

PUBLIC STANCE *

Functionality of post-election audit as a mechanism that consolidates the role Of the CEC and development of its responsibilities, towards implementation and sanctioning of politics that negatively affects the integrity of the will of the voters

During the period 6 – 24 November 2023, the Central Election Commission conducted the process of subsequent examination of the ballot papers and election material, considered as post-election audit, for the Local Elections of 14 May 2023, in which were also included the 23 July Rrogozhina Municipal Elections, as well as the Partial Elections of September 24 for Mayor of Kukës.

The post-election audit consists of examining ballot papers and election material, as well as information technology equipment used in elections, for 10% of the polling stations of each Electoral Administration Area (EAZ), randomly selected. This process is carried out after the final result of the election has been announced. The findings from this process, regardless of their type and gravity, have no effect on the election result.

The purpose of the post-election audit process is **to verify the legality and accuracy of the performance of the duties of the election commissioners** in order to promote their accountability, as well as **eliminate the culture of impunity against any violator of the law, part of the administration of elections**, regardless of party affiliation or political connections that it may have.

The law clearly stipulates that if irregularities or inaccuracies are found, which are blamed to the respective election officials, **the CEC is obliged to initiate disciplinary proceedings and to file criminal charges against the responsible officials**¹.

The post-election audit was introduced in the legal framework with the amendments to the Electoral Code² of July 2020, as an innovation and one of the politically agreed guarantees by the Political Council in solution to the political crisis of 2017-2020.

It marks one of the mechanisms that strengthen the role and position of the CEC Institution in the country's state-formation efforts, ensuring the integrity of its functioning as an independent institution and accepting and implementing its decisions as the competent institution in charge of the law, thus giving space to the rule of law, and at the same time **ending the almost 30-year cyclical tradition of overlapping bipartisan party wills towards the implementation of the legislation**.

KRIIK has continuously brought to the attention of the public, especially decision makers and policymakers, **the necessity for meaningful and continuous political dialogue**, as well as ensuring the application of democratic processes with integrity, in function only of the interests of the citizens and **the creation of healthy democratic experiences, always having the fundamental rights and freedoms of the individual as well as euro-Atlantic democratic values**. aspired by the Constitution.

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¹ Electoral Code, Article 167/2, paragraph 8.

² Electoral Code, Article 167/2.

The long-running political crisis 2017-2020 **highlighted the necessity of moving** from the model of functioning only under the principle of political balance, **to that of reference in the verdict of the institutions** and respecting the law-fulfillment processes followed by them.

The justice reform and the 2020 electoral reform, in particular the re-organization of the CEC Institution, **marked a concrete and defining step in the country's statehood effort and set in motion a new political and institutional standard**, where the implementation of the law is complete and where the integrity of the institutions, firstly those law-implementing and independent, must be insured.

This standard **laid out the need for a new mentality and behavior, especially of the political class**, which must have **at its core morality, legitimacy, legality and full integrity**, immediately, genuinely and publicly distanced from anyone who violates the law or abuses any it or the public responsibilities assumed.

Such an approach is necessary **to first be demonstrated by all political parties towards all its representatives**, be they officials, members, activists or candidates, who are in conflict or accusation, in order to provide the necessary, objective and unaffected space for the functioning of institutions and the implementation in a full and inequitable manner of the law.

The standard followed so far by Albanian politics "everything to win, by any means and form" must be undone and left behind, as today's socio-political-economic reality and the great and grave challenges facing Albanian society require certainty in the functioning of the rule of law, as well as a living and functional democratic republic, in the interest of the citizens.

At present, **KRIIK expresses its concern about the alarming situation at the Albanian Parliament**, the conduct and the lack of discretion of the parliamentary political factor, especially the socialist majority. The calls by key international partners for a constructive political dialogue and a functioning Parliament, in the application of constitutional principles and aspirations, **appear to be falling on deaf ears**³, as well as the public calls⁴ made earlier by KRIIK during this year and a half.

³ Not only has there been no attempt to dialogue, but through a completely unilateral process the majority has changed the Rules of Assembly, as a proposal of MPs Blerina Gjylameti and Toni Gogu, protocoled on 06.12.2023, which aggravates the penalties for excluding MPs from parliamentary activities up to 60 days, up from 10 days that it was before. For more see ["Draft Resolution "On some additions and amendments to the Decision of the Assembly no.166 dated 16.12.2004 "On the adoption of the Regulation of the Assembly of the Republic of Albania, as amended"](#) .

This amendment to the Rules was approved by the Assembly for less than 1 minute in the anomalous session held today, on 14.12.2023, with a total duration of 8.5 minutes (See the adoption in minutes 7:34 – 8:29 of the [Video recording of the plenary session](#)).

⁴ All public positions of KRIIK regarding different aspects on ensuring the integrity of elections and the functioning of democracy in the country, expressed through Statements and Reports, are sent to all MPs, as well as to the Leadership of almost all political Parties in the country.

Meanwhile, to the Deputies of the Parliament of Albania and the Institution of the Assembly, a series of Public Calls were drafted through the following Documents/activities:

- KRIIK, [OPEN LETTER](#) "The Assembly of Albania should support the Central Election Commission (CEC) to implement the law on prevention of misuse of state resources", dated 31.03.2023.

- KRIIK, [PUBLIC STANCE](#) "The failure of the Electoral Reform Commission, an alarm bell for the upcoming elections and other reform processes necessary for the country", dated 11.08.2022.

- KRIIK, [PUBLIC STANCE](#) "The MPs and the Assembly of Albania must fulfill their responsibilities for starting work and realizing a real Electoral Reform, based on the principles of transparency and inclusiveness", dated 11.06.2022.

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Parliamentary parties need **to reflect as soon as possible and show vision and maturity in order to get the country out of this absurd political staleness immediately.**

At the same time, they must **show citizens that they have the necessary capacities to develop public responsibilities** taken, and show coherence **in following other institutional and political processes necessary for the democratic performance of the country.**

The post-election audit is considered a very significant process in function of the implementation of the law, which has been accepted and agreed by these political forces themselves to become part of the guarantee mechanisms of the Electoral Code, **but which now seems to be completely out of their interest**⁵. This, in a situation where opposition political parties have made continuous public statements demanding in-depth investigations by competent authorities, while continuing to have daily parts of their public discourse precisely manipulations occurred in the electoral process.

While there is widespread and constant expression of concern and the need for ensuring the integrity of elections, **it is concluded with concern that there was a total indifference to the post-election audit process by all actors, political and nonpolitical**, not only by not observing or following it, but also by showing no interest in the findings at its conclusion⁶.

In the judgment of KRIIK, **this indifference constitutes a disturbing indicator, which highlights the lack of real interest, especially of political parties**, in the quality of development and administration of the electoral process, focusing only on the election result or even on the concerns identified in the period before its announcement.

On the other hand, it is clear that this lack of interest is in line with previous political approaches **to minimize or even deny violations made by representatives of political parties as members of electoral commissions** after the election result was announced, while inciting the non-implementation of the law and the phenomenon of impunity.

KRIIK, as an actor who has been continuously following all political-institutional developments with effect on the integrity of elections for more than a decade, has stressed and continues to bring to the attention that **the integrity of elections is closely linked to ensuring the integrity of all its constituent processes**, including the integrity of the contributions of all institutions that have a role in the process, integrity of electoral offers including the integrity of candidates and political parties, integrity of decision-making and functioning of the CEC institution itself, etc.

In all these processes, **the Central Election Commission has a key role**. It is an independent institution created by law **but of a special importance and nature**, which needs to be considered and treated as such. The CEC not only has to organize and administer the entire electoral process, but is also charged with other very important tasks such as the decriminalization process, or the exercise of the role as supervisor and controller of financing of political parties and election campaigns.

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- KRIIK, [NATIONAL CONFERENCE](#) "CIVIL AND POLITICAL SOCIETY; FOR A COMPREHENSIVE DIALOGUE AND PARTICIPATION " – "The need for a full electoral reform; Policy Financing" dated 16.02.2022.

⁵ The audit process of the 2023 elections was not observed by any political party, while for the 2021 and 2022 elections was observed only by the Socialist Movement for Integration.

⁶ According to information received from the CEC administration, no subject, political or not, has shown interest and has not asked for any information on the findings at the conclusion of the process.

In this context, **the CEC is the only institution in charge of the law that directly sanctions administratively and files criminal charges** to the prosecution for individuals, political or related to it, as well as political parties themselves in cases of violation of the law, affecting the standards of elections or campaign finance.

The decision-making and **impartial implementation by the CEC towards political stakeholders and high officials of state institutions** is an important and immediate contribution to the unraveling not only of the 30-year practice of impunity and non-implementation of the law, but also a **direct and concrete assistance to the effectiveness of the Justice Reform and the work of its bodies**, creating the climate of full implementation and equality before the law.

In this major mission, the post-election audit process and applying sanctions based on its findings is a process that should be openly and publicly supported by all political parties and local actors, as a merited sanctioning process to any individual, regardless of party affiliation or ties to power, who **has dared to manipulate the will of voters or who abused legal responsibility** to undertake by violating the rules and legal procedures, thus affecting the quality and standard of the electoral process.

KRIIK continues to emphasize that **the Central Election Commission needs to be monitored and supported by all international actors and partners** as a standard of implementation and integrity.

The CEC should review with firmness and full transparency all findings, furthering the realization of the purpose of the process **without amnestying anyone and not relativizing any violation of the established law**.

The case of non-sanctioning members of the electoral commissions in Puka and Mallakaster, who were clearly shown during the complaining process to have consciously manipulated the results of the vote⁷, **should not serve as a precedent to fail or tolerate violations**. KRIIK still urges the CEC to act by sanctioning all the commissioners involved in these cases, in fulfillment of the legal obligations provided.

KRIIK brings to the attention of the CEC, **political parties** and the entire public opinion that the deviation of a single vote from one subject to another **constitutes the production of a fake election result, which contains in itself two manipulations committed** by the respective commissioners. One is the reduction of the result of the electoral subject by removing the vote and one the addition to the electoral subject where this vote is added.

The CEC should also consider and assess objectively any irregularities identified during the audit of election materials by taking administrative measures and/or file criminal charges without hesitation against all offenders, according to the provisions of the law.

The leniency shown by the CEC in previous audit processes conducted, in the name of lack of information, education or even innovation of the mechanism, **should no longer have place in this post-selection audit**. Now all political parties and election commissioners are aware of legal provisions, that are no longer novel. Any act committed

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⁷ KRIIK, [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", dated 02.06.2023.

by them, whether or not of the political subject that has proposed them knew about it, is an action done with full accountability. Consequently, **any offence committed by action or inaction is nothing but an open challenge to the law**, relativizing legal provisions and undoing the efficiency of the built-in legal guarantee mechanism.

The decision⁸ to conduct the Post-Election Audit for the Local Elections of 14 May 2023, was approved by the State Election Commissioner on 20 October 2023, taking into consideration and partially including⁹ the recommendations¹⁰ filed by KRIIK.

The CEC audited 533 polling stations¹¹, of which 40 belonged to CEAZs in the municipalities where electronic voting was held, while 7 to partial elections held in the Municipality of Kukës. The polling stations were randomly selected, including 10% of for each CEAZ.

Regarding the audit of the polling stations where electronic voting and counting was, the Commissioner publicly expressed the readiness of the CEC to audit even more than 10% of them, or even polling stations selected in case of request by political parties.

The recount process by the CEC was conducted by 6 counting groups, part of the CEC staff, who stated that they had been trained in advance. The process was broadcast *live* on the CECs official channels, on YouTube and Facebook.

The data regarding the number of votes were published on the official website of the CEC, but are still impossible to download in an open and processable format¹². Meanwhile, the data related to the quality assessment were filled in by the counting groups through an internal electronic system of the CEC and are not public.

⁸ [Decision no. 800](#) dated 20.10.2023 of the State Election Commissioner.

⁹ The CEC considered some of KRIIK's Recommendations, such as.

- increase the number of polling stations that would undergo audit, bringing it to 10% from 5% that was foreseen in the draft;

- the application of data entry of qualitative verification by the recount groups themselves through the use of technology;

- the inclusion in the drawing of the polling stations for which one of the boxes (the one of the mayor's ballot or the one voting for the municipal council) was reopened during the process of appeals;

- public commitment of the CEC administration to take into consideration all the recommendations of KRIIK by filling out and further detailing the qualitative assessment questionnaire that would be used to judge the conduct and work done by the electoral administration, making this questionnaire more comprehensible, maintaining the logic of the questionnaires and directly identifying the irregularities that occurred, as well as legal responsibilities.

Meanwhile, regarding KRIIK's recommendation for the re-opening of all polling stations where electronic voting and counting were implemented, the CEC responded by publicly stating that if any of the electoral subjects expressed interest in opening certain ballot boxes or all of them in the election administration zones where it was voted electronically, it would realize this request immediately and at no cost.

It is noted here that regarding technical recommendations on the content of questionnaires that the CEC administration stated at a public hearing that they would be considered and implemented by them. However, it turned out that a significant part of the recommendations were not applied, which caused the questionnaire used, therefore the collected data, to again create confusion.

¹⁰ [RECOMMENDATIONS](#) – Regarding the draft decision "*On determining the procedures of post-election review of ballot papers and election materials for the elections of local self-government bodies*", a document sent on 19.10.2023.

¹¹ The audited polling stations audited are selected randomly, which can also be used for generalization of findings, allowing it to be judged on the extent to which potential irregularities identified during the process are present throughout the country. The verification is also carried out for the accuracy of information technology systems or devices related to the electronic identification of voters.

The Electoral Code also gives to the interested parties the opportunity to request the introduction of the post-election audit process even of those Polling Stations for which they have claims, indicies or suspicions that violations may have been committed.

¹² Numerical data [are published in the webpage](#) but cannot be downloaded in formats that allow their independent analysis.

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KRIIK brings to attention that from the observation of the previous two audit processes conducted for the 2021 and 2022 elections¹³, were noted some problems¹⁴, **considering the process in both cases as inefficient.** It is noted here that the differences from 1 to 29 votes in 2021 regarding the quantitative audit of votes, while in terms of qualitative verification of the process it was found that at least 60% of the Polling Centers had at least one problem.

From the monitoring done by KRIIK¹⁵ of the post-election audit 2023, it was evident that the differences in the statistical data of the votes **were more present in the results for the members of the municipal councils** and much less in those for mayors.

61 polling stations had differences of 3 to 56 votes compared to the results of the counting of the May 14, 2023¹⁶ process.

¹³ The complete data related to these processes are included in the final 2021 and 2023 election observation reports. It is noted that monitoring of these two processes was carried out in a completely voluntary manner by the staff and activists of KRIIK.

¹⁴ The main issues consisted of the guidance and questionnaire drafted by the CEC, and then the processing of data and the reflection of findings in the undertaking of concrete sanctioning processes or referrals to the Prosecution Office.

CeC, in these processes, bypassed any other findings/violations found, except in cases of changing the result by more than 20 votes. Only for the latter, the CEC referred the vote counters to the Prosecution Office, while only in one case of the absence of the Book of Meetings Protocol proposed to the Sanctions and Appeals Commission administrative sanction.

¹⁵ In the wake of its uninterrupted engagement, KRIIK, again voluntarily managed to monitor the 2023 post-electoral audit process.

¹⁶ *The recount of the votes for mayor found these differences (ranked by number of votes difference):*

- VC 1869/01 Municipality of Tirana (25 votes difference); - VC 1868/01 Municipality of Tirana (6 votes difference); - VC 2742 Municipality of Librazhd (5 votes difference); - VC 1960/01 Municipality of Tirana (5 votes difference); - VC 0725 Municipality of Lezha (5 votes difference); - VC 1860 Municipality of Tirana (4 votes difference); - VC 0210 Municipality Vau Dejes (3 votes difference); - VC 1453/01 Municipality of Durres (3 votes difference); - VC 2533 Municipality of Cërrik (3 votes difference).

The vote count for the Municipality Council (ranked by number of votes difference):

- VC 4563/02 Municipality of Himare (56 votes difference); - VC 1317 Municipality of Krujë (47 votes difference); - VC 1420/05 Municipality of Durres (35 votes difference); - VC 0321 Municipality of Shkodra (26 votes difference); - VC 2272/01 Municipality of Peqin (22 votes difference); - VC 0314/01 Municipality of Shkodra (21 votes difference); - VC 1238 Municipality of Dibër (20 votes difference); - VC 4016 Municipality of Devoll (20 votes difference); - VC 0172 Municipality of Malësi e Madhe (17 votes difference); - VC 4455/01 Municipality of Vlora (16 votes difference); - VC 0314/01 Municipality of Shkodra (15 votes difference); - VC 4014 Municipality of Devoll (15 votes difference); - VC 1277 Municipality of Krujë (14 votes difference); - VC 4611 Municipality of Selenica (12 votes difference); - VC 4249 Municipality of Gjirokastrë (12 votes difference); - VC 0737 Municipality of Lezha (11 votes difference); - VC 1028 Municipality Klos (10 votes difference); - VC 3687 Municipality of Korçe (10 votes difference); - VC 2251/01 Municipality of Peqin (9 votes difference); - VC 4580 Municipality of Himare (9 votes difference); - VC 1455/01 Municipality of Durres (8 votes difference); - VC 2545/01 Municipality of Cërrik (8 votes difference); - VC 1036 Municipality of Bulqizë (8 votes difference); - VC 1492 Municipality of Durres (7 votes difference); - VC 1492 Municipality of Durres (7 votes difference); - VC 1389 Shijak Municipality (6 votes difference); - VC 1389/01 Shijak Municipality (6 votes difference); - VC 3474 Dimal Municipality (6 votes difference); - VC 1498 Municipality of Durres (5 votes difference); - VC 0310 Municipality of Shkodra (5 votes difference); - VC 3988 Municipality of Devoll (5 votes difference); - VC 1457/02 Municipality of Durres (4 votes difference); - VC 1285 Municipality of Krujë (4 votes difference); - VC 0565 Municipality Has (4 votes difference); - VC 0560 Municipality Has (4 votes difference); - VC 0561 Municipality Has (4 votes difference); - VC 1000 Municipality klos (4 votes difference); - VC 1349 Municipality of Durres (3 votes difference); - VC 1453/01 Municipality of Durres (3 votes difference); - VC 1468/02 Municipality of Durres (3 votes difference); - VC 3980 Municipality of Devoll (3 votes difference); - VC 3983/01 Municipality of Devoll (3 votes difference); - VC 3485 Dimal Municipality (3 votes difference); - VC 4286 Dropull Municipality (3 votes difference); - VC 0462 Municipality of Tropoje (3 votes difference); - VC 0729 Municipality of Lezha (3 votes difference); - VC 0730 Municipality of Lezha (3 votes difference); - VC 4457/01

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While regarding **the qualitative verification, it was again evident that the administration** of the lower level election commissioners **suffered from the same problems** as found in the two previous audited electoral processes 2022 and 2021.

From the preliminary data, it appears to have been assorted¹⁷ :

- 2 properly unsealed ballot boxes¹⁸;
- 14 polling stations with damaged ballot boxes¹⁹;
- 8 polling stations where the Book of Protocol of Meetings is missing²⁰;
- 13 polling stations where the original copy of the opening minutes is not found in any of the boxes;
- 9 polling stations where the original copy of the closing minutes is not found in any of the boxes;
- 97 polling stations where the opening report of the electronic identification process was missing;
- 11 polling stations where the report of the opening of the electronic identification process has been found unsigned by any of the members of the Commission of the polling station;
- 118 polling stations where the report of the opening of the electronic identification process was found un-sealed by the secretary of the polling station;
- 88 polling stations where the report of the closing of the electronic identification process was missing;
- 90 polling station where the closing minutes of PEI were missing, even it was not found in any of the other boxes;
- 48 polling stations where the envelope of electronic identification certificates was missing;
- 5 polling stations where the list of voters was missing;
- 13 polling stations where the special register of voters was missing;
- 153 polling stations where decisions were not sealed with the CEC seal.

Also, regarding **the models of minutes that should be found** in the box of electoral materials, **a high level of their absence was found**, as well as cases when the form was entered into the box uncompleted²¹, contrary to the law.

Municipality of Vlora (3 votes difference); - VC 4425 Municipality of Vlora (3 votes difference); - VC 4469 Municipality of Vlora (3 votes difference); - VC 0995 Municipality Klos (3 votes difference); - VC 2541 Municipality of Klos (3 votes difference); - VC 2825 Municipality of Lushnje (3 votes difference).

¹⁷ This data is considered preliminary as it is entered into the system by the recount group via smartphones and according to procedure set up by the administration they need to undergo verifications to avoid human errors that may have been made during data entry.

Therefore, KRIIK is not accompanying the observed categories of irregularities with the respective numbers of polling stations where violations were observed, thus focusing more on the typology of observed irregularities and the extent of their occurrence.

¹⁸ VC 1855 and VC 3671.

¹⁹ VC 0730, VC 1840/01, VC 1855, VC 1877/02, VC 2274, VC 2366/02, VC 2375/01, VC 2418, VC 2477, VC 3432, VC 4016, VC 4462, VC 4589, VC 4683.

²⁰ VC 0927, VC 0321, VC 1368/01, VC 1758/01, VC 2209, VC 2934, VC 3171, VC 4455/01.

²¹ In terms of the form/process, it was concluded that:

- Model 00-05 was missing in 67 VCs, while in 16 it was uncompleted;
- Model 00-06 "*Minutes for the ceaz entity of CEAZ with seals with security codes*" was missing in 77 VCs, while in 17 it was incomplete;
- Model 00-07 "*For the sealing of ballot boxes before the start of voting*" was missing in 12 VCs, while in 14 it was uncompleted;
- Model 00-08 "*For closing the Polling Center*" was missing in 9 VCs, while in 21 it was uncompleted;

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Meanwhile, in this election process, **the problem of the presence of invalid votes was highlighted, which were found in about 96% of the Polling Centers²².**

From their assessment, it resulted that:

- about 46% of invalid votes were such after more than one electoral subject was voted on the ballot paper;
- about 20% of invalid votes were such because on the ballot paper was not voted for any of the electoral subjects;
- about 20% of invalid votes were such because there were notes on the ballot paper that made it impossible to evaluate the vote;
- about 6% of invalid votes were such because of notes in favor or in disadvantage of certain electoral subjects;
- About 4% of invalid votes were such because the ballot paper lacked seals, either the mayor's or the secretary of the CEC (polling station seal), etc.

In conclusion, KRIIK urges the CEC to examine the facts and circumstances as thoroughly as possible, fulfilling not only the purpose of conducting this process in itself, but also the learning of the necessary lessons for improving the following process, such as the best body of work by the administration, Better preparation and more accurate and detailed observation by counting groups, evaluation of invalid votes, review of training modules for commissioners, including their duration and periodicity, etc.

Also, in relation to the invalidity of the votes found, in the judgment of KRIIK, the CEC should conduct a thorough review of the circumstances of invalidity, especially in cases where this vote was invalidated not by the voter itself, but by the lack of a stamp on it, as a result of the incorrect conduct of the commissioners.

Tirana, on December 14, 2023!

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

- Model 00-09 "Minutes for the submission by THE CEC to CEAZ of voting materials" was missing in 318 VCs, while in 50 it was incomplete;
- Model 00-10 "For delivery of PEI device" was missing in 61 VCs, while in 19 it was uncompleted;
- Model 00-11 "Closing minutes of the Polling Center with the security label one day before election day" was missing in 152 VCs, while in 72 it was uncompleted;
- Model 00-14 "Minutes of the election day polling center's takeover of the Polling Center" was missing in 121 VCs, while in 54 was uncompleted.

²² Only in 19 of the 533 verified VCs were no invalid votes found for the municipal council, and only in 20 out of 533 that were no invalid votes found for mayor.

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