

PUBLIC STANCE *

The Central Election Commission to fulfill with seriousness and dedication its legal obligations for ensuring the integrity of the elections in the country

On 24 September 2023, will be held the Mayoral by-elections in Kukës. The election campaign for these partial elections began on September 11¹ and will continue until September 22, while the electoral silence period includes September 23 and the election day, until the end of the voting process.

The electoral activity of the two registered candidates and their supporting electoral subjects has been widely reflected not only in the local media of the Municipality of Kukës, such as Public Radio and Television (RTSH) of Kukës, but also in private regional or national media, including those online.

Part IV of the Electoral Code defines and assigns clear tasks to the CEC, including the CEAZ², and the Audiovisual Media Authority (AMA) even in the case of partial elections, clearly providing that all "Rules, conditions, and limitations set out in this law shall be aimed at guaranteeing equality among electoral subjects in the race, ensuring impartiality of radio-television operators towards the campaign and certain electoral subjects, as well as at protecting electoral subjects from practices of deformation of electoral messages, censorship, and unlawful use of media." (Article 78, paragraph 3 of the Electoral Code).

It is also provided that AMA, as "the regulatory entity that regulates and oversees the activity of radio-television operators shall monitor the implementation of rules of this law, and the by-laws of a normative nature issued by CEC, by radio and television broadcasters and electoral subjects." (Article 85, point 2 of the Electoral Code).

It is noted with concern that **The Audiovisual Media Authority (AMA) is not fulfilling the legal obligations set by the Electoral Code for monitoring the broadcast of the election campaign** by Audio/Audiovisual Media Service Providers (AMSP), even though the electoral campaign has been underway for five days now.

AMA has committed a flagrant violation of the law for the second time, as it failed to perform the legally required monitoring, even during the election campaign from July 10 to July 21, 2023, which was held for the repeat elections on July 23, 2023 for the Mayor of Rrogozhina, violating the equality of the electoral race as well as ensuring the impartiality of radio and television operators or even unlawful use of the media.

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¹ [Decision No. 28, dated 16.08.2023 of the Regulatory Commission](#) "On the approval of some procedural deadlines related to the partial elections for Mayor in the Municipality of Kukës, which will take place on September 24, 2023".

² "the political airtime in the news broadcasts shall be divided in time ratios, in accordance with the provisions of point 1 of Article 81 of this Code. In case coverage ratios are violated in favor of one party, the CEC, on its own initiative or upon the proposal of CEAZs, shall fine the local radio-television operator with ALL 1,500,000 and the national radio-television operator with ALL 3,000,000...". Article 84, point 2/a of the Electoral Code.

KRIIK's concern, which was communicated directly to the CEC Administration during the campaign days, whether through the Denunciation³ of electoral silence violation or via the Statement of Preliminary Findings and Conclusions⁴ for the Rrogozhina Elections, was disregarded and neglected by the Central Election Commission. Despite being the institution legally responsible for overseeing electoral subjects, government entities, institutions, and media in relation to elections, the CEC **chose to ignore and evade this matter.**

In order to prevent the recurrence of illegality and the negative precedent established during the Rrogozhina elections, and to avoid any harm in the upcoming Partial Elections of Kukës, ahead of the adoption of the decision. "On the approval of some procedural deadlines related to the partial elections for Mayor in the Municipality of Kukës, which will take place on September 24, 2023", **KRIIK submitted a document with recommendations to the Regulatory Commission, he Commissioner, and Senior Officials of the CEC Administration⁵.**

Through this document, **it was requested that the Regulatory Commission explicitly include in the draft decision the timeframe during which AMA was responsible to monitor the media coverage of the campaign**, even though this responsibility is already explicitly set out in the Electoral Code. Additionally, it was recommended to submit a separate Reminder⁶ highlighting the legal obligations placed upon the AMA by the law, based on KRIIK's observation of inaccuracies and misinterpretations of the law by AMA⁷.

KRIIK's suggestion was rejected by the votes against of the Chairperson of the Regulatory Commission and the two members nominated by the majority⁸. **This**

³-[Denunciation No. 12](#)- Regarding the breaking of the electoral silence through the broadcasting of the electoral activities of the Socialist Party in the Municipality of Rrogozhina (*only in Albanian*).

⁴ [Statement of Preliminary Findings and Conclusions](#) for the Repeat Elections for the Mayor of Rrogozhina on July 23, 2023.

⁵-[RECOMMENDATIONS](#)- Regarding the draft decision "*On the approval of some procedural deadlines related to the partial elections for the Mayor in the Municipality of Kukës, which will take place on September 24, 2023*" (*only in Albanian*).

⁶ "1. The commissioner has the following powers: dh) ensure that this law is implemented fairly, strictly, accurately, and uniformly by all institutions, entities, or persons tasked with duties and obligations, in accordance with the law; ...Article 19, point 1/dh of the Electoral Code.

⁷ Following KRIIK's request for information regarding the AMA's compliance with its legal duty to monitor the election campaign for the July 23, 2023 elections in Rrogozhina, the AMA responded with the following explanation and rationale:

"Regarding the process of monitoring election campaigns, AMA is based on the "Electoral Code" of the Republic, as well as the "Methodology of monitoring audio and audiovisual media", as amended, approved by the CEC, with Decision No. 2, dated 30.01.2021.

Regarding your request about the repeat elections held on July 23, 2023, in Rrogozhina, the AMA has consistently conducted monitoring activities for the duration of the two-week election campaign. Specifically, it focused on monitoring the section titled "Prohibited by the CEC" within the official virtual website of the Central Election Commission (kqz.gov.al).

The information presented in this section serves as the starting point for the subsequent monitoring and review of each case identified by the CEC and accompanied by the relevant decision that is also forwarded to the AMA by an official document. However, concerning the repeat election campaign in Rrogozhina, no official notification or written decision was received from the CEC regarding any "Prohibited by the CEC" public activities."

⁸ Ms. Ilirjana Nano, Chairman of the Regulatory Commission; Mr. Dritan Çaka and Mr. Arens Çela members of the Regulatory Commission. After the vote, Mrs. Ilirjana Nano explained the "against" vote:

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decision came after a discussion in which the latter attempted to relativize and legitimize⁹ AMA's lack of action.

KRIIK views **the inaction and lack of involvement by the Regulatory Commission (RC), one of the three governing bodies of the CEC, in response to a significant violation** committed by one of the responsible institutions as highly concerning. This is especially troubling because the law explicitly grants the RC the authority to assess and approve normative draft acts, including those prepared by the CEC administration or its members. This authority extends to matters such as regulations and guidelines for vote counting and election practice enhancement, as well as the activities of public institutions in support of elections. **KRIIK regards this as a highly negative precedent.**

KRIIK has previously expressed **its concerns regarding the Regulatory Commission's lack of responsiveness and attention to a series of Recommendations submitted¹⁰**. These recommendations addressed critical issues that, in KRIIK's assessment, could be substantially mitigated through a review and enhancement of the relevant regulations. It has been established that such revisions would greatly reduce the negative occurrences observed during the 2023 local elections, including concerns related to the misuse of state resources, media coverage of the campaign, and ensuring an unbiased environment for voters in the vicinity of voting centers on Election Day, among others.

This adverse precedent is exacerbated by the Regulatory Commission's response to another concern raised during the same meeting and conveyed through the same Recommendation Document. It pertained to **the inconsistency and lack of alignment**

"I find this provision to be redundant, as once we specify that the campaign commences on the 11th, all corresponding obligations are automatically triggered, including those of the AMA according to Article 85/1. Therefore, even without explicitly establishing this obligation here, the AMA is already bound by it under the law...." (min. 35:48 - 36:23 of the [video of the meeting of the Regulatory Commission, dated 16.08.2023](#)).

⁹ Mr. Dritan Çaka: "... In the repeat elections, there was no deadline for a new election campaign. Therefore, in the repeat elections of Rrogozhina, there was no election campaign, there was no such thing defined in the act of the Regulatory Commission,..." (min 28:32 - 29:23 of the [video of the meeting of the Regulatory Commission, dated 16.08.2023](#)).

Meanwhile, in the [Decision No. 25, dated 06.07.2023 of the Regulatory Commission](#), point No. 1, it is determined that: *"1. The election campaign for the elections for the Mayor of Rrogozhina starts on July 10, 2023"*.

The representative of KRIIK at the meeting, Mr. Dritan Taulla, stated that *"... our concern is major. AMPSS were not monitored. ..."*, the Chairman of RC, Mrs. Ilirjana Nano replied that *"there was no election campaign"* (min 32:07 - 32:09 of the video of the meeting).

¹⁰ [RECOMMENDATIONS](#) for the improvement of the legal regulatory framework for the 2023 local elections, point 3 "Media monitoring" (*only in Albanian*).

-[RECOMMENDATIONS](#) - Regarding the project concerning the implementation of surveillance cameras in Voting Counting Centers (VCC) and the accreditation process for non-political observers (*only in Albanian*).

-[RECOMMENDATIONS](#)- Concerning the immediate coordination among the CEC governing bodies to prevent the misuse of state resources by promptly revising Regulatory Commission Decision No. 9, dated December 24, 2020 (*only in Albanian*).

-[RECOMMENDATIONS](#)- Regarding the draft decision "On the adoption of rules for the financial reporting of political parties/electoral subjects, the control and verification of their financing and expenses during the election campaign, for the elections for local government bodies" (*only in Albanian*).

-[RECOMMENDATIONS](#)- In relation to ensuring an environment of freedom and impartiality for voters near polling stations on Election Day (*only in Albanian*).

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between the deadlines set for accrediting domestic observers and the provisions outlined in the Electoral Code and other by-laws approved by the CEC¹¹, violating the right to observe, the possibility of appeal in case of refusal, as well as the possibility of transparency and prior control of observers, **especially of political ones**¹².

In KRIIK's view, reinforced by the long monitoring experience, it is considered necessary and therefore it was requested **to define some effective deadlines in the draft decision to practically enable the control and discipline of political observers**. For the latter, it has been continuously reported and argued about their interference and negative impact on the progress of the voting and counting process, often violating the law, as well as orienting and intimidating voters, as part of the political patronage mechanism set up by political parties, and especially from the current majority.

The experience of complete unlawfulness evidenced in the presence of many political observers in the Repeated Elections in Rrogozhina, who were equipped with

¹¹- The Electoral Code stipulates in its Article 6, point 5 that *"Requests of Albanian observers for accreditation shall be submitted to the CEC no later than 15 days before the election date. The CEC shall approve requests no later than 5 days from their submission."* In Article 6, it is determined that the CEC shall have the right, with a special instruction, to delegate to the CEAZs the competency of accrediting observers of electoral subjects.

Meanwhile, Article 124/1 provides for the right to appeal, specifying that *"they have the right to appeal to Complaints and Sanctions Commission (CSC) against decisions that refuse the registration of observers within 3 days from the date of announcement of the decision"*.

- Decision No. 23, dated 01.02.2023 of the State Commissioner of Elections *"On the procedures and criteria for the accreditation of observers of election subjects in CEAZ, Commissions of Voting Centers (CVC), VCC, in elections"*, determines that the electoral subject submits to the relevant CEAZ as part of the necessary documentation for accreditation even the self-declaration of the observer on the judicial situation, according to the CEC 04-20 model, which is attached to this decision (Article 9, point 1/ç).

However, this Decision mandates CEAZ to review all submitted documentation within a 2-day period, and in the event of inaccuracies, it is required to return the documentation to the electoral subject for correction, allowing a 24-hour timeframe for resubmission. Subsequently, CEAZ reevaluates the documentation within another 24-hour window. In any case, CEAZ is obligated to make a decision to approve or reject accreditation within 5 days of the initial request submission (as per Article 10).

Article 11, Point 4 of the Decision stipulates that the Secretary of CEAZ shall, within 5 days after granting accreditation to observers, provide the CEC with an electronic list of accredited observers along with copies of the accreditation decisions made by CEAZ. Meanwhile, upon the conclusion of the election process, CEAZ is required to submit to the CEC the accreditation decisions for observers, along with the corresponding list and the supporting documents originally submitted for their accreditation, as outlined in Point 5.

- Summing up the information presented, the regulatory framework provides that the CEC possesses the complete list of political observers accredited by CEAZs, along with copies of their accreditation decisions, no later than 5 days before the election day. This arrangement enables oversight and intervention by the CEC in the event of receiving any reports or complaints before the election date.

¹²In line with the time reduction of procedural deadlines and respecting the chronology of actions provided by the Electoral Code for other preparatory aspects, Decision No. 28, dated 16.08.2023 of RC should provide the same for all the steps of accreditation of local observers, especially political ones, ensuring the necessary time for their check.

The approved deadline until September 22nd, i.e., only 1 day before the election day, makes it virtually impossible to follow the chronology of the actions provided by the Electoral Code and the Decision of the SEC for regular elections.

Also, not deciding on the mandatory deadline within which the CEC/CEAZ must take a decision, completely takes the accreditation process out of control. Likewise, the CEC/CEAZ may not comment at all on the request made for the accreditation of observers, thus making the right of appeal to CSC impossible.

As a result of all of the above, the entire process of accreditation of political observers remains virtually out of control, contrary to the obligations and provisions of the Electoral Code and the regulatory framework.

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handwritten accreditation badges, but for whom no decision had been made and over whom no election commission had control, was brought to the attention of the Regulatory Commission and the Administration of the CEC in particular.

KRIIK argued and raised the major concern that the non-implementation of the law by political actors, CEAZ, or the non-fulfilment of legal requirements by the CEC administration in the exercise of their duties, **cannot and should not lead to the undoing of the law and the drafting of a fictitious regulatory framework**, to simply maintain the facade of law enforcement and control of the situation.

The Regulatory Commission and Administration did not respond to this concern very seriously, ignoring the addressing of the presented problem, ridiculing the situation, summarizing the whole discussion in the need to explain and make “a linguistic and logical interpretation of the proposed norm”, regarding what is meant by the deadline until 22 September¹³.

KRIIK would like to bring to attention that **the integrity of the Elections, as far as it is provided today in the Albanian legal framework, is in itself a process of law enforcement and interaction between institutional actors tasked with duties and responsibilities**, who must fulfill their obligations in a timely and efficient manner, ensuring in any case the elements of full transparency and accountability, thus shaping

¹³- Ms. Ilirjana Nano, Chairman of the Regulatory Commission: “A linguistic and logical interpretation of the proposed norm should be made. Not later than the 22nd, which means earlier than the 22nd they can be submitted. So, a slightly longer deadline has been left for accreditation. This is the idea. ... But don't leave it on the last day, because it could be left one day later. Time is added, this is tolerance. This adds to it. If we said no later than the 19th, the opportunity to propose would be lost in the last five days. So here a deadline is longer, the time available for accreditation to Albanian observers. So, the expression no later than, set the 22nd as the maximum deadline, means 21st, 20th, 19th and whenever they want before. Let's go to the voting of point 12, who agrees? Approved with 5 votes in favor. The same for the accreditation of electoral subjects”, (min 9:03 – 10:20 of the [video of the meeting of the Regulatory Commission, dated 16.08.2023](#)).

The raising of concern by KRIIK, that point No. 13 for the accreditation of political observers is much more problematic, bringing the case of unlawfulness and lack of control at all of the accreditations made in the repeated elections of Rrogozhina, the Chairman of the RC replied: “The more observers, the better. What is the problem with observers? You want us to postpone the deadline to 23 or withdraw the deadline”, (min 11:15 - 11:24 of the [video of the meeting of the Regulatory Commission, dated 16.08.2023](#)).

- The CEC Administration had the same reaction, although during the meeting it did not react to KRIIK's Recommendations, nor did it take any position regarding the concerns raised.

Through an email, after the approval of the Decision by the Regulatory Commission, the Administration reacted only in relation to a consideration expressed by KRIIK in the Recommendation document where it was assessed that “the provision made in points 12 and 13 of the draft decision is considered problematic by KRIIK and a step behind the standard set by the CEC”.

In response only to this assessment, the Administration of the CEC stated as follows:

“Referring to your email regarding the draft decision to set some deadlines for the elections in Kukes, we inform you that your consideration for point 12 and 13 is wrong. The extension of the deadline for submitting the request for accreditation until close to the day of the elections is progress, not regression!!!!!!

It is logical that there is an advantage in setting the deadline for requests for surveillance as close to the day of the elections.

This is one more possibility and it does not prevent the observers from submitting their requests as early as possible, thus not “risking” the loss of the deadlines for appealing against rejection decisions.

The 22nd is not the date of submission of the request. The deadline is UNTIL September 22.

It is easier for the CEC to administer requests when they are presented many days before the date of the elections”.

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and further strengthening the trust of voters, the public, and especially the parties participating in the process.

Throughout this periodic mission of promoting the implementation of democratic principles and standards through the development of assigned responsibilities, **The Central Election Commission has a key and essential role**, not only for the organization and administration of the process, but also to supervise and ensure the correct and complete implementation of the law by all the tasked actors and institutions.

Today's composition of the Central Election Commission is the fourth model¹⁴ after its first provision in the Constitution approved by referendum in 1998.

In addition to the political interest of the main parliamentary political forces at the time of making the amendments, its transformation is also justified by the impossibility or failures encountered to ensure electoral processes with integrity, law enforcement and the trust of the political parties and the general public, where naturally a great role and responsibility is attributed to the way of law enforcement, transparency and accountability provided by the administration of the CEC Institution.

In its long monitoring experience, in an effort to make aware institutional and political actors to the necessity of ensuring the full Integrity of the Elections, and not just the voting day, KRIIK, in a consolidated cooperation with a wide network of well-known local organizations, has carried out a complete monitoring and analysis of pre- and post-election processes, continuously from one election process to another, for more than a decade.

One of the concerns observed during this monitoring was the tendency and approach followed by the previous CEC and the Administration to “not make the election process dirty”¹⁵. This approach was noticed especially throughout the process of electoral justice after election day, which was harshly and strongly criticized by KRIIK, in the frame of the Coalition of Domestic Observers (CDO), at that time.

Such an approach was noticed quite a few times during the complaints process, after the election day in the 2023 local elections process, in the submissions made by the CEC administration before the CSC or the Electoral College.

KRIIK notes with concern that **currently this approach is being extended even before election day to a number of administrative elements, showing a kind of fatigue or neglect**, despite the provisions and clear obligations defined by the law. Such a compromising approach to not highlight the problems or relativize them, whether intentional or not, **is in all cases unacceptable and contrary to the Law**.

¹⁴According to the Constitution approved in 1998, the CEC consisted of 7 members.

With the Constitutional amendments of 2007, the CEC consisted of 9 members.

With the Constitutional amendments of 2008 and the new Electoral Code of the same year, the CEC Body consisted of 7 members.

With the 2020 Electoral Code Amendments, the CEC now has 3 Governing Bodies, namely the State Election Commissioner, the Regulatory Commission consisting of 5 members and the Complaints and Sanctions Committee consisting of 5 members.

¹⁵According to this approach, the members of the CEC, in complete agreement with each other, rejected by voting in bloc every complaint and claim regardless of the facts or evidence that could be presented, with the sole aim of not dirtying the process and closing it as quickly as possible, as a quality process and with achieved standards.

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This is the approach followed by the Regulatory Commission and the Administration of the CEC, which concluded in not explicitly defining the obligation of AMA to monitor the election campaign, **and consequently also the repetition of the situation of unlawfulness by AMA, on the one hand**, as well as in setting an inappropriate deadline for the accreditation of political observers, **and consequently legitimizing lack of control over them, on the other hand**.

This whole approach de-facto undermines the other regulatory mechanisms set up in relation to the media campaign and the control of political observers in the process of voting, counting, as well as unauthorized persons in the premises around the voting and counting centers.

Taking into consideration all of the above, **KRIIK calls on the Central Election Commission to urgently invest and interact with the AMA to restore legitimacy** and ensure the equality of coverage of the electoral race in the media.

The CEC, especially the Regulatory Commission, needs to consider points No. 12 and 13 of Decision No. 28, related to the deadline for the accreditation of observers, and especially related to the accreditation of political observers, leaving the necessary time available to carry out all the provided chronological actions, enabling the necessary verifications to be carried out before the election day of September 24, 2023.

Also, **KRIIK calls upon the Assembly of Albania**, The Monitoring Service of Institutions, the Commission for Legal Affairs, Public Administration and Human Rights, as well as the Commission for Education and Media **to consider this inaction and non-fulfillment of the legal obligation derived from the Electoral Code by the Audiovisual Media Authority** either for the election campaign of the repeat elections for the Mayor of Rogozhina on 23 July 2023, or for the Partial Elections for the Mayor of Kukës on 24 September 2023, following the steps and measures provided by the law.

Tirana, on 15.09.2023!

** This PUBLIC STANCE is published in Albanian and in English.
The [Albanian version](#) is the only official document.*

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