



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

A.no. 350/2019

Elections Complaints and Appeals Panel (ECAP), Panel composed of Judges: Gyltene Sylejmani Chairperson, Nenad Lazic, Afijete Sada-Glllogjani, Fejzullah Rexhepi, Kymete Kicaj, Rrustem Thaqi, Faton Ademi, Ferki Xhaferi and Adnan Konushevci members, deciding on the complaint submitted by political entity PDK, LDK and NISMA-AKR-PD Coalition all based in Prishtina submitted against Central Election Commission due to the technical error in the result matching data form in (FPR) and impact on the published result on the Early Elections for Assembly of Republic of Kosovo dated on 06.10.2019, at the panel session held on 08.10.2019, made the following :

DECISION

To **DISMISS** as impermissible, the following complaints: A.no.350/2019 submitted by political subject PDK; A.nr.351/2019 submitted by political subject LDK and A.no. 353/2019 submitted by NISMA-AKR-PD Coalition dated on 07.10.2019 by which these subjects required the recounting of all ballots in all Polling stations of Republic of Kosovo.

Reasoning

On 07.10.2019, ECAP has received the following complaints: A.no.350/2019 submitted by political subject PDK; A.nr.351/2019 submitted by political subject LDK and A.no. 353/2019 submitted by NISMA-AKR-PD Coalition received complaints with numbers A.no. 350/2019, from PDK; A.nr. 351/2019 from LDK and A.nr. 353/2019 from Coalition NISMA-AKR-PD, all these political subjects based in Prishtina, submitted against CEC due to the technical error in the result matching data form in (FPR), for errors that occurred in the results forms for political parties in the election process of 06 October, at all Polling stations in Kosovo, claiming that based to the arguments provided by commissioners, observers, results forms, and other evidence at the Polling stations there was an incorrect placement of results due to the fact that election material that went to Polling stations and Voting centers in Kosovo, based on the provided facts it is proven that the election material that was sent to the Voting centers by CEC for the elections of 06 October was with defects, respectively the forms of the results all over Kosovo, in the section where the votes of political subjects were supposed to be marked was missing so there was one section missing,

more precisely from total 25 political subjects competing on these elections, the form had only 24 sections, lack of content which according to the submitters of the complainants impacts directly in the final result of each competitor on this competition. The submitter of the complaints added that in case the form in question is carefully watched (FRP), there is no respective section line for the first certified subject for participation in the elections “ Liberal Egyptian Party” (PLE) with number 111, therefore they had to start with the prescription of the results of this party in the second column which was foreseen for the political subject “ Democratic Party of Kosovo” (PDK) with number 112 thus this caused confusion to the members e VCC, counters and result recorders and distortion of the result in voting centers all over Kosovo. This mistake made by CEC, according to the complaining subjects, has caused deep distrust to the results of political parties due to possible mistakes, intentional or not, made at the voting centers, during the description of the results so the votes for a Political Subject of Minorities FRP were not marked at all thus causing an additional confusion especially when dealing the counting of the votes for the candidates and the final result of these elections because in the meantime that there is no vote marked to the political subject, the candidates of the same subject might have votes marked in the Candidates result form and automatically there is a dilemma how come that the political subject has no vote while its candidates do. Political subject Democratic Party of Kosovo (PDK) claims that as the consequence of this mistake there were at about 2500 voting centers and about 165 thousand votes of this political subject were marked to the other subject next to it -to Ashkali Party for Integration (PAL).

At the end they mentioned that this mistake fluctuated the trust of citizens and political parties in the electoral process, it has violated heavily the integrity of electoral process in Republic of Kosovo as it made the results from the electoral process incredible too so there was a violation of legal provisions of LGE and Election rules of CEC so they asked from ECAP to suspend the counting process and order CEC to recount ballots throughout Kosovo.

In order to support their allegations, the complaints submitters have attached some result forms (FRP) to their complaints, the printed forms which were used at the voting process in the capacity of material evidence.

Panel, upon preliminary examination of the impermissible of the complaints, found that

Complaints are impermissible

Panel, preliminary assessed that the complaints A.no.350/2019, A.no.351/2019 and A.no.353/2019 all three dated on 07.10.2019 are the same in content, in the irregularity nature as alleged and the same were submitted against Central Election Panel (CEP) so Panel, based on Article 8 paragraph 3 of Rules and Procedures no.02/2015 of ECAP which provides that “ *in order to facilitate the examination of complaints, the Chairperson of the decision-making panel may decide to join the complaints containing similar issues and that those complaints will be dealt with by a single decision*”, decided to join the complaints and decided on the same with a single decision, as in the enacting clause of this decision.

Panel, when deciding, did not evaluate the complainants’ allegations of alleged violations concerning the alleged violations as in the abovementioned complaints concerning that the CE had sent election material which contained technical mistakes in Forms of Compliance of Results at the voting centers for Early Elections for Assembly of Republic of Kosovo dated on 06.10.2019 due to the fact that the alleged violations by complaining subjects as per the complainants have impacted the electoral results published so far. Because the complainants’ main request was recounting due to allegations that technical mistakes

of FRP have impacted in the vote results for their subjects, at this electoral process stage, all complaints which are referred to dispute of the results are dismissed as impermissible because the results are not final yet and the same may change and also correcting the technical errors in the FRP, it is for the time being the CEP responsibility to correct during the audit of all FRPs according to CRC procedures, in accordance with Electoral rule 06/2013. Upon the general audit of FRPs, CRC drafts a report in written on final results and the same is published by CEP and the concerned parties may appeal.

The dismissal of the abovementioned complaints does not prejudice the case and the complainants are not denied the right to file new complaints after the announcement of the final election result by CEC.

Therefore, based on the abovementioned reasons and in accordance with Article 118.1 of LGE and Article 6.4 of Rules and Procedures of ECAP the panel decided as in the enacting clause of this decision.

Elections Complaints and Appeals Panel

A.no. 3350/2019 dated on 08.10.2019

Gyltene Sylejmani, **Chairperson**
(signed & stamped)

Legal remedy: *No appeal is allowed against this decision.*