

## PUBLIC STANCE

### **The MPs and the Assembly of Albania must fulfill their responsibilities for starting the work and conducting a real Electoral Reform, based on the principles of transparency and inclusiveness**

In the Session of Thursday, June 9, 2022, the Assembly of the Republic of Albania approved the composition<sup>1</sup> of the Ad Hoc Parliamentary Committee for the Electoral Reform of 18 members, thus supplementing the decision to establish this Committee<sup>2</sup>, adopted on February 10, 2022, with a six-month activity period, until August 10, 2022.

KRIIK evaluates very positively the fulfillment of the obligation of the Assembly to make the Ad Hoc Committee functional and to start the Electoral Reform, as all political actors have expressed the need and readiness for this.

This decision paves the way for the legal framework for elections, in accordance with the recommendations of the OSCE/ODIHR and domestic stakeholders actors<sup>3</sup>, with the first implementation in the local elections of May 2023, but also for other important amendments in view of the 2025 parliamentary elections or even later, in fulfillment of the promises and the commitments made by the parliamentary political forces.

These commitments and public statements have emphasized the need for immediate start of the activity as soon as the Ad Hoc Parliamentary Committee is constituted, moreover, as we are only 10 months away from the next local elections.

Contrary to this position and **to the Rules of Procedure of the Assembly**, which provides for the meeting of the Committee within two days<sup>4</sup>, a deadline that ends today, **until now there is no announcement of its meeting**, neither in the media nor in the official website of the Albanian Parliament. Moreover, the latter still is out of date and incomplete.

KRIIK raises its concern that this approach to this very important process **is not serious either by the members of the Committee, nor by the constituent parties and parliamentary groups**, but also by the Albanian Parliament itself.

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<sup>1</sup> [Draft Decision no. \\_\\_\\_\\_ / 2022 "On a change in the decision of the assembly no. 12/2022" On the establishment of the Special Parliamentary Commission for the implementation of the electoral reform "and the approval of its composition".](#) (It is noted that the website of the Assembly is still not updated with the final version approved in yesterday's session).

<sup>2</sup> [Decision no. 12/2022 dated 10.02.2022](#) of the Assembly of Albania "On the establishment of the Special Parliamentary Commission for the implementation of electoral reform".

<sup>3</sup> "The Commission is tasked with drafting legislative changes for electoral reform, in particular addressing the recommendations of the OSCE / ODIHR Election Reports on the April 25, 2021 elections and the previous untreated elections, and the recommendations of the institutions responsible for the elections. of parliamentary political parties and non-profit organizations", point II of Decision no. 12/2022 of the Assembly of Albania.

<sup>4</sup> "Within 2 days from the determination in the plenary session of the work program and the calendar of works of the Assembly, the commission meets for the approval of the work program and the calendar of its works. The work program and the work schedule of the committee must guarantee the timely implementation of the issues that are foreseen for consideration in the plenary session. [Rules of Procedure of the Assembly of the Republic of Albania](#), updated, article 38 "Review of cases", point 1.

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The Coalition for Reforms, Integration and Consolidated Institutions (KRIIK) has continuously and uninterruptedly followed, especially after the 2012 electoral reform, the issues of vote and election integrity, as a complex process involving conduct, law enforcement and functioning. the whole institutional and political structure in relation to the constitutional obligation to respect and guarantee the free and intact will of the voters and the Albanian people.

Under this experience and analysis, KRIIK expresses its concern **about the serious situation of non-fulfillment of responsibilities and obligations of the Albanian Parliament, MPs and political forces they represent, contrary to the spirit and letter of the Constitution**, which gives its MPs and the Parliament of Albania power and the delegated will of the sovereign, for the construction and well-functioning of rule of law and a functioning democracy that must be based on the principles of inclusiveness, dialogue, transparency and accountability, with a focus and in the interest of the people.

The agreement of June 5, 2020, after the protracted crisis of 2017 - 2020, with the "apocalyptic" culmination of 2019, **should serve as a basis for a totally new approach to thinking and acting of the political class, especially MPs and parliamentary parties**, away from the practices of exclusion, the arrogance of the majority<sup>5</sup> and the fictitiousness of the processes and reforms undertaken.

The delay of 4 months in completing the composition of the Ad Hoc Parliamentary Committee for the Electoral Reform, the stonewalling of the Parliamentary Committee of Inquiry on the 2021 Elections, or finally the failure to fulfill the commitments and responsibilities for the process of electing the President of the Republic, contrary to the spirit of the Constitution, highlights **a disturbing approach that serious and genuine commitment to address the major issues of electoral integrity will be truncated or substantially lacking**.

For this is primarily responsible the ruling majority, which with the concentration in its hands of all powers must reflect and convey more than ever maturity, starting first to give it the necessary breath and space, according to the Constitution, to the proper functioning of the Albanian Parliament, where should prevail mutual respect for each MP, sincere and visionary dialogue and interaction in the name of the best interest of the citizens and the democratic future of the country.

In this context and of an extreme and continuous political polarization, KRIIK draws attention to the need for **the activity of the Ad Hoc Parliamentary Committee for Electoral Reform to be guided by the principles of transparency and inclusiveness**.

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<sup>5</sup> Democracy guided by the rule of law is not only about formal observance of the procedures that enable the majority to lead, but also with discussions and meaningful exchange of views between the majority and the opposition. The Venice Commission and the ODIHR urge the Albanian political forces - both inside and outside the parliament - to ensure the normal democratic functioning of the institutions in the country in the interest of the Albanian people. 1006/2020, [CDL-AD \(2020\) 036. Joint Opinion "On amendments to the Constitution on 30 July 2020 and the Electoral Code on 5 October 2020", dated 11.12.2020](#), the European Commission for Democracy through Law (Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights of Human Rights (OSCE / ODIHR).

The practice of closed processes, with a deep lack of transparency and without meaningful involvement of domestic stakeholders, as well as **narrow agreements in the last moments, must end.**

The real functioning and development of democratic processes, as well as the full and true legitimacy of the institutions elected by the free and uninfluenced vote of Albanian citizens, cannot continue to remain hostage of the narrow interests of political parties.

KRIIK, in the course of its advocacy activity, **has commended the leadership of the main parliamentary parties for the expanded dimension of cooperation with civil society** and especially with KRIIK, as well as for the participation and commitments taken in the activities carried out<sup>6</sup>. But it is **imperative that these commitments be maintained and conveyed substantially in the institutional and political life of the country.**

KRIIK calls on the two Co-Chairs, the members of the Ad Hoc Committee for Electoral Reform or the Speaker of the Assembly **to convene the Commission as soon as possible, agreeing on and adopting as soon as possible its work plan and a special regulation**, ensure the involvement and participation of other non-parliamentary stakeholders, as well as the procedures for interaction with them.

It is necessary that the drafting of **the work plan reflects, first of all, the political will for the range and depth of the interventions** to be undertaken.

In particular, it is necessary to clarify urgently whether or not the Administrative-Territorial Reform to be carried out<sup>7</sup> will have the intention to be applied in the local elections of spring 2023.

In this process, despite the considerable number of issues requiring adjustment, consideration should be given to the limited time available, as well as the Code of Good Practice in Electoral Matters to limit major legal changes to the period of less than one year prior to the day of elections.

Regarding this restriction, KRIIK **suggests to the Committee to close minor and specific legal amendments in relation to the well-functioning of the next local elections within July 2022**, while in the next parliamentary session to start and address all other adjustments to be applied in the parliamentary elections of 2025 or even after, as well as the drafting of a special law on the financing of political parties and election campaigns, the law on referendums, as well as a new law on political parties.

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<sup>6</sup> The need for Dialogue, Transparency and Inclusion, as well as for a faster concretization of the commitments and implementation of the Special Commission for Electoral Reform, was one of the main topics of one of the last events of KRIIK, the Conference National "[Civil and Political Society: for a comprehensive dialogue and participation](#)", organized on February 16, 2022.

<sup>7</sup> [Draft Decision no. ... / 2022 "For a change in Decision no. 13/2022 "On the establishment of the Special Commission for Administrative-Territorial Reform in the Republic of Albania, as well as the approval of its composition"](#), dated 09.06.2022.

[Decision no. 13/2022, dated 10.02.2022](#) of the Assembly of Albania "On the establishment of the Special Commission for Administrative-Territorial Reform in the Republic of Albania".

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Regarding the amendments related to the upcoming local elections, based on the observation conducted during the period 2018-2022, in the framework of the monitoring of the last parliamentary<sup>8</sup> and local<sup>9</sup> elections, **KRIIK suggests and requests to the Ad Hoc Parliamentary Committee focus, but not be limited, to the following issues** considered the most important in the context:

1. ***Reflection through appropriate legal amendments in accordance with the provisions of Decision no. 28 dated 30.06.2021 of the Constitutional Court<sup>10</sup>***, which decided to repeal point 3 of article 163 of the Electoral Code, as incompatible with the Constitution.

In the Court's assessment, the determination of the quotient should not be restricted to a greater extent than is necessary to achieve the objectives, respecting the right to vote and the principle of equality of the vote. Consequently, the Court has assessed that the quotient defined in paragraph 3 of article 163 of the Electoral Code, as one of the criteria that affects the distribution of mandates, violates the right to vote, as it does not meet the criterion of proportionality.

This article and this way of distributing the mandates for the multi-name lists in the elections for the Assembly, should also be used for the distribution of the mandates of the members of the Municipal Council for the multi-name lists of the parties or coalitions.

2. ***Regulating the transparency and oversight of the financing of electoral subjects for the election campaign.*** Lack of transparency and ineffective oversight of the finances of electoral subjects is one of the major problems of elections in the country and requires urgent and radical intervention.

Although the issue is much broader to address, it is necessary for the Commission to address, at least, all the shortcomings and needs encountered for minor adjustments, as well as the bottlenecks created during the application of existing legal provisions in previous elections.

It is also considered necessary to explicitly specify that the financial activity of political parties is not exclusive to the controlling function of the CEC, but also to other institutions charged by law with the supervision of financial and economic activities.

Also, the separate specification of expenditures made with public funds, in the submitted reports, in the judgment of KRIIK, would provide more objectivity by electoral subjects, as it would facilitate the possibility of cross-checking by other state institutions, and would further encourage and alleviate the burden of the CEC in fulfilling its legal obligations and applying appropriate sanctions.

3. ***Full addressing of the phenomenon of misuse of state resources and public offices for electoral advantage during the election campaign and making effective the mechanism provided by addressing the issues observed or created during the application and practice followed by the CEC and other institutional actors in 2021 parliamentary elections.***

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<sup>8</sup> KRIIK Albania, [Final Observation Report "On the process of the Elections for the Assembly of Albania of April 25, 2021", September 2020 - January 2022.](#)

<sup>9</sup> KRIIK Albania, [Final Report, "Legal and institutional behavior of institutions and actors involved in the election process of June 30, 2019", November 2018 - February 2020.](#)

<sup>10</sup> [Decision no. 28 dated 30.06.2021](#) of the Constitutional Court of Albania.



Despite the 2020 legal amendments aimed at addressing this issue, the use of state resources and public office for electoral advantage continued to be a major issue, even worsening in the last parliamentary elections.

On the other hand, the control mechanism provided by the Electoral Code to address the problem, failed to prevent the use of public resources, turning into a bureaucratic and inefficient mechanism.

For the sake of the specifics of the upcoming local elections, where the current parliamentary majority controls almost all municipalities in the country, KRIIK estimates that the risk of using state resources is even greater, giving the majority a significant advantage.

Not only that, but the continuation and consolidation of such a negative practice will continue to bring major consequences in the democratic system in the country, contrary to the perception and behavior that state institutions and their employees should have and manifest.

4. *The monitoring of the audiovisual media by the Audiovisual Media Authority (AMA), suffers from the lack of effectiveness in a number of elements, but as the most priority that must be completed in the legal framework, KRIIK considers:*

*- Lack of systematic monitoring of all Audiovisual Media Service Providers at the local level, as well as*

*- Lack of a qualitative monitoring, which records not only the airtime for electoral subjects, but also the tone / language used.*

The first is extremely important, given that the upcoming elections are local, and local audiovisual media will play a very important role in the campaign.

The second is important as recording only the minutes allocated to an electoral subject by a media is not only ineffective, but can give a distorted idea. Highlighting the tone used in the audiovisual materials enables not only a clearer panorama of media coverage, but also the fact whether the audiovisual operators provide a balanced and neutral coverage of the election campaign.

5. As election campaigns are increasingly focused on *social media, it is necessary to regulate, predict and specify them as media in the legal framework*, taking into account the inclusion of social networks.

6. *Predicting and regulating the campaign by third parties*, especially that on traditional media and social media. The influence of third parties in the campaign is considered to be higher in the local elections, due to the competition and the most direct contact not only of the candidates, but also of the political forces, as well as their large number in these types of elections.

7. *Anticipation and fulfillment of the registration criteria<sup>11</sup> of political parties* by submitting the court certificate if the subject conforms to the constitutional and legal criteria for conducting democratic and periodic elections, as well as the democratic election of its governing forums, in accordance with the provisions of the statute. Also detailing the CVs of the candidates for municipal councils, in relation to informing the public about their integrity and other commitments that this candidate has had or has.

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<sup>11</sup> [OPINION On the Draft Instruction "On determining the rules for the submission and verification of candidacy documentation, deadlines for publishing candidate lists and approval of candidacy models"](#), sent to the CEC on 14.12.2020.

In conclusion, **KRIIK brings to the attention of the Parliamentary Political Parties** an issue raised before, such as the depoliticization of the Election Commissions, starting first with **the depoliticization of the Zonal Election Administration Commissions (CEAZ)**.

In the judgment of KRIIK, this point, although provided in the Political Agreement of June 5, 2020, to be realized in the parliamentary elections of 2025, should be considered the possibility of its application in these elections, as a form of **addressing the problems contained in the system of political patronage and the need to initiate its dissolution in the state administration**.

Depoliticizing this level of administration and appointing by lot a smaller number of commissioners more accountable and responsible for law enforcement, will ensure, among other things, **a better implementation of the legal framework, as well as proper oversight of compliance with obligations. by all actors and institutions involved** in the construction and progress of the electoral process. The complete administration of local government by the ruling majority is one more reason to ensure the conform behavior of this government in relation to the important role it plays in building the electoral process.

Although international best practice suggests that legal changes on issues like this should be made a year before the election, this is a step for which **a full and agreed political will can and should be undertaken even at that time, because of the context found** and the immediate needs that arise.

**Tirana, June 11, 2022**

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