



REPUBLIC OF ALBANIA CENTRAL
ELECTION COMMISSION

DECISION

ON THE VERIFICATION OF THE STATEMENTS ON THE SELF-DECLARATION FORM OF THE CANDIDATES FROM THE MULTI-NAME LISTS FOR THE MUNICIPALITY COUNCILS IN ACCORDANCE TO LAW NR. 138/2015 "TO GUARANTEE THE INTEGRITY OF PERSONS ELECTED, APPOINTED OR EXERCISING PUBLIC FUNCTIONS", FOR THE ELECTIONS TO LOCAL GOVERNMENT BODIES OF 30.06.2019

Central Election Commission in its meeting on 19.05.2019, with the participation of:

Klement	Zguri	-	Chairwoman
Denar	BIBA-		Deputy Chair
Bledar	SKËNDERI	-	Member
Edlira	JORGAQI-		Member
Rezarta	BITRI	-	Member

Reviewed the issue with:

OBJECT: On the verification of the statements on the self-declaration form of the candidates from the multi-name lists for the municipality councils in accordance to law nr. 138/2015 "To guarantee the integrity of persons elected, appointed or exercising public functions", for the elections to local government bodies of 30.06.2019.

LEGAL BASIS: Article 23, point 1, letter "a", of Law No. 10019, dated 29.12.2008 "The Electoral Code of the Republic of Albania", amended; article 5, point 4, letter "a" of law nr.138/2015, "To guarantee the integrity of persons elected, appointed or exercise public functions"; head V, of Assembly Decision nr/ 17/2016 ""For the designation of detailed rules on the implementation of prohibitions provided in law nr. 138/2015", "To guarantee the integrity of persons elected, appointed or exercise public functions"

Central Election Commission, after examining the documents presented and heard the discussions of the people present,



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NOTES:

The party "Partia Ardhmëria Shqiptare", part of the Coalition "Alliance for European Albania", in accordance to Article 5, point 4, letter "a" of Law no. 138/2015 "On guaranteeing the integrity of the persons elected, appointed or exercising public functions", has submitted to the Central Election Commission the self-declaration forms of the candidates for the municipality council of the municipalities: Fushë-Arrëz and Tropojë, as the competent body for the administration, verification, the application of prohibition of election and appointment to the public function, including the function of the counselor of the municipality.

In reference to Law no. 138/2015 "On guaranteeing the integrity of persons elected, appointed or exercising public functions", the CEC verified the information on the self-declaration forms for each candidate of the multi-name list. From the verification of the information of the multi-name list, it results that none of the candidates has declared any information which constitutes a condition for not being registered as a candidate for the municipality council, according to law nr. 138/2015.

The Central Election Commission, in accordance to law no. 138/2015 "On guaranteeing the integrity of persons elected, appointed or exercising public functions" and Chapter V, point 2, letter "b" and point 3, letter "c" of Assembly decision no. 17/2016 "On the establishment of detailed rules on the implementation of the prohibitions provided by law no. 138/2015", has requested information from the state's office and judicial office through written requests and electronic mail for the candidates for members in the municipality councils who submitted the self-declaration forms to the Central Election Commission.

In response to the letter, the judicial office has sent to the CEC a verification of the judicial state of the candidates for members of the municipality councils of Fushë-Arrëz and Tropojë, according to which it results:

NIKOLL UKA, a candidate registered in the multi-name list of the party "Partia Ardhmëria Shqiptare", with ordinal number 01, in Fushë-Arrëz Municipality. According to memo no. 3779 prot, dated 17.05.2019 of the CEC to the General Directorate of Prisons, the Judicial Subject Sector, based on the Judicial Statements no. v. 1556/1, dated 17.05.2019, results in Decision No. 52-2018-123 (7), dated 22.02.2018, the District Court of Puka found him guilty of the criminal offense "Illegal Construction" provided by article 199/a/1, according to this provision and Article 406 of the Penal Code, gives him a punishment of 4 (four) months imprisonment. In accordance to Article 59 of the Penal Code it is ordered the suspension of the execution of the punishment and putting him on trial for a period of 8 (eight) months. With decision nr. 52-2016-149/42, date 04.05.2016, the District Court of Puke declares him guilty of the penal act "Illegal Construction", provided by law 199/a/1 of the Penal Code and article 406 of the Penal Code, which gives him the punishment of 1 (one) month and 10 days of prison. In accordance to article 59 of the Penal Code, he is put on trial for a period of 18 (eighteen) months.

GJOVALIN BIBAJ a candidate registered in the multi - name list of party "Partia Ardhmëria Shqiptare", with ordinal number 01, Municipality of Tropoja. According to memo no. 3779 prot and nr. 3675, dt.17.05.2019 of CEC directed to the General Directorate of Prisons, Judicial Section, based on the Court Statements Certificate no. v-1556/1 and no. v-1519/1 dated 17.05.2019, results with the decision no. 08, dated 03.04.2002, the District Court of Tropoja has found him guilty of the criminal offense "Illegal Manufacturing of Articles and Ideas and Foodstuffs" provided by article 288 / a / 1 of the Penal Code, he is punished with 50 000 (fifty thousand) Lek fine. Mr. Gjovalin Bibaj has been rehabilitated for this criminal offense



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By decision No. 19 dated 17.02.2016, the District Court of Tropoja declared him guilty of the criminal offense "Disobey of Order of the Police" provided by Article 242 of the Criminal Code and Article 406 Criminal Code is punishable by a fine of 80,000 (eighty thousand) Lek fine. Mr. Gjovalin Bibaj has been rehabilitated and is called unpunished for this the criminal offense.

According to article 4, point 9 of the above mentioned law...

Reduce of the amount of punishment due to a shortened trial or similar proceedings that pass judgment, amnesty, depenalization, pardon, suspension of punishment, early release with condition or any punishment of punishment, in accordance with the law, does not affect the implementation of this law and are not calculated in the function of shortening the term of the sentence, in order to shorten the period of prohibitions provided by this law. This law does not apply to convictions given for provisions that have been repealed by the Constitutional Court after the issuance of the relevant punishment, as well provisions contrary to the Constitution in force at the time of the punishment.

In reference to article 406 of the Penal Code...

When giving a sentence, the court decreases one third of the sentence by imprisonment or fine. Based on decision no.52-2018-123 (7) dated 22.02.2018, the District Court of Pukë Mr. Nikoll Uka is pleaded guilty to the criminal offense "Illegal Construction" and pursuant to Article 199 / a / 1 of the Criminal Code and Article 406 of the Criminal Procedure Code, was sentenced to four months imprisonment. Pursuant to Article 59 of the Criminal Code ordering the suspension of the execution of the sentence and putting it to the test for a period of time of 8 (eight) months. According to the calculation the imprisonment sentence for NIKOLL UKA, a candidate registered on the multi-name list of the party "Partia Ardhmëria Shqiptare" with ordinal number 01, Fushë-Arrëz Municipality, without given its reduction based on Article 406 of the Code of Criminal Procedure, has been 6 months in imprisonment.

In reference to letter ç, item 1 of article 2, of law no. 138/2015 "On guaranteeing the integrity of persons elected, appointed or exercising public functions ", prohibition of running, selecting or exercising the function applies to persons who intentionally do one crime that is not included in letters "a" and "b" of this paragraph, and when they have been convicted of no more less than 6 months imprisonment.

Law No.138 / 2015 "On guaranteeing the integrity of the persons being elected, are appointed either exercise public functions ", in its Article 4 thereof provides for the period during which they are to be applied the provisions of this law for the prohibition, running, election or exercise of the function, depending on the type of criminal offense declared.

According to article 4, point 4 of the above-mentioned law...

For persons referred to in point "ç" of paragraph 1 of Article 2 of this Law, the prohibition shall continue from the moment of termination of the sentence of imprisonment, according to the final court decision, until the moment of rehabilitation under Article 69 of the Criminal Code.

In reference to article 69 of the Penal Code...

Shall be called unpunished: **a) those who have been sentenced to imprisonment for a period of up to six months or by any other easy punishment and who have not committed another criminal offense during the two years following the serving of the sentence;**



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Referring to the data in the self-declaration form filled out by Mr. Nikoll Uka as a candidate with ordinal number 01, for Fushë-Arrëz Municipality Council member, for establishing the legal situation regarding the criminal offense "Illegal construction" provided by article 199 / a / 1 of the Criminal Code, no.52- 2018-123 (7) dated 22.02.2018, District Court of Pukë, Nikoll Uka for the commission of this criminal offense is within the period of detention for election in office, candidate for councilor of Fushë-Arrëz municipality council.

For the foregoing, since the conditions for detention have been verified before the candidacy process, referred to in Article 10, paragraph 1, letter "a" of Law 138/2015, the CEC should reject the candidacy of Mr. Nikoll Uka and ask the electoral subject "Partia Ardhmëria Shqiptare" to replace the candidacy within the deadline for submission of candidacies.

Based on the above-mentioned, the Central Election Commission referred to Article 10, paragraph 1, letter "a" of Law no. 138/2015, "On guaranteeing the integrity of persons elected, appointed or exercising public functions" announces the fact that Mr. Nikoll Uka is in a state of non-election as candidate for Fushë-Arrëz Municipality Council member.

The Central Election Commission, in reference to point 2, last paragraph, of Chapter V of Decision no. 17/2016 of the Assembly, ascertains that the data of the names of the multi-name lists do not constitute a condition for not being registering as candidates for the municipal councils, according to law no. 138/2015. CEC has also made the publication of self-declaration forms on the official website.

Referring to article 33, letter "f" of the Electoral Code, the Electoral Administration Zone Commission has the competency for the registration of candidates for the elections of the local government bodies, in those municipalities that are administered by a CEAZ.

In reference to Law no. 138/2015 "On guaranteeing the integrity of persons elected, appointed or exercising public functions" and point 5/1, 6 of article 9 of instruction no. 2, dated 29.01.2013 "On the establishment of rules for deposition and verification of candidacy documentation and deadlines for publication of candidate lists", the CEAZ should continue the procedures for the registration of the multi-name lists for the municipality councils of Fushë-Arrëz and Tropojë, of the party "Ardhmëria Shqiptare" for the elections to local government bodies of 30.06.2019.

FOR THE ABOVE REASONS:

The Central Election Commission based on Article 23, paragraph 1, letter "a" of law nr. 10019 dated 29.12.2008, "The Electoral Code of the Republic of Albania", amended, article 5, point 4 letter "f", of law nr. 138/2015, "On guaranteeing the integrity of persons elected, appointed or exercising public functions"; chapter V, of decision nr. 17/2016 "On the establishment of detailed rules on the implementation of the prohibitions provided by law no. 138/2015", "On guaranteeing the integrity of persons elected, appointed or exercising public functions".

DECIDED:

1. To refuse Mr. Nikoll Uka's candidacy for the Fushë-Arrëz Municipality Council, for the party "Ardhmëria Shqiptare"
2. Announcement of the party "Ardhmëria Shqiptare" to replace the candidacy within the deadline for submission of candidates.



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3. To notify CEAZs nr. 08 and 09 for the continuation of the procedures for the registration of the multi-name list for the municipality councils of Fushë-Arrëz and Tropojë for the elections for local government bodies of 30 June 2019, according to the annex attached.
4. This decision goes effective immediately.
5. An appeal can be filed against this decision within 45 days at the Tirana First Instance Administrative Court.

Klement	ZGURI-	Chairwoman
Denar	BIBA-	Deputy Chair
Bledar	SKËNDERI-	Member
Edlira	JORGAQI -	Member
Rezarta	BITRI-	Member



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