

## **INSTRUCTIONS**

### **on rules for filing complaints and appeals on violation of election rights and their handling by the precinct election commissions**

These Instructions, based on the requirements of Article 112 of the Election Code, establish rules for filing complaints and appeals on violation of election rights with the precinct election commissions, registering and handling them by the relevant election commission.

#### **1. General requirements regarding to complaints.**

1.1. Written complaints addressed to the precinct election commission must be of the following content:

1.1.1. precinct election commission that the complaint is addressed;

1.1.2. complainant (and address for the purpose of sending notification about handling);

1.1.3. action or failure to act that is subject of complaint;

1.1.4. if it is an action, actor of the known unlawful action must be identified; content, place and time of the action must be clearly indicated (unlawful action – action that committed by a person or body that is not allowed by law);

1.1.5. if it is failure to act, the complainant must identify the demand that was not answered or the person or body that did not take the requested action (unlawful failure to act – a person's or body's failure to take action that they should have taken legally);

1.1.6. basis: alleged violation of Election Code, other legislation and normative acts (must be referred to specific article of legislation if possible);

1.1.7. evidences of alleged violation or explanation on content of violation;

1.1.8. what relief the complainant is seeking for.

**Note:** *the complainant must indicate his/her intention to participate in the meeting that will handle his/her complaint that filed (received) prior to election day.*

1..2. The complainant must indicate date of complaint (appeal) and sign this complaint. If the complaint is filed by a political party or bloc of political parties running for elections, then the complaint must be signed by the authorized representative and a document certifying the authorities of authorized representative must be attached.

1.3. If the complaint is filed in oral or written form, the responsible person of the precinct election commission that receives the complaint must make sure that all abovementioned requirements have been met there.

1.4. If the complaint misses any of the requirements established by paragraph 1.1 of these Instructions, and the application (demand) is not clear for this particular reason, the complaint will be sent back to the person who filed it.

1.5. The anonymous complaints or appeals that do not contain name, last name and address of complainant shall remain not handled and shall be archived.

1.6. Refusing to receive the complaint within its competence or to investigate the complaint, or failure to record the requirements established by paragraph 1.1 of these Instructions may create liability established by Article 115 of the Election Code.

## **2. Guidelines for precinct election commissions for receiving complaints and**

2.1. Cases within the competence of the precinct election commission must meet the following requirements as a whole:

2.1.1. complaints and appeals must be filed by the person who have such rights (according to Article 112.1 of the Election Code, voters; candidates; registered candidates; political parties; blocs of political parties; referendum campaign groups; agents of registered candidates, political parties, blocs of political parties; observers; as well as election commissions);

2.1.2. complaints must be filed within the rules and period established by law, i.e. within 3 days after action (failure to act) happens or the interested party gets aware of it;

***Note:** Time period for filing complaint begins from the moment of obtaining the right, (i.e. from the moment actions (failure to act) on violation of election rights happens, date the action (failure to act) happens or from the date the interested party gets aware of this) and ends once the complaint is sent via mail or filed to any commission.*

2.1.3. No prior decision must be made regarding that particular issue by the precinct election commission that the application (demand) is addressed to;

2.1.4. Complaints and appeals, according to the Election Code, should be filed to the precinct election commission that has the authority to make decision due to the substance of the issue.

2.2. Handling and satisfying the application (demand) due to its substance must be made possible directly by the precinct election commission.

2.3. Precinct election commission cannot handle and make a decision on satisfying or denying the complaints (appeals) according to their substance that are not within its competence. In such case, a decision should be made to send the complaint accordingly.

## **3. Actions that precinct election commission must take regarding the complaints (appeals) received**

3.1. Precinct election commission should take the following actions regarding the complaints (appeals) received:

- 3.1.1. receive the written complaint (appeal) and register it;
- 3.1.2. if it is an oral complaint (appeal), Annex 1 must be filled out according to all requirements of these Instructions or create conditions for the complainant to do so;
- 3.1.3. if the complaint (appeal) is filed in person, the complainant must be issued a receipt on registered complaint;
- 3.1.4. if the complaint (appeal) is received by mistake, considering the competence rules, then chairperson of the precinct election commission (or the commission member who investigates the complaint) should send the complaint accordingly, without bringing it to the commission session;
- 3.1.5. if the precinct election commission receives information that contain criminal attributes, then chairperson of the precinct election commission must immediately send it to the relevant constituency election commission that the precinct is subordinate of;
- 3.1.6. if the complaint or appeal that is received by mistake considering the competence rules and brought to the commission's session, then a decision must be made on sending this complaint accordingly;
- 3.1.7. if received complaint or appeal is within the competence of precinct election commission that received the complaint as well as within other commission's or other body's competence, then the precinct election commission must consider the complaint according to its substance, solve the issues with its competence, adopt a decision to send the case regarding the issues within competence of other authority.

#### **4. Rules for complaint record by the precinct election commission**

- 4.1. Election day complaints and decisions made must be registered in a separate logbook by the precinct election commission.
- 4.2. Such logbook, in conformity with Annex 2 of these Instructions, must contain the following information:
  - 4.2.1. all complaints in progressive number;
  - 4.2.2. name, last name, father's name, competence of the election subject who submitted the complaint;
  - 4.2.3. date when the complaint received;
  - 4.2.4. relief the complainant is seeking for;
  - 4.2.5. decision adopted by the precinct election commission.

**Note:** *After handling the complaint and adopting decision on it , if the complainant demands, along with the decision the complainant can be submitted receipt which contains all information on received complaint recorded in logbook. According to Article 106.7 of the Election Code, these complaints and decisions adopted on them must be attached to the final protocol on voting results and sent to the ConEC.*

4.3. Precinct election commission must register date of receipt and progressive number of other (other than election day complaints) complaints (appeals) in a logbook (Annex 3 of these Instructions).

4.4. Secretary of the election commission registers all complaints (appeals) received by the election.

4.5. If it is an oral complaint (appeal), Annex 1 of these Instructions shall be filled out by secretary or a member of the election commission, or by complainant him/herself. Then it shall be registered by the authorized person of the election commission and the complaint shall be issued a receipt.

## **5. Rules for handling complaints at the precinct election commission**

5.1. Rules for handling complaints (appeals) filed prior to election day at the meetings of the precinct election commission.

5.1.1. If the complainant who filed a complaint (appeal) prior to election day indicated his/her will in his application to participate in commission's session, the complainant shall be notified in person, or by telephone or via mail, one day prior to the commission's session, about place and time of session. If the applicant does not attend the session, it is not obstructing commission's handling the issue. Even without being notified, the complainant's desire to participate must be satisfied.

5.1.2. When prior to election day appeals against inclusion voter's name in the voter list, as well as against errors on the voter list are received, the precinct election commission must check the application and submitted documents within one day effective day of receipt, investigate the reason for mistake or error, correct the mistake or error or respond the applicant why his/her complaints was not satisfied.

5.1.3. Chairperson or secretary (member) shall make a brief speech during the commission's session handling prior to election day complaints. If the complainant and his/her authorized representative is present at the session, and if s/he is not happy with the report made regarding the complaint, an applicant or his/her authorized representative will be entitled to explain his/her complaint in a short presentation. The complainant can submit the new evidences regarding the complaint during the commission's session.

5.2. Rules for handling complaints (appeals) by precinct election commission received on election day.

5.2.1. If the election day complaint is filed in oral or written form, the complaint must be handled with participation of the complainant (or authorized representative).

5.2.2. The precinct election commission must, immediately, but before the voting ends, check accuracy of application and submitted documents, investigate reasons of error or mistake, correct error or mistake or respond the complainant why the application was not satisfied, when election day appeals against inclusion in the voter list, as well as against errors on the voter list are received.

5.2.3. Other Election Day complaints or appeals within competence of the precinct election commission must be handled by the precinct election commission immediately and a decision must be made in accordance with Article 37.1.9 of the Election Code of the Republic of Azerbaijan.

5.2.4. Chairman makes brief speech about the Election Day complaint. If the complainant and his authorized representative is present at the session, and if s/he is not happy with the report made regarding the complaint, an applicant or his/her authorized representative will be entitled to explain his/her complaint in a short presentation. Handling of Election Day complaints must be as fast as possible in order not to delay or interrupt the voting process.

5.3. General requirement for handling complaints (appeals) received by the precinct election commission.

5.3.1 In order to approve the facts, when handling the complaint at the commission's session in accordance with the rules established by Articles 5.1 and 5.2 of these Instructions, a person (persons) who could be source of information might be obtained information and this information might be assessed as evidence if accuracy of such information does not seem suspicious.

5.3.2. Chairman (or the head of the session) has the power to conduct the session in the most appropriate way, in the respect of legal rights of electoral subjects and commission members, as well as considering the agenda of the session, the number of complaints, legal deadlines and need for clarifications on the complaint. Everybody who is present at the session, including commission members, has to abide to chairman's decisions on the conduct of the session. Otherwise, chairman can take appropriate measures (from warning to exclusion from the session) for reasons of order of the session itself. If a warning or other measure is taken, it will be recorded in the session minutes.

5.4. Requirements for decisions of the precinct election commission regarding the complaints (appeals) and their adopt.

5.4.1. The precinct election commission that investigates the complaint must make the decision with the following content within the timeframe established by Article 112.10 of the Election Code:

5.4.1.1. on satisfying the compliant;

5.4.1.2. on not satisfying the compliant;

5.4.1.3. on sending the compliant to other election commission of state body accordingly.

5.4.2 Decision of the precinct election commission regarding the compliant is prepared in writing after it is adopted by voting, necessary actions are taken to deliver them to all interested parties and to publicize.

## **Article 37. Duties of the Precinct Election Commission**

37.1 The Precinct Election Commission shall perform the following duties during preparation and conduct of referendums, elections of deputies to the Milli Majlis, Presidential elections and elections to municipalities:

37.1.1 inform the public on the address of the Precinct Election Commission, its telephone number, working hours, and the date and place of voting;

37.1.2 approve and update the voters' list, display this list for voters' reference, distribute/delivers de-registration cards to voters, and examine applications on mistakes and errors in the voter list and make relevant changes;

37.1.3 ensure that the voting place, the ballot box and other materials are ready for the voting process;

37.1.4 provide voters with information on issues to be addressed by referendum, information on registered candidates, and the list of registered candidates, based on information provided by a superior election commission;

37.1.5 oversee compliance with the rules for pre-election and pre-referendum campaigning within the territory of the election precinct;

37.1.6 issue de-registration cards for voting;

37.1.7 organize voting at the election precinct on Voting Day;

37.1.8 determine election results for the election precinct, and count votes and deliver the protocols on election results to the Constituency Election Commission;

37.1.9 examine complaints concerning the violation of the requirements of this Code and make grounded decisions within its authority;

37.1.10 ensure the preservation and submission of documents on the preparation and conduct of elections in accordance with the rules approved by the Central Election Commission;

37.1.11 perform other duties in keeping with this Code.