**REPUBLIC OF ALBANIA**

**CENTRAL ELECTION COMMISSION**

**D E C I S I O N**

**FOR THE REVIEW OF REQUEST OF DEMOCRATIC PARTY FOR JOINT PROCEDURES OF VC 1182, FROM MAYOR OF COMMUNE CASTLE OF DODA, DIBRA DISTRICT**

Central Election Commission in the meeting of date 13.06.2013, with participation of:

Lefterije LUZI (LLESHI)- Chairwoman

Hysen OSMANAJ- Member

Klement ZGURI- Member

Vera SHTJEFNI- Member

Review the issue with:

**OBJECT:** Review of request of Democratic Party for joint procedures of Vc 1182, from Mayor of Commune Castle of Doda, Dibra District

**LEGAL BASE:**  Article 23, paragraph 1, letter "a", Article 51, ​​paragraph 2, article 56, paragraph 4 and article 62, paragraph 7 and 11 of Law no. 10019, of date 29.12.2008 "Electoral Code of the Republic of Albania", amended and Instruction no. 1, of date 12.12.2012 "For the establishment and designation of the location of voting centers and map preparation of the local government elections"

CEC after reviewed the request and heard the discussions of representatives of political parties,

**N O T E S**

Mayor of Commune of Castle of Doda, Dibra District with letter No. 4471 prot, of date 15.05.2013, has submitted to CEC information on the number of voters for each voting center and their location. After this information of Commune of Castle of Doda has 7 voting centers.

Democratic Party with letter No. 4976, of date 28.05.2013 claims that Mayor of Commune of Castle of Doda has joined voting center No. 1182 Voting center no. 1180, contrary with provisions of Electoral Code and specifically article 62, paragraph 7.

From the information that Central Election Commission possesses it results in elections for local government in 2011, Municipality of Castle of Doda has had 8 voting centers, while for the parliamentary elections of June 23rd, 2013 Commune Castle of Doda has 7 VC.

Referring to the letter submitted by the Democratic Party VC 1182 (2011, 149 voters) has joined with VC 1180 (2011, 180 voters). This fact is confirmed and the Mayor. Also extract and electoral components of 3 January 2013.

The joinment of these two VC was done because both have small number of voters than 200 and none of them can stand as a separate voting center. Voting Center 1180 is a long distance from VC 1182, more than 5 km as requires Article 62, paragraph 7 of the Electoral Code and as determined in the administrative map of the Commune, to go to VC 1180 and two other VCs.

Electoral Code in article 62 paragraph 7 provides;

*When a voting center has less than 200 voters, the mayor of the local government decides that should join the area of voting center with a bigger amount of voters, nearest and accessible by road. As a rule, the new voting center is not further than 5 km from the voting center in the rural area. If it is not possible to apply the above two criteria, criteria of the minimum number of voters prevails.*

Also instruction No. 1 of date 12.12.2012 of the Central Election Commission in Article 4, paragraph 1, provides that when a voting center has less than 200 voters, mayor of the local government decides that it joins voting area with the largest number of voters, and the nearest accessible by road.

From letter of Mayor of Commune clearly is found that the procedures for joining VC 1182 and 1180 did not repect the above-mentioned provisions.

Given the fact that both of these voting center areas have less than 200 voters under the provision mentioned above Article 62, paragraph 7 these voting centers should join the voting center area with the largest number of voters, the nearest and accessible by road and given the maps of the local unit it results that VC no. 1180 meets the condition to join VC no. 1179 which is closer and has communication opportunity and larger number of voters and VC no. 1182 meets the requirement to join VC no. 1183 which is closer is accessible by road and has the largest number of voters.

Apart from the above CEC determines the fact that the change of VCs no 1189 and 1182, will necessarily bring changes to the voter list of these VC Under Article 56, paragraph 5 of the Electoral Code voter lists can not be changed in any circumstances and not for any reason after the deadline specified in pargraph 1 of Article (40 days before the election) software does not allow any change in the list of voters.

In these conditions and even the claims of Democratic Party about the union of VC no. 1180 and 1182 are right, CEC can not change their union because it has passed the deadline 40 days before the election.

Mayor of Commune Castle of Doda, besides the violation of the provisions cited above, with his actions seriously violated the constitutional right to vote, of the voters of this commune. Since the voters of VC no. 1180 and no. 1183 will need to vote on a great distance from their residence and the opportunity to exercise their right to vote is smaller.

In these conditions, Mayor of Castle of Doda with his actions has brought harm to the legitimate interests of citizens consuming the offense of abuse of office provided in article 248 of the Criminal Code. Against Mayor of Castle of Doda CEC has decided with decision no. 49, of date 22.02.2013 administrative sanction, a fine of 50 000 thousand lek. The mayor of the local government, Commune Castle of Doda, Mr. Bajram Himallari, has brought no information to CEC within the legal deadlines specified in article 51, of the Electoral Code, and Article 9, paragraph 10 of Instruction no. 2 of date 12.12.2012.

 Në kushtet kur informacioni i caktuar në dispozitat e mësipërme ishtë shumë i rëndësishem në procesin e përgatitjes së bazës materiale zgjedhore për çdo zonë zgjedhore dhe qendër votimi, Komisioni Qendror i Zgjedhjeve, çmoi se shkelja e dispozitave të Kodit Zgjedhor dhe akteve nënligjore të nxjerra në zbatim të tij nga Kryetarët e Njësive të Qeverisjes Vendore, në këtë rast përbënte kundravajtje administrative.

In the circumstances where the specified information in the above provisions was very important in the process of preparing the election materials for each electoral zone and voting center, Central Election Commission, praised the violation of the provisions of the Electoral Code and the regulations issued pursuant from the Mayor of Local Government Units, in this case constitute administrative offenses.

 KQZ në mbështetje të nenit 21, pika 20, nenit 171 të Kodit Zgjedhor, nenit 281, të Kodit të Procedurave Penale si pasojë e përsëritjeve të vazhdueshme të shkeljeve të dispozitave të Kodit zgjedhor, duke sjell pasoja për qytetarët, duhet të bëjë kallzim për ndjekje penale ndaj shtetasit Bajram Himallari, me detyrë Kryetar i Komunës Kala e Dodës.

CEC pursuant to article 21, paragraph 20, article 171 of the Electoral Code, Article 281 of the Code of Criminal Procedures as a result of constant repetition of violations of the provisions of the Electoral Code, while bringing consequences for citizens, should file for prosecution charges against citizen Bajram Himallari, in charge of Mayor of Commune of Castle of Doda.

 **FOR THESE REASONS**

 Bazuar në neni 23, pika 1 germa “a”, neni 51 pika 2, neni 56 pika 4 dhe neni 62, pika 7 dhe 11 i ligjit nr. 10019, datë 29.12.2008 “Kodi Zgjedhor i Republikës së Shqipërisë”, i ndryshuar dhe udhezimi nr. 1, datë 12.12.2012 “Për mënyrën e ngritjes dhe caktimit të vendndodhjes së qendrave të votimit dhe përgatitjen e hartës së njësisë së qeverisjes vendore për zgjedhjet”, Komisioni Qendror i Zgjedhjeve;

Based on Article 23, paragraph 1, letter "a", Article 51, ​​paragraph 2, article 56, paragraph 4 and article 62, paragraph 7 and 11 of Law no. 10019, of date 29.12.2008 "Electoral Code of the Republic of Albania", amended and instruction no. 1, of date 12.12.2012 "For the establishment and designation of the location of voting centers and map preparation of the local government elections" Central Election Commission;

**D E C I D E D:**

1. To not change the joining of Voting Centers 1180 and 1182 of EAZ no. 18, Commune Castle of Doda.
2. Të bëj kallzim penal ndaj shtetasit Bajram Himallari në Prokurorinë e Rrethit Gjyqësor Peshkopi. To press criminal charges against citizen Bajram Himallari in Prosecutor’s Office of Judicial District Peshkopi.

This decision takes effect immediatly.

Against this decision may be appealed in the Electoral College, near Court of Appeals Tirana, within 5 days of its announcment

**Lefterije LUZI (LLESHI)- Chairwoman**

**Hysen OSMANAJ- Member**

**Klement ZGURI- Member**

**Vera SHTJEFNI- Member**