

Recommendations from the Reforma Forum

Structure of the CEC

The Reforma Forum proposes changes to the composition of the CEC as follows:

1. An additional judge should be appointed as a deputy Chairperson in cases when the Chairperson cannot perform its function.

- With the direct election of the President a potential conflict of interest could be created. If a few weeks before the Election Day the CEC Chairperson resigns, we could have a situation where the President, who could potentially be a candidate for a second term, appoints the Chairperson of the CEC. This situation could create a conflict of interest and reduce the credibility of the CEC Chairperson, as a person with the most influence on the CEC to be appointed by a candidate who is himself in the race.
- To prevent such a situation various modalities were discussed (from appointment of the Chairperson by the Assembly or the Presidency of the Assembly, as well as other ways), however the Reforma Forum concluded and suggests the appointment of a second judge as a deputy-chairperson who is not a regular member, but only a deputy - chairperson (with the right to vote only in cases when replacing Chairperson), appointed in the same manner as the Chairperson.
- More details are required to come to a solution in cases when either the Deputy Chairperson can not exercise the function. Further it must be defined by law if the Chairperson works full time or not and obligations are divided between the Court and the CEC.

2. Chairperson of the CEC not to have the right to abstain in the cases of equal votes between the other members.

- Often in the past it occurred that the institution of the CEC came to decision-making deadlock. Such occurrences happened even in most important moments when key decisions had to be taken for the future outcome of the election process.
- Reforma Forum suggests that in case of equal votes amongst other members, the Chairperson does not have the right to abstain. This is justified with the fact that as a judge, the Chairperson has a duty to protect and interpret the law properly. However, if the Chairperson chooses not to vote, this abstention shall be counted as a vote against.

3. To increase the number of CEC members to 13 and to be balanced with equal members from majority and the opposition excluding the Chairperson.

- To balance the CEC members, excluding the Chairperson, in an equal number of representatives from the majority and the opposition, six members from the majority and six from the opposition. Firstly places are allocated to entities that represent entities that compete for reserved seats in Parliament. And other seats are allocated in order to achieve overall balance between the majority and opposition.
- CEC decision making has been problematic and in some cases opposition representatives were outvoted by the representatives of the majority. Kosovo has a political CEC and as such, interprets and defines the legal framework and in cases of outvoting a risk exists to create favours for certain entities. Because the CEC defines and interprets the rules of the game for elections, it is extremely important that outvoting be rare because it puts into question the credibility and professionalism of the CEC.

- In the case the mandate of any member is concluded, the nomination again is made by the party that made the nomination of the previous member. However, if the party shifted from opposition to the position or vice versa, then the nomination will be made by the other party that meets the criteria. More specifically, even if the party's status changes (from the position in opposition or vice versa) the structure of the CEC does not change until the end of the term of the member.
- 4. The mandate of the Chairperson remains 7 years but may be reappointed only for another term (thus 7+7).**
- Because the Parliament has a four (4) year mandate, while the President five years, the mandate of the CEC Chairperson should differ to ensure that it will not be part of the political agreements made from mandate to mandate. For this reason, and with the purpose of continuity and consistency, we recommend that the mandate remains 7 years.
 - The members mandate should remain 4 years, which coincides with the terms of Assembly. Such a solution is logical for the fact that the structure of the CEC is expected to reflect the number of parliamentary parties that may change with having elections for the Assembly of the Republic. To have clear legal provisions that prevents members of the CEC to hold other executive positions in political parties or public institutions.
- 5. The appointment of the members of the CEC to be done by the President of the country, but to clarify the legal procedures for appointment, dismissal and replacement method and also to limit to 14 days as it is for the promulgation of laws for the appointment or rejection of candidates.**
- The unclear legal basis on which the President can reject a nomination is problematic. If a President runs for an election, resignation and non appointment of a member for a long time in the election process can be problematic and raises doubts on the credibility of the electoral process.
 - Taking into account that the nomination of the candidates of CEC is made by political parties, while the President of the country only formalises them, then because of the simplified procedure, it would be more efficient that the appointment procedure remain as it currently is. The appointment by the Assembly could cause delays in the appointment, respectively the functionality of CEC. For this reason and to ensure that the role of President remains only ceremonial, the legal basis should be clarified when the nomination can be rejected and to limit the response to a strict time limit.
 - There should be clear legal provisions regarding the duration of the procedure of appointment of a member of the CEC by the President following the nomination by the political party concerned. There should be very clear provisions when the President can reject a nominee for the member of CEC and when he can make the early termination of the mandate.