

Reflection on Legal Issues and Approach of Political Bodies toward Central Election Commission in Albania

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Abstract

The electoral legislation regarding the Albanian Central Election Commission (CEC) has been subject to changes on the eve of every election. CEC as a constitutional institution where the contribution of the political representation principle was minimal resulted in a legislative product that did not correspond to the level of democratic development of the Albanian political parties. The entire process of development of the Albanian electoral legislation, in establishing CEC, has been prevailed by the implementation of the principle of political representation and bipartisan balance. The attitude of political parties toward CEC has been motivated by their electoral interests. Political pressure on this institution has produced unconstitutional interventions. The establishment and operation of CEC as an independent institution and politically neutral according to the principles of public administration is an option that should be considered by the Albanian legislative body. Political parties can be represented in this institution by deploying ex-officio members or observers.

Keywords: Central Election Commission, legal issues, political parties

1. Introduction

Before the adoption of the Constitution of Republic of Albania, on 28 November 1998, the assembly and local government elections were held under specific laws¹. They designated the CEC as the main institution responsible for organizing and managing the election process. The Commission was headed by the Chairman, Vice Chairman and Secretary and comprised of members, representatives of political parties, appointed by the President of the Republic. Number of members and parties with their representatives in the CEC, has been always subject to amendments in the electoral laws.

Law No.7556, dated 02.04.1992 "On elections of the National Assembly of the Republic of Albania", amended by Law No. 8055, dated 01.02.1996 and Law No. 7573, dated 16.6.1992 "On elections of local government bodies" amended by Law No. 8346, dated 05.13.1998, defined CEC as a permanent institution but without a budget foreseen in the statebudget. All CEC responsible for elections during 1991-1998 period, were designed based on the principle of political representation. The amendments brought by Law No. 8055, dated 01.02.1996 and Law No. 8346, dated 05.13.1998 included also the political balance as a basic principle in designating CEC members². Despite this, the CEC has been defined by the election law as an independent institution *subject only to the law*.

Based on Main Constitutional Provisions, the adoption of election laws does not require a qualified majority³. After the adoption of the Constitution, the Albanian political class decided to make the electoral law one of the Albanian Codes.

¹ Law No.7556, dated 02.04.1992 "On elections of the National Assembly of the Republic of Albania", amended by Law No. 8055, dated 01.02.1996, the Law No.8143, dated 11.09.1996, and the Law No.8218, dated 05.16.1997. Law No.7573, dated 16.6.1992 "On elections of local government bodies" amended with Law No.7593, dated 07.29.1992; No.7798, dated 23.02.1994; No.1579, dated 13.08.1996; No.8151, dated 09.12.1996, No. 8346, dated 05.13.1998 and No.2101, dated 05.21.1998.

² Law No.8143, dated 11.09.1996, Article 35/a The Chairman and Deputy Chairman of the Permanent Central Election Commission are proposed respectively by the main parties of the majority and opposition ... The Vice Chairman enjoys equal legal status with the Chairman ... The seats of the Commission members are divided equally between the parties participating in the government coalition and the opposition

³ Main Constitutional Provisions, Article 23 The laws and other acts of Parliament, except constitutional ones, are approved when voted by the majority of members present, but not less than 1/3 of the members.

Consequently, the adoption of electoral legislation requires a qualified majority, three-fifths of all Assembly members⁴. By this Constitutional condition the Albanian legislation reflected the requirement that the electoral legislation should be a product of consensus among the political forces, majority and opposition. Thus, in legal terms, the attribute of the majority on drafting the legislation came to an end. This is an important milestone on Albania's path towards the realization of the electoral process in accordance with international standards. The CEC, as a permanent body consisting of seven members, was included by the Constitution of the Republic⁵ in the group of constitutional institutions. The formula according to which was to be constructed differed essentially from previous ones. The committee members had a 7 years mandate. The membership renewal was to be carried out every three years. Electoral subjects had the right to appoint their representatives on this committee, as non-voting ex-officio members.

Pursuant to the Constitutional provisions, the Parliament of Albania approved the Electoral Code of the Republic of Albania, with Law no. 8609, dated 08.05.2000⁶. This legislative development was seen as a significant achievement of the efforts of the Albanian society to develop free and fair democratic elections and in accordance with international standards⁷.

The legislative process for drafting the Electoral Code and its first experience in the local election conducted in October 2000 showed that, despite the value of the legislative product fixed by the Albanian Constitution, which created opportunities for the institutionalization of the CEC on the basis of meritocracy and professionalism, the problem of real autonomy of this institution and the political parties attitude toward it, would be an permanent challenge of all electoral processes in Albania.

The purpose of this paper is to analyze the performance of the legislative process targeting CEC, to judge the methods and channels used for the legislative interventions, the stimulatory reasons and legislative quality of the carried out products, and based on them to assess the behavior of the Albanian political bodies toward this institution.

2. Central Election Commission – Constitutional Institution

Pursuant to the Constitution of the Republic of Albania, Article 153, 154, the Electoral Code approved by Law no. 8609, dated 08.05.2000, defines CEC as an independent institution, whose members must have knowledge and experience in one of the following areas: law, election administration, public administration or relations. CEC member should have not been part of governing bodies of a political party during the past three years. The Election Code provided that two CEC members were to be appointed by the President of the Republic after consulting groups representing a broad spectrum of society. The Assembly elected two members based on the proposals of the Assembly Bureau chosen by two lists with three names proposed one by the opposition groups and the other by the majority. Three CEC members were elected by secret ballot by the High Council of Justice based on the proposals of the National Judicial Conference and individual applications. This way of selecting the CEC members aimed not only to respect the letter of the Constitution but, at the same time its spirit, by creating the best opportunities for the practical realization of the independence of this institution. Despite this, as in all previous Albanian elections, the CEC composition was a very sensitive and controversial issue. Refusing to recognize the 1998 referendum on the Constitution and the legitimacy of the CEC, the DP declined to suggest any acceptable candidates and insisted on returning to the previous CEC composition.

Although, article 154 of the Constitution contains no limitation on the nominee choices or the Constitutional prerogative of three appointing institutions when electing members to the CEC, the emendment of article 17 of Law No. 8609, dated 8.5.2000, reflected in article 22 of Law No. 9087, dated 19.06.2003, practically realized the full political control

⁴Albanian Constitution Article 81 2. There are approved by three-fifths of all members of the Assembly: ... c. the law on general and local elections; ç. the law on referenda; d. the codes;

⁵Approved with Law no.8417, dated 21.10.1998 by Albanian Parliament, approved by general referendum on 22.11.1998, declared with decret no. 2260, dated 28.11.1998, by President of Republic Rexhep Meidani

⁶"Domestic and international experts assisted the Albanian authorities in adapting the relevant legislation to meet internationally recognized standards set out by the principles of the 1998 Constitution. Following four-week long multi-party roundtable discussions held with representatives of the Council of Europe (CoE), International Foundation for Election Systems (IFES), United States Agency for International Development (USAID) and the OSCE, the Assembly of the Republic of Albania finally adopted the Electoral Code on 8 May 2000." OSCE/ODIHR Final Report. Republic of Albania. Local government elections 1/15 October 2000..

⁷The Electoral Code provides a sound framework for competitive elections, and is an improvement over previous electoral legislation in Albania". OSCE/ODIHR Final Report. Republic of Albania. Local government elections 1/15 October 2000..

over the procedures for appointing members of the Central Election Commission⁸. As the Venice Commission (2004) emphasizes article 22 of the Code expressly limits the number of candidates that can be considered by the three constitutional institutions when electing a member to fill a CEC vacancy. These provisions limit, in some instances, the appointing institution's constitutional prerogative to a list of no more than two candidates nominated by "non-Article 154 bodies" (i.e., political parties/groups). The phrase "no more than two" compounds constitutional concerns as it permits the list to be limited to a single name, thereby completely abrogating the constitutional prerogative of the appointing institution. Consequently the procedures established by the Electoral Code significantly limit constitutional prerogatives and appear to be contrary to the structure established by Article 154 of the Constitution. This amendment produced a legal situation which was obviously avoiding the requirements and spirit of the Constitution for a political independence of the CEC⁹.

Another important intervention in the Electoral Code for the Central Election Commission was the amendment brought by Law No.9297 dated 21.10.2004. This amendment was the product of political compromise of DP-SP, reached after a long process of difficult negotiations. The effect of the amendment was the interruption of the mandate of a CEC member that, according to the provisions of Law No. 8609, dated 05/08/2000 regulating CEC members mandate replication, was mandated for 7 years. This Code amendment did not contradict or violate the Constitution because in its Article 154, paragraph 2 it provides that: "The composition of the Central Election Commission is renewed every three years according to the procedure established by law". Despite this it is important to note that this intervention, by changing the rules for CEC member's mandate, violated the spirit of the Constitution¹⁰. This legislative process did not strengthen CEC but, on the contrary it reduced even more the perception and the legislative framework for an independent CEC. To reduce the negative effect of this situation the Electoral Code adopted by Law no.9341, dated 10 January 2005, established provisions according to which, before starting work, elected member of the CEC takes an oath before the President of the Republic, in a public ceremony¹¹.

The Constitution was amended with Law No.9675, dated 13.01.2007 and since February 2007 the CEC is composed of 9 members¹². This constitutional amendment did not produce any effect in narrowing the spaces created by Article 22 of the Electoral Code, approved by Law no. 9087, dated 19.06.2003, for political parties in appointing CEC

⁸ Article 22: The procedure of the election of the CEC members: 1. The Assembly of Albania elects two members of the CEC upon the respective proposals from the left and right spectrum of its political composition, excluding the largest political party of either political spectrum. 2. The President of the Republic appoints two members of the CEC upon the respective proposals of the two largest political parties of the majority and the opposition.... 3. The High Council of Justice selects three members of the CEC according to this procedure: a) two members of the CEC are approved from among two candidates for each vacancy proposed respectively from the two largest parties; b) the third candidate is selected by the High Council of Justice according to this procedure: the two largest parliamentary groups propose four candidates who are jurists by profession. Each of the parliamentary groups selects two of the four candidates from the other group. The four selected candidacies are voted on by the High Council of Justice no later than 48 hours after having been deposited....

⁹ The issue of CEC membership also became a matter of controversy, even before commencement of the campaign period, for a number of reasons. First, provisions in the new Electoral Code on the appointment of members to the CEC gave de facto control of appointments to the DP and SP. Second, these provisions may be contrary to the Constitution in the excessive restriction they impose on the prerogative of the three appointing bodies (the Parliament, President and High Council of Justice). Third, the Electoral Code fails to define adequately those political parties with the legal right to nominate the members of the CEC as well as lower election commissions and, instead, uses vague terminology that attempts to describe the ideologies of current political relevance". Republic of Albania Local Government Elections, 12 October 2003 – 25 January 2004, OSCE/ODIHR Final Report Page: 6

¹⁰ Article 181/1 Termination of mandates of CEC members for the purpose of renewing its composition

2. The mandate of the CEC member who was initially selected by the High Council of Justice and who is not part of the renewal, in compliance with sections 1 and 2 of article 25 of Law no. 8609, dated 8 June 2000 "The Electoral Code of the Republic of Albania" (abrogated), ends on the day this law enters into force. The replacement member is to be selected by the High Council of Justice in accordance with article 2, section 3, letter (a) of this Code.

¹¹ The text of the oath is: "I swear on my honour that I shall commit myself with all my strength to the realization of fair, free and democratic elections in the Republic of Albania; I shall guarantee and protect the integrity and secrecy of the vote; I shall maintain impartiality in discharging my duty as a member of the Central Election Commission and shall demonstrate professionalism in this discharge".

¹² Article 2 Article 154 is amended as follows: Para. 1 is reformulated as follows: "1. The Commission consists of 9 members elected for a 7-year term. 4 members are elected by the Assembly, two by the President of the Republic, and the 3 other members by the High Council of Justice." In Para. 2, the phrase "every three years" is repealed. Law No. 9675, dated 13.01.2007. For some amendments of Law No.8417, dated 21.10.1998 "The Constitution of the Republic of Albania".

members. The reform of the Electoral Code conditioned by the constitutional amendments, approved by Law 9676, dated 13 January 2007 essentially did not affect the content of article 22. The method provided by this Code for electing CEC members significantly limited constitutional prerogatives and appeared to be contrary to the structure established by Article 154 of the Constitution (2)

3. Central Election Commission - Non-Constitutional Institution

The Constitution of the Republic of Albania was amended by Law No.9904, dated 21.04.2008. These amendments abrogated Articles 153 and 154 which stipulated the establishment of the CEC. Since then the establishment of the CEC is provided by the Electoral Code. The consequences of this constitutional amendment are estimated in different perspectives. Rapushi, R. (2008), Monique, C. (2008) believe that CEC will be deprived of its plurality and will become a bipartisan commission in which only the SP and PD will be represented. According to the opinion of the Venice Commission; "It should be recognised that these amendments may contribute significantly to reduce the highly politicised environment in the election administration that has been observed in past elections in Albania". The Code of Good Practice in Electoral Matters (CDL-AD(2002)023rev), II.3.1., highlights that "...the existence of independent, impartial election commissions at all levels is a cornerstone of democratic elections", while professionalism does not mean that political parties cannot be involved in the nomination process; so-called professionals are not always independent from political forces, as soon as they are nominated or appointed by political bodies; and non-politicised members are not *per se* going to act in a professional manner by simple virtue of their nonpartisan nomination.

The Electoral Code approved by Law No.10019, dated 29.12.2008 stipulated the establishment of the Central Election Commission as the highest permanent state body, which is in charge for election administration. Article 12 of the Electoral Code establishes a CEC consisting of seven members. Members serve a term of four years and can be re-elected. Article 14 regulates the election of CEC members and Article 15 regulates the election of the Chairperson of the CEC. Taken together, these articles attempt to establish a CEC where four members, including the Chairperson position, are nominated by the parliamentary majority in the Assembly and three members are nominated by the parliamentary opposition in the Assembly. All members are elected by the Assembly, and the nomination process includes several steps that allow the chairpersons of parliamentary groups and parliamentary groups to be involved¹³. The election of the Chairperson of the CEC is relatively straightforward. First, "the parliamentary group of the biggest party of the parliamentary majority submits to the Assembly a list of no less than four candidacies". Then, "the parliamentary group of the biggest party of the parliamentary opposition selects two from the four candidacies proposed". The Assembly votes on the remaining two candidates and the candidate who "obtains more than half of the votes of the Assembly deputies, is elected as the CEC Chairperson". The Deputy Chairperson of the CEC is elected by the CEC from within the six CEC members.

The establishment of CEC according to the provisions of the Electoral Code of 2008 in fact was a return to the principle of political representation, according to which were established all CEC before the adoption of the Constitution of the Republic of Albania, November, 1998.

Law No.74/2012, dated 19.07.2012 "On some amendments to law 10019, dated 29.12.2008 "The electoral Code of the Republic of Albania", brought two different consequences for CEC. *First*, the mandate of the existing members of CEC

¹³Article 14 states: "1. Assembly of Albania elects the CEC members in accordance with the following procedure: a) two members are proposed from the party that has the largest number of seats from the parties of the parliamentary majority, and two members from the party of the parliamentary opposition which has the largest number of seats in the Assembly of Albania; b) the proposing subjects, during the selection phase, present no less than two candidacies for each vacancy. Chairs of the parliamentary groups of the proposing subjects select, collegially, four candidacies in accordance with the criteria provided in letter (a) of this point. The proposing subjects of letter (a) select one candidature from each sex; c) candidacies selected in accordance with letter (b) of this point, are submitted to the Assembly for approval; d) the fifth member of the CEC is elected from the candidacies proposed by deputies' groupings of parliamentary majority parties, with the exception of the biggest party of the majority grouping. The sixth member of the CEC is elected from the candidacies proposed by deputies' groupings of the parliamentary opposition parties, with the exception of the biggest party of the opposition. The proposing grouping presents a list with no less than two candidacies for the respective vacancy. The list of candidates that has accumulated the highest number of supporting signatures of deputies of the respective parliamentary groups of the parliamentary majority and opposition, including also the deputies of the two biggest parties from each grouping, is presented to the Assembly for voting. If two or more lists have accumulated the same number of supporting signatures, all the candidacies included in these lists are presented for voting.

of Albania is terminated (article 181) and *Second* the establishment of CEC is to be done not only based on the principle of political representation but also on that of political balance (Article 14, 15). The Assembly of Albania elects three members among the candidates proposed by the parties of parliamentary majority and three members among the candidates proposed by the parties of parliamentary opposition.

The CEC members mandate changes from four to six years with the right to be re-elected.

The CEC chairman is elected according a procedure that includes all interested citizens (Article 15 ... No later than 30 days prior to the expiry date of the CEC Chair's mandate, the Assembly of the Republic of Albania publishes the vacancy announcement for the CEC Chair. Any citizen who meets the criteria set out in article 12 of this Code may apply as a candidate for CEC Chair). The screening procedure is carried out by the Committee on Legal Affairs. The Committee selects for submission for a vote of the Assembly the two candidates approved by the members of the majority and opposition of this Committee. The candidate who receives more than half of the votes of the Members of Parliament is elected the CEC Chairman. Unlike the other members of the CEC, the mandate of the Chariman is four years, with the right to be re-elected. This composition and recruitment process establishes de facto "*an expert approach*" for CEC functioning (Kryemadhi, M., Luzi-Leshi, L. 2014).

4. Political Parties and Central Election Commission

The CEC, as one of the key institutions in organizing and administering the electoral processes, has been always on the focus of the political parties. In all legislative processes that have preceded the elections held in Albania during 1991-2013, issues related to the establishment, formation, rights and duties of this institution were among the most debated ones. Despite their declarations, political parties have always tried to consider and create spaces in order to use this institution in view of their political objectives. The consequence of this behavior is the instability of this institution, the changes of the cornerstones principles for its formation and consequently, continuous changes of the legal provisions under which it is formed. Moreover, it has been reformed even when the principles did not change.

The way CEC administered the elections for the Assembly of Albania, May 1996 and the elections for local government bodies, in October, 1996, and the identification of the major role played by CEC in these products, were strong incentive for the requests of the political parties during the legislative process for drafting the electoral law for early elections for the Assembly of Albania, June 1997. Their result was the establishment of a CEC which is politically balanced CEC by the majority and opposition¹⁴. In this way political parties intended to create as much space possibilities to participate in the administration of the election process. This requirement produced a great number of CEC members (17) and therefore, the entire electoral administration was overloaded. The administration faced difficulties in managing the process and in particular in decision-making.

The CEC, as a constitutional institution, was constantly under political pressure. Since the beginning of the process for its establishment the DP said they did not recognize this institution and shall not be part of this process. Furthermore, this political force declared and undertook political activities against any development in this institution. As a result of this pressure, two CEC members resigned shortly after their appointment.

Elections for local government bodies, in October 2000 were the first to be administered by the CEC as a constitutional institution. According to the assessment of OSCE/ODIHR monitoring mission: "The Central Election Commission's (CEC) performance was hampered by shortcomings and lack of independence"¹⁵.

The political pressure on this institution and the open political preferences in selecting and appointing its member from the SP, as the largest political force of the majority, were the main factors that negatively affected the CEC performance. Few months following October 2000 local elections, three CEC members resigned.

In order to have their representatives in the CEC the political parties have used all the opportunities provided by the constitutional provisions and, when those opportunities dried up, their political action was focused on changing the Constitution.

The provisions included in the Electoral Code giving the right to political parties to nominate their candidates for

¹⁴Article 17. "Seats of the Commission members are divided equally between the parties participating in the coalition government and the opposition. Within these divisions, the Commission seats are divided for each party in proportion to the results obtained from the local government elections" Law No.8218, dated 16.05.1997 for some amendments to Law No.7556, dated 04.02.1992 "On elections of the National Assembly of the Republic of Albania", amended by Law No.8143, dated 11.09.1996.

¹⁵Republic of Albania Local Government Elections, 1 and 15 October 2000 OSCE/ODIHR Final Report Page: 2

CEC members is a product of this behavior. In this way the political parties, although the constitutional prerogatives aimed at establishing an independent institution distant from them, in order to fulfill their interest have overlooked these prerogatives. Halting the mandate of a CEC member just to give the opportunity to a political party to have its member in CEC and the amendment of the Constitution that increased the number of CEC members from seven to nine only to create legal opportunities for both political parties to have their members in CEC, are among the most significant expressions of the Albanian political parties attitude towards this institution.

Developments in the electoral processes in Albania and the behavior of political parties toward CEC showed that the solution, which defined CEC as a constitutional independent institution, did not respond to the level of democratic development of the Albanian political class. The reflecting on this fact conditioned constitutional amendments, according to which the establishment of CEC, as the main institution responsible for organizing and administrating electoral processes is now regulated by provisions part of the Electoral Code of the Republic of Albania. In this way, political parties created favorable conditions and greater facilities to interfere in the electoral legislation. The political agreements, in general and in particular the bipartisan actions, which enables the qualified majority of 3/5 of the members of the Parliament, gives larger spaces for action. With the power of the current majority, the formula for the composition and membership of this institution is totally exposed to its will.

5. Discussion

The attitude and the continual pressure exercised by the political parties on CEC have often set this institution in very difficult working conditions.

The analysis of the electoral processes held in Albania during 1992-2013, shows that the attitude of political parties has not been conditioned by the legal status of this institution (constitutional or not) or by the principles in establishing and forming this institution (political representation, bipartisan balance, election of its members from non-political institutions such as the President, the High Council of Justice, the Judicial Conference). In most cases this behavior was a consequence of the level of democratic culture of the country's political class, its inability to respect and enforce the conditions of a democratic competition and the missing culture to accept the outcome of the electoral process (Krasniqi, A. 2010 , 2012; Jaho, Nj. Kitschelt, H. 2010; Zogaj, P. 2012).

The consequences of this behavior are reflected in the performance of the election process. They have negatively affected the management and decision making performance of the CEC, and have reduced the spaces for the conduct of democratic elections and the completion of international standards. Albanian electoral legislation has created large spaces for political parties to intervene in the administration of the electoral process. The continuous changes in the formula for establishing CEC in Albania, in general have been motivated by the political interest of the two main parties SP and DP. Decisions often controversial of this institution were also a consequence of this behavior. The Election Management Bodies behavior conditioned to a considerable extent from the pressure of political parties, together with the attitude of the political parties as electoral subjects, are among the main factors influencing the fulfillment of democratic standards in the elections held in Albania. This fact is repeatedly emphasized from the OSCE / ODIHR International Observers Mission¹⁶.

The administration of democratic elections requires that election-administration bodies perform their duties in a professional and impartial manner, independent from any political interests, and that their acts and decisions be subject to judicial review (OSCE/ODIHR, 2013)

¹⁶OSCE/ODIHR Final Report – Local Government Election, 2007, p.27: Political parties should demonstrate political will for the conduct of democratic elections to a measure commensurate with the broad privileges granted to them by the law in regard to the conduct of elections. OSCE/ODIHR Final Report –Parliamentary Election, 2009, p.28: Parties should demonstrate the political will for the conduct of democratic elections commensurate with the broad privileges they enjoy under the law in regard to the conduct of elections. They should discharge their electoral duties in a responsible manner for the general interest of Albania OSCE/ODIHR Final Report – Local Government Election, 2011, p.30: The first recommendation from the OSCE/ODIHR Final Report on the 2009 parliamentary elections should be considered an immediate priority: Parties should demonstrate the political will for the conduct of democratic elections commensurate with the broad privileges they enjoy under the law in regard to the conduct of elections OSCE/ODIHR Final Report – Parliamentary Election, 2013, p.2, 29...the atmosphere of distrust between the two main political forces tainted the electoral environment and challenged the administration of the entire electoral process Institutional independence of the CEC should be ensured. To this end, stakeholders should act in a commensurate manner concerning their role in CEC activities and election officials should refrain from basing actions and decisions on political considerations.

The independence of Election Management Bodies (EMB) from executive agencies is important for their impartiality (IDEA 2006). It seeks to establish a legal framework to ensure better this independence. The independence of EMB action should be recognized in the highest legal order. Even where provisional statutory arrangements are made, commitment to the independence of action of the EMB should be secured (IDEA, 2012). Birch, (2011) suggest that pluralistic partisan composition can prove equally effective, while the Pippa, N., (2013) underline there is no universal performance standard used as international instrument.

Albania has implemented different formula for CEC formation. International observers mission in their reports have expressed consideration on how CEC has administered electoral processes, such as: "CEC operated with greater independence and transparency" (Assembly Elections, 2001); "CEC administered the elections generally in a professional, transparent and impartial manner." (Local Election 2003); "CEC has administered the process in accordance with the provisions of the Electoral Code and has strengthened his reputation as a collegial, effective, transparent and impartial body" (Assembly Election, 2005); "CEC administered the election process largely in line with the law (Local election, 2007); "The Central Election Commission prepared and administered the elections professionally... However, the CEC was frequently divided along political majority-minority lines, especially on more contentious issues. This politicization affected the CEC's work, in particular its task to administer the elections in a neutral and efficient manner (Parliamentary elctions, 2009); "Partisanship and acrimonious disputes within the Central Election Commission (CEC) during the preparation for the elections weakened its ability to overcome gaps and ambiguities in the Electoral Code collegially and effectively" (Local elections, 2011); "The manner in which the CEC operated resulted in the impression that it acted politically" (Parliamentary elctions, 2013). In general, considerations for professionalism, transparency and political impartiality, for CEC that have conducted the above mentioned elections, have been expressed much more when this institution was a constitutional one and the political parties didn't have much legal spaces to appoint its members.

Referring to the Code of Good Practices in Electoral Matters (Vencies Commission, 2002), besides the attention that should be given to the legal framework and procedural rules for the operation of CEC, the electoral reform should also treat the principles for its composition and the procedures for appointing its members.

Albania is a country with relatively little experience in organizing pluralist elections.

The public administration does not have a consolidated tradition of independence from the political authorities. Consequently, it is very important to find legal solutions which enable the establishment and operation of *independent and impartial* election administration commissions from CEC to the polling station one. Based on the currently available experiences the option that limits the role of political parties in selecting/proposing CEC members is among the most promising one. According to this principle, CEC shuld be established applying the same rules and principles of the public administration. It is important to note that this principle should be extended to the entire pyramid of election commissions. The electoral law should provide the access of political parties through their representatives in election commissions. These representatives may have the status of an *ex-officio* member or observer and their rights and duties should be clearly described the election law.

6. Conclusions

The electoral legislation regarding CEC has been subject to changes on the eve of every election. CEC as a constitutional institution, where the contribution of the political representation principle was minimal, resulted in a legislative product that did not correspond to the level of democratic development of the Albanian political parties. The entire process of development of the Albanian electoral legislation has been prevailed by the implementation of the principle of political representation and bipartisan balance in establishing CEC. The establishment and operation of CEC according to the public administration principles is an option to be considered by the Albanian legislator. *Ex-officio* members or observers can be political party's representatives in this institution.

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