

STATEMENT *

Preserving the impartiality and integrity of the Central Election Commission, vital to the functioning of the democratic state and rule of law

Societies with stable and healthy democracies are characterized, among other things, by a very good implementation of the law as well as strong, independent and accountable institutions. In countries with fragile democracies and in transitory state-building, as our country, the building and functioning of independent institutions remains a difficult challenge. Their well functioning based on the constitution and the law is essential to curb the impact of political will and to ensure citizens' confidence in the functioning of democracy and rule of law.

The well-functioning of institutions and the unequivocal and equitable implementation of the law, particularly in the context of a political crisis, is a necessity and a guarantee for the existence of a democratic state and the rule of law.

The Central Election Commission (CEC) as one of the independent institutions has a major importance in strengthening democracy, as **it is the body charged by the Constitution and the law on preserving the integrity of the vote and the will of the citizens**, which, expressed through the electoral processes, legitimizes governing power and guarantees the power of voters.

KRIIK has continuously followed the functioning and decision-making of the Central Election Commission (CEC) and especially its activity in overseeing and preparing the election process of 30 June 2019. **So far, the performance of the CEC in informing and encouraging** actors to respect the implementation of the requirements and procedures envisaged for the construction of the next electoral process, overall, it is considered as positive.

KRIIK also expresses its concern about the flagrant violation of the law regarding the decision taken by the CEC on 27.04.2019 on the registration of the electoral subject "Partia Bindja Demokratike"¹.

This decision not only is in violation of the deadline set by the Electoral Code², but while adopting it, the CEC body did not even take into account the legal practice followed by itself in the 2013 Parliamentary Elections³ and in the 2015 Local Elections⁴, as well as the decision of the Electoral College of 2013⁵, on the non-registration of electoral subjects which, within the deadline set by the Electoral Code, were electoral subjects for which a decision was taken by the Court, but this decision was not yet final.

Furthermore, in the case of registration of the subject "Partia Bindja Demokratike", the registration decision **was made by the Court**⁶ **two days after the expiration of the registration date of the electoral subjects**, which was 25 April 2019.

Although the CEC Chairperson, Mr. Zguri brought to the attention of the members this concern, the other four members of the CEC not only **did not consider the established practice, but, in an unprecedented manner, did not hold any discussion**⁷ or provided arguments for their stance, voting en bloc for the registration of the subject, versus the vote against of CEC Chairman.

This attitude is also **contrary to the CEC's position expressed in the Press Release**⁸ of 4 January 2019, stating that due to the criticisms of the international

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observation missions⁹, it is decided for this time not to comprehend or tolerate delays in the application for registration of electoral subjects.

It is also **worrying that the CEC administration, namely the Legal Directorate and the Secretary-General**, in the prepared¹⁰ and presented report¹¹ before the CEC body at the session of 27 April, consider the submitted application in conformity with the law and within the deadline of 23 April. They even specify that attached to the request is the proof of registration of the subject with the court, a certificate issued by the Chancellor of the Tirana District Court three days later, therefore on 26 April 2019, one day before the CEC meeting.

Even today, on the date of publication of this statement, **this decision has not been disclosed and been made public**¹² in order to be judged on the reasoning presented about this decision-making. No other decisions taken at the meeting of that date, nor even those of an earlier meeting on April 25¹³, are made public, **contrary to the obligation set out in the Electoral Code for publishing CEC decisions within 24 hours** from being adopted¹⁴.

By continuous monitoring of the CEC, especially since the electoral reform of 2012 until today, it **has been identified at other times its behavior not in accordance with the law and by double standards**. Even in dealing with issues of political valence and for which there were opposing views of the main political parties, the CEC body has operated been divided in its decision-making, **reflecting respective political sides**.

Meanwhile, in today's situation, the CEC's body is incomplete after the failure by the Democratic Party to present its candidates for the two seats that are vacant since October 2018. Three of the members are candidates proposed by the Socialist Party. Meanwhile, the candidate nominated by the Republican Party¹⁵ and the one elected as Chairperson, from independent candidacies¹⁶ have arbitrarily changed positions¹⁷ after the political agreement of 18 May 18, thus completely undoing the electoral reform aspiration conducted in 2012 to build an independent CEC body.

The legal framework envisages appeals about process irregularities in the CEC, with the Electoral College of the Court of Appeals of Tirana and the Constitutional Court, despite the fact that the latter has ruled out itself from ruling on electoral matters, by a formal decision¹⁸.

Due to the justice reform process, currently **the Constitutional Court is not functioning**. Meanwhile, **all eight Appeal judges, members¹⁹ of the Electoral College have are under the re-evaluation process²⁰ conducted by the Independent Qualification Commission**. Of the eight members of the Electoral College one was confirmed in office²¹ and another was dismissed²², while both decisions were appealed to the Special Appeal College. The other six members are now in the process of re-evaluation.²³

In these circumstances and in the conditions when the opposition out of the 2017 elections has resigned parliamentary mandates and protests in the street accusing the majority of having occupied all powers, **the CEC conduct and well-functioning is of vital importance**. It is important not only to administer an election process, but to preserve public confidence in the role of the CEC institution in overseeing, organizing and administering the election process, as well as in its readiness to consider and review objectively, truthfully and impartially all allegations or legal violations that may be denounced or can be observed directly by the CEC itself.

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The Central Election Commission's body mandated in the spirit of the popular will expressed through the Referendum on the adoption of the Constitution on 22 November, 1998, and subsequently materialized in law after the constitutional changes of 2008 as a permanent body that prepares, oversees, directs and verifies all aspects of elections, should take a proactive role in ensuring the integrity of all aspects of the electoral process.

In this spirit, members of the CEC body should only respect the law and fully adhere to the oath²⁴ taken before the representatives of the Albanian people at the time of taking office.

Members of the CEC body, and its administration should try to avoid every influence or political pressure and any reference of past conduct or practices, extralegal decision making, incorrect or double standards, because any other approach would undermine the confidence of citizens and would further exacerbate the tense situation in the country from the current political crisis.

Tirana, on 6 May 2019!

*** This Statement is published in Albanian and in English.
The Albanian version is the only official document.**

¹ The Central Election Commission [Notice of Meeting](#) dated 27.04.2019.

² Electoral Code of the Republic of Albania, Article 64 "Registration of political parties in elections", paragraph 1.

³ Central Election Commission, Decision No. 241 dated 19.04.2013, "On registration as an electoral subject of" Civil Party of Albania "for the Assembly elections of 23.06.2013" and Decision no. 279 dated 03.05.2013 "On the review of the request of the Civilian Party for revision of the CEC decision no. 241, dated 19.04.2013" On the non-registration as an electoral subject of "Civil Party of Albania" for the Assembly elections of 23.06. 2013 ".

⁴ Central Election Commission, Decision No. 158 date 16.04.2015 "For reviewing the request of "Shkodra Party 2015" for registration as an electoral subject in the elections for Local Governments of the date 21.06.2015".

⁵ Electoral College of the Tirana Court of Appeal, Decision no. 3, date 27.04.2013.

⁶ Registered with decision no. 513 dated 25.04.2019 in Tirana District Court. See [preliminary materials](#) of the CEC meeting.

⁷ Central Election Commission, [video recording](#) of the CEC meeting (minutes 59.53 - 1.13.40).

⁸ Central Election Commission, [Press Release](#), dated 04.01.2019: "The legal deadline for the registration of political parties for these elections ends on 21 April, while the registration of electoral coalitions in the CEC ends on 1 May. Registration takes place as always at the CEC. If political parties fail to comply with the first deadline, they will not be able to participate in the June 30, 2019 elections. If they do not respect the second term, they can not compete as electoral coalitions. In the past, the CEC has been criticized by international observer missions for registration of electoral subjects beyond legal deadlines, so it is particularly determined this time not to comprehend or tolerate delays in the application for registration. The CEC urges today political parties to organize themselves in time to fill out and deposit the registration documentation. " .

⁹ Parliamentary Elections on 25 June 2017, OSCE/ODIHR Election Observation Mission Final Report "I. Summary", page no. 2: "While largely inclusive, the candidate registration process suffered from selective and inconsistent application of the law and was, at times, based on the political agreement rather than the law".

¹⁰ CEC meeting [preliminary materials](#).

¹¹ Central Election Commission, [video recording](#) of the CEC meeting (minutes 59:53 – 1:02:19).

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- ¹² Central Election Commission, [online publication](#) of CEC decisions.
- ¹³ Central Election Commission, [Meeting Notice](#), dated 25.04.2019.
- ¹⁴ Electoral Code of the Republic of Albania, Article 24 "CEC Decision-making", "Each CEC decision is transcribed in final form within 24 hours after it has been reached. No fewer than two original copies of the decision, or, as the case may be, after the CEC instruction, are to be retained in the CEC archive. Decisions are to be published immediately on the official website of the CEC".
- ¹⁵ Decision of the Assembly of the Republic of Albania, No. 104/2015, dated 05.12.2015, "On the nomination of Mr. Klement Zguri member of the Central Election Commission", Official Gazette No. 220, dated 22.12.2015.
- ¹⁶ Decision of the Assembly of the Republic of Albania, No. 74/2016, dated 03.11.2016, "On the nomination of Mr. Denar Biba as Chairman of the Central Election Commission", Official Gazette No. 211, dated 08.11.2016.
- ¹⁷ Decision of the Assembly of the Republic of Albania, No. 78/2017, dated 22.05.2017, "On the nomination of Mr. Klement Zguri as Chairman of the Central Election Commission", Official Gazette No. 118, dated 23.05.2017.
- Decision of the Assembly of the Republic of Albania, No. 79/2017, dated 22.05.2017, "On the nomination of Mr. Denar Biba member of the Central Election Commission", Official Gazette No. 118, dated 23.05.2017.
- ¹⁸ Constitutional Court of Albania, [Decision no. 53](#), dated 07.05.2013.
- ¹⁹ [Elected members of the Electoral College](#) of the Court of Appeal, Tirana: Mr. Artur Malaj, Mr. Tomorr Shkreli, Mr. Ridvan Hado, Mrs. Lindita Sinanaj, Mr. Shkëlqim Mustafa, Mr. Gjin Gjoni, Mr. Astrit Kalaja dhe Mr. Sotiraj Lubonja.
- ²⁰ Pursuant to the law no. 84/2016 "On the Provisional Revision of Judges and Prosecutors in the Republic of Albania" dated 30.08.2018.
- ²¹ Independent Qualification Commission, Decision no. 62, date 03.08.2018. [Reconfirmation in office](#) of Mr. Artur Malaj. Appealed to the Special College of Appeals, [the case \(JR\) no. 344/2018](#), dated 13.11.2018.
- ²² Independent Qualification Commission, Decision no. 68, date 08.10.2018. [Removal from office](#) of Mr. Sotiraj Lubonja: Appealed to the Special Appel College, [case \(JR\) no. 39/2018](#), dated 07.12.2018.
- ²³ Mr. Astrit Kalaja, Judge at the Court of Appeal of Shkodra ([KPK Notification dated 18.09.2018](#)); Mr. Ridvan Hado, Judge at the Court of Appeal of Tirana, Mr. Gjin Gjoni, Judge at the Court of Appeal of Tirana dhe Mrs. Lindita Sinanaj, Administrative Court of Appeal ([KPK Notification dated 16.11.2018](#)); Mr. Shkëlqim Mustafa, Court of Appeal Tirana ([KPK Notification dated 16.01.2019](#)); Mr. Tomor Skreli, Court of Appeal Gjirokastrë ([KPK Notification dated 18.03.2019](#)).
- ²⁴ Electoral Code of the Republic of Albania, Article 13 "Mandate and working hours of the CEC members", article 4 "Before taking office, an elected member of the CEC takes an oath before the Assembly in a public ceremony The text of the oath is: "I swear on my honor that I shall commit myself with all my strength to the realization of fair, free and democratic elections in the Republic of Albania; I shall guarantee and protect the integrity and secrecy of the vote; I shall maintain impartiality in discharging my duty as a member of the Central Election Commission and shall demonstrate professionalism in this discharge."

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