**REPUBLIC OF ALBANIA**

**CENTRAL ELECTION COMMISSION**

**DECISION**

**FOR THE VERIFICATION OF THE DECLARATIONS IN THE SELF-DECLARATION FORM OF THE PUBLIC FUNCTIONARY, MEMBER OF THE MALESIA E MADHE MUNICIPALITY COUNCIL, MR.ROBERT DAJANI, IN ACCORDANCE TO LAW NR.138/2015 "FOR THE GUARANTEE OF INTEGRITY OF PERSONS WHO ARE ELECTED, NOMINATED OR WHO PRACTISE PUBLIC FUNCTIONS".**

The Central Election Commission, in its meeting on 07.02.2017, with the participation of:

 Denar BIBA- Chairman

 Hysen OSMANAJ- Deputy Chairman

 Bledar SKËNDERI- Member

 Edlira JORGAQI- Member

 Gëzim VELESHNJA- Member

 Klement ZGURI- Member

 Vera SHTJEFNI- Member

examined the issue with the following:

**OBJECT:** For the verification of the declarations in the self-declaration form of the public functionary, member of the Malesia e Madhe Municipality Council, Mr.Robert Dajani, in accordance to law nr.138/2015 "For the guarantee of integrity of persons who are elected, nominated or who practice public functions".

**LEGAL BASIS:** Article 23, item 1, letter "a", law nr. 10019, date 29.12.2008 "Electoral Code of the Republic of Albania", as amended; Article 15, of law nr.138/2015, "For the guarantee of integrity of persons who are elected, nominated or who practise public functions"; Chapter V, Parliament Decree nr.17/2016 "For the definition of detailed rules on the implementation of bans predicted in law nr.138/2015, "For the guarantee of integrity of persons who are elected, nominated or who practise public functions".

The Central Election Commission, after examining the submitted documentation and hearing the discussions of those present,

**NOTES**

In implementation of law nr.138/2015 “or the guarantee of integrity of persons who are elected, nominated or who practise public functions”, CEC is the competent body for administration, verification and implementation of the bans for the election and appointment in public functions, also the elaboration for the self-declaration form and also for the advisers in the municipality council.

In application to the law nr.138/2015 “For the guarantee of integrity of persons who are elected, nominated or who practise public functions” and Chapter V, item 2, letter “b” and item 3, letter “c”, parliament verdict nr.17/2016 “For the definition of detailed rules on the implementation of bans predicted in law nr.138/2015”, the CEC with requisitions nr.2451 and 2452, date 13.05.2016, has requested information from the Civil State Office and Judicial State Office, for the judicial state of the functionaries who have submitted the self-declaration forms at the CEC.

In response to the requisition, the Judicial State Office has delivered to the CEC the judicial state certificates for all the public functionaries that we have asked for. The General Directorate of the Civil State still has not delivered a response for the advisers of the municipality councils on whether they have had changes in their generalities.

In reference to article 33, 42 and 47 of the Administrative Procedure Code, CEC gathered as a party in this administrative investigation, Mr.Robert Dajani, where he gave explanations on the facts and circumstances of the case.

CEC, in reference of article 15, item 1, law 138/2015 and Chapter VI, item 6, Chapter V, item 3, letter “b” of parliamentary decree 17/2016, verified whether any of the presented circumstances is involved inside the sphere of the bans prescribed from the law for the chief functionariess mentioned above.

From the verification of the self-declaration form of Mr.Robert Dajani, in the degree as member of the Malesi e Madhe Municipality Council, it results that the below mentioned has been convicted with 2 (two) years and 6 (six) months of prison for the penal act article 283/2 “Production and Selling of Narcotics”.

From the processing of the certificate of the judicial state, issued by the General Directorate of Prisons, results that Mr.Robert Dajani, “In accordance to verdict nr.124 date 27.03.2007 of the Judicial District Court in Shkodra, has been declared guilty for commiting penal act, “Production and Selling of Narcotics”, and in accordance to article 283/1 of the Penal Code convicts him with with 2 (two) years and 6 (six) months of prison.

In reference of letter “a”, item 1 of article 2, of law nr.138/2015 “For the guarantee of integrity of persons who are elected, nominated or who practise public functions”, bans on candidation, election or practicing of the function, are implemented towards people who have been convicted with prison with a firm verdict for commiting felony on purpose, inside or outside the territory of the Republic of Albania, for commiting acts or non acts which form a penal act, according to articles 73, 74, 75, 76, 77, 78, 78/a, 79, 79/a, 79/b dhe 79/c, 86, 87, 88 first paragraph, 89/a, 100, 101, 102, 102/a, 103, 104, 105, 106, 109, 109/b, 109/c, 110/a, 111, 114, 128/b, 135,

136, 140, 141, 143/a, 215, 216, 217, 218, 219, 220, 221, 222, 230, 230/a, 230/b, 230/ç, 231, 232, 232/a, 232/b, 233, 234, 234/a, 234/b, 278 first paragraph, the fifth and sixth, 278/a, 282/a, **283**, 283/a, 284/a, 287 connected with commiting a crime prescribed in this paragraph, 333, 333/a and 334 of the Penal Code.

According to article 4 of the law mentioned above

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4. For people who are prescribed from letter “a”, of item 1, of article 2 of this law, the ban for candidation, election or practising of the mandate is lifelong.

In reference of the kind of the penal act article 283 “Production and Selling of Narcotics”, for which has been declared guilty with a verdict from the Dictrict Court of Shkodra and in accordance to article 4, item 1 of law nr.138/2015, Mr. Dajani, for commiting this penal act is within the period for the ban of practising the function.

In reference to the data in the self-declared form filled by Mr.Robert Dajani, the certificate of the judicial state in accordance to the penal act, “Production and Selling of Narcotics”, prescribed from article 283/1 of the Penal Code, in accordance to letter “a”, item 1, article 2 of law nr.138/2015, public functionary Mr.Robert Dajani is in the conditions of banning of practising the function.

Article 10, item 1 of law nr.138/2015 “For the guarantee of integrity of persons who are elected, nominated or who practise public functions”, predicts that:

When the conditions for not candidating and not being elected are verified, in accordance to this law, CEC performs the below actions:

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d) declares invalidity of the mandate and precocious ending of the mandate when the conditions of not candidating and not being elected are verified after the beginning of practising the mandate...and also notifies the Prime Minister in the case of Municipality Mayors or Municipality Advisers.

As for the above, the CEC in reference to article 179/1 of the Constitution, article 14 and article 10, item 1, letter “d”, decares the invalidity of the mandate and precocious ending of the mandate of the public functionary, Mr.Robert Dajani.

**FOR THESE REASONS:**

The CEC, in reference to article 179/1 of the Constitution, article 23, item 1, letter “a”, law nr.10019, date 29.12.2008 “Electoral Code of the Republic of Albania”, as amended; article 15, of law nr.138/2015, “For the guarantee of integrity of persons who are elected, nominated or who practise public functions”; Chapter V, parliament verdict nr.17/2016 “For the definition of detailed rules on the implementation of bans predicted in law nr.138/2015”, “For the guarantee of integrity of persons who are elected, nominated or who practise public functions”.

**DECIDED:**

1. To declare invalid and precocious ending of the mandate of the member of Malesia e Madhe Municipality Council Mr. Robert Pashko Dajani.

2. This decision will be delivered immediately to the Prime Minister.

3. This decision shall enter immediately into effect and it will be published on the Official Bulletin.

4. By law, an appeal can not be filed against this decision.

 **Denar BIBA- Chairman**

 **Hysen OSMANAJ- Deputy Chairman**

 **Bledar SKËNDERI- Member**

 **Edlira JORGAQI- Member**

 **Gëzim VELESHNJA- Member**

 **Klement ZGURI- Member**

 **Vera SHTJEFNI- Member**