

STATEMENT

Political and institutional stakeholders to show the availability and will to improve the integrity of the electoral process for the Elections for the Assembly of Albania of 25 April 2021

Although the Electoral Code clearly states that the election campaign begins 30 days before Election Day and ends the day before, political parties are conducting activities with clear electoral goals: calling upon voters to vote for them, nominating candidates, presenting key points of their governing program, etc. Therefore, de facto, the election campaign has started, thus being held contrary to the legal framework.

The election campaign being conducted before the 30-day deadline provided by the law means that these activities do not abide by campaign rules which guarantee equal opportunities for all election contestants such as equal media coverage, restrictions and obligations for financial reporting, etc.

The issues necessary to be re-brought to attention are:

1. Integrity of candidates and electoral transparency;
2. The impact that Covid-19 will have on the organization of the electoral process, especially with regard to the right to assembly and active suffrage;
3. Opportunities for Albanians living abroad to be able to exercise their right to vote;
4. Use of state resources during the election campaign;

Candidates' integrity and electoral transparency

The candidates' integrity is one of the issues that has received the highest attention from important international partners of Albania.

The selection of candidates to become members of the Albanian Parliament has already ended, the lists have been closed and submitted to the CEC by political parties.

It is now in the hands of the institutions, so it remains essential for the CEC to implement the law on decriminalization in its spirit, with the highest scrupulousness and seriousness throughout the process of verifying the candidates' self-declaration forms.

The GDCR (General Directorate of Civil Registry), the Judicial Authorities and the Prosecution are also encouraged to intensify and coordinate in the best way possible and coordinate also with the CEC to ensure a more complete, accurate and efficient verification process.

The new parliament, as a product of the spirit of the 5-June agreement, should not be a "haven" for individuals who are subject to the provisions of the so-called decriminalization law, or even for those who represent illegal interests.

The figure of the candidates is the most important part of the electoral offer by political parties, and that represent the party or the coalition in seeking the representative will of the citizens.

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As provided by the spirit of the Constitution, **the return of the candidates to the center of the competitive process is paramount**, therefore.

KRIIK now addresses directly all competing Candidates to declare the following voluntarily and in full, as a sign of goodwill and transparency to the public:

- their professional biography and engagements;
- their financial situation;
- experience of relations with the law; and
- personalized electoral offer.

The above are worth disclosing, first as a necessity to inform the citizens on the full profiles of the candidates they will elect, but also for the leaderships or the proposing parties to take responsibility for the team they have selected to contest the election, as a means of reforming the internal selection mechanism of the political parties themselves.

In relation to the declaration of financial situation, candidates are encouraged to disclose in advance **three financial dimensions:**

- **financial assets they own or to which they are involved with their relatives;**
- **fiscal obligations or not that these assets carry, and**
- **financial obligations they have to third parties.**

All of the above are considered a necessity in relation to the spirit and constitutional and legal obligations to promote and **ensure the integrity and inviolability of the image of the right parliamentarian**, as only a representative of the citizens' interests.

On the other hand, this is considered to be a real and effective step towards returning candidates to the center of the electoral race as well as strengthening the connection of the citizen with the mandated.

Providing and ensuring transparency is vital for a participatory and functional democracy. Especially in the election period, the required spirit of transparency takes on a broader meaning.

Contrary to this spirit, it is noted that the electoral process in the country has increasingly suffered from a lack of discussion on electoral offers and on the profiles of candidates. They are developed simply as processes where the primary interest and goal remains which of the entities has managed to get the most votes, essentially being transformed from a process of confronting electoral offers into a process of clashes between opposing leaderships.

KRIIK draws the attention and urges political parties to avoid repeating this negative experience and practice pursued so far, giving the Albanian citizen a smooth and ethical election campaign, with arguments and discussions on visionary approaches, political programs, as well as matured and inviolable profiles of the proposed candidates.

Recent statements in the media by the majority and, especially, the labels used by the Prime Minister, against some of the political opponents, go against this spirit and approach, potentially starting and inciting harsh unethical rhetoric, artificial tension of

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campaign tones and consequently shift of focus from the electoral platforms and programs of competing entities.

Development of the electoral process under the conditions of the pandemic

The Order no. 633, dated 17.11.2020 of the Minister of Health and Social Protection prohibits political rallies, party meetings as well as gatherings of more than 10 people in closed or open places. This ban was reviewed by the Constitutional Court in the plenary session of 2 March 2021, upon request by the Republican Party. According to the decision of the Constitutional Court made public by the media, the Ministry of Health must review the decision and change it by 15 March.

All of the above is the only legal regulation, if it can be called so, that Albanian politics and institutions have undertaken on the conduct of the electoral process under the conditions of the pandemic.

Although it was easily foreseeable that the April 25 elections would take place in a pandemic situation, the political parties did not, at any time, make this issue part of the discussion of the Political Council, to the extent that the Council's discussions have been made public.

KRIIK has raised this issue with the Open Letter of 16 June 2020 and called on institutions and political parties to consider this possibility and prepare potential scenarios for the administration of the electoral process in a pandemic situation, a call which has been repeated several times.

The lack of reaction from political parties and institutions, from Parliament in particular, regarding this situation for more than nine months shows lack of respect in the least for the right to vote as an essential right of the citizen and, on the other hand, the consideration of the electoral process simply as a mechanical voting process to mandate political power.

The recent statement of the Prime Minister, Mr. Edi Rama regarding the voting of the citizens infected with Covid-19 that “we will do the same thing that other countries have done. Those who are tested positive and have not yet tested negative, shall stay at home”, is a partial approach to the issue as a whole and an unacceptable statement, in violation of a fundamental constitutional rights.

The Albanian state has the obligation to guarantee the right to vote for all its citizens. It is an undeniable and inviolable right which is recognized to the Albanian citizens by the International Covenants ratified by the Albanian state and the Constitution of the country. Its restriction is provided by the Constitution only when the citizen is declared as mentally incompetent by a final court decision, or when he / she is subject to the law of decriminalization and has been convicted of one of the serious criminal offenses provided in that law.

Failure to exercise the right to vote in any other case is an attribute and an exclusive right of the free will of the citizen, and as such, it cannot be limited by any circumstance.

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Moreover, it is the duty of the state to ensure this right regardless of costs and circumstances.

If there is political will and respect for the right to vote, opportunities still exist, as long as the Albanian Parliament has not yet been dissolved, to address this issue with last-minute intervention in the legal framework. The practice of other countries that have conducted elections during the pandemic period can be used as a guide.

In any case, the restriction of the right to vote for citizens infected with coronavirus on the Election Day or persons in self-isolation can and should be avoided.

KRIIK has brought to attention the need to fully address this issue and its legal regulation, as a more aggravated situation may jeopardize the integrity and the administration of the electoral process. As a result, taking measures that have not been regulated within a legal framework can create an alibi for delegitimizing the process, and provide an opportunity to distort it, or, even worse, to bring back possible crisis or instability situations.

We bring to your attention the fact that all citizens are exposed to the risk to personal health in an unregulated situation, starting from those engaged as commissioners in polling stations, commissions of election administration zones, vote counting teams, observers, media representatives and all other citizens involved in the process.

Moreover, the required adjustment to ensure the transparency of the process is considered essential.

The limitation on the number of citizens gathered in one facility makes it impossible to observe the stages of the electoral process through direct contact and direct view of polling stations by observers coming from competing political parties, by independent and international observers, and journalists.

It also becomes impossible to follow and observe the meetings of the Electoral College, the court hearings, as well as the meetings of the CEC bodies in cases when they meet physically in a plenary session in the respective hall.

Vote of emigrants

The Political Council failed to regulate the voting of emigrants and charged the CEC with the organization of such an important process, by simply expressing the will that Albanians living abroad should vote.

Delegating such a complex issue, which Albanian politics had failed to address during all these years, to an institution like the CEC, with limited resources and competencies, has made it more than clear that this was simply a political tactic, far from being a concrete and serious approach.

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The consequences of this ill-considered decision and the possibility of facing a failed initiative from the beginning, seem to have forced the CEC to be careful in all the steps taken regarding the construction of the process that would enable the emigrants' vote, stressing the need of a political consensus for the technical process to work.

This rational approach of the CEC should be welcomed as, due to the lack of political and institutional will, the arbitrary application of the rules by the CEC and the subsequent developments could bring or encourage the loss of confidence in the electoral process as a whole.

Currently, according to KRIIK, it must be acknowledged that securing the right to vote for the diaspora is already an impossible process and all this is a direct responsibility of the main political parties.

The full regulation of this right and the proper reform of the respective legal framework should constitute a key milestone in the future reform process of the electoral legal framework.

Use of state resources

The use of state resources for electoral gain has always been and still remains a major problem for our reality and democracy.

The sophistication of this phenomenon and especially the system of the established political patronage, requires the contribution and interaction of all actors and all citizens to free the will of the voter from coercion or any other illegal influence in abuse of administration and state and public responsibilities taken over.

The innovation brought about by the legal amendments on this matter is a fact that should be commended, but meanwhile, as it is known, KRIIK assesses and emphasizes that the efficiency of the established instrument depends on a continuously interactive spirit and behavior of the CEC with other responsible institutions which review the activity of the public administration during pre-election period, during the election campaign, or even during the post-election period until the formation of the new government, such as Commissioner for the Oversight of Civil Service, Commissioner for Protection from Discrimination, or Supreme State Audit.

Taking into consideration the gravity of the issue and not referring to the penal progress of the election violations, a unified operation of all administrative chains is needed, in order to make this mechanism functional and credible so that it can give its concrete contribution to ensure a smooth-running electoral process.

On the other hand, as it has highlighted earlier, KRIIK has expressed its stance that the CEC institution is overloaded with legal duties and meanwhile suffers from an

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administration limited in number and expertise. In addition to that, the number of legal instruments attributed to it is too limited to implement the assigned duties.

When the CEC Regulatory Commission approved the rules for prohibiting the use of state resources, it showed a very narrow reading of the law, holding the formalist positions of its letter, thus taking no consideration of the reality and the ways in which the gaps in the legal framework can be used to abuse state resources.

State institutions were very slow in reporting activities. The rate of reporting increased from 7 January 2021, immediately after the DP filed a lawsuit for abuse of state resources at SPAK.

Furthermore, it can be said that the mechanism for reporting the activities of institutions has lost its meaning and it lacks effectiveness in achieving its goal by turning into a formalist bureaucratic procedure. A considerable number of reports contain no details and make effective monitoring impossible.

The CEC lacks the financial and human resources to effectively monitor, and it relies heavily on complaints.

Regarding the complaints, both sanctions imposed by the Commissioner have been overruled by the Commission of Appeals and Sanctions (CAS) by making the mechanism even more ineffective.

It is evident that CAS, at best, has used a very narrow and formalist reading of the legislation.

The conduct of senior public officials on this issue has not pursued the spirit of the law, using gaps in legislation to avoid the proper application of the norm and the spirit of the law.

Senior public officials are participating in activities that are used for electoral purposes, thus using institutional events for electoral benefit.

Tirana, on 11 March 2021!

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About KRIIK's Monitoring Action

The Coalition for Reforms, Integration and Consolidated Institutions has continuously and closely followed all institutional and political developments that directly or indirectly affect electoral issues.

Currently, KRIIK is observing the election period through a body of long-term observers and will be present on Election Day and during the vote counting with short-term observers. The KRIIK Election Observation Action is being carried out in cooperation

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with 33 local organizations operating throughout the country, active in the field of democracy and human rights.

KRIIK assesses the electoral process based on internationally recognized standards for democratic elections and the Albanian legal framework.

The press conference is organized in the framework of the KRIIK Election Observation Action for the 2021 Elections for the Assembly of Albania.

The purpose of the Press Conference is to share with the public and journalists concerns on some key aspects of the electoral process thus far, and to call upon political and institutional actors to take the necessary steps to address these concerns in due time.

The Election Observation Action is financially supported by:

- Government of the United Kingdom;
- Ministry of Foreign Affairs of the Federal Republic of Germany, and
- Ministry of Foreign Affairs of the Grand Duchy of Luxembourg.

The opinions and views expressed at this Conference are the responsibility of KRIIK and do not necessarily represent the official position or opinion of the donors.

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