



Republic of Kosovo  
Republika e Kosoves- Republika Kosova  
Elections Complaints and Appeals Panel  
Paneli Zgjedhor per Ankesa dhe Parashtresa  
Izborni Panel za Zalbe i Predstavke

**A.nr. 216/2019**

**Elections Complaints and Appeals Panel (ECAP)**, Panel composed of Judges: Fejzullah Rexhepi Chairperson, Adnan Konushevci dhe Zyhdi Haziri members, with the participation of high legal official Vlerona Maliqi, deciding on the complaint submitted by Kosovo Police based in Prishtina submitted against NISMA-AKR-PD Coalition on based in Prishtina, respectively Ekrem Mustafa, former Minister of Internal Affairs, due to the Violation of Code of Conduct during the electoral campaign breach for the Early elections for the Assembly of Kosova which will be held on 06.10.2019, at the panel session held on 05.10.2019, made the following :

### **DECISION**

To **ACCEPT** as well-grounded the complaint A.nr. 216/2019 dated 04.10.2019 submitted by Kosovo Police based in Prishtina against NISMA-AKR-PD Coalition based in Prishtina, because former Minister of Internal Affairs, Ekrem Mustafa, now a candidate for PM from NISMA-AKR-PD Coalition based in Prishtina, on 01.10.2019 at about 11:00hrs, on his Facebook account posted a video- promoting campaign for himself and his political entity, in which video he used a photo where Rashit Qalaj General Director, Kosovo Police, can be seen- is shown, which constitutes a violation, pursuant to Article 35 paragraph 2 of LGE, and **IMPOSE** fine in amount of 9,500.00 (nine thousand and five hundred) euros, obliged to pay it within 15 days from the day this judgment becomes final, under the threat of bailiff.

### **Reasoning**

ECAP, on 04.10.2019 received the complaint A.no. 116/2019 submitted by Kosovo Police, based in Prishtina, alleging that former Minister of Internal Affairs, Ekrem Mustafa, now a candidate for PM from NISMA-AKR-PD Coalition based in Prishtina, on 01.10.2019 at about 11:00hrs, on his Facebook account posted a video- promoting campaign for himself and his political entity, in which video he used a photo where Rashit Qalaj General

Director, Kosovo Police, can be seen- is shown; this photo was used without the permission of the latter, actions which according the submitter of the complainant are contrary to the legal provisions of LGE, respectively Article 35 paragraph 2 of this law, requiring from ECAP to conduct a more detailed review of this issue.

The submitter of the complaint, as evidence to the allegations, attached a CD as material evidence to the complaint.

NISMA-AKR-PD Coalition, on his response to the complaint dated 05.10.2019, admitted that Mr. Ekrem Mustaf, candidate for PM from the abovementioned coalition, has posted the abovementioned video on his Facebook account but despite the fact that the video was posted during the campaign, its intention was never to use the official authority of the complainant. At the end it ended that there were correction measures undertaken and due to the respect towards the complainant, the posted video was removed from the Facebook account immediately upon receipt of the complaint.

ECAP, upon review and analyze of the case file, pursuant to Article 117 paragraph 2 of LGE, found that: Complaint **is grounded**, based on these reasons:

Panel, upon review of the case file as well as the CD provided as material evidence which is also published on the Facebook account of the candidate for PM from NISMA-AKR-PD Coalition, response to the complaint of the coalition in question and other case files, assessed that NISMA-AKR-PD Coalition has violated provisions of Article 35 paragraph 2 of LGE, which provides as follows: ' *No political entity shall, during the course of an electoral campaign period, encourage or take advantage of a public employee using his or her public position to campaign for a political entity* ', due to the fact that the candidate for PM from NISMA-AKR-PD Coalition - Ekrem Mustafa, on his Facebook account, used a photo of General Director of Kosovo Police-Rashit Qalaj, without the permission of the latter, which means that by this acts, the candidate in question, during his electoral campaign used the public post -the complainant Rashit Qalaj, which violation is punishable according to the abovementioned legal provisions.

Panel, while deciding the fine as in the enacting clause of this decision, considered the circumstances as follows:

- The nature of the violation and its potential impact on the electoral process;
- Degree and gravity of the violation;
- The fact that the political subject participated in earlier elections which means that the same was aware on obligations and responsibilities during the electoral process;
- Political subject has committed a violation of Law on election in force as well as in the previous elections in Kosovo and
- The amount of the funds taken by the political subject from Budget of Republic of Kosovo in order to organize the activities related to the election campaign.

Panel considered all circumstances in this case, the fact that NISMA-AKR-PD Coalition participated in earlier elections which means that the same was aware on obligations and responsibilities during the electoral process and despite this fact, during the electoral process, one of its candidate for PM, used a photo of Rashit Qalaj-General Director of Kosovo Police as well as police official, in which video clearly calls to vote him as candidate for PM from NISMA-AKR-PD Coalition for Early Elections for Assembly of Kosovo which will be held on 06 October 2019. Considering the fact the published photo included General Director of Kosovo Police, photos which can be seen were taken during the official meetings, shows that his public post was used in this campaign, which constitutes a violation as per Article 35 paragraph 2 of Law on General Elections.

ECAP, as a circumstance also considered the fact that the coalition in question was given the opportunity to respond to the complaint and to remedy the violation but the political entity, although acknowledging the violation and stating that the same was avoided, did not has provided no evidence that the correction has been made as required per Article 35 paragraph 2; Article 120 paragraph 1 item c) of LGE and Article 5 paragraph 2 of Regulation no.01/2012 on Categorization of Sanctions and Fines of ECAP.

Based on the reasons mentioned above and pursuant to Article 118 paragraph 1 and Article 120 paragraph 1 item c) of LGE, it decided as in the enacting clause of this decision.

**Elections Complaints and Appeals Panel**

A no.216/2019 dated on 05.10.2019

Fejzullah Rexhepi, Chairperson  
(signed & stamped)

***Legal remedy:*** Appeal against this decision, is allowed pursuant to Article 118 paragraph 4 of LGE, to the Supreme Court, from the moment of receipt of this decision.