**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 MALIQ MUNICIPALITY COUNCIL, MR.TOMOR PRENJASI, 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 Maliq Municipality Council, Mr.Tomor Prenjasi, in accordance to law nr.138/2015 "For the guarantee of integrity of persons who are elected, nominated or who practise 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 “For 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 adviser 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 councelors of the city hall councils on whether they have had changes in their generalities.

The directorate of foreign jurisdictional affairs, decriminalization sector at the General Prosecution Office with requisition nr.2700, date 20.06.2016 has requested from CEC the verification of the declared data in the slef-declared form of Mr.Tomor Prenjasi.

In reference to article 33, 42 and 47 of the Administrative Procedure Code, CEC gathered as a party in this administrative investigation, Mr.Tomor Prenjasi, 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.Tomor Prenjasi, in the degree as member of the Maliq Municipality Council, it results that there does not exist a penalty in the form of a firm verdict from judicial albanian or foreign authorities.

Moreover, in the self-declaration form there has not been presented any case of ban, investigation, measure of personal safety, eviction from the authorities, albanian or foreign.

From the processing of the certificate of the judicial state, issued by the General Directorate of Prisons, results that Mr.Tomor Prenjasi, has been convicted with a firm verdict with 3 (three) months of prison, verdict nr.75, date 27.03.1989 of the Judicial District Court in Korça for commiting of penal act, “Harm on purpose of the socialist wealth”, prescribed from article 67/1 and 30/dh of Penal Code, of the pre year 1995, prescribed from Chapter III, Section III of the Penal Code in power.

-has been convicted with a firm verdict with 10 (ten) months of prison, verdict nr.213, date 24.08.1989 of the Judicial District Court in Korça for commiting of penal act, “Light injury on purpose”, prescribed from article 93/1 and 31/a of Penal Code, of the pre year 1995, prescribed from article 89 of the Penal Code in power.

-has been convicted with a firm verdict with 1 (one) year of prison, verdict nr.275, date 28.10.1989 of the Judicial District Court of Korça for commiting of penal act, “Unworthy conduct in society”, prescribed from article 129/1 and 31/a of the Penal Code, of the pre year 1995, prescribed from Chapter II, Section VIII of the Penal Code in power.

In reference of letter “ç”, 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..in cases when they have been convicted with no less than 6 months of prison.

Law nr.138/2015 “For the guarantee of integrity of persons who are elected, nominated or who practise public functions”, in article 4 predicts also the period during which are applied the provisions of this law for the ban, candidation, election or practising of the function, depending on the kind of the declared penal act.

According to article 4 of the law mentioned above

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4. For people who are prescribed from letter “ç”, of item 1, of article 2 of this law, the ban lasts from the moment of the end of the conviction with prison, according to the judicial firm verdict, until the moment of rehabilitation, according to article 69 of the Penal Code.

In reference to the data in the self-declared form filled by Mr.Tomor Prenjasi, the certificate of the judicial state in accordance to the penal act, “Light injury on purpose”, prescribed from article 93/1 and 31/a of the Penal Code, of the pre year 1995, prescribed from article 89 of the Penal Code in power and for the penal acts “Unworhty conduct in society”, prescribed form article 129/1 and 31/a of the Penal Code, of the pre year 1995, prescribed by Chapter II, Section VIII of the Penal Code in power, for these penal acts, the public functionary has not been rehabilitated, as a consequence it is within the period of the ban for practising the function. Based on letter “ç”, item 1, article 2 of law nr.138/2015, public functionary Mr.Tomor Prenjasi is in the conditions of being banned from 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.

In these circumstances, CEC must declare invalid and precocious ending of the mandate of the public functionary Mr.Tomor Prenjasi.

**FOR THESE REASONS:**

The CEC, in reference to 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 public functionary Mr.Tomor Ramadan Prenjasi.

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**