

PUBLIC STANCE*

The proactive approach of the Central Election Commission in the identification and denunciation of electoral crime, essential for ensuring the Integrity of Elections and Law Enforcement in the country

Continuing its comprehensive monitoring of institutional and political processes for the Elections for Local Government Bodies held on 14 May 2023, the Coalition for Reforms, Integration and Consolidated Institutions (KRIIK) is closely monitoring the process of complaints and appeals in the Central Election Commission and the Electoral College, on which a full report will be published at the end of the process, as part of the Final Report on Election Monitoring.

At the beginning of this Public Stance, KRIIK emphasizes that **the process of complaints and appeals**, especially the part of this process that follows the day of the elections and which mainly deals with complaints and appeals related to the election results, **should go beyond the simple correction of errors that may have been committed from the point of view of administration.**

This significant process must aim at establishing justice in every circumstance, not only for the electoral subjects whose election results may have been affected, but first of all for **the potential distortion of the will of the Albanian voters.**

The bodies assigned by the law for reviewing and resolving complaints and appeals, otherwise known as the Electoral Justice Process, specifically the Complaints and Sanctions Commission (CSC) as one of the Steering Bodies of the CEC and the Electoral College at the Court of Appeal of Tirana, have and bear **the major responsibility of maintaining or restoring the trust of citizens in the effectiveness and safety of the mechanisms established by the law** and in the entire Electoral Process itself.

KRIIK would like to remind these Bodies, which grant and establish Electoral Justice, that trust in their effectiveness and the electoral process is inevitably linked to the further strengthening or weakening of **citizens' trust in the functionality and usefulness of the law, as well as in the legitimacy of the bodies elected through this process.**

The legitimacy of the electoral process has been constantly questioned in our country, excluding a few processes, and such questioning has been particularly evident since the 2017 elections and onward, when the opposition has repeatedly accused of massive manipulation of the will of the citizens.

As a result of this lack of trust, the political environment in the country has become significantly polarized, leading to the relinquishment of the Assembly mandates by the opposition in 2019 or its refusal to participate in the Elections for the Local Government Bodies of 2019.

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Despite the great political and institutional costs caused to the country's democratic progress, the Political Agreement of June 5, 2020, the amendments made as a result of it and **the political and law-enforcement will shown throughout the 2021, 2022 and 2023 election processes, did not address this lack of trust.**

Restoring trust in the electoral process currently remains something even more urgent and necessary.

Following the process of complaints and appeals, KRIIK has noted with great concern the cases that have been widely publicized in **Municipalities of Pukë¹ and Mallakastër², where the manipulation of election results and the transfer of votes from one election contestant to another was found.**

In this situation, **KRIIK deems that the manipulation of the result seems to have happened with the full agreement of the election commissioners appointed by different parties.**

The agreement of the election commissioners in the coverage of violations found in front of third parties, or, in the extreme case, even in the manipulation of the election result is a concern raised continuously by KRIIK since 2017, after monitoring the Elections for the Assembly of that year.

¹In the CSC session held on May 24, 2023, the complaint request No. 63, filed by the complainant Demochristian Alliance Party of Albania with object "*Objection to decision No. 260, dated 16.05.2023 of CEAZ No. 07, Municipality of Pukë, "On the approval of the summary table of results of the elections of Municipal Council of Pukë", requesting the recount and reevaluation of valid and invalid votes", as well as complaint request No. 70, filed by the complainant LZHK Progressive Alliance Party with object "Request for recounting the boxes of the Municipal Council No. 0408, 0415, 0422, 0424, 0425, 0430. Changing the summary table of the result of the Municipal Council of Pukë, according to the result of the recount", were jointly reviewed. After reviewing the evidence filed by the complaining party, the CSC decided to review the ballots of the ballot boxes for the municipal council of Municipality of Pukë, No. 0422/00, 0425/00, 0415/00, 0415/01, 0430/00.*

Based on the inspection of the ballot papers it was found that in the VC 0425/00 in the Municipality of Pukë, 64 valid votes which in the summary table of the result were marked for the Party for Justice, Integration, and Unity, were cast for the Republican Party.

The inspection of other boxes resulted in small differences between the summary table of results and the ballots that were actually in the ballot boxes. At the end of the review, the CSC decided to partially accept the requests No. 63 and No. 70, as well as the correction of the summary table of the Result for the Municipality Council of Pukë, according to the findings from the inspection of the ballots.

² In the CSC session held on May 30, 2023, it was reviewed the complaint request No.78, filed by the complainant Party for Justice, Integration and Unity with object "*Objection to the Table of results for VC No. 3239/00, of VCG No. 01, dated 16.05.2023 of the CEAZ No. 62, in Mallakastër". The complaining party submitted to CSC as material evidence photos printed from the video footage of the counting process, which proved that 63 votes of the Party for Justice, Integration, and Unity in this polling station were not reflected in the summary table of results. Also, the complainant submitted to CSC two letters sent to CEC by members of VCG No. 1 and CEAZ No. 62 in Municipality of Mallakastër, informing the CEC that there had been irregularities in the counting process of that voting center. After the administration of the evidence, CSC decided to review the ballots for the municipal council in VC No. 3239/00, in the Municipality of Mallakastër.*

Based on the review of the ballots, it was found that in polling station No. 3239/00 in the Municipality of Mallakastër, 63 votes of the Party for Justice, Integration, and Unity in the summary table of the result were calculated for the Socialist Party (therefore, for the SP out of 161 votes in the summary table of the result approved by CEAZ, 98 votes were found, whereas for the Party for Justice, Integration, and Unity out of 0 votes in the summary table of the result approved by CEAZ, 63 votes were found). After the review, the CSC decided to accept the request and correct the summary table of results for the Municipality Council of Mallakastër, according to the findings from the review of the ballots.

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The entire system of election administration by commissioners appointed by the main political parties is based on the principle of political balancing. This is based on the premise that being the direct administrator of the process at all levels will guarantee the trust of the parties in the process and the acceptance of the results, as well as on the premise of minimizing manipulations since, from a pragmatic point of view, the parties are directly interested in the result and will protect their own interests, thus producing a regular process for the progress of democracy in the country.

The experience so far has proven the opposite of strengthening democracy and democratic institutions in the country, since **the legitimacy of the elections did not come as a result of the acceptance of the institutional verdict of the election certification institution, such as the CEC**, but as a result of the acceptance of the results, willingly or unwillingly, by the main political forces.

The administration of the process by the commissioners appointed by the political parties has constantly brought significant obstacles and problems to the process, starting from their late appointment, commissioner's change at the last moment until the day of the elections, the following of the instructions by the parties that have appointed them first and then by the higher levels of electoral administration, often leading to procrastination, prolongation or even unjustified blocking of vote counting, and several other problems.

Bearing in mind all these disadvantages of the political administration of the electoral processes, now based on hard evidence, for the first time in a legal and institutional way, of the abuse of the duty and responsibility given by the Albanian citizens to administer their the sovereign will, **the reasons for applying this way of administration of the elections can no longer be justified.**

KRIIK deems that **it is imperative for the political decision-making class to urgently engage in putting into practice the implementation of the Political Agreement of 5 June 2020 for non-political administration of the upcoming 2025 Parliamentary Elections.**

Meanwhile, regarding the case of the Municipalities of Pukë and Mallakastër mentioned above, KRIIK finds that, throughout the administrative review process, the **CSC has followed to the letter of the object of the complaint, ignoring a broader approach and view of the problem**, that the manipulation found in one polling station may extend to others, and that this manipulation of the result by the commissioners was **neither unintentional nor can it be treated as a human error.**

Beyond correcting the result in these cases, in KRIIK's view, the CSC should have taken a more in-depth approach by finding and applying the appropriate legal interpretation to evidence the full extent of the electoral crime proven to have been committed, as well as its full correction, **by ordering the opening of the boxes and the recounting, at least, of all the ballot boxes counted by the same Ballot Counting Group** in the case of Municipality of Pukë.

Such an approach is deemed to serve the fulfilment of the duty and mission of the CEC, in function of the major goal mentioned above, that of restoring the trust of citizens in the electoral process and in the mechanisms that guarantee its integrity, where electoral justice remains among the most important.

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In the case of the Municipality of Mallakastër, in KRIIK's view, the **CSC should have undertaken an even more in-depth process of investigation and, possibly, of opening and recounting all ballot boxes for that municipality.**

This is because, in this case, not only was the change of the result by the Ballot Counting Group proven, but there is also a letter from the relevant CEAZ **which shows that even the CEAZ was aware of this fact**³.

Regarding this case, KRIIK also holds that the Central Election Commission⁴ **must clarify the public as to when it became aware of the change of the result** in one of the polling stations, but also of the steps it may have taken to rectify the problem⁵.

It is emphasized that the problem was pointed out as a result of the complaint of the Party for Justice, Integration and Unity, while it seems that the CEC had not planned to initiate by itself a correction process in relation to this issue, in the case when there would be no complaint from the electoral subject, which actually constitutes another concern.

It is believed that the actions of the Central Election Commission in this situation will have to aim not only to limit to the extent possible the effect of potential manipulations that may have occurred based on these indications, but also to urgently undertake the appropriate steps to establish justice as well as bring the responsible persons to justice.

In this framework, **KRIIK deems that the CSC should have had a different reaction, giving due weight to the established fact of committing a criminal offense**⁶, as well

³ BCG No. 1 in CEAZ No. 62 of the Municipality of Mallakastër has addressed to this CEAZ request No. 74 prot., dated 16.05.2023, according to which 3 members of this BCG claim to have committed an irregularity during the process of vote counting in polling station No. 3239, due to fatigue, asking the CEAZ to review the assessment carried out and correct the human error. According to them: "In the process of counting the votes for this polling station, our group found the votes in favor of Party for Justice, Integration, and Unity, by reading them out loud, but due to human error, these votes were not reflected correctly".

Also, CEAZ No. 62, Municipality of Mallakastër, after receiving this request, addressed the CEC through document No. 75, dated 16.05.2023, in which it highlights that it received the above document from BCG No. 1 at this CEAZ, with the relevant object. CEAZ reasons that "CEAZ No. 62 in Mallakastër, at the end of the process of counting the votes for the municipal council candidates, has included this result in the final summary table for the local elections of May 14, 2023, which is now also available to the CEC. In these circumstances, after the approval of the final result with the final table and forwarding of these data to the electronic system. CEAZ No. 62 does not have the legal right to intervene to review the result and reopen the box. In connection with the above, we ask the CEC to handle the request of the VCG for the correction of the election result for VC No. 3239 and the right reflection of the expressed will."

⁴ Based on the verbal communication of KRIIK with the administration of the CEC, it has been confirmed that this issue was first conveyed to the CEC by phone, and after the request of the latter, the request was officially filed. The communication was carried out and deposited after the delivery of the election materials to the CEC, so eventually the date 16.05.2023 that the official documents hold, may not be the real date when they were compiled.

⁵ Despite the filing of this request, the CEC has not taken any steps to correct the mistake or deal with this request coming from CEAZ No. 62, either from the point of view of correcting the mistake, but also from the point of view of ascertaining a committed criminal offense which must be referred to the law enforcement bodies.

⁶ [The Criminal Code of the Republic of Albania](#). Article 326 "Falsification of Election Material and Election Results" "Falsification, distribution or use of ballot papers, documents and electoral material, with

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as expressing and formally setting in motion through decision-making⁷ the State Commissioner of Elections **for referring the cases to the Prosecution Office.**

Based on the monitoring so far, **KRIIK appreciates the different, more positive and cooperative approach of CSC members towards the complaining electoral subjects by orienting them and giving them extra time for obtaining evidence**, as well as for the use for the first time of the available legal mechanism by two members who requested the taking of evidence under the administration of the CEC⁸, according to article 136 of the Electoral Code, a mechanism **which was not considered reasonable to be used in the cases of Pukë and Mallakastër, despite the electoral crime found.**

In conclusion to this Public Stance, **KRIIK calls on the Central Election Commission to take into consideration the typology of violations and problems identified** by the complaint process so far, as well as the recommendations previously presented by KRIIK, **to improve the mechanism of the post-electoral audit process, in order to increase its efficiency and send to justice all the commissioners who have not adhered to the implementation of the legal framework in the administration of the process.**

The post-election audit process of reviewing election material, which is expected to take place after the certification of the final result of these elections, despite the fact that the findings will not have an effect on the election result, **needs to be prepared and carried out with all seriousness and the importance that the process of respecting the law and responsible administration of the will of the sovereign deserves** by the engaged election commissioners.

Also, **KRIIK calls on political parties to give its due importance to this process by clearly expressing their will and encouraging the CEC to bring to justice any election commissioner who has committed violations regardless of political**

the aim of changing the result of the elections by presenting in them data, which are known to be inaccurate, replacing accurate data with inaccurate data, or through unlawful ballot casting in the box, is punishable by imprisonment of one to five years.

Where that offence has been committed by persons who have a duty to administer the electoral process, or has caused serious consequences in the voting process, has adversely affected the integrity of election result, and caused them to be invalid, is punishable by imprisonment of three to seven years.”

⁷ Regarding the review of appeal request No. 78, dated 22.05.2023, of the Party for Justice, Integration and Unity, the CSC decided: The acceptance of the appeal request No. 78, dated 22.05.2023, of the Party for Justice, Integration and Unity. The change of the summary table of the result for the Municipal Council, for the ballot box 3239 according to the new result from the recount where the subject PDIU from zero will have 63 votes and the subject SP from 161 votes will have 98 votes.

⁸ In the session of May 31, 2023, in the context of the appeal of the electoral subject “Coalition “Together We Win””, after the rejection by a majority of votes by the CSC body of the appeal, its two members used the legal mechanism of the request to request the verification as evidence of all boxes of polling stations for the elections for Mayor of CEAZ No. 43, Municipality of Rrogozhina and evaluation of all ballots.

Specifically, appeal request no. 80, dated 23.05.2023, with complainant the electoral subject “Coalition “Together We Win”” with the object “Objection to decision No. 531, dated 18.05.2023, “*On the approval of the Summary Table of Results for the candidates for mayor of Municipality of Rrogozhina, and the Approval of the new Summary Table after the Recounting and Revaluation of the votes in all the polling stations of the electoral constituency, Municipality of Rrogozhinë*”, with a majority of votes was rejected by CSC.

Pursuant to Article 136, point 3 of the Electoral Code for the needs of the administrative review of appeal request No. 80, CSC members, Mr. Elvis Çefa and Mr. Ledio Braho requested by the CEC to present as evidence all the boxes of the polling stations for the mayor elections for CEZ No. 43, Municipality of Rrogozhinë and evaluation of all ballots.

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affiliation, encouragement which was absent while the post-election audit process of the 2021 Parliamentary Elections was conducted.

The political stakeholders and the Parliament of Albania are faced with the urgent necessity to start as soon as possible a thorough and comprehensive reformation of the legal framework for elections, with special emphasis on fulfilling the aspiration of the Political Agreement of June 5, 2020, for the depoliticization of the electoral administration.

Tirana, on 2 June 2023!

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

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