

The Legislative Initiative on Integrity Certificates Needs to be Improved, warns Promo-LEX Association

According to the [Opinion](#) published by Promo-LEX, there are shortcomings in the recent legislative initiative on the compulsory integrity certificates for those who register as candidates for a particular public position. Traditionally, the association comes with recommendations to improve the legal framework.

Thus, the deficiencies are related to the capacity of the National Integrity Authority to issue integrity certificates and their effects. The association recommends, inter alia, to establish expressly in the law the public character of integrity certificates, as well as to strengthen NIA's capacity to process a large number of applications within a short period of time.

Promo-LEX Recommendation: Online integrity certificates and territorial units for NIA

The requirement for tens of thousands of people to travel to 'NIA headquarters' can generate many shortcomings. A simple calculation shows that at least one thousand people will have to apply for an integrity certificate in order to run for the position of Member of Parliament at the next election. In this regard, the task that the NIA is supposed to fulfil seems to be dictated particularly by the short time that it will have to process all the applications.

This issue will grow even more complex when general local elections are held. Speaking about the Parliamentary Elections, we could still assume that NIA will manage to process the applications, while when it comes to the general local elections – its capacity is obviously insufficient. A review of the general local elections of June 2015 shows that there were about 68,000 candidates for elected public positions.

Therefore, Promo-LEX considers it appropriate and welcome to examine the possibility of issuing, or at least applying for an integrity certificate online. This way, the applicants would not need to come all the way to the NIA headquarters and the crowdedness that would otherwise form would also be avoided.

Similarly, it is necessary to establish territorial units for NIA that would be able to receive applications.

In search of the legal effects of the integrity certificate

Another example of the ambiguous legislative initiative is the legal effects of the integrity certificate. In this respect, neither the existing regulations, nor the ones proposed for adoption stipulate clearly whether the integrity certificate shall be released regardless of its content or, it shall not be released if containing a negative opinion.

Furthermore, the law does not establish the legal force of the certificate, or in its response to a complaint (filed in the context of the new local elections of 19 November 2017), the Central Electoral Commission stated that *'NIA's finding documents indicated in the integrity certificate do not serve as grounds for rejecting the registration of a candidate for election, but rather the failure to submit this certificate to the electoral body, as **the purpose of the document is to inform the public about the candidate concerned.**'* "

In this context, the association considers it appropriate to provide expressly in law the public character of integrity certificates. It is absolutely necessary for the voter to see the big and clear picture about the candidates, but by no means can these certificates be kept secret and for institutional use only.

Promo-LEX recommendations

In order to eliminate these and other deficiencies listed in the [Opinion](#) on the integrity certificate, the association comes with a set of recommendations:

1. establish a longer validity period of the integrity certificate so as to make it possible for it to be filed on time;
2. make it possible to file the application electronically, the applicants being thus relieved of the need to travel to the NIA headquarters in person and wait in queues which will most likely form;
3. as a complementary option to the online filing of applications, we recommend to allow for applications to be also filed by proxy (this way, besides the fact that one won't have to come in person, the right to candidate of persons away from the country for the moment or for whom it is temporarily impossible to travel will not be limited);
4. establish NIA territorial units that would be able to receive applications too, which would lighten the task the NIA has according to the centralised procedure.
5. setting out some strict rules for the collaboration between the NIA and other authorities, as regards information provision;
6. regulating in detail the legal effects of integrity certificates;
7. regulating in detail the procedure and deadlines for challenging integrity certificates;
8. looking into the possibility of submitting applications and of even issuing integrity certificates in a centralised way via the electoral bodies. All the more so because such a practice exists already;
9. transparency and availability to the public of the issued integrity certificates.

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