkim Fino and other government officials; Leka Zogu, claimant to the throne of Albania, which is the subject of a national referendum scheduled to take place in conjunction with the parliamentary elections;

leaders of Albania's political parties and civic organizations; journalists and other Albanians concerned with the elections; and representatives of the international organizations that are monitoring the elections and providing humanitarian assistance, including the OSCE, the Multinational Protection Force (MPF) and the European Community Monitoring Mission (ECMM). While the role of the delegation was distinct from NDI's other programs in Albania, it was informed by the activities of NDI staff in the country over the last several years and the findings of the Institute's prior electoral observation missions to Albania.

II. FINDINGS AND OBSERVATIONS

SUMMARY

This delegation was not able to find that the minimum conditions for legitimate elections will necessarily exist on June 29, 1997, although the delegation recognized that it is possible to create such conditions by that date, if extraordinary efforts are put forth by all those engaged in Albania's electoral process, including government and electoral officials, political parties and candidates, domestic civic organizations and the international community. The possibility for achieving minimum conditions, taken together with the risks associated with delay, dissuade us from recommending at this time that the elections be postponed. Unless dramatic improvements in the electoral conditions are achieved within the next week, however, a postponement will not only be advisable but will be required to avert a potential electoral failure.

While strong and reasoned arguments have been made against any delays in the electoral schedule, the delegation believes that the worst option would be to proceed with elections that would fail and thereby exacerbate the current political crisis. Therefore, should it become apparent in the next week that conditions for sound elections are not achievable by June 29, the OSCE and the Albanian government should each acknowledge this, and the international community should support an appropriate postponement. Should conditions be adequate in most of Albania's 115 electoral zones, a brief postponement of elections in certain zones only may be advisable in order to concentrate necessary attention on those zones immediately following June 29. The international community also should support such partially delayed elections.

The delegation noted the following principal problems in meeting minimum conditions: (1) lateness in meeting deadlines for the registration and announcement of candidates, the setting of locations for polling stations, the announcement of voter lists, the setup and functioning of Zone Election Commissions (ZECs) for the 115 single-member zones and the naming of Polling Station Commissions (PSCs); (2) problems in Albania's security situation that complicate distribution of election materials and communication of results, inhibit staffing of ZECs and PSCs in certain zones for members of some parties, restrict campaign activities in some areas and could significantly depress voter turnout; (3) differing interpretations among political actors over the legal provisions concerning the method for distributing the 40 parliamentary seats classified as "supplementary mandates" that are to be allocated on a proportional basis; (4) confusion among Albanians over the role and responsibilities of the international community in monitoring versus

administering the elections.

At the same time, the delegation recognized that conditions for legitimate elections might be achievable on June 29, through: (1) extraordinary efforts by Albanian authorities responsible for conducting the elections; (2) concerted efforts by the Albanian political parties to fulfill their responsibilities in electoral administration -- and to demonstrate true commitment to the national interest; and (3) focused assistance from the international community. The delegation also recognized that a delay in the elections might lead to a loss of political consensus among the parties concerning elections, unless a new spirit of cooperation emerges. A delay might also pose a risk that the security situation deteriorates before elections are held and could frustrate voters, diminishing confidence in the democratic political process as a way to solve national problems.

This statement examines a number of issues that are central to holding legitimate elections on June 29 and makes recommendations to address these issues.

It is important to stress, however, that the single most important determinant of whether the forthcoming elections provide a way forward for Albania, regardless of the date of the elections, will be the behavior of Albania's most senior politicians. They share responsibility for the profound crisis gripping the country and they have not yet done enough to instruct their respective supporters to lay down their weapons. The major political parties also share responsibility for the management of these elections through their participation in the Government of National Reconciliation and their participation in the Central Electoral Commission. Responsibility for inevitable shortcomings in electoral preparations cannot be shifted by one political party to another -- nor can the fundamental responsibility for the elections, or the critical work of national reconciliation that must follow the elections, be shifted to the international community. The Albanian electorate knows this, and the political parties must face up to their obligations, just as the international community must be prepared to support positive steps during and after the elections.

A. LEGAL FRAMEWORK FOR THE ELECTIONS

The legal framework for Albania's parliamentary elections, in general, compares favorably with election laws of other transitional democracies. A central element of the Election Law provided a method for distributing the 40 parliamentary seats (supplemental mandates) that complement the 115 seats based on single-member zones. (Article 11 of the Election Law.) This method involved a set-aside provision to favor small parties that received at least 2 percent of the vote nation-wide. The Constitutional Court, however, recently invalidated this provision and discussion among political leaders about a new accord continues at this late date. Notwithstanding that such an agreement may yet emerge, there is also disagreement among the political parties over what body is vested with the power to determine the method for distributing the proportional seats. The original provisions of the law and the Court's decision leave unsettled the matter of the method to be used by the electoral authorities to allocate the "remainders", the difference between the percentage of the vote won by a party and the number of

seats awarded. On a strictly proportional basis, for instance, a party with 8 percent of the vote receives 3.2 (of 40) seats, one with 36 percent receives 14.4 seats and one with 16 percent receives 6.4 seats. This leaves one full seat to be allocated somehow -- presumably according to one or another of the formulas utilized in established systems of proportional representation. Disagreement and/or ambiguities over such basic aspects of the legal framework for the elections must be resolved before ballots are cast. Inasmuch as the OSCE has brought such a wealth of electoral expertise to Albania, it should make available to the CEC advice that would enable this matter to be resolved as early as possible.

The Election Law also requires that candidates obtain a certification from the State Commission on the Control of Political Figures (Verification Commission), with their candidate applications, no later than 20 days before election day. (Article 13.) The Verification Commission did not issue certifications for a significant number of candidates by that deadline and did not announce its decisions until June 13. The lateness of the decisions could preclude the 30 persons denied certifications from concluding appeals of the decisions in time for their names to appear on the June 29 ballots. It also could prevent political parties from substituting other persons for those who were disqualified because the date for candidate nominations passed.

B. ELECTORAL PREPARATIONS

Zone Election Commissions. Zone Electoral Commissions (ZECs) are required in all 115 single-member zones. As of today, a significant number of ZECs are not yet functioning, and as last night only 65 ZECs had submitted candidate nominations to the CEC. They were to receive candidates' applications and other required documents no later than 20 days before election day, and the ZECs were to announce candidates no later than 17 days before election day; both of these deadlines have passed. Some ZECs have not begun operations, including some in Tirana, thus denying candidates the opportunity to file their nominations. This could cause problems for timely printing of ballots, which is scheduled to begin in Italy on June 16.

Responsibility for the present deficient functioning of ZECs and potentially the Polling Station Commissions (PSCs) appears to rest largely with the political parties, which have not been diligent in selection of their representatives for these commissions or in making substitutions for their nominees who have refused to serve. ZECs are required to decide on the composition of PSCs no later than 10 days before election day, based on names proposed by the political parties no later than 15 days before election day. Unless the ZECs begin functioning immediately, these dates also may be missed. That would cause serious problems for training of polling station officials, which is a central element of electoral preparations.

A ZEC and the PSCs under it are supposed to include representatives of political parties that have candidates in the zone. In some zones, certain parties report that their representatives may not join the ZEC or PSCs because of threatening security conditions. The Democratic Party, for example, reports that it may not be able to be represented in at least 20 zones, and other parties may face similar circumstances as the ZECs and PSCs begin their work. These bodies

administer the elections, including announcing results. It is imperative that all political parties and governmental security forces take steps to ensure maximum participation of political party representatives in ZECs and PSCs to help guarantee fair electoral competition.

Voter Lists. The Election Law provides that exercise of the right to vote depends on a person's name appearing on a voters list. (Articles 4 and 20.) Voters lists are to be prepared for each polling station by mayors and commune heads, along with the secretary of the respective council, and sent to the prefecture. Preliminary lists are to be posted (announced) no later than 17 days before the election; this deadline has passed. As of this date, it appears that few voters lists have been completed and posted for inspection, although the State Secretariat for Local Administration reported that the lists are likely to be posted in a few days.

If the voters lists are not posted for public inspection and requests for corrections, as provided by the Election Law (Articles 26 and 27), two significant problems could result: (1) the lists could contain names of persons not eligible to vote in the respective polling stations, which creates a potential for illegal voting; and (2) the lists could omit the names of eligible voters, which can result in disenfranchisement. The continuing internal migration of Albanians, exacerbated by the upheaval in recent months, highlights the importance of accurate voter lists. The possibilities for illegal, multiple voting are also enhanced somewhat by accepting more than one identification document to establish the identity of someone whose name appears on a voters list. This problem can be minimized by the proper application of indelible ink. The delegation recommends that such ink be used to reduce possibilities for multiple voting and thus to raise the confidence of the political parties and the public in the election process.

Distribution of Election Materials. Members of the CEC and political party representatives reported that significant problems are likely to confront the timely and secure distribution and collection of election materials, including ballots, ballot boxes, voting protocols (process verbal) and other items. The problems result from difficult security situations in many parts of the country stemming from civil unrest and the activity of criminal gangs. Government officials noted certain localities where this is particularly problematic, including Vlore and Sarande, among other localities. The CEC has requested, through the OSCE, that the Multinational Protection Force (MPF) transport election materials to some parts of the country. MPF personnel have indicated that the force is able to move throughout the country and would implement election-related instructions from the OSCE. The delegation therefore hopes that the OSCE and the MPF would respond positively to the CEC request to provide targeted logistical support, at least in problematic areas.

The delegation recommends that the OSCE consider monitoring the distribution and collection of election materials. These steps are essential elements of the election process, and monitoring them would be within the OSCE's mandate. MPF security provided to the OSCE monitors engaged in this activity would incidentally provide a degree of confidence to Albanian officials engaged in the distribution of election materials. The CEC and appropriate government

officials for their part should consider distributing and collecting election materials in coordination with the deployment of OSCE monitors around the country.

C. ELECTORAL ENVIRONMENT

Security Situation. Unrest over the last five months included wide-spread violence and arming of the population with automatic and other weapons from military armories. In many parts of the country there was a general breakdown of public order, and governmental authority dissipated. The rule of law has not yet been restored everywhere, and free movement in several parts of the country is inhibited. A state of emergency that includes a curfew remains in effect throughout Albania.

Violent incidents, including shootings, have marred campaign rallies in some locations. Such incidents are likely to limit some persons and political parties from exercising the right to peaceful assembly. Some candidates have been prevented from campaigning in certain localities due to threats of violence. Political party representatives reportedly are reluctant to take up responsibilities in the ZECs and PSCs in some areas.

Security concerns that limit freedom of movement, especially after dark, also have restricted the activities of domestic nonpartisan election monitors in preparing for election day, and make movement difficult for news media and international observers as well.

Security concerns could significantly depress voter turnout and could inhibit election officials from reporting to their posts on election day. The amendment to the election law that sets the closing of polling stations at 9:00 p.m. poses serious security concerns for voters, election officials and domestic and international election monitors, given the activities of criminal elements after dark. Counting of ballots late into the night and transporting voting protocols to the ZECs after the count presents dangers in many areas.

The delegation recommends polling stations close well before 9:00 p.m., perhaps as early as 6:00 p.m., as was the case in some previous Albanian elections. A 6:00 p.m. closing would allow 12 hours for voting and would lower concerns about safety. This could lead to more people agreeing to serve as election officials in the ZECs and PSCs, volunteering to act as election observers (both Albanian and international), and coming out to vote.

Election Resources. In order to carry out a vigorous election campaign, the political parties need resources. Adequate time and opportunity to campaign for votes are important intangible resources that are restricted by the present Albanian election environment. Time for presentations to the electorate via the broadcast media is an important campaign resource, as is money to finance campaign activities. Political parties report that the campaign funding stipulated in the Election Law (Article 58) has yet to be distributed which creates a particular hardship for smaller parties. The delegation urges the Council of Ministers to disburse immediately to the political parties the campaign financing provided for in the Election Law.

III. RECOMMENDATIONS

In the spirit of international cooperation with Albania and in appreciation of the efforts of the OSCE, MPF and other international organizations assisting Albania's election effort, the NDI delegation offers the following recommendations in the hope of contributing to improved conditions for the elections.

- 1.) An expedited procedure should be immediately established for appeals by those not certified by the Verification Commission, and political parties should be allowed to replace candidates who did not receive certification in time for their appearance on ballots.
- 2.) Voters lists should be posted publicly at the polling stations this week to allow voters to verify the accuracy of the lists and request corrections as provided in the Election Law.
- 3.) Indelible ink should be applied to the finger of each person who votes in order to prevent multiple voting and to increase public confidence in the election process, and PSC members should be instructed to test the ink and to apply it properly.
- 4.) The OSCE, accompanied by the MPF, should monitor the distribution and collection of election materials in coordination with the CEC and the State Secretariat for Local Administration in order to enhance the security environment for this aspect of the election.
- 5.) In selected areas identified as problematic by government officials, the OSCE/MPF should undertake more concerted efforts than currently envisioned to facilitate distribution and collection of election materials.
- 6.) The closing hour of the polling stations should be set well before 9:00 p.m., perhaps at 6:00 p.m.
- 7.) The political parties, candidates and responsible leaders should make every effort to prevent their supporters from participating in acts of violence and should encourage them to respect the rights of all political contestants and voters; assurances to the public should also be issued by such leaders stating that these efforts will be undertaken vigorously.
- 8.) The political parties, the government and the CEC should resolve the methods to be used to distribute the 40 seats elected by supplemental lists, including allocation of the "remainders" by a date certain, and the OSCE should help conclude this deliberation.
- 9.) Campaign financing advances should be distributed immediately to the political parties, as stipulated in the Election Law.

10.) Albanian political leaders should join in a public pledge to accept the election results and participate in the next parliament if the results are certified by OSCE mission, and they should reiterate this commitment in diverse public forums.

IV. CONCLUSION

Albania's current crisis demands that the political leadership of the country embrace long-term national interests and work together, participating in a constructive partnership of those in and out of government. We urge the party or parties that form the next government to reach out to their electoral rivals in a spirit of reconciliation and cooperation. It is essential that they demonstrate respect and civility toward those that will, at least for a time, serve in opposition. We also urge those parties that may serve in opposition to assume their vital role as a loyal and responsible opposition, rather than seeking opportunities to sow political acrimony. We hope that the political parties will build on the accomplishments of the Government of National Reconciliation and draw upon that spirit in preparing legitimate elections that will earn the confidence of the electorate.

It is also important that all concerned begin to focus on how best Albania's democratic processes and institutions can be strengthened following the elections. NDI remains committed to supporting Albanian efforts to further a pluralistic political system that reflects the hopes and aspirations of the Albanian people.

The delegation expresses its gratitude to the CEC, governmental officials, political party leaders, civic leaders, other Albanian citizens and to members of the international community for taking time to meet and share information, analysis and insights.

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