



WEST BANK AND GAZA STRIP

PALESTINIAN LEGISLATIVE COUNCIL ELECTIONS

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I. EXECUTIVE SUMMARY

The successful conduct of the 25 January 2006 elections to the Palestinian Legislative Council (PLC) reflected an open and fairly-contested electoral process that was efficiently administered by a professional and independent Palestinian Central Elections Commission (CEC). These elections marked another important milestone in the building of Palestinian democratic institutions, which is a fundamental component in the peace process foreseen in the 2002 Road Map.

Overall, the elections saw impressive voter participation, demonstrating, as with the 2005 presidential election, an overwhelming commitment by the Palestinian people to determine their political future via democratic means. This was in spite of the uncertain conditions in which the elections took place involving a background of delay, unacceptable levels of pre-campaign violence, and an occupation that placed restrictions on the exercise of fundamental freedoms related to elections.

These elections were notable for the participation of candidates linked to extremist or radical groups that have advocated violence as a means to solving the problems in the Middle East. It is hoped that this participation is an indication of the movement of such groups towards engaging in a truly democratic process, which would be in fundamental contradiction with violent activity.

These elections were held under a new Election Law that established a new electoral system whereby half of the PLC seats were elected from a national proportional representation contest and the other half through majoritarian races in 16 district constituencies. Overall, the legal framework for elections provided an effective basis for the conduct of democratic elections, however there are a number of problematic aspects that should be addressed ahead of future elections. The Electoral Law fails to provide sufficient levels of transparency in the electoral process or to fully guarantee the independence of the CEC from political interference. The complaints and appeals procedures established by law are inadequate and there is a lack of appropriate enforcement mechanisms to ensure compliance with or punish violations of the law.

The CEC oversaw the election in a proper and impartial manner. All electoral preparations within its control were finalised in good time, and there were excellent levels of training of electoral staff and wider voter education of the public. However, the transparency of the CEC needs to be substantially increased to ensure greater public confidence in the decision-making process and for stakeholders to be kept fully aware of all electoral developments. Some key procedures lacked formal regulation or were adopted late, because they required political approval.

The CEC commanded a high degree of public confidence in its professionalism and independence. It maintained integrity in the face of intimidation, including targeted attacks on its buildings and threats against staff, that sought to influence the candidate registration process and the early stages of the election campaign. These attempts to pressure the election administration, all of which have still gone unpunished, reflected a culture of impunity for militant groups that the Palestinian leadership must demonstrate more determination to end.

Over 1.3 million Palestinians were registered as voters during a successful and effective registration programme that benefited from improvements made to the reliability of the voter register since the 2005 presidential election. The voter register was widely acknowledged as accurate and inclusive. However, there were problems in ensuring a proper period of inspection of and challenge to the final voter register ahead of election day. A serious obstacle to the proper running of the electoral process was caused by Israeli authorities not permitting the registration of approximately 130,000 eligible Palestinian voters in East Jerusalem.

Despite established precedents and agreement in earlier elections that there is a right to vote by Palestinians resident in East Jerusalem, delays by the Israeli authorities in deciding whether voting would be allowed to take place within the city led to uncertainty which affected the whole election process. Although the decision to allow voting was welcome, it came very late and – as with earlier elections – arrangements failed to provide reasonable, equal or proper electoral conditions for voters from East Jerusalem.

Candidates from across the whole political spectrum participated in the elections through an inclusive and open candidate registration process. The campaign took place in a generally calm and positive atmosphere, with an absence of provocative rhetoric, but there were a number of violations of campaign regulations, including the use of religious locations for campaigning. There were no major security incidents. However, the instability and inter-factional violence which at times threatened to prevent the holding of elections, especially in Gaza, were unacceptable and have no place in a democratic process. In addition, threats made against international observers limited the levels of deployment that could be undertaken. However, the security situation improved during the two weeks ahead of election day.

These elections were held under an occupation by Israeli military forces that, by its nature, reduced the scope for genuinely free elections. Severe restrictions by Israeli forces on the freedom of movement by candidates and voters were widespread across the West Bank. Arbitrary restrictions on campaigning and on the freedom of assembly by candidates in East Jerusalem led to a number of arrests and prevented a proper campaign from taking place in the city and saw excessive fines being imposed. While the Israeli authorities did take measures to facilitate the electoral process, the occupation cannot support the sustainable development of a democratic state.

Candidates and political lists benefited from equal access to free airtime and public debate provided by public broadcasters in accordance with the Election Law and CEC regulations. This provided a strong foundation for wider public awareness of the election and the platforms of candidates. However, news coverage by Palestinian TV was biased in favour of Fatah and some private broadcasters offered unequal fees to candidates for paid advertising. While the Palestinian media environment is vibrant and growing, the regulatory framework for media should be improved to reduce opportunities for political interference in its coverage of elections. Over 22 per cent of the candidates on national lists were women, a positive reflection of the new legal requirement to include a proportion of women candidates. However, only 15 women (3.6 per cent) took part as candidates in the district election, where there was no quota. Eighteen women candidates won seats in the new PLC, 17 on the national lists but just 1 from the district contests.

Once again, civil society organisations played an important role in these elections, especially in relation to domestic non-partisan election observation and the delivery of voter education.

The pro-active development and oversight of the Code of Conduct for campaigning by civil society in conjunction with the CEC made a significant contribution to the election process.

Voting on 25 January proceeded smoothly and peacefully with an impressive turnout of over 78 per cent of the total number of registered voters. Procedures were well-followed by CEC polling staff, and domestic observers and candidate representatives were present in almost all polling stations. The procedures for counting were similarly well-run. In contravention of the law, campaigning was seen to take place near many polling stations, often vigorously. There were numerous shortcomings with the voting arrangements in East Jerusalem.

The provision for early voting by members of the Palestinian security forces reflected efforts to ensure greater stability on election day. However, repeated attempts by the Ministry of Interior and other Palestinian Authority (PA) institutions to change these voting arrangements represented an inappropriate level of political interference in the election administration. The early voting itself generally went well but raised concerns about transparency and the high proportion of assisted voting.

The publication of election results by the CEC did not take place in a fully transparent manner, with not all available data on results being provided in a timely fashion. Appeals against election day irregularities and certain results were addressed in an open and speedy process, which enabled final official results to be announced before the deadline required by law.

The final results of the PLC elections gave 74 of the 132 seats (58 per cent) to the electoral list 'Change and Reform' which represented the Hamas movement. Fatah, the previously incumbent governing party, won 45 seats (34 per cent). However, the share of the national vote between the two parties was much closer: Hamas won 44 per cent and Fatah 41 per cent. Hamas gained its higher share of parliamentary through the multiple-member majoritarian district constituency elections. These results were widely accepted by all electoral actors in the West Bank and Gaza: few official complaints or challenges of substance were made and representatives of all political lists expressed overall satisfaction with the electoral process and, in particular, with the work of the CEC.

The strengthening of democratic and accountable Palestinian institutions must continue to be pursued. In particular, the international community should provide further support towards guaranteeing the independence, professionalism and preparedness of the CEC so that future elections may be run with similarly high levels of credibility and public confidence.

II. INTRODUCTION

Elections for the Palestinian Legislative Council (PLC), the legislative branch of the Palestinian Authority (PA), took place on 25 January 2006. Following an invitation from the Palestinian Central Elections Commission (CEC), the European Union (EU) established an Election Observation Mission (EOM) in the West Bank and Gaza for the duration of the election process. The Chief Observer was Ms. Véronique De Keyser (Belgium), Member of the European Parliament (MEP).

The EU EOM was deployed on 13 December 2005. With three bases in Ramallah, Gaza City and East Jerusalem, the EU EOM undertook observation in all eleven electoral districts of the West Bank and four of the five electoral districts in Gaza; only Rafah was not visited by observers because of security concerns. The EU EOM consisted of 14 core team experts, 36 long-term observers and over 140 short-term observers, coming from 23 EU Member States as well as from Norway, Switzerland and Romania. Around election day, the EU EOM was joined by a 27-member delegation from the European Parliament, led by Mr. Edward McMillan-Scott MEP (United Kingdom). The EU EOM issued its statement of preliminary findings and conclusions on 26 January 2006¹, which was endorsed by the delegation of MEPs. Upon the release of final official results and the conclusion of the election process, the EU EOM closed its operations on 13 February 2006.

The mandate of the EU EOM was to conduct a comprehensive assessment of the electoral process in accordance with international principles for genuine democratic elections.² In line with the conclusions of the EU Council of Ministers on 21 November 2005, the EU EOM had contact with all candidates, but this was strictly limited to that necessary to observe the election satisfactorily and in a credible manner. EU observers did not engage in political discussions, unrelated to the election process, with any candidates or other actors.

The EU EOM wishes to express its appreciation for the cooperation, coordination and assistance it received during the course of its work from the following: the CEC; the Palestinian Authority; representatives of Palestinian civil society organisations; authorities of the Government of Israel, especially the Ministry of Foreign Affairs; the European Commission (EC) Technical and Assistance Office for West Bank and Gaza; the International Organisation for Migration (IOM); local representatives of EU Member States; the EC Delegation to Israel; and international observer colleagues, especially from The Carter Center, the National Democratic Institute for International Affairs (NDI), IFES, the United Nations and the Canadian Observation Mission.

During the period of the election campaign, threats were made by some militia groups against the presence of international election observers, including those from the EU EOM. The EU EOM is especially appreciative of the CEC as well as political groups for issuing strong condemnations of the threats. The threats did not impact on the deployment of EU observers but, to a degree, did partially restrict the level by which observation could take place in certain areas, including a delay on the deployment of long-term observers to Gaza.

III. POLITICAL BACKGROUND

A. POLITICAL CONTEXT TO THE 2006 PLC ELECTIONS

The 25 January 2006 elections were only the second to be held for the PLC; the first took place in January 1996. Delays stemming from a stalled peace process with Israel and internal Palestinian politics had repeatedly caused any new elections to be postponed from their

¹ See http://europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ/westbank/legislative/statement_260106.pdf or the EU EOM website (www.eueomwbg.org).

² See 'International Declaration of Principles for Election Observation' adopted by the EU, the United Nations and others on 27 October 2005: http://europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ/docs/code_conduct_en.pdf.

envisaged date in 2000, with the last postponement being announced in July 2005. These elections thus provided an important, albeit overdue, opportunity for the PLC to acquire greater credibility as an institution with a renewed popular mandate. The range and number of candidates and different national lists who took part in the elections also meant that the new PLC members would be chosen from an electoral process that, for the first time in Palestinian politics, was genuinely competitive in the choice of candidates and political parties available.

More widely, the 2002 Road Map for a permanent solution to the Palestinian-Israeli conflict had foreseen elections for democratic Palestinian institutions as fundamental to the peace process.³ The election for the PA President in January 2005, which followed the death of Yassar Arafat in November 2004, was assessed by the EU EOM deployed for those elections as representing “a genuine effort towards the holding of a regular election process”.⁴ Some positive aspects had also been noted in municipal elections that have been held in phased cycles since December 2004.⁵ The PLC elections were widely seen as providing the next crucial step towards the building of Palestinian democratic institutions, which are needed for the wider implementation of the peace process.

Ahead of the elections, many political events, some external to the election process, created uncertainty as to whether or not the election would actually go ahead. In particular, internal party divisions within the governing Fatah political movement, coupled with pressures against the CEC and intransigence over the highly significant issue of voting in East Jerusalem created real possibilities that the elections would again be postponed for political reasons. Further uncertainty in the political landscape followed the critical illness of the Prime Minister of Israel, Ariel Sharon, which led to Ehud Olmert taking over as Acting Prime Minister. However, there were repeated public commitments that the elections must be held as scheduled were made by key actors, most significantly by the incumbent PA President, Mahmoud Abbas. These declarations clearly reflected the popular will in the Palestinian territories for the elections to go ahead.

More radical political movements who objected to the Oslo Accords and the Road Map boycotted the 1996 parliamentary and 2005 presidential elections. These included radical or extremist groups, such as Hamas. Calls by the PA President to end violence and encourage wider participation in the democratic process led to negotiations taking place in Cairo, Egypt, in early 2005, which resulted in a commitment by Hamas, amongst others, to suspend acts of violence and to participate in the PLC elections. However, the participation of Hamas was condemned by the Government of Israel. However, there was no bar under Palestinian law against the participation of Hamas and there were only isolated calls within Palestinian society to block its involvement in elections. Ahead of the PLC elections, Hamas participated in municipal elections, garnering a significant proportion of the popular vote, and was not reported to have undertaken acts of terror during the period leading up to the elections. During the period of the EU EOM, there were several incidents of violence, including two suicide-bomb attacks in Israel, for which Islamic Jihad claimed responsibility. There were

³ For the text of the Road Map, whereby Palestinian elections are to be held “in the context of open debate and transparent candidate selection/electoral campaign based on a free, multi-party process”, see <http://www.un.org/media/main/roadmap122002.html>

⁴ See the final report of the EU EOM for the 2005 presidential election: http://europa.eu.int/comm/europeaid/projects/eidhr/pdf/elections-reports-gaza-05_en.pdf

⁵ See, for example, the NDI report on the local elections of 14 December 2005 (www.ndi-wbg.org). The EU has not observed any of the local elections.

also a number of killings of Palestinians by Israeli forces, the firing of rockets into Israel from Gaza and the creation of a 'buffer zone' in Northern Gaza by the Israeli military using artillery bombardment.

There were a number of incidences of inter-factional Palestinian violence over the election period, especially at the start of the election campaign. This caused wide concern as to whether there would be sufficient conditions to allow for the holding of democratic elections. In particular, a series of attacks took place on official buildings, including CEC regional offices, by militia groups and in some instances by members of the security forces. Such specific targeting against the electoral process can be seen as political attempts by the perpetrators to prevent the election from taking place. These problems were especially prevalent in Gaza, where the levels of instability led to the PA Minister of Interior publicly stating during the first week of the election campaign that he could not guarantee public safety ahead of election day. However, steps were taken by a number of actors – including declarations by militia groups that they supported, and would protect, the electoral process – that ensured the security situation improved markedly over the final two weeks of the campaign period. Nevertheless, the threat of potential inter-factional violence was a major theme throughout the election period, including the immediate post-election period.

These elections took place under the continued military occupation by Israeli forces of the West Bank and the effective blockade of Palestinian-controlled Gaza. The occupation and relations towards Israel are the dominant issues in Palestinian politics and these carried an extra level of relevance for the elections due to the position taken by the Israeli authorities against the participation of Hamas. The occupation does not allow for the PA to be in full control of its own affairs and, to a large degree, this election process was dependent on the facilitation provided to it by the Israeli authorities. Such facilitation was foreseen in the Road Map, but, realistically, the occupation and related activities, such as the building of the 'separation barrier', created serious political and operational problems to the electoral process. In particular, road blocks, travel-permit requirements and regular incursions ensured that fundamental freedoms related to elections, especially the freedoms of movement, assembly and association, were severely restricted. The occupation, by its very nature, undermines the genuineness of a Palestinian electoral process and impedes development of democratic Palestinian state institutions.

The contentious issues of East Jerusalem, which is annexed by Israel in contravention of international law, and the right to vote of Palestinians resident in East Jerusalem were pivotal to these elections. The precedent outlined in the Oslo Accords and implemented in the 1996 PLC and 2005 presidential elections has established a clear right for Palestinians resident in East Jerusalem to vote in Palestinian elections and that such voters have the right to vote at locations within East Jerusalem. The voting arrangements for voters in East Jerusalem are assessed below (see 'Election Administration' and 'Election Day'). Initially, the Israeli authorities refused to allow voting and campaigning to take place in East Jerusalem in a demonstration of their condemnation of the participation of Hamas and other candidates linked to extremist groups. In response, the PA leadership issued a public commitment that the PLC elections would be postponed if the Israeli authorities did not permit voting in East Jerusalem (although it should also be noted that Hamas considered the election should proceed whether or not voting took place in East Jerusalem). Faced with the prospect of postponement – which could possibly have led to violence or the cancellation of the PLC elections – the Government of Israel announced at a very late stage in the election process that

it would permit restricted levels of campaigning and a limited number of voting locations in East Jerusalem.

B. KEY POLITICAL ACTORS IN THE 2006 PLC ELECTIONS

The outgoing PLC was dominated by Fatah, the popular secular political movement established by Yasser Arafat and now led by President Abbas. However, ahead of these elections, the political strength of Fatah was considered to have been weakened in the light of allegations of corruption and the lack of progress towards Palestinian statehood. A split between two factions within Fatah – the so-called ‘old guard’ of established Fatah members and the purportedly more reformist ‘young guard’ – emerged from internal party conflict over primary ballots to determine its PLC candidates. These resulted in the submission of two separate party lists for the national proportional contest, one from Fatah and the other from the ‘young guard’ in the name of ‘Future’; both lists were headed by Marwan Barghouti, who is serving a prison sentence, for murder, in Israel. Recognising that the split was further weakening their support, both factions agreed to re-submit a unified list, headed by Marwan Barghouti, and to run a single campaign.

Following the Cairo negotiations, it was evident that the PLC elections would be dominated by the contest between Fatah and the political wing of Hamas. While there are many other Palestinian political parties and movements, none had such significant levels of popular support. A list of the political parties and movements contesting the elections is below (see ‘Candidate Registration’) and included all established political groups and many key political activists. Only one Palestinian group of significance, Islamic Jihad, an extremist group responsible for on-going acts of terror, condemned and boycotted the PLC elections.

Having boycotted previous national elections, Hamas performed very strongly in municipal elections in 2005, winning the majority of seats in a number of councils, where it showed a capacity to run disciplined campaigns based on a platform of anti-corruption, the provision of welfare and clear positions on religion and the occupation by Israel. The growth in support for Hamas – which ran in the PLC elections under the name ‘Change and Reform’ – led many analysts to expect factions within Fatah to seek a delay in the elections. There were, in fact, calls from key members of the Central Committee of Fatah, including the Minister of Interior and the out-going Speaker of the PLC, to postpone the elections and the PA Prime Minister, Ahmed Qurei, withdrew from Fatah’s unified list on the grounds that he considered the elections should not go ahead. Separately, Fatah-affiliated militia groups, such as the al-Aqsa Martyrs Brigades, were responsible for several acts of violence, including attacks upon CEC offices, that sought to undermine the electoral process.

IV. LEGAL ISSUES

A. LEGAL FRAMEWORK FOR THE 2006 PLC ELECTIONS

The primary legal sources for the PLC elections – the new Election Law, adopted in June 2005, and the Basic Law of 1996, as amended in 2005 – provide a basic framework for the conduct of democratic elections. The new Election Law implemented some recommendations contained in the EU EOM Final Report on the 2005 Presidential elections, including a prohibition on the use of the civil registry in the election process and increased safeguards

against manipulation of assisted voters, as well as other positive changes. However, the legal framework contains a number of shortcomings that should be addressed ahead of future elections.

The Election Law is insufficiently detailed in a number of key areas of procedure and needs supplementary regulation by the CEC. However, the Election Law requires all CEC regulations to receive the approval of the PA Cabinet before they can be implemented. This requirement fails to fully guarantee the independence of the election administration and may allow political interference in the regulation of the election. During these elections, there was an attempt by the Cabinet to introduce provisions relating to early voting for security forces that were contrary to the procedures proposed by the CEC. As seeking Cabinet approval can lead to delays, the requirement also meant that key regulations received approval only at a late stage in the election calendar.

In practice, the requirement effectively discourages the CEC from seeking approval for important areas requiring regulation. This meant that, for these elections, important areas of procedure – such as voter registration, candidate registration, and provisions on campaigning – were not formally governed by CEC regulations and, to that extent, had limited force in law. Moreover, as many CEC procedures were published in guidelines and press releases, rather than in regulations or formal decisions, it also meant that important aspects of the legal framework were not contained in an easily accessible form.

B. ELECTORAL SYSTEM FOR THE 2006 PLC ELECTIONS

The electoral system for the PLC elections was changed significantly by the new Election Law through an increase in the number of parliamentary seats from 88 to 132 and the introduction of a so-called ‘mixed/parallel’ system whereby the seats are, in effect, contested through two separate elections.⁶ A proportional representation system within a single national constituency is used for 66 of the seats, with election by means of closed lists of candidates submitted by political parties, coalitions or movements. In a positive innovation, the Election Law required a minimum representation of women as candidates on the national proportional lists.

The other 66 seats are elected through majoritarian races in 16 different district constituencies in which candidates can be independent or nominated by political parties, coalitions or groups. The number of seats per district was not prescribed by the Election Law, but was rather determined by the CEC in rough proportion to the size of the estimated population in that district, with most districts having more than one PLC member. Separately, the Election Law requires six seats to be reserved for Christian candidates. The procedures for determining the number of seats per district and the basis for the allocation of set-aside Christian seats to certain districts are not clearly regulated and it was unclear how the allocation was done. While there was no controversy on this issue for these elections, the process would have benefited from greater transparency.

All majoritarian systems can produce results that are highly unrepresentative of the popular vote, whereby seats may be won by candidates holding a minority of valid votes. The multiple-member majoritarian system can overstate this problem even further – especially

⁶ The previous PLC consisted of 88 members elected from multi-member district constituencies using a majoritarian system.

where political parties are able to use so-called ‘block-voting’ – and it is for this reason that it is not a common system for parliamentary elections. The system produced proportionally unrepresentative results for the district contests in the 25 January PLC elections and it may be useful for there to be a consultative review on the appropriate electoral system for future Palestinian elections.

C. ENFORCEMENT OF LEGAL PROVISIONS ON ELECTIONS

A serious deficiency in the Election Law relates to its failure to provide adequate mechanisms for the enforcement of legal provisions other than through the criminal law. To this extent, there are no effective means by which the CEC can ensure compliance with the Election Law, or where realistic sanctions can be applied against violators of the law, or where stakeholders can be provided with appropriate remedies where their electoral rights are infringed.

While the Election Law (Art. 23) provides that complaints on legal violations can be made to the CEC throughout the election process, and to a polling station committee (PSC) on election day (Art 75), it is silent on other key aspects that should be of relevance to a complaints mechanism. The CEC did not address this lacuna and it is not clear what internal procedures the CEC had to handle complaints or investigate possible violations. Thus, the legal framework for these elections lacked any effective mechanism or framework for submitting or addressing complaints. In practice, numerous complaints were submitted during the PLC elections but the absence of established complaints procedures meant that they tended to be addressed by the CEC in what appeared to be an ad hoc procedural manner. Moreover, the CEC did not address complaints in a transparent manner to the extent that it did not list the complaints that it received, or provide public information on the manner in which complaints were addressed and resolved.

The Election Law establishes a series of electoral offences, ranging from serious matters such as bribery, fraud and intimidation, to relatively more minor violations. However, these are specifically prescribed to be offences under criminal law that must be dealt by complaint to the public prosecutor with any sanctions – including a fine and imprisonment – to be imposed by a criminal court. It is doubtful that serious offences could be reasonably prosecuted within the timeframe of the election process, and likely that minor offences would be considered not to merit a criminal prosecution. Moreover, the public prosecutor and criminal court system do not have a framework for handling electoral offences and, for example, the public prosecutor was uncertain whether complaints could be received from members of the public or only upon referral from the CEC. It is also possible that the wide discretion of the public prosecutor on whether or not to prosecute may be open to political or other external influence.

More significantly, the Electoral Law provides no enforcement mechanism for a body such as the CEC to take any administrative action against a violation or to apply an appropriate administrative sanction against those responsible. It is established best practice that an election administration body should have powers to enforce administrative compliance with election legislation and to take administrative action against violations. Thus, under the current Election Law, it is quite feasible that violations, whether serious or minor, can go unpunished and, in effect, may render the Electoral Law unenforceable. While in practice this was not a significant problem with the PLC elections as there was no major violation of the Election Law, it is a serious weakness in the legal framework.

Liability for electoral offences under the Electoral Law is restricted to individual persons responsible for specific offences. There is no provision to allow action to be taken against groups or corporate bodies (e.g. political parties, media institutions, public bodies) for any violations they commit or which are committed in their name. The list of electoral offences is also not exhaustive and there are a number of potential failures to comply with the law that are not considered ‘offences’, such as unauthorised campaigning. A ‘catch-all’ offence is provided but is imprecisely drafted and may be open to abuse in that it can allow for a prosecution to be brought “for any act, omission, failure or neglect of any duty” under the Election Law (Art.107).

D. THE ELECTION APPEALS COURT

Decisions of the CEC may be appealed to the Election Appeals Court (EAC), a specially-constituted court that, under the Election Law, is required to handle election cases within an expedited time frame: appeals must be made within two days of a decision and the EAC must determine the appeal within five days. The proceedings of the Court are public. The EAC may overturn a decision of the CEC. The legal framework for these appeals is broadly satisfactory, although some details need to be clarified. For example, it is not clear under the Election Law or the Courts Law whether a decision of the EAC is final or may be appealed to another court such as the Court of Cassation.⁷ It is also not clear what constitutes a ‘CEC decision’ that can be appealed; for example, whether it can be any formal decision made by the CEC or whether the appeal must be against a specific decision of the CEC in response to an individual’s complaint.

In practice, the EAC provided an important role in the judicial supervision of the work of the CEC during these elections but its lack of a clear framework for the EAC meant that some of its decisions were inconsistent or based on questionable interpretations of the Election Law or CEC decisions. There were also occasions where the EAC membership was changed at short notice ahead of key hearings, creating some concern as to whether there were attempts to exert political influence on its work; this is of special relevance given that judges are appointed solely by presidential decree and have no specific protection against intimidation. In general, it is an important aspect of an electoral system that there is consistency in judicial decisions on election appeals and that appellants can have certainty over the composition and impartiality of the appellate body.

V. ELECTION ADMINISTRATION

A. ADMINISTRATION OF THE 2006 PLC ELECTIONS

The 2005 PLC elections were administered by the CEC and its Secretariat in an independent, professional and technically proficient manner. Following its similar role in the 2005 presidential elections and a series of active voter education campaigns outlining the electoral process, the CEC has clearly established itself as a Palestinian institution that holds a high degree of public confidence. However, there remain problematic issues related to the level of transparency in its work.

⁷ A decision of the EAC (concerning candidates’ positions on the Fatah national list) was appealed to the Court of Cassation, which rejected the case, though not on the grounds of being the appropriate court.

The CEC sits at the head of a three-tiered election administration with a clear hierarchical structure. There are sixteen electoral districts, each of which has a District Election Office (DEO) consisting of at least five full-time members, including a Chairperson who was usually a full-time member of the CEC secretariat. Introduced by the 2005 Election Law, the DEOs replaced the previous District Election Commissions (DECs) and provided a clear mandate for the running of elections and voter registration at a district level. Each of the 2,721 polling stations had a PSC to administer voting procedures. Polling stations were located in 1,008 polling centres. In an innovation by the CEC, each polling centre had a manager with delegated powers to coordinate all polling activities, including the power to resolve some polling day complaints.

The CEC leadership displayed a strong commitment to running the election to schedule and, in general, the election administration was well organised and capable of ensuring that all election arrangements within its control were implemented in good time ahead of election day; this was especially significant given the background of uncertainty as to whether the elections would go ahead. Moreover, the CEC showed itself to be capable of efficiently implementing arrangements – such as voting in East Jerusalem and early voting for security forces – that were agreed at very late notice. The CEC, supported by international technical assistance, was able to ensure that high quality and timely training was provided to its 18,700 staff ahead of the elections and EU observers noted a professional and consistent approach to procedures by DEOs and PSCs in all districts. The CEC is also to be commended for its effective and inclusive voter education programme that was run in association with a number of civil society actors. In contrast to the 2005 presidential election, there appeared to be a proper management, verification and scrutiny of sensitive election materials.

The nine members of the CEC are appointed by presidential decree based on their professional qualifications. Commission members are non-partisan to the extent that there is no entitlement for any political party or movement to be formally represented by a member. In a welcome improvement, the Election Law establishes the CEC as a permanent body, providing its members with a four-year mandate.

The CEC acted in a neutral manner throughout the PLC elections and established constructive relationships with electoral stakeholders through the holding of frequent informal meetings with representatives of national lists and observer organisations. Nevertheless, the CEC met in closed sessions and there was no formal framework for consulting or sharing information with electoral stakeholders. In general, the CEC routinely failed to act in a fully transparent manner despite the requirement of the Election Law (Art.113) that “all phases of the electoral process shall be public and transparent”.

CEC decisions were not systematically published, but could be found in a number of different places, from CEC meeting minutes to press releases, where they were not always fully detailed on the technical aspects of the decisions. There were significant delays in the publication of CEC meeting minutes, which dealt with decisions on both general issues, such as security forces voting, and also on individual cases, e.g. candidate registration and complaints of campaign violations. Furthermore, despite several recommendations for improved transparency, including those of the EU EOM for the 2005 presidential election, the CEC again chose not to publish its own internal rules of procedures; basic procedural details, such as its level of quorum for holding sessions and taking decisions, are thus not known. A request to attend CEC sessions, made jointly by the EU EOM and other international observer

groups, was declined and the CEC continued to meet in closed sessions. In practice, however, the CEC generally acted in a helpful and approachable manner towards the EU EOM.

Improvements in the transparency of the CEC and the way in which it operates are required so as to give effect to the Election Law and strengthen even further the confidence electoral actors can have in its work. It is recommended that the CEC adopts a clear framework for ensuring full transparency, including the prompt and complete publication of its decisions, minutes and internal procedures. The transparency of the CEC would be improved by wider inclusion of stakeholders in its sessions or, alternatively, introduce formal structures for consultative meetings with electoral stakeholders.

B. ATTEMPTED INTIMIDATION AGAINST THE ELECTION ADMINISTRATION

Public confidence and trust in the independence of the CEC is deservedly high but its integrity and authority were challenged by attempts to unduly influence its decision-making during the course of these elections. On a number of different occasions, armed groups took over CEC offices in several locations, including the regional CEC office in Gaza, and the DEOs in Nablus, Jerusalem, Gaza City, Khan Younis and Rafah. The initial incidents of violence took place on 12 and 13 December 2005 and were explicit attempts by the Fatah-affiliated al-Aqsa Martyrs Brigade to disrupt the candidate registration process ahead of the 14 December deadline. Later, attacks occurred ahead of the brief time extension on 28 December and during the early stages of the campaign period and, again, responsibility appeared to rest with the al-Aqsa militia groups. These acts sought to provoke an unstable environment for elections, or to obtain by force changes to the lists of candidates. In some instances, DEOs in Gaza were specifically targeted during inter-factional disputes or demonstrations by security forces that should have been unrelated to the electoral process.

Fortunately, and remarkably, no CEC official was injured during the violent incidents, and damage or disruption to CEC resources was not significant. Nevertheless, the violent incidents amounted to clear, premeditated attempts to intimidate and threaten the CEC and its staff. Such acts are wholly unacceptable within a democratic election, especially when the perpetrators are connected to participants in the elections. Regrettably, the PA security agencies were not seen to take any action to identify or prosecute the perpetrators of these acts, reflecting a wider culture of impunity amongst members of militia groups in Palestine, who in their use of threats and violence reject key democratic principles. The failure to hold them accountable for their actions undermines the wider credibility of the Palestinian commitment to the rule of law.

The EU EOM highly commends all CEC members and staff for continuing their effective work in the face of pressure, threats and intimidation.

C. EARLY VOTING FOR SECURITY FORCES

Ensuring adequate opportunities for voting by security forces has been a recurring issue in previous Palestinian elections. The Election Law requires voters to vote only in the polling stations where they are registered in their places of residence and prohibits any form of absentee voting for those unable to attend their designated polling station. Thus, security personnel who are on duty on election day or who are deployed to areas other than their area of residence may be prevented from having the opportunity to vote. In the 2005 presidential

election, this led to violent demonstrations by security personnel and a CEC decision on election day to allow persons to vote at any polling station.

In an attempt to address this issue, the CEC prepared detailed plans that would allow members of the security forces to cast their votes ahead of election day in their designated polling stations. Despite being adopted by presidential decree in December 2005, the PA Ministry of Interior declared its unwillingness to implement the plans and counter-proposed that security forces vote in barracks even though this would be contrary to the Election Law. In an unwarranted level of political interference, the PA Cabinet adopted regulations on early voting that reflected the wishes of the Ministry of Interior rather than the CEC. The CEC responded by submitting a letter of resignation to President Abbas. In the event, the Cabinet decision was reversed by a PLC decision within two days and there was no further reference to the offer of resignation. The final arrangements, whereby votes were cast in special polling centres in each district over 21-23 January, were an effective solution to the issue, although the modalities were not finalised until a presidential decree was issued late on 19 January.

While the early voting procedures successfully achieved the goal of both enabling voting by security forces and ensuring adequate security on election day, there was some concern by EU observers that the very high levels of voter turnout amongst security forces indicated that voting may have been enforced and that undue influence may have occurred through the presence of senior officers at polling stations.

Furthermore, by permitting early voting for security forces, consideration should be given to providing similar opportunities to other eligible voters who are unable to attend their designated polling stations on election day, such as hospital patients, CEC staff etc. To this extent, alternatives to early voting may also be considered, such as enabling arrangements for absentee or postal voting. This is especially relevant as, although the CEC has made a number of requests to the PA for permission to be sought from the Israeli authorities for the approximately 8,000 Palestinian prisoners in Israeli prisons to vote, there are no current modalities that would enable them to vote away from their designated polling stations.

D. IMPACT OF THE ISRAELI OCCUPATION AND THE STATUS OF EAST JERUSALEM ON THE ELECTION ADMINISTRATION

As a consequence of the occupation by Israeli forces, the CEC was again faced with restrictions on the freedom of movement of its personnel and its capacity to freely organise electoral preparations. Particular obstacles came from the restrictions on movement of people and materials between the West Bank and Gaza. Although the CEC was required to coordinate, in advance, its activities and movements with the Israeli authorities, the willingness of the Israeli authorities to finalise and facilitate administrative arrangements – which is foreseen in the Road Map – was hampered by the political position it took in relation to the participation of Hamas in the elections. However, with the exception of arrangements for voting in East Jerusalem and travel restrictions between Gaza and the West Bank as mentioned above, the general levels of facilitation provided to the election process by the Israeli authorities were sufficient to allow for the elections to be effectively organised without significant logistical disruptions.

There were significant political problems relating to the status of East Jerusalem that adversely affected the preparations for and administration of the elections. The on-going dispute over status has impacted on the electoral rights of Palestinians resident in East

Jerusalem and, in particular, their right to vote in Palestinian elections at locations in East Jerusalem. The CEC estimated that there were 130,000 Palestinians resident in East Jerusalem who, under the Election Law, have a clear right to enfranchisement.

A protocol to the 1995 Oslo Accords established arrangements for a limited number of resident Palestinians to vote in East Jerusalem as part of the 1996 presidential and PLC elections. The agreed modalities were based on providing access to voting locations for a limited number of Palestinians, who would cast their ballots in designated post offices. All other eligible Palestinian voters resident in East Jerusalem were required to vote at special polling stations in the West Bank. In the 2005 presidential election, there was considerable debate between the Palestinian and Israeli authorities as to whether the 'Oslo Guidelines' were applicable as the protocol appeared to be specific to the 1996 elections rather than to elections in general. Negotiations on the issue, which involved considerable levels of international brokering, eventually resulted in a *status quo* compromise whereby voting again took place but in conditions that essentially mirrored the 1996 arrangements. The arrangements and conditions for voting in East Jerusalem were strongly criticised in the final report of the EU EOM for the 2005 presidential election.

For the 2006 PLC elections, the Israeli authorities publicly stated as late as 8 January that they would not permit voting to take place in East Jerusalem, a position ostensibly based on their condemnation of the participation of Hamas; however, the Israeli authorities had, in May 2005, prevented the registration of eligible Palestinian voters in East Jerusalem ahead of any final confirmation by Hamas of their intention to participate in the elections. This initial refusal had a wider impact on the election preparations by the CEC in that President Abbas had stated that he would postpone the elections if voting in East Jerusalem was not allowed, casting considerable uncertainty over its work, although all activities were carried out as scheduled.

The 9 January announcement by the Israeli Public Order Minister that campaigning in East Jerusalem would be permitted under certain conditions saw some movement on this issue, although this was a week after the opening of the campaign. The announcement sought a specific role for the CEC to receive requests for campaigning events in East Jerusalem and to forward such requests to the Jerusalem police, although in practice the CEC did not function in such a role. The Israeli Cabinet decision of 15 January that a limited degree of voting would take place did not specify the exact modalities for the electoral process in Jerusalem. Press reports implied that the Israeli authorities would ban any reference to Hamas and others within the election in East Jerusalem, which raised the possibility of a ban upon some symbols and names on ballot papers.

Negotiations on the modalities for voting took place between the Jerusalem Police and other Israeli authorities and the PLO Negotiation Support Unit and Negotiation Affairs Department, but did not formally involve the CEC. While the Palestinian negotiators requested improved voting arrangements, the compromise reached was, once again, similar to that experienced in 1996 and 2005, in that voting in East Jerusalem would take place in six post offices and would be limited to 6,300 voters, a slight increase from the numbers in previous elections but still only amounting to five per cent of the estimated eligible electorate. A proposal that voting would take place in premises belonging to the United Nations and other international organisations rather than post offices, which would have allowed for many more eligible voters to vote, was dismissed by the Israeli authorities.

The CEC was not permitted by the Israeli authorities to be involved in the running of the elections in East Jerusalem. The legal basis for this bar is not clear as, while Israeli legislation prevents any body of the PA or the PLO from functioning in East Jerusalem,⁸ the CEC is formally and functionally independent from both institutions. Moreover, the organisational structures and level of skills within the Jerusalem Police and the Israeli Post Office were inappropriate to administer an election process and the non-involvement of the CEC – which could have provided technical advice and supervision to prevent the occurrence of problems – was a significant weakness. This was seen especially in the failure in all post office locations to guarantee the basic electoral right to vote in secret. Nevertheless, the Israeli authorities did facilitate the elections to take place as agreed in the negotiations. However, a request from the CEC and President Abbas – that the Israeli authorities provide a letter of assurance that no adverse consequences, such as a removal of Israeli ID documentation or residency rights, would be brought against any Palestinian resident who voted – was not acted upon by Israel. Such a letter had been issued by the Israeli Ministry of Foreign Affairs in 1996.

The CEC established over fifty special polling stations in the West Bank areas of Jerusalem district to provide voting facilities for those Palestinians resident in East Jerusalem, the majority of voters, who were not able to vote in the six post offices. The system of allocating which voters would vote in the post offices was determined through a ticket-issuing process (see ‘Voter Registration’ below). However, a substantial problem was the lack of opportunity for the CEC to conduct voter education programmes. The prohibition on CEC activities meant that the CEC was not allowed to run an effective campaign to inform voters of standard information. On occasions where voter education material was displayed, the CEC was obliged to remove its logo from posters, while the number of poster sites for voter education materials was reduced. This meant that many eligible voters resident in East Jerusalem were not able to receive credible levels of voter education on their voting rights and information on the location and modalities for voting.

The EU EOM considers that the exclusion of the CEC from administering the election in East Jerusalem is highly regrettable. The EU EOM understands that post offices are used as polling locations because of the Israeli wish to see polling as, in effect, ‘absentee voting’ as if in another country. This is an artificial construct – on 25 January, the six post offices functioned to all intents as polling stations for the Palestinian elections – and it is crucial that for future elections, there are appropriate and cooperative levels of electoral preparation so as to ensure that voting in East Jerusalem takes place in proper, reasonable and equal conditions. This includes a need for: the CEC to be involved in the administration in the election; the freedom for candidates to campaign in East Jerusalem, the production of a voter register; the provision of appropriate polling procedures; and an increase in the number of polling locations so that all eligible voters can vote in their area of residence. The right of Palestinians to vote in East Jerusalem is now established and must be exercised in ways that meet international standards.

E. FUTURE ROLE OF THE ELECTION ADMINISTRATION

Following the end of the mandate of the Higher Commission for Local Elections on 31 December 2005, the responsibility for administering municipal elections has been

⁸ ‘Law on the Implementation of Oslo’, 1994 prohibits any PLO or PA activity that goes against Israeli sovereignty, and gives wide powers to the police to close offices, and arrest and detain persons who violate the law.

transferred to the CEC. In light of the fact that the cycle of municipal elections will continue throughout 2006 and beyond, the CEC will need to undertake an urgent review on how it will adapt its structures and procedures for the administration of municipal elections. It is likely that there will need to be substantial legislative reform to provide for an adequate, and possibly harmonised, legal framework for municipal elections, as well as ensuring appropriate levels of financial, technical and human resources are available to implement the elections.

More widely, the CEC will also need to ensure it maintains a sufficient level of preparedness in order for it to respond adequately should there be any need to administer early presidential or PLC elections. The legal timeframe for organising new elections is relatively short – sixty days for presidential elections and three months for PLC elections – and places a burden on the CEC to be at a constant level of full preparedness so that it is ready to administer an election called at short notice. It is extremely important that the CEC continues to receive sufficient guarantees of budgetary support and technical assistance to allow it to administer future elections in a professional and independent manner even in circumstances where elections are called at short-notice.

VI. VOTER REGISTRATION

The new Election Law has strengthened the procedures for the registration of voters, in particular by removing the use of the civil register for electoral purposes. In previous elections, the civil registry, which was widely considered to be inaccurate, had controversially been used to allow non-registered voters to vote on election day. Overall, the right to electoral enfranchisement is wide and inclusive. Although there is no legal residency requirement, the CEC voter registration procedures required proof of identity at an address in the West Bank, Gaza or East Jerusalem. Voters are registered at specific polling centres in their district of residence. The EU EOM was not aware of any major concerns related to the voter register and, generally, there appeared to be a high degree of public confidence in its accuracy and reliability.

A total of 1,332,499 voters were registered for this election, an impressive increase of over 240,000 (21 per cent) on the number of voters registered for the January 2005 presidential election. The increase reflected a range of effective steps taken by the CEC to improve the accuracy of the voter register. These included a process of running ‘rolling’ registration of voters, sustained levels of excellent voter education and a number of ‘registration drives’ that targeted non-registered voters, the last taking place in December 2005. The new Election Law also introduced the opportunity for registration by proxy in an attempt to facilitate registration by those with limited freedom of movement, including prisoners; however, although registration by proxy is allowed, absentee voting or voting by proxy is not. The EU EOM identified that minority groups, specifically the Bedouin, were under-registered as voters although there were attempts by the CEC to run mobile registration in Bedouin communities.

The Election Law provides for a period of public display and inspection of preliminary versions of the voter register in order to allow for challenges to be made against double registration, omissions or other inaccuracies. This was generally complied with except for the additions made in December 2005, which were not produced for public inspection. Although the Election Law also provides for the final voter register to be published, it does not specify

the modalities for doing so. Regrettably, public access to the final register of voters was restricted and it was not published by the CEC until polling day, although it was made available on request to candidates. This late publication limited opportunities for any independent cross-checking of data. It was also unfortunate that, for security reasons, the voter register for the early voting by security forces – which was a total of over 58,000 voters – was not made available for inspection until after 25 January despite concerns raised by some actors about possible double registration of members of the security forces.

The registration of an estimated 130,000 eligible voters in East Jerusalem was not permitted by the Israeli authorities. The EU EOM was informed by the CEC that attempts to implement voter registration in May 2005 were blocked and had led to the temporary arrest of CEC registration staff. Following the late decision by the Israeli authorities to allow voting for some Palestinian voters in certain post offices, it was not feasible to create a realistic voter register of those voters eligible to vote. Ahead of election day, an innovative system of issuing ‘voter allocation tickets’ was devised in lieu of a voter register to ensure that 6,300 eligible voters could be allocated to specific post offices. The allocation of tickets was undertaken over three days by voluntary groups at a series of locations, such as schools, with tickets being issued to voters showing proof of eligibility i.e. an Israeli identification card showing a Palestinian aged over 18 resident in Jerusalem. All available tickets were issued. All other eligible non-registered voters resident in East Jerusalem were able to vote in special polling stations in the West Bank areas of Jerusalem district upon proof of identity as a resident of East Jerusalem. The continued bar by the Israeli authorities on opportunities for Palestinian voters resident in East Jerusalem to register as voters in their place of residence is a serious shortcoming.

VII. CANDIDATE REGISTRATION

A. FRAMEWORK FOR REGISTRATION OF CANDIDATES AND NATIONAL LISTS

The Election Law provided an open and inclusive process for the nomination and registration of candidates for the PLC elections, both in terms of individual candidates for district seats and for lists contesting the national proportional costs. A total of 728 candidates were included in the final lists of candidates and, in contrast to the 1996 PLC elections, where a more restricted choice of candidates and political parties was available, provided voters with a real choice from across the Palestinian political spectrum.

However, the CEC did not adopt formal regulations to detail the procedures for the implementation of candidate registration and this led to a lack of clarity, especially in relation to the method for the verification of supporting signatures. Although previous legislation did provide for the registration of political parties, the new Election does not include any similar provisions. Moreover, the submitters of a national list do not need to have a legal status – they can be an established political party, or a coalition of established political parties with other groups, or an ad hoc collection of individuals. The lack of legal status for political parties is potentially problematic for regulating registration. It is recommended that these lacunae, which appear to have been an oversight during the drafting process and which mean that there is no regulatory framework for political parties, should be addressed through legislative amendment.

As well as meeting a set of required criteria, candidates and national lists required a minimum number of supporting signatures from registered voters in order to register. Lists submitted by previously registered political parties and existing members of the PLC, were exempt from the signature requirements. The CEC guidelines on candidate registration do not detail the methods it used to verify signatures, but the EU EOM was informed that a random sample would be checked and that if a certain number of signatures were found to be invalid within the sample – either forged signatures or signatures from persons who were not registered voters – the nomination would be refused. At least seven nominees for district candidatures were refused on the basis of using invalid signatures regardless of whether they still had a sufficient total number of valid signatures; of these seven, four appealed, three successfully. It is recommended that greater flexibility should be shown by the CEC in determining whether a nominee has sufficient supporting signatures, and that such procedures and requirements be published.

The new Election Law requires candidates holding a wide range of employment or official positions to resign ahead of the confirmation of the candidacy; these positions include PA or public officials or employees or those working for international or non-governmental organisations. The breadth of these provisions was intended to ensure that no candidate holding an influential position would have an undue advantage. However, it was notable that the CEC decided that candidates holding official or paid positions within the Palestinian Liberation Organisation (PLO) were not similarly required to resign.

A positive development in the new Election Law was the introduction of a requirement for a minimum proportion of women as candidates on the national lists. This ensured that there was a higher proportion of women candidates than in previous PLC elections.

The eligibility of Hamas to be registered as ‘Change and Reform’ candidates or as a national list was condemned by the Government of Israel and certain other international actors, *inter alia*, because the 1995 Oslo Accords Annex 2 (Art. 2) – which applied to the 1996 elections – stated that “the nomination of any candidates, parties or coalitions will be refused...if such candidates, parties or coalitions (1) commit or advocate racism or (2) pursue the implementation of their aims by unlawful or non-democratic means.” Nevertheless, the relevance of this provision to the 2006 PLC elections is questionable as the superseding Road Map envisaged a “free, multi-party process”. As well as being a significant political force that had already participated in municipal elections, Hamas candidates met all legal requirements for candidacy.

B. APPEALS AGAINST REGISTRATION OF CANDIDATES AND NATIONAL LISTS

An important challenge against the procedures for the registration of candidates was made in an appeal to the EAC against a CEC decision relating to the closure of its offices for six hours on 13 December following attacks upon its offices by armed groups. The appeal claimed that the period of closure restricted the opportunity for the nomination of candidates and sought a commensurate extension period for registration. Overturning the CEC decision, the EAC ordered that the registration period be extended for a period of six hours on 28 December to allow for any outstanding nominations affected by the closure to be submitted. This was a questionable decision in that the original registration period did not appear to be adversely affected by the closure of CEC offices as nominations could be submitted for a further 24 hours up until the nomination deadline of 14 December. Moreover, the appeal, which was brought by candidates on the Fatah national list, was a clear vehicle to re-open nomination to

enable the submission of a new, unified Fatah list that had been agreed following the close of nominations. Given that the closure of the CEC offices was prompted by the actions of Fatah-affiliated militia groups, it is especially ironic that the EAC ruled in this way. It is also regrettable that the composition of the EAC was changed just ahead of the hearing. Nevertheless, it is important to note that the decision of the EAC was widely considered by Palestinian political actors, including opponents of Fatah, to be appropriate and acceptable.

In a separate series of cases brought to the EAC, two candidates on the Fatah national list challenged the position in which they were registered as candidates on the list. The dispute, which went before the EAC on three separate occasions and was appealed to the Court of Cassation, was handled by the EAC in ways that showed a number of distinct legal irregularities. The position in which eligible candidates are placed in a list should be a strictly internal affair within the list's organisational structure and thus should have been considered as wholly outside of the jurisdiction of the CEC or the EAC. Nevertheless, the two branches of the EAC in Ramallah and Gaza repeatedly heard the cases and took inconsistent decisions of highly questionable legal substance, including using a statement from President Abbas in his capacity as a Fatah leader, as persuasive evidence in favour of one appellant.

C. REGISTRATION OF NATIONAL LISTS

A total of eleven lists were submitted for the national proportional contest, consisting of 314 candidates. The lists were positioned on a ballot paper in the order in which their nominations were received.

Table 1: List of National Lists contesting PLC election with number of candidates per list

Position on Ballot	Name of List (in English) (Party affiliation in italics)	Number of Candidates
1	The Alternative <i>Democratic Front for the Liberation of Palestine (DFLP)</i> , <i>Palestinian Peoples Party (PPP)</i> , <i>Palestinian Democratic Union (FEDA)</i>	40
2	Independent Palestine/ Mustafa Bargouthi <i>National Palestinian Initiative (NPI)</i>	41
3	Martyr Abu Ali Mustafa <i>Popular Front for the Liberation of Palestine (PFLP)</i>	50
4	Martyr Abu Alabbas <i>Palestinian Liberation Front</i>	11
5	Freedom and Social Justice <i>Palestinian Popular Struggle Front (PPSF)</i> , <i>Kaffa</i> , <i>Palestinian Green Party (PGP)</i>	13
6	Change and Reform <i>Hamas</i>	59
7	National Coalition for Justice and Democracy	12
8	The Third Way	25
9	Freedom and Independence <i>Arab Liberation Front (ALF)</i>	10
10	Palestinian Justice	8
11	Fatah	45

Initially, twelve national lists were submitted ahead of the deadline for registration on 14 December. This included two separate lists from factions of Fatah members, both of which were headed by Marwan Barghouti. However, Fatah took advantage of the EAC decision to extend the registration period to submit a new, unified list on 28 December. From a political perspective, it was noted that the unified list was dominated by the ‘old guard’ of Fatah, with many of the names of the ‘Future’ list being removed, with some names from both lists being re-nominated as candidates for district elections. Three other national lists took advantages of the extended registration period to make small changes to their lists.

D. REGISTRATION OF DISTRICT CONSTITUENCY CANDIDATES

A total of 414 candidates were registered as candidates for the district constituency elections.

Table 2: List of District Constituencies with number of PLC seats, candidates and registered voters

District	Seats per District	Seats set aside for Christians	Number of Candidates	Number of Registered voters
1 Jerusalem	6	2	39	48,443
2 Jenin	4		32	101,664
3 Tulkarem	3		17	73,340
4 Tubas	1		9	20,775
5 Nablus	6		30	129,379
6 Qalqilya	2		10	33,701
7 Salfit	1		11	26,641
8 Ramallah & Al Bireh	5	1	34	106,061
9 Jericho	1		5	16,073
10 Bethlehem	4	2	32	69,210
11 Hebron	9		46	186,054
12 North Gaza	5		27	98,535
13 Gaza (City)	8	1	49	174,378
14 Deir El Balah	3		18	79,051
15 Khan Younis	5		43	103,377
16 Rafah	3		12	65,817
TOTAL	66	6	414	1,332,499

Over 260 of the district constituency candidates were independent with no formal political affiliations. Fatah nominated 66 candidates (one for each available seat), Hamas 52 and Popular Front for the Liberation of Palestine (PFLP) 24. However, in fact, many of the independent candidates were closely affiliated to Fatah, with at least a hundred being ‘recognised’ by Fatah as members and several more were well-known to be Fatah supporters. The surfeit of Fatah and ‘Fatah-affiliated’ candidates offered to the electorate – over three for each seat available – made it likely that it would under-perform in the district contests where block-voting was used. During the campaign and after the deadline for formal withdrawals, around 40 independent candidates announced their withdrawal from the contest.

VIII. ELECTION CAMPAIGN

A. OVERVIEW OF THE CAMPAIGN

The 21-day election campaign period opened on 3 January amidst a background of uncertainty as to whether the elections would take place over the issue of voting in East Jerusalem and, especially in Gaza, with unacceptable levels of violence and insecurity. This led to an understandably low-key start to campaigning activities, but the momentum grew as commitments were made to stabilise the general security situation and an agreement was reached on voting in East Jerusalem. The last two weeks of the campaign were generally calm and active campaigning was able to take place. Despite many large rallies, there was no major incident of violence or disruption related to any campaign activity, although two activists were killed in events that may have been election-related.

Overall, the campaign was notable for its positive, pluralistic tone and there were no reports of hate speech or defamation of opponents. While campaigning involved a range of usual techniques such as posters, public rallies and an effective use of media free airtime and advertisements, there was also much focus on more-traditional methods of canvassing at private meetings with families or grassroots supporters. Encouragingly, there was a marked decrease in the use of public resources by candidates in campaign; in previous elections, incumbent candidates had enjoyed substantial unfair advantage from their use of public resources. The provisions of the new Election Law – which encourage equitable rights for all candidates and impose a duty of impartiality upon the PA and require candidates to resign from public office – as well as proactive steps by the CEC to remind candidates of these provisions, both appear to have made an important contribution to this achievement.

Nevertheless, the regulatory framework for the campaign period is insufficiently detailed in the Election Law and the CEC only produced guidelines, rather than formal regulations, for candidates to be able to interpret what was and was not permitted. In view of this, a voluntary Code of Conduct on campaigning, developed and monitored by civil society and adopted by all eleven national lists, made a useful contribution.

The Election Law prohibits campaign meetings in mosques and other specific locations, but fails to provide further detail on what can be considered to be campaigning. Many complaints were made by a number of different candidates and civil society actors against Hamas undertaking campaigning in mosques and the EU EOM observed instances of clear campaigning by imams on behalf of Hamas in Hebron and Ramallah. In response to these complaints, the CEC produced a decision, published in English and Arabic some weeks after election day, that the prohibition of campaigning in mosques did not prevent the distribution of leaflets.

The new Election Law has tightened the restrictions on campaign financing through the introduction of specific spending limits (US\$1,000,000 for each national list, and US\$60,000 for each district candidate) and includes a requirement for the submission of accounts on income and expenditure within thirty days of the announcement of results. However, while the CEC did not provide guidelines on the level of accounting detail that is needed, it took a number of steps to inform contestants in the elections of their responsibilities to submit accounts and it is reported on the CEC website that most candidates have complied. Overall,

the strengthening of campaign finance regulations, which was a recommendation of the EU EOM for the 2005 presidential elections, is another welcome development but it is clear that further steps are needed to ensure campaign financing is effectively monitored.

B. COMPLAINTS DURING THE ELECTION PERIOD

As the CEC did not publish details relating to the complaints it received, the EU EOM is not aware of exactly how many complaints were submitted in relation to alleged problems with campaigning; nevertheless, the EU EOM was provided with access to study some of the complaints. They mostly related to allegations related to issues such as misuse of posters, campaigning in mosques and failure to resign from office. In response, the CEC tended to address the complaints in an ad hoc manner that ranged from writing warning letters, referring cases to the public prosecutor, discussing the issue directly with the relevant parties or simply noting the complaint, and it is difficult to discern a rationale for the differing treatments of complaints. In particular, there appears to be no reason as to why two cases – involving campaigning near to a hospital and tearing down of posters – were treated so seriously as to warrant a referral to the public prosecutor when other, more serious, cases did not. In the event, the public prosecutor did not bring proceedings in either case.

One of the most serious complaints concerned evidence of a letter sent by the Chief of Civilian Police in the West Bank to all district police chiefs under his command that “reminded” them to instruct their personnel to vote for Fatah. A formal complaint was made to the CEC who addressed the issue at a meeting with President Abbas, who reportedly raised it with the Ministry of Interior. No aspect of the CEC’s action was recorded in writing and no formal action was taken by the relevant security bodies to retract or correct the letter. This clear infringement of the legal requirement for executive impartiality should have been addressed with considerably more vigour by the CEC and other relevant bodies.

C. IMPACT OF THE ISRAELI OCCUPATION AND THE STATUS OF EAST JERUSALEM ON CAMPAIGNING

The ability of candidates to enjoy genuine opportunities for campaigning was severely restricted by the continued occupation of the Palestinian Territories. The exercise of fundamental freedoms that are related to elections, in particular, the freedom of movement, prevented many candidates from being able to undertake a national campaign. This applied to candidates even when they attempted to seek travel permits. Serious difficulties were experienced by candidates or supporters travelling between northern and southern parts of the West Bank or between the West Bank and Gaza. Elsewhere, many national and district candidates experienced long delays crossing checkpoints, suffered harassment or had campaign materials confiscated by Israeli forces. In contrast and despite the levels of instability, there were few reports of similar restrictions or other problems with campaigning in Gaza.

There were arrests of a large number of campaign activists by the Israeli forces in the West Bank, including supporters and some candidates of Hamas, PFLP, DFLP and Fatah. Some of those arrested, who were subject to Israeli administrative detention, were released shortly afterwards but others were detained for longer periods. Several were released on 31 January, raising suspicions that they had been detained to prevent them from being actively involved in the electoral process.

The freedoms of assembly and association of Palestinian candidates and activists were severely challenged in East Jerusalem, where arbitrary restrictions on campaigning by the Israeli authorities led to a number of arrests and other obstacles being placed in the way of campaigning. On the opening day of campaigning, three separate rallies – one for ‘Third Path’, one for ‘Independent Palestine’ and the other for Fatah district candidates in Jerusalem – were broken up by Israeli police on the basis that permission had not been sought to hold the events or that candidates did not have Israeli permission to enter Jerusalem or that a Palestinian flag was displayed. On 9 January, the Israeli authorities decided to allow campaigning to take place in East Jerusalem but the conditions applied still placed considerable restrictions on free campaigning, including fines for unauthorised posters as well as a ban on any campaigning by Hamas, PFLP or DFLP, which were designated as “terror organisations”. Following the elections, the EU EOM was informed by the Jerusalem Police that they had issued over 3,000 separate fines, totaling approximately €260,000, against district candidates in Jerusalem for unauthorised campaign activities. The number of fines issued was clearly excessive and the amount fined was disproportionate to the alleged offences.

IX. MEDIA ENVIRONMENT

A. PALESTINIAN MEDIA ENVIRONMENT

A broad and flourishing range of media outlets operate in the West Bank and Gaza. The Palestinian media system is relatively pluralistic in terms of number of media outlets, with a fairly high degree of diversity. The three official media – Palestine TV (terrestrial and satellite channel), Radio Voice of Palestine and Wafa News Agency – are managed by the Public Broadcasting Corporation (PBC). The PBC is a publicly-funded body whose management board is appointed by the PA.

In addition to the state media, some 48 private Palestinian radio and television stations operating across the West Bank and Gaza or at a more local level, some of which have close links to political groups. International satellite broadcasters, particularly the main Arabic-language networks (Al Jazeera, Al Arabiya, Abu Dhabi TV and Al Manar TV) are widely viewed. According to various polls conducted during the pre-election period, television is the most important source of political information. During the election campaign, a new TV station – Al Aqsa TV – was launched in Gaza under the control of the Hamas movement, though the station operated without a broadcasting license. In broadcasts seen by the EU EOM, the channel was used to carry campaign propaganda for Hamas as well as wider Islamic material. On 22 January, the station was temporarily shut down by the Ministry of Interior.

There are three daily Palestinian newspapers. The Jerusalem-based, privately owned *Al-Quds* has the largest readership. *Al-Ayyam* is also privately owned. The PA provides public funds to support the other daily newspaper, *Al-Haya al-Jadeeda*. There are many other publications including a number of weekly or periodical magazines, some of which have political ties.

B. LEGAL FRAMEWORK FOR THE MEDIA AND ELECTIONS

The legal framework governing the media coverage during the election campaign is set by the Basic Law, the Press Law, the Election Law and CEC Guidelines on the Election Campaign. The Basic Law recognises that freedom of expression is a fundamental right and that freedom

of speech must be guaranteed without any censorship, prohibiting governmental or administrative interference with the freedom of the press, although the Press Law makes some inroads into those freedoms.

The 1995 Press Law is considered to be inadequate in its provisions for regulating a flourishing media environment that includes many electronic and independent media. The Press Law infringes on freedom of expression in several respects; in particular, it gives a considerable degree of control to the PA over the work of the print media by imposing a number of regulations, including licensing requirements, on all print media. Moreover, it contains a number of vague and broadly-drafted prohibitions on certain types of speech, and contains a number of criminal offences.

The Election Law (Art. 59) prescribes special obligations for the official media in its coverage of elections in terms of pluralism and impartiality. The CEC is also made responsible (Art. 63) to organise, in cooperation with the official media, special programmes on the election which must give “equal and suitable opportunities” for all candidates and party lists running for the elections. The CEC signed an agreement with the PBC to provide free airtime for candidates and political parties. The eleven electoral lists were each provided with access to a one-hour talk-show, broadcast in the order of their registration, and a ten-minute advertisement. There was also a three-hour televised debate with representatives of all lists. All 414 district constituency candidates were entitled to submit a two-minute advertisement, although only 174 candidates took this opportunity. Private media were free to sell space and airtime to parties and candidates and many carried paid political advertisements.

The Election Law prohibits the media from referring to hate speech or defamation of any candidates during an election campaign and restricts the use of PA symbols for campaign purposes. There is also a 24-hour ‘campaign silence’ ahead of election day. However, the CEC lacks any mechanism for the direct enforcement of the regulations and has no power to sanction violations. All complaints must be pursued through reference to the public prosecutor, although the Ministry of Information is entitled to issue written warnings against media violations during an election.

The CEC appointed an advertising agency to monitor the media’s compliance with legal provisions. While the decision to establish a monitoring unit formally an improvement, and implemented a recommendation of the EU EOM for the 2005 presidential election, its impact was limited by the fact that its monitoring reports and findings were not published.

C. MONITORING OF MEDIA COVERAGE OF THE PLC ELECTIONS

The EU EOM undertook a quantitative and qualitative monitoring of a sample of media outlets for the entire election campaign period: three TV stations from 18.00 to 24.00 (Palestine TV, Watan TV and Al Jazeera); two radio stations from 7.00 to 13.00 (Voice of Palestine and Amwaj); and the three daily newspapers: Al Quds, Al Ayyam and Al Haya al Jadeeda). While the first week of the campaign received relatively limited coverage, reflecting its low-key nature, the media provided extensive coverage of the election during the two weeks prior to election day. In general the media appeared to meet with the requirement to provide pluralistic coverage and the EU EOM did not observe any breaches of the bar against hate speech or defamation. The EU EOM is not aware of any complaints on media issues being made. The EU EOM did not monitor any breaches by the Palestinian media of the

‘campaign silence’, although a number of PLC candidates were interviewed on satellite channels over the election day period.

The official electronic media provided electoral lists and candidates with extensive levels of media access in accordance with the Election Law. The talk shows, debate and direct access programmes on Palestine TV provided voters with a genuine opportunity to compare platforms and candidates. The entitlement of free airtime for district candidates was administratively difficult to manage but was made available to all who submitted requests, though in some districts many candidates did not do so (e.g. in Jerusalem, just seven of the 39 district candidates used free airtime).

Table 3
Distribution of free airtime among electoral lists (Palestine TV)

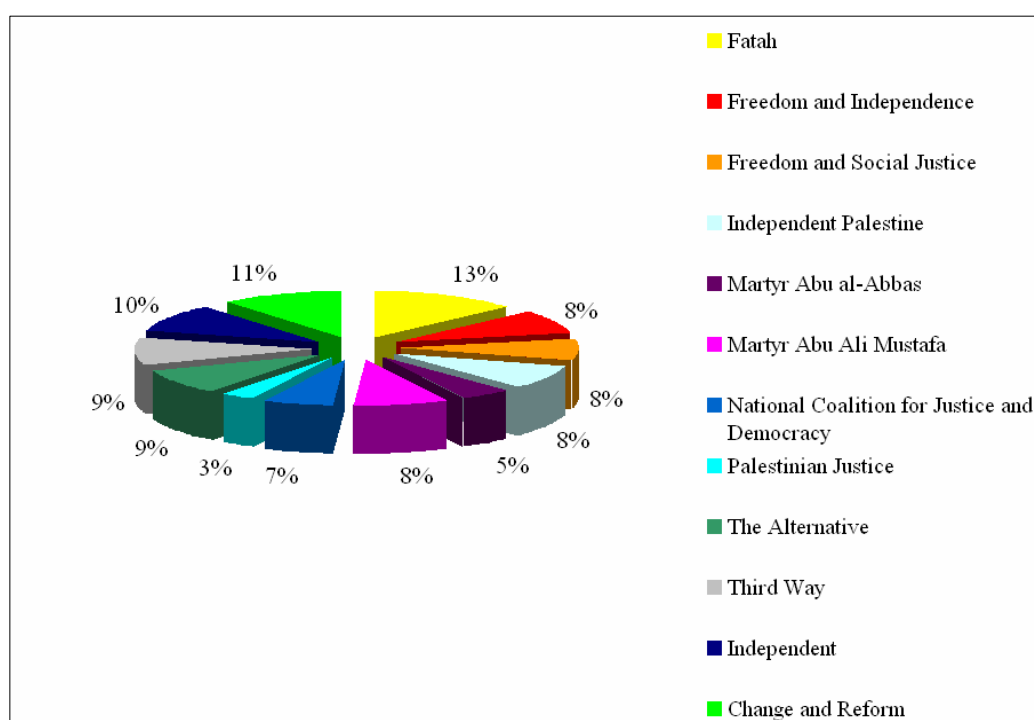
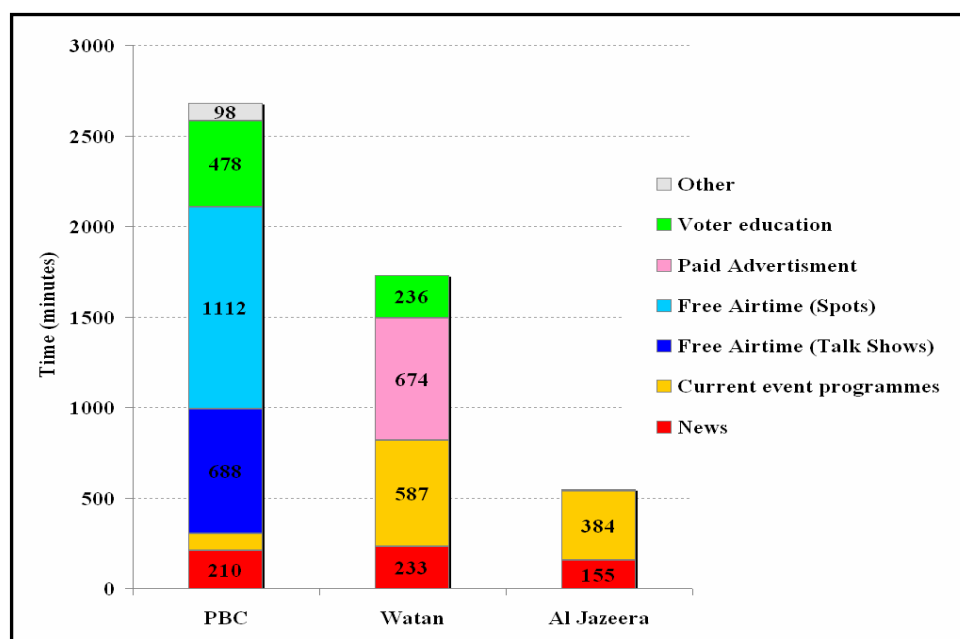


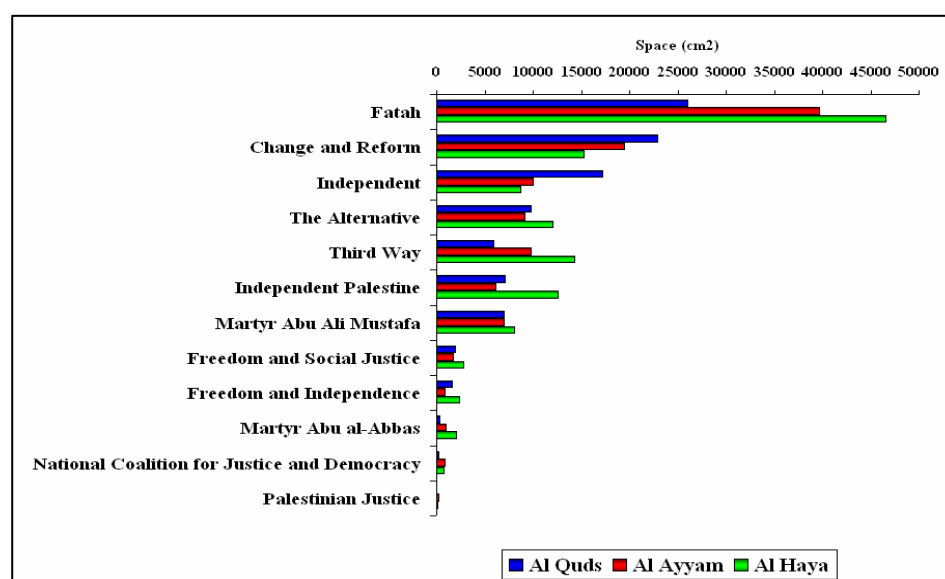
Table 3 shows that the distribution of time among electoral lists within the Free Airtime was mostly balanced; smaller parties had less coverage generally because they had no district candidates to use free airtime. Table 4 shows that the largest share of television coverage of the election on television channels was provided on Palestine TV as free airtime. In general, there was comparatively little new coverage of the elections, with most channels providing wider coverage of other political stories. However, while Palestine TV offered only modest election coverage in its news and current affair programmes, there was a bias in favour of the ruling party Fatah (59 per cent of the coverage). The private station Watan TV favoured the Independent Palestine list, providing it with 60 per cent of its political news and current affair coverage as well as substantial levels of paid advertising. Both Palestine TV and Watan TV carried useful levels of voter education.

Table 4 :
Coverage of different electoral issues by television (by different kind of programmes)



Many lists and prominent candidates purchased advertising space on private electronic media. The EU EOM noted that the advertising rates were not announced in advance and were not equal for all candidates. This problem undermines the principle of equal treatment for all contestants and provides unfair advantage to candidates who hold links to broadcasters.

Table 5
Distribution of print media space among electoral lists



The print media offered space to all lists, presenting various articles on political parties and candidates. The state-funded newspaper *Al-Haya al-Jadeeda* favoured the ruling party devoting 37 per cent of its space to Fatah. Table 5 shows the amount of space devoted by

newspapers to all electoral lists and independent candidates during the three weeks prior to the elections.

On radio, Voice of Palestine allotted 56 per cent of its news and current affair coverage to Fatah and 31 per cent to Change and Reform; however, the airtime devoted to Change and Reform was often negative in tone. The private radio station, Amwaj, devoted most of its coverage to independent candidates (58 per cent), Fatah (17 per cent) and Alternative (15 per cent).

X. PARTICIPATION OF WOMEN IN THE ELECTORAL PROCESS

Women made up 47 per cent of registered voters for these elections, a slight increase from the 2005 presidential election. The CEC produced few civic education materials that specifically targeted women; however, a number of NGOs carried out civic and voter education that was specifically targeted at women. It is clear that there needs to be further attempts to encourage the registration of women voters.

In Palestinian society, many women are involved in politics and as members of and activists in political parties. However, not many leadership positions are held by women. In a positive development, the Election Law was amended to introduce a quota for women on the national party lists. Each list had to have a woman candidate in positions 3, 7 and 12 on the list (or higher), and then one in every five positions that followed. This resulted in 22 per cent of candidates on the national lists being women and an increased number of women winning PLC seats than in 1996 (14 per cent compared to 5.6 per cent, or 18 women compared to five in 1996). Several parties placed women in higher positions than they were legally required to do so. A number of civil society and women's groups had sought for there to be a 'one-third' quota system for the national list, which would have significantly increased the number of women in the PLC, but this was not adopted.

However, for the district constituency elections, where there was no quota, only 15 of the 414 candidates (three per cent) were women. Of these, most were independent candidates rather than official party candidates. Hamas did not nominate any women as district candidates. Only one of the 66 seats was won by women in the district elections, which was a set-aside Christian seat. A proposal for a quota system for ensuring a minimum proportion of women as candidates in the district seats or the option of reserving certain seats in district constituencies for women candidates was not accepted by the PLC when adopting the Election Law. Further consideration should be given to this proposal ahead of future elections. Wider steps to increase the role of women in Palestinian politics and as elected representatives are clearly needed.

Women candidates were under-represented in media coverage of the elections. In part this reflects the parties' decisions on which candidates they put forward to the media for talk shows and free airtime: of the 30 candidates appearing in the national talk shows, six were women, none from Hamas. The women candidates of the two biggest parties received very little coverage in the electronic media compared with their male colleagues but, among the smaller lists, women candidates received more coverage. Issues of relevance to women were not a primary target of the media campaign, although the election campaigns that focused on

grassroots social and religious issues, such as that of Hamas, tended to achieve popular support from women.

There are two women commissioners out of nine on the CEC, which reported that at least a quarter of its permanent staff are women. The EU EOM observed that women made up around 40 per cent of polling station staff and fifteen per cent of PSC chairpersons; however, there was a sizeable regional difference and, in Gaza, it was only seven per cent.

XI. PARTICIPATION OF CIVIL SOCIETY

Palestinian civil society is vibrant and active. This was reflected in its participation in the election process and, in particular, as domestic election observers. According to the CEC, a total of 254 civil society organisations (CSOs) were accredited to observe the elections, which in turn accredited over 17,000 national observers, although considerably fewer observed on election day. While such levels of observation are extremely useful for strengthening public confidence in the process, it is also important for future elections that domestic observer groups offer better training to their observers and that the different groups coordinate better with each other. For these elections, the CEC required CSOs to apply for accreditation to observe by 19 November 2005, over two months ahead of the election; this requirement is unduly restrictive and contrasts with the opportunities for later accreditation that were afforded to international observers.

In addition to election observation, CSOs also played a leading role in civic and voter education, in cooperation with the CEC and media outlets, with specific attention being paid to areas where literacy and political awareness was low, while some CSOs also organised useful training programmes for candidates and supporters. A number of non-partisan institutions published opinion polls during the campaign period that contributed towards public interest and confidence in the electoral process. However, the release of a number of exit polls by CSOs after the close of polling caused some controversy as they appeared to have failed to accurately forecast the election results.

An important contribution to these elections was the development of a Code of Conduct for the electoral campaign by the CSO 'Arab Thought Forum'. The Code of Conduct, which was approved by the CEC and adopted by all national lists and many district candidates, was a useful supplement to provisions of the Election Law that regulate campaigning and reiterated the commitment of signatories to a peaceful, non-violent and democratic electoral process. Monitoring of the Code of Conduct was undertaken by local committees consisting of CSO members and candidate representatives.

XII. ELECTION DAY

A. OVERVIEW OF VOTING, COUNTING AND TABULATION OF RESULTS

Voting and counting on 25 January proceeded smoothly and peacefully and, to widespread public satisfaction, no major security incidents were reported. There was an impressive turnout of almost 77 per cent of the total number of registered voters, with an even higher turnout of 81 per cent by registered voters in Gaza.

(i) *Basis of EU EOM Observation*

On polling day, EU observers followed the voting process in 896 of the 2,721 polling stations (32 per cent) in the West Bank and Gaza. In conjunction with the delegation of MEPs, the EU EOM deployed a total of 198 international observers in 99 teams. Fourteen of the 16 electoral districts were covered; observers were not deployed to two districts in Gaza (Khan Younis and Rafah) for security reasons. The EU EOM also observed early voting in most special polling stations for the early voting by security forces and the special voting arrangements for post offices in East Jerusalem. A total of 1,159 observation forms were returned.

(ii) *Voting Procedures*

EU observers evaluated the voting process very positively with over 60 per cent of polling stations visited being rated as 'very good' and 34 per cent as 'good'. This reflected a general impression that procedures were being well followed, there was overall adherence to the Election Law and that voting was taking place in an appropriate environment that, overall, allowed voters to fully participate and express their will.

Polling staff were well trained and closely followed the established procedures contained in CEC regulations and their training manual. The vast majority of polling stations opened on time and all electoral materials were reported to have been delivered on the day prior to the elections. Key safeguards to ensure the integrity of the vote, including requiring proof of identity and applying/checking for the presence of indelible ink, were comprehensively followed with only exceptional failures. The secrecy of the vote was respected in almost all polling stations observed except those in East Jerusalem. However, EU observers did identify some levels of confusion because the two ballot papers were the same colour. As the ballots had to be placed in separate ballot boxes, some voters needed to unfold their marked ballots to be reminded which ballot paper went in which box. The Election Law (Art. 66.3) states that different ballot papers should be of different colours.

Unusually, there is no requirement for the names and symbols of candidates and national lists contesting an election to be displayed in polling stations. A further quirk in the Election Law is that, for a vote to be valid, a ballot paper can only be marked with a tick or a cross. This is unnecessarily restrictive and may render as invalid a marked ballot paper that clearly shows the intention of the voter.

(iii) *Assisted Voting*

As in the 2005 presidential election, EU observers noted high numbers of voters who sought assistance to help them vote on the grounds of illiteracy. The new Election Law introduced new procedures that allowed a person to provide assistance to another voter on only one occasion and specified that the PSC chairman would accompany the assisted voter while voting to ensure their voting intention was carried out. In general, these procedures addressed some of the earlier concerns of potential abuse of the opportunity for voters to be assisted, although the provisions still challenge respect for the secrecy of the vote and, in practice, can still allow abuse. Moreover, the number of people requiring assistance seems wholly out of proportion to the level of functional illiteracy amongst Palestinians (estimated by United Nations agencies to be around 8 per cent of the adult population) and, to this extent,

consideration should be given to preventing assisted voting to be available on the grounds of illiteracy and limiting assisted voting only to those who are unable to mark their own ballot paper because of disability or infirmity. A potentially more effective means of ensuring illiterate voters are able to participate as voters may be to make it compulsory for ballot papers to carry distinctive symbols for all candidates and lists.

(iv) Observation of Voting by Candidates, Lists and Civil Society

EU observers noted that representatives from different candidates and lists were present in over 93 per cent of polling stations observed, with two or more representatives of different candidates being present in 85 per cent of polling stations. Domestic observers from civil society were present in over 60 per cent of the polling stations visited. These figures reflected a high level of transparency on election day – only one per cent of polling stations visited had no party observers or domestic observers – and played a major contribution towards public satisfaction of the electoral process and acceptance of the election results.

(v) Campaigning on Election Day

The prohibition against campaigning on election day was widely flouted, with EU observers reporting widespread campaigning taking place on 25 January outside over 60 per cent of polling stations. The campaigning was generally reported to be enthusiastic, vigorous and – to the extent that campaign activists of almost all lists and candidates were involved – balanced. The campaign activities tended to involve the distribution of materials and ‘chanting’, but were not generally considered to be antagonistic or intimidating. Although such activities were in violation of the Election Law, no effective steps were taken by the CEC, PSCs or the security forces to prevent the actions from taking place. It is recommended that there be a review of the current legislation to ensure that campaigning on election day can be more realistically regulated, such as prohibiting any campaigning inside polling centres and establishing appropriate mechanisms for enforcement.

(vi) Problems on Election Day

EU observers considered that polling was conducted ‘badly’ in 5.2 per cent, and ‘very badly’ in just 0.5 per cent, of polling stations visited. This assessment tended to be related to the campaigning activities that were taking place and, in three per cent of visits, EU observers reported ‘tension or unrest’. However, EU observers did not report intimidation of electoral staff and the provision of security around polling centres by the Palestinian security forces was adequate and unimposing. There were few reports of armed persons and unauthorised persons being present in or near polling stations, although more cases of this problem were observed in Gaza.

Instances of so-called ‘family’ or group voting were observed in 8.4 per cent of polling stations and further steps must be taken by the CEC to ensure that PSCs prevent more than one person voting at a time. EU observers assessed that almost six per cent of polling stations were placed in locations where access was difficult for persons with disabilities.

B. VOTING ARRANGEMENTS IN EAST JERUSALEM

Voting arrangements in Israeli post offices failed to provide reasonable, equal or proper conditions and fell well-short of international standards for genuine elections. EU observers

rated the voting conditions in all six East Jerusalem post offices as ‘bad’ or ‘very bad’. In particular, the procedures permitted by the Israeli authorities failed to provide any form of secrecy of the ballot in that ballot papers were marked in front of the Israeli post office workers administering the polling. Folded ballot papers were then handed over to the postal workers who placed them in envelopes before placing them in a ballot box. The inadequacy of the post office locations – some of which were very small – and the slowness of the voting procedures being used caused long queues and led to a two-hour extension of voting. These procedures are unacceptable and are significantly below any international standard that would be presumed to apply even for postal or absentee voting, as the Israeli authorities purport the voting in East Jerusalem to be. However, more positively, in the absence of a voter register, the system of using ‘voter allocation tickets’ generally worked well and limited confusion amongst voters as to whether they would be able to vote at a post office, and in identifying at which post office they would cast their vote. EU observers noted that most of the voters at post offices were checked for proof of identity and marked with ink.

For those voters resident in East Jerusalem who needed to cross into the West Bank to vote at one of the special polling stations, EU observers noted several incidents where movement was hampered by checkpoints and roadblocks even though steps had been taken by the Israeli authorities to provide greater flow of movement. The voting process at the 52 special polling stations was generally regarded positively. Voters were checked for proof of eligibility to vote at the special polling stations through their Israeli-issued Jerusalem residence card. All voters were marked with ink to prevent double voting.

C. COMPLAINTS ON ELECTION DAY

The Election Law allows complaints to be submitted to the CEC or PSCs, although only by candidate and party agents, not by voters or observers. This is an unnecessary restriction. The PSC can deal with those complaints on the spot, and the CEC also delegated discretionary powers to the DEOs and polling centre managers to handle complaints, with a right to appeal to the CEC. Due to the lack of formalised complaints procedures or guidelines, different approaches were taken by DEOs, with some complaints being forwarded to the CEC, others were resolved on the spot. Some DEOs took innovative steps to ensure that complaints were handled in a consultative and open manner.

On election day, around 1,000 complaints were submitted, the vast majority in polling stations. Almost all these complaints concerned relatively minor issues, such as possible abuse of assisted voting procedures, whether security forces members were voting on election day as well as early voting days, voters who could not find their names on the register, and campaigning taking place around polling centres. Significantly, very few complaints were received about the counting process.

D. COUNTING AND TABULATION OF RESULTS

EU Observers reported that the close of voting and the counting of votes also proceeded well, with 94 per cent of polling stations visited being rated positively. There were few reports of problems with the reconciliation and treatment of valid and invalid ballot papers. Representatives of national lists were present in almost all polling stations observed and domestic observers in over half. However, 15 per cent of polling stations were considered to show ‘tension’ because of the number of party activists close to polling centres.

EU observers noted that, in almost 12 per cent of polling stations, the election results were not immediately displayed as required by the Election Law. The CEC should take steps to ensure that this important aspect of transparency in the counting and results process is universally followed.

EU observers were able to follow the transmission of the results protocol to DEOs in almost all cases. In a surprising omission, there is no formal requirement for the DEOs to publish results from polling stations or to display their partial or preliminary district results, nor is the CEC required to provide a breakdown of results by polling stations. Such information is readily available and the transparency of the results process would be substantially improved if there was a requirement for it to be published by DEOs and CECs at an early stage as is possible.

E. VOTING BY PRISONERS

There were around 1,000 prisoners in Palestinian prisons and detention centres over the election period. The CEC did not produce formal procedures on the registration of prisoners as voters or the arrangements for voting by prisoners. The procedures used tended to be ad hoc and different in each location. Some prisoners were not permitted to register as voters. While voting facilities were provided at the main prisons in Gaza City and Jericho, they were not at a number of smaller detention centres. Contrary to the legal prohibition against absentee voting, the prisoners' were able to vote in the district elections for the district in which the prison was based, regardless of the district in which they were actually registered. The EU EOM observed that illiterate prisoners were assisted to vote by prison guards.

F. EARLY VOTING BY SECURITY FORCES

Early voting by security forces between 21 to 23 January was marked by an extremely high level of turnout of 92 per cent. This raised serious concerns as to whether voting by security personnel was 'enforced' by senior officers, especially as EU observers noted that representatives of the security forces took the names of all persons voting and that senior offices maintained a presence at polling centres after they had voted. On the first day of voting, a very high number of security personnel requested assistance to help with their voting on the grounds of illiteracy. As well as the issue of a lack of secrecy of the ballot, such levels of assisted voting raise further concerns as to whether this enabled undue pressure or intimidation to be used against voters from the security forces. In response, the CEC temporarily suspended the right to assisted voting by members of the security forces to counteract the potential for abuse. Although this was contrary to the Election Law, it addressed the concerns of abuse and EU observers reported that it was complied with.

Sensitive voting materials for early voting by security forces were stored at special polling stations over the three-day polling period and were transferred to DEOs for storage before they were counted on 25 January. Despite initial concerns about storage of sensitive materials, EU observers reported that all ballot boxes and other sensitive materials were secured satisfactorily at all times. Generally, the EU observers assessed the procedures at special polling stations for early voting and the counting of votes at DEOs positively.

XIII. RESULTS

A. PUBLICATION OF PRELIMINARY RESULTS

The CEC published what it called ‘preliminary’ results on the evening of the 26 January, although the CEC did not publicly state that these were based on only 95 per cent of all votes counted and were thus to be treated only as partial results. The partial results had indicated that Hamas had won 76 seats and Fatah 43. The CEC published the actual preliminary results on 29 January and these showed a revised number of seats for Hamas (74 seats) and Fatah (45). The CEC did not provide detailed information as to why there had been a revision of the seats won.

Both the partial and the preliminary results only provided limited information, such as the names and numbers of votes won by successful district candidates but did not include, for example, voter turnout or the share of the vote won by all national lists or district candidates. Such information, which was readily available to the CEC, is essential for there to be a speedy analysis and can make an important contribution towards ensuring transparency and strengthening confidence in election result. The publication of incomplete information on preliminary results has been a recurring problem in Palestinian elections and it is strongly recommended that the CEC be required to release all complete information on preliminary results when it is available.

B. APPEALS TO THE EAC AGAINST PRELIMINARY RESULTS

The CEC announced the preliminary official results of the PLC elections on 29 January. There was then a 48-hour period for challenges to the EAC against the preliminary results. The Election Law provides an effective structure for preliminary results to be challenged in an expeditious manner.

Hamas lodged the only challenge against the preliminary results of the national proportional contest, claiming they received a higher total number of votes than had been published by the CEC. Using their own records from polling station observers and the results produced at the DEO level, Hamas claimed they had won 34 more votes than published. Under the formula for seat allocation, this slightly higher number of votes would have been sufficient for Hamas to win a total of 30 national list seats, rather than 29. After a hearing of evidence in Gaza, the complaint was rejected by the EAC on the grounds that the CEC figure obtained from the data entry centre in Ramallah was credibly accurate and reliable. Hamas publicly accepted this decision.

A Fatah candidate in Jerusalem district appealed against the district results on the grounds that a number of polling stations were closed at 19:00 on election day even though a large number of voters were waiting to vote, and requested a re-election in certain polling stations. The complaint was rejected on procedural grounds, although there was also a lack of adequate evidence. A similar case brought by a Fatah candidate in Salfit was withdrawn as was another Fatah complaint relating to the location of polling stations in Nablus in a case that had involved allegations of intimidation against candidates and judiciary. A Fatah complaint against polling station staff in Gaza was rejected for being submitted late.

C. ANNOUNCEMENT OF FINAL RESULTS

Following the resolution of all complaints that were received, the preliminary results were unchanged. The CEC announced the official results as final in a press release dated 5 February.

The CEC published results from all polling stations on 6 February. This was a welcome development – and an implementation of a recommendation of the EU EOM from the 2005 presidential election – but still came relatively late in the process. The data was readily available much earlier, although copies were provided to interested parties on request.

(i) Final Results of the PLC Elections

Table 6: Number of Parliamentary Seats by Political Affiliation

	HAMAS	FATAH	Independent Candidates	PFLP	Alternative	Independent Palestine	Third Way
Number of National Proportion Contest Seats Won	29	28	0	3	2	2	2
Number of District Constituency Seats Won	45	17	4	0	0	0	0
Total Number of Parliamentary Seats Won	74	45	4	3	2	2	2
<i>As Percentage of all 132 Parliamentary Seats</i>	<i>56.1%</i>	<i>34.1%</i>	<i>3.0%</i>	<i>2.3%</i>	<i>1.5%</i>	<i>1.5%</i>	<i>1.5%</i>
<i>Percentage Share of National Vote</i>	<i>44.4%</i>	<i>41.4%</i>	<i>n/a</i>	<i>4.2%</i>	<i>2.9%</i>	<i>2.7%</i>	<i>2.4%</i>

(ii) Voter Turnout

Just over 78 per cent of registered voters cast a ballot in the national proportional election. Invalid or blank ballots amounted to just under five per cent of all national ballots cast.

Table 7: National voter turnout and number of valid votes in National Proportional Contest

Total Number of Votes Cast (in National Proportional Election)	1,042,424	Total Number of Valid Votes Cast (in National Proportional Election)	990,873
<i>As % of Total Number of Registered Voters (of 1,332,499 registered voters)</i>	<i>78.2%</i>	<i>As % of Total Number of Votes Cast</i>	<i>95.1%</i>

District turnout is gauged by the number of votes cast in the national proportional contest in each district. There was a notably higher level of voter turnout in some of the electoral districts in Gaza. Data on the number of voters who voted in the district constituency elections, however, were not available by the time this report was prepared.

Table 8: District voter turnout in National Proportional Contest as percentage of Registered Voters in District

West Bank				Gaza	
Jerusalem	47.5%	Salfit	82.9%	North Gaza	86.9%
Jenin	77.6%	Ramallah	76.1%	Gaza (City)	77.8%
Tulkarem	75.6%	Jericho	75.7%	Der El Balah	79.3%
Tubas	84.2%	Bethlehem	75.3%	Khan Younis	80.3%
Nablus	79.7%	Hebron	70.4%	Rafah	89.0%
Qalqilya	77.6%				

In the Jerusalem electoral district, the level of voter turnout is calculated from the number of registered voters who voted in ‘standard’ polling stations. It does not include voters resident in East Jerusalem who are not registered and who voted in Israeli postal offices or in ‘special’ polling stations in the West Bank. Of the 6,300 potential voters who had received a ‘voter allocation tickets’ to vote in a polling station, just over 3,000 voters (47 per cent) voted. Of the estimated other 125,000 eligible voters resident in East Jerusalem (i.e. those not able to vote in the postal offices), around 20,000 voted at the ‘special’ polling stations in West Bank, reflecting a likely turnout level of around 18 per cent. Although comparative data is not fully available, it is considered by the CEC that there was a higher level of voter turnout by Palestinians resident in East Jerusalem in the PLC elections than in the 2005 presidential election.

(iii) Final Results of the National Proportional Contest

Sixty-six PLC seats were elected from the national proportional contest. Six of the eleven national lists won more than the 2 per cent threshold of valid votes in order to be allocated parliamentary seats using the Sainte-Laguë method of seat distribution.

Table 9: National Proportional Contest Results by Votes Won and Seat Allocation

	Hamas	Fatah	PFLP	Alternative	Independent Palestine	Third Way	5 Others
Number of Votes Won	440,409	410,554	42,101	28,973	26,909	23,862	18,065
<i>Votes Won As % of all Valid Votes</i>	44.4%	41.4%	4.2%	2.9%	2.7%	2.4%	1.8%
Total Number of National List Seats Won	29	28	3	2	2	2	0
As % of 66 National Seats Available	44%	42%	5%	3%	3%	3%	0%

These results show that no list gained a majority of the national vote and that the allocation of seats was in close proportion to the share of vote won by each list.

(iv) *Final Results of the District Constituency Contest*

Voters were able to vote as many times as there were seats in their district (e.g. a Hebron voter had nine votes but a Jericho voter only one). Seats were allocated by a majoritarian 'block vote' system where the candidates who won seats were those with the highest number of votes for as many seats as there were available (e.g. in Nablus, the six highest-scoring candidates won seats while in Jenin it was the four highest-scoring).

Table 10: District Constituency Contest Results by Seats Won and in comparison to Share of Vote Won in District

District	Number of Seats in District	Hamas			Fatah			Independent	
		Seats Won In District	As % of District Seats	% of Average Vote won in district	Seats Won In District	As % of District Seats	% of Average Vote won in district	Seats Won In District	As % of District Seats
1 Jerusalem	6	4	67%	41.9%	2	33%	35.8%		
2 Jenin	4	2	50%	37.8%	2	50%	45.3%		
3 Tulkarem	3	2	67%	43.5%	0	0%	39.3%	1	33%
4 Tubas	1	1	100%	38.1%	0	0%	40.2%		
5 Nablus	6	5	83%	44.7%	1	17%	38.2%		
6 Qalqilya	2	0	0%	32.4%	2	100%	53.5%		
7 Salfit	1	1	100%	35.4%	0	0%	34.4%		
8 Ramallah	5	4	80%	42.2%	1	20%	38.8%		
9 Jericho	1	0	0%	33.1%	1	100%	50.0%		
10 Bethlehem	4	2	50%	31.5%	2	50%	44.2%		
11 Hebron	9	9	100%	49.5%	0	0%	36.0%		
12 North Gaza	5	5	100%	46.9%	0	0%	41.4%		
13 Gaza (City)	8	5	63%	56.7%	0	0%	36.6%	3	37%
14 Der El Balah	3	2	67%	43.9%	1	33%	47.4%		
15 Khan Younis	5	3	60%	44.0%	2	40%	48.1%		
16 Rafah	3	0	0%	40.4%	3	100%	53.2%		
TOTAL FROM 66 DISTRICT SEATS	66	45	68%	44.4%	17	26%	41.4%	4	6%

As in many countries where a majoritarian system is used, the distribution of district seats won in the PLC elections did not reflect the share of votes won by candidates. Hamas did not win a majority of votes in any district but won all district seats or almost all district seats in Hebron, Gaza City, North Gaza, Ramallah and Jerusalem. However, by running an organised campaign amongst a disciplined core group of voters, Hamas was able to best use the system of 'block voting' to its advantage. In contrast, the district-level vote for Fatah was split

between its official candidates and 'Fatah-affiliated' candidates who ran as independents, many of whom had earlier been proposed as Fatah candidates during internal primaries in late 2005. For example, in Bethlehem, where Fatah won 44 per cent of the national vote and Hamas only 31 per cent, Hamas won the two highest-scoring seats as the vote for Fatah was split between four official candidates and 15 'Fatah affiliated' candidates.

A total of six seats in four different districts were set aside for Christians, which only the highest-scoring Christian candidates could win, regardless of whether other non-Christian candidates had won more votes. Five of the six seats were won by Fatah candidates.

Table 11: Seats set aside for Christian candidates in District Constituency Contests as Won by List

	Number of Seats in District	Seats Set Aside for Christians	Hamas	Fatah	Independent
Jerusalem	6	2	0	2	0
Ramallah	5	1	0	1	0
Bethlehem	4	2	0	2	0
Gaza (City)	8	1	0	0	1
Total		6	0	5	1

(v) *PLC seats won by Women*

In the previous PLC elections in 1996, five of the 88 seats (5.6 per cent) were won by women. The representation of women in the PLC has increased to 18 seats (13.6 per cent) following the 2006 elections.

Table 12: Seats won by Women Candidates by Political Affiliation

	Hamas	Fatah	PFLP	Alternative	Independent Palestine	Third Way	Independent Candidates
<i>Number of National Proportional Seats Won by Women Candidates</i>	6	8	1	0	1	1	0
<i>Number of District Seats Won by Women Candidates</i>	0	1	0	0	0	0	0
Total Number of Seats Won by Women Candidates	6	9	1	0	1	1	0

(vi) *Final Results of the Early Voting by Security Forces*

The voter turnout for members of the security forces during the early-voting at special polling stations was very high, at around 92 per cent. The results of the security forces voting in each district show that Fatah gained a substantial share of the votes cast.

Table 13: Voting by Security Forces (SF) by District: Number of Voters; Percentage Turnout; Percentage of Valid Votes of National Proportional Contest won by Political Affiliation

District	Number of Registered SF Voters in District	Number of SF Voters Who Voted in District	% Turnout	Hamas		Fatah	
				Votes Won	% of Valid Votes	Votes Won	% of Valid Votes
1 Jerusalem	598	511	85.5%	31	6.1%	433	84.7%
2 Jenin	3,646	3,405	93.4%	149	4.4%	2,987	87.7%
3 Tulkarem	2,198	2,037	92.7%	99	4.9%	1,777	87.2%
4 Tubas	868	824	94.9%	31	3.8%	724	87.9%
5 Nablus	3,733	3,436	92.0%	143	4.2%	2,906	84.6%
6 Qalqilya	1,339	1,270	94.8%	34	2.7%	1,131	89.1%
7 Salfit	1,156	1,089	94.2%	98	9.0%	796	73.1%
8 Ramallah	2,882	2,458	85.3%	146	5.9%	2,092	85.1%
9 Jericho	1,164	1,046	89.9%	41	3.9%	883	84.4%
10 Bethlehem	1,496	1,299	86.8%	53	4.1%	1,121	86.3%
11 Hebron	3,534	3,260	92.2%	154	4.7%	2,781	85.3%
12 North Gaza	6,730	6,232	92.6%	928	14.9%	4,331	69.5%
13 Gaza (City)	11,752	10,560	89.9%	1,690	16.0%	7,672	72.7%
14 Der El Balah	6,237	5,804	93.1%	721	12.4%	4,217	72.7%
15 Khan Younis	6,660	6,238	93.7%	744	11.9%	4,799	76.9%
16 Rafah	4,711	4,478	95.1%	569	12.7%	3,376	75.4%
TOTAL	58,704	53,947	91.9%	5,631	10.4%	42,026	77.9%

D. OVERVIEW OF THE RESULTS

Over 90 per cent of the successful candidates were newly elected to the PLC: only 12 incumbent candidates were re-elected, with 35 incumbent candidates, mostly from Fatah and independents, losing their seats. Thirteen of the newly elected PLC members are currently in prison in Israel: 10 from Hamas and three from Fatah. Ahmed Sa'adat, who headed the PFLP electoral list was, at that time, held in prison in Jericho. There appears to be no provision in the rules of procedure of the PLC for members of the PLC who are in prison or otherwise absent to be able to vote.

Despite the major impact of these election results on the Palestinian political landscape and wider Middle East relations, it was notable that the election results were widely accepted by the major political and electoral actors in the West Bank and Gaza as an accurate and credible outcome from the electoral process. In a range of meetings with key representatives of all electoral lists, the EU EOM was repeatedly told of an overall satisfaction with the electoral process and, in particular, with confidence in the work of the CEC. As noted above, very few official challenges were made against the results and none alleged significant problems.

There were some public disturbances as well as a number of incidences of inter-factional fighting by Fatah supporters following the announcement of results, most notably a demonstration by security forces at the Legislative Council buildings in Ramallah on 28 January as well as several exchanges in Gaza. However, in general, there appeared to be no strongly adverse public reaction against the election.

XIV. RECOMMENDATIONS

The following recommendations to improve the electoral process and related areas are offered for consideration and action by the Palestinian authorities, Israeli authorities and the international community:

The Independence of the CEC should be fully guaranteed

1. The Election Law should be amended to remove the requirement for Cabinet approval of CEC regulations. The CEC should be free of political interference in determining election procedures.
2. Persons responsible for attacks against the CEC, its offices and staff should be held accountable for their crimes. Prosecutions of such persons should be pursued.

Establish effective enforcement mechanisms to ensure compliance with the Election Law

3. An effective and clear procedural framework should be established for complaints against alleged violations of the Election Law, detailing the manner by which complaints are submitted, handled and resolved. The procedures should be established by amendment to the Election Law or by the adoption of CEC regulations. The public prosecutor and the criminal courts should also establish clear procedural frameworks for the mechanisms by which election-related complaints are submitted and addressed. All procedural frameworks for complaints mechanisms should be published, as well as details of complaints received and how they were resolved. There should be a detailed timeframe to ensure that complaints are submitted and addressed in a timely manner. The District Election Officers should be given a permanent power to address complaints locally.
4. The following amendments should be made to the Election Law to provide an effective mechanism to ensure compliance with the Election Law:
 - (i) The CEC or another appropriate independent complaints body should be given the power to issue administrative sanctions against proven violations of the Election Law.
 - (ii) The range of sanctions available to the CEC or the courts should be widened to allow appropriate measures for elections.
 - (iii) Sanctions should be proportionate to the offence. Criminal prosecution of election offences should be used only for serious offences or upon a referral to the public prosecutor by the CEC.
 - (iv) Complaints and sanctions should be able to be brought against legally-established bodies, including public bodies and political parties or coalitions, as well as individuals.

- (v) The list of electoral offences should be clarified as much as is possible. Broad ‘catch-all’ offences should be removed from legislation.
- (vi) Complaints against alleged violations of the Election Law, especially on election day, should be capable of being submitted by all electoral stakeholders and not just candidates or their representatives.

Provide clarification on the work of the Election Appeals Court (EAC)

- 5. There should be clarification of the role of the EAC in addressing appeals from the CEC. The Election Law should be amended, or a binding judicial interpretation should be made, that clarifies whether a decision of the EAC is final and what decisions of the CEC may be appealed. The separate branches of the EAC in Ramallah and Gaza should take administrative steps to ensure that inconsistent decisions are avoided.
- 6. The composition of the EAC should not be changed during an election period. Wider steps should be taken to strengthen public confidence in the impartiality of the EAC.

Implement Efforts to increase the Transparency of the CEC

- 7. The CEC should address its lack of transparency at all levels of operations. The CEC should adopt a clear framework for ensuring full transparency. In particular, the CEC should:
 - (i) be committed to the prompt and complete publication of all decisions, minutes and internal procedures;
 - (ii) review the exclusion of stakeholders from its sessions or, alternatively, introduce formal structures for regular, open and consultative meetings with electoral stakeholders;
 - (iii) ensure that key areas of electoral procedures are properly contained in formal regulations rather than other formats;
 - (iv) clarify and publish the procedures for determining the number of seats per district and the basis for the allocation of set-aside Christian seats to certain districts; and
 - (v) publish all details of the complaints it receives.

Formalise Exceptional Voting Arrangements by Security Forces and Others

- 8. The Election Law should be amended to provide a clear legal basis for early voting or other forms of exceptional voting arrangements for Security Forces. The CEC should review the procedures used in the 2006 PLC elections to address concerns related to the prevention of forced voting or other pressures on voters, including prohibiting the unnecessary presence of senior officers. All procedures should be adopted well ahead of a future election day.
- 9. A comprehensive, consultative review should be held to extend opportunities to vote by other groups of eligible voters who are unable to attend their designated polling stations on election day, such as hospital patients, CEC staff etc. To this extent, alternatives to early voting should also be considered, such as enabling arrangements for absentee or postal voting.

Ensure Continued Preparedness by the CEC

10. The CEC should undertake an urgent public review of its legal framework and administrative structures to ensure it is fully prepared to exercise its responsibility for administering municipal elections.
11. The CEC and the PA, with continued involvement from the international community, should ensure that the CEC has sufficient guarantees of budgetary support and technical assistance to ensure it has the capacity to administer future municipal, parliamentary and presidential elections in a professional and independent manner, even in circumstances where elections are called at short-notice. Consideration should be given to extending the minimum timeframe for holding elections. The CEC should continue to deliver its effective and inclusive voter education programme.

Provide Appropriate Freedom of Movement to Electoral Stakeholders

12. All participants in the electoral process must enjoy the fundamental freedoms related to elections. The occupation must not restrict candidates and other electoral stakeholders from enjoying freedom of movement to participate fully in all stages of future elections.
13. Electoral arrangements between the relevant Palestinian and Israeli authorities should be agreed at an early stage in the process. The Government of Israel and its coordinating bodies should provide better facilitation to the Palestinian CEC to allow a more effective election administration, as foreseen in the Road Map. In particular, it should ensure that logistical and operational needs of the CEC, especially relating to movement of personnel and materials, are met. This also applies to CEC movements between the West Bank and Gaza. Such arrangements should be made as early as possible within an election period.

Meeting international standards for voting by Palestinian voters resident in East Jerusalem

14. Without prejudice to the final settlement of the Jerusalem issue, the following recommendations are made in relation to voting by Palestinian voters resident in East Jerusalem:
 - (i) Eligible Palestinian voters resident in East Jerusalem should be allowed to exercise their established right to vote in Palestinian elections in conditions that meet international standards for democratic elections and which are proper, reasonable and equal to those enjoyed by other Palestinians. In particular, the Israeli and Palestinian authorities should agree to facilitate voting and campaigning in East Jerusalem. The Government of Israel should not have the discretion to block all voting from taking place in East Jerusalem.
 - (ii) Irrespective of the long-term settlement of the Jerusalem issue, the Government of Israel should permit and facilitate the registration of voters resident in East Jerusalem as well as provide opportunities for voter education to take place.
 - (iii) All eligible voters should be able to cast their votes in East Jerusalem. If however, the number of voters able to do so is to be restricted or agreed to be limited, the Israeli authorities should: ensure the freedom of movement of voters between East Jerusalem and the West Bank; increase the number of polling locations in East

- Jerusalem; and ensure the locations chosen in East Jerusalem are suitable in size and layout for polling.
- (iv) Procedures must be introduced to ensure the secrecy of the ballot for voters casting their votes in polling locations in East Jerusalem.
 - (v) The CEC should be permitted to administer Palestinian elections in East Jerusalem. If voting is to continue to take place in post offices and administered by Israeli postal officers, the CEC should be permitted to supervise all stages of the voting process.
 - (vi) The Israeli authorities should provide a guarantee of assurance that Palestinians resident in East Jerusalem and who vote will not face adverse consequences for doing so.
 - (vii) The Israeli authorities should facilitate adequate conditions for campaigning in East Jerusalem for Palestinian elections, including ensuring the freedoms of movement and association. Arbitrary restrictions on campaigning, including issuing fines for the use of posters, should not be applied, and if they are to be applied should be proportionate to the offence.

Continue to Improve Voter Registration

- 15. The effective 'rolling' voter registration programme should be continued, with a particular focus on widening the registration of women voters and voters from minority communities.
- 16. The CEC should publish the final voter register ahead of election day. The voter register for early voting by members of the security forces should be made available, with appropriate security safeguards, to election stakeholders. The legal requirement to allow for inspection and challenge of preliminary voter registers should be complied with on all occasions.

Adopt effective regulations for Candidate and Political Party Registration

- 17. The CEC should adopt formal regulations to detail the procedures for the implementation of candidate registration, in particular, the methods by which it verifies supporting signatures. Greater flexibility should be shown by the CEC in determining whether a nominee has a sufficient number of supporting signatures. All candidates holding public positions should be treated equally and be required to resign from positions upon becoming candidates.
- 18. The Election Law should be amended, or new legislation be introduced, to provide a legal basis for the registration and regulation of political entities. The legislation should require the submitters of national lists to have a legal status.

Adopt effective regulations for Campaigning

- 19. The CEC should adopt formal regulations relating to campaigning to allow for candidates and supporters to be fully aware of exactly what campaigning activities can be undertaken. In particular, there should be clear regulation as to what amounts to campaigning at mosques and other specified locations. Separately, the CEC and civil society should consider formalising the Code of Conduct for campaigning to cover all elections.

20. The CEC should enforce the requirement for public officials and bodies to show impartiality during the election campaign. Where allegations are made against public officials for showing partiality, the complaint should be treated within clear and established guidelines.
21. Clear guidelines should be adopted by the CEC in relation to the mechanism for monitoring campaign financing. The guidelines should include full details on the methods of reporting and the frequency of reports. The CEC should clarify whether the financial reports will be audited. The reports should be published.

Strengthening the equitable role of the Media in elections

22. Reform of the legal framework for media regulation should be considered, especially in relation to updating the 1995 Press Law. The role of the PA in media regulation through the issuing of licences to electronic media should be transferred to an independent licensing body. The requirement for licensing print media should be removed. The right of the PA to interfere in or control media content should be stopped. Criminal prosecution for defamation should be abolished.
23. The Palestinian Broadcasting Corporation (PBC) should be reformed into a public broadcaster with independent editorial structures. The official media operated by PBC should make strenuous efforts to show impartiality during an election campaign. The state funded newspaper Al Haya Al Jadeeda should also be under special obligations in terms of pluralism and equitable access for all contenders.
24. Paid political advertising on private media should be required by law to be offered on conditions of equal opportunity for all contestants. The rates for advertising during a campaign period should be published in advance. Paid advertising should always be clearly marked as such. The rates should be notified in advance through publication and should be the same for all contestants.
25. Consideration should be given by the CEC to improving equitable election coverage in private media through the issuing of guidelines on accurate, balanced and responsible election coverage to serve the interest of all voters and candidates.
26. For future elections, the CEC should continue to monitor the media coverage of the election campaign to ensure compliance with legal provisions. In this context, the CEC should adopt a clear framework that specifies the means by which complaints against media coverage can be made and the possible sanctions that can be applied. Reports of the CEC's media monitoring should be published.

Promoting the participation of women in the electoral process

27. Steps should be taken to promote the role of women in the electoral and political processes. Consideration should be given to increasing the proportion of women candidates required on national lists and also to establishing reserved seats for women in district constituency contests.

Promoting the role of Observer Groups

28. The CEC should allow broader opportunities for election observers, including extending the date for accreditation. It is also important for future elections that domestic observer groups offer better training to their observers and that the different groups coordinate better with each other.
29. Threats against the presence and involvement of observers in the election process are unacceptable and should be prohibited and sanctioned.

Improving Voter Procedures

30. The following steps should be taken to improve voting procedures.
 - (i) Different ballot papers should be on different coloured paper.
 - (ii) Posters carrying the names and symbols of all candidates and national lists should be displayed in all polling stations and polling centres.
 - (iii) All ballot papers that clearly show the intention of the voter should be considered valid.
 - (iv) The prohibition against family or group voting should be enforced by polling station committees.
 - (v) All polling centres and, wherever possible, all polling stations should be made accessible to the disabled.
31. The Election Law should be amended to establish the realistic regulation of campaigning on election day. Campaigning should be specifically banned inside, or within the immediate vicinity, of polling centres. The CEC and PSCs should be provided with appropriate mechanisms to enforce these regulations.

Removing Procedures for Assisted Voting

32. The Election Law should be amended to remove provisions to allow assisted voting on the grounds of illiteracy. Assisted voting should only be provided to those who are unable to mark their own ballot paper(s) because of disability or infirmity. Ballot papers should carry distinctive symbols for all candidates and lists. Specific provisions on assisted voting in prisons and amongst security forces should be introduced.

Establishing Clear Procedures for Prison Voting

33. The CEC should adopt a clear procedural framework for the registration of prisoners in Palestinian prisons as voters and on the arrangements for voting by prisoners. Similarly, draft procedures should be prepared to outline the modalities by which Palestinian prisoners in Israeli prisons can vote as absentee voters.

Implementing Clear Guidelines for Publishing Election Results

34. The CEC should adopt a clear framework for the tabulation and publication of results at every stage of the results process so as to ensure that results are published speedily, completely and accurately so as to achieve full transparency of the process. In particular:
 - (i) Greater steps must be taken to ensure that PSCs immediately display results.

- (ii) DEOs should publish the results protocols from polling stations at the time they are submitted
- (iii) Partial and preliminary results should be published by the CEC and DEOs as soon as they are available.
- (iv) When publishing preliminary or partial results, the CEC should publish all available data, including results for all candidates, and results broken down by polling station. The Electoral Law could be amended to detail exactly what information should be published. If publishing partial results, the CEC should clearly identify them as such and provide explanations for any changes.