

DECISION

of Central Election Commission of the Republic of Azerbaijan

on consideration of the appeal # 155 submitted to the Central Election Commission on November 10, 2015 in the Elections to the Milli Majlis of the Republic of Azerbaijan on November 1, 2015

In his written apply addressed to the Central Election Commission on November 10, 2015, Akbarli Iltizam Nizam, registered candidate nominated by Musavat Party on Imishli Con.EC # 79 requested to annul the decision # 38/109 of that Con.EC, dated November 6, 2015, to regard the voting results on that Con.EC as invalid and to undertake relevant measures concerning the persons who had committed violation on the voting day.

The complaint was adopted for the implementation in comply with Articles 112 and 112-1 of the Election Code of the Republic of Azerbaijan and "Instruction on the rules for submission and investigation of the appeals and complaints filed to the Central Election Commission of the Republic of Azerbaijan and Constituency Election Commissions", relevant opinion was provided on this issue by a member of the Expert Group under CEC and considered at the Commission session upon the investigation of the appeal by the Expert Group member.

I.N.Akbarli substantiated his complaint on the grounds that they observed and compiled acts on that voters' thumbs were not being checked with ultraviolet lamps in the polling stations of Imishli Con.EC # 79 on the voting day, their thumbs were not being marked with ink, the persons not included in the voters' list participated in the voting, multiply voting, issuing ballot paper to the persons who had not presented ID cards, improper arrangement of the voting process, impossibility to conduct observation process, violation of the rules for abiding by transparency principles during the vote calculation, not providing them with the protocol copies on the voting results of the polling station # 38 and other irregularities.

During the investigation process, the registered candidate to deputy who had appealed was contacted and informed on his rights to submit additional documents and materials, also to participate in the investigation and session, he submitted the originals of the acts compiled on the voting day and a video disc claimed to contain 36 ballo papers on 3 polling stations and 2 video records.

The followings were determined as a result of the investigation of the law violations claimed to have been committed in the polling stations #1, 4, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 25, 26, 27, 28, 29, 31, 32, 38, 39, 41, 42 and 4.

Observers who had observed in the polling station # 1- Z.V.Hasanova, E.M.Asadov, Z.M.Hasanova, A.Y.Amirova, observers who had observed in the polling station # 4 - S.Z.Mehtiyev, F.A.Soltanov, M.A.Mirzayev, observers who had observed in the polling station # 7 - N.F.Mehtiyev, V.Shirinov, A.E.Valiyev, observers who had observed in the polling station # 8 - S.S.Samadova, A.A.Kerimova, Y.M.Mirzayeva, observer who had observed in the polling station # 9 - Y.E.Shirinov, observer who had observed in the polling station # 10 - N.Z.Miriyeva, observer who had observed in the polling station # 12 - G.Sh.Abilov, observers who had observed in the polling station # 13 - G.Z.Badalov, R.S.Hasanov, observers who had observed in the polling station # 14 - A.H.Rzayev,

U.Sh.Mammadov, F.Y.Guliyev, observers who had observed in the polling station # 15 - A.I.Israfilov, I.N.Shukurov, A.S.Maharramov, observer who had observed in the polling station # 16 - O.N.Shammadov, observer who had observed in the polling station # 17 - A.A.Gasimov, I.H.Guliyev, A.Y.Aliyev, observers who had observed in the polling station # 18 – İ. A.Nuriyev, E.F.Shahaliyev, observer who had observed in the polling station # 25 - V.A.Surkhayev, observer who had observed in the polling station # 26 - A.J.Astanov, observer who had observed in the polling station # 27- E.B.Azimov, observer who had observed in the polling station # 29- M.A.Azimov, observers who had observed in the polling station # 31 - A.A.Huseynov, K.Y.Jafarov, observer who had observed in the polling station # 32 - M.Suleymanov, observers who had observed in the polling station # 39 - I.S.Imanov, E.A.Feyziyev, observers who had observed in the polling station # 41 - T.Sh.Azizov, T.O.Khalilov, observer who had observed in the polling station # 42 - Sh.K.Aliyev, observer who had observed in the polling station # 43 - E.Y.Taghiyev and the commission members representing different political forces in the foregoing PECs verified by their acts and affidavits that the voting and vote counting processes had been conducted in comply with the election legislation, the voting results protocols had been compiled in accordance with the Election Code and their copies had been provided to the interested subjects, the observation process had not been intervened in.

It was determined that the Con.EC did not receive any appeal by candidate I.N.Akbarli and the persons representing his interests on the voting day concerning the law violation claimed to have been committed in the polling stations. The acts and affidavits submitted by the above-mentioned election actors on the voting day refute the cases mentioned in the appeal.

It was determined through the evaluation of the acts and materials submitted by the plaintiff during the investigation process that although those acts and materials that included arguments on the commitment of a certain law violation had not been submitted to the Con.EC, they were investigated fully, thoroughly and fairly since they had been indicated comprehensively in the appeal of the candidate, filed to the Con.EC on November 4, 2015 and a substantiated decision was adopted. As the video discs added to the appeal have been obtained upon the violation of Article 41.1.3 of the Election Code, they shall not be accepted as evidences.

It was determined during the investigation that 553 observers representing different political parties, “AZADLIG-2015” bloc of political parties and candidates took part in 43 polling stations of Imishli Con.EC # 79 on the voting day.

It was also determined during the investigation that 24 ballot papers on the polling station # 14, presented by the plaintiff were included in the spoilt ballot papers of the final voting results protocol on that polling station. As 10 ballot papers claimed to belong to the polling station # 29 were copies and impossible to define time and place of availability and any discrepancy was not determined in the final voting results protocol on the polling station, they cannot be assessed as evidence influencing the voting results.

As 2 ballot papers concerning the polling station # 38, presented additionally by candidate to deputy I.N.Akbarli during the investigation process were not included in the voting results protocol reviewed upon getting from the Con.EC for investigation purposes, the voting results on that polling station shall be regarded as invalid. Therewith, the complaint shall be partly implemented in comply with the Election Code of the Republic of Azerbaijan due to the cases that impinge the determination of voters' will as a result of offending the election legislation in the polling station # 38 and legal grounds have been established to invalidate the voting results on that polling station.

Basing on the above-mentioned, the appeal # 155 of I.N.Akbarli, dated November 10, 2015 shall be partly implemented, the voting results on the polling station # 38 shall be invalidated and the appeal shall not be implemented in the remaining part due to groundlessness. The decision # 38/109 of Imishli Con.EC # 79, dated November 6, 2015 which has been challenged by the candidate shall be partly annulled in relation to the voting results of the polling station # 38 and remained enforced in the remaining part.

Taking the above mentioned as a basis, pursuant to Articles 19.4, 28.2, 28.4, 112 and 112-1 of Election Code of the Republic of Azerbaijan and item # 1, 2, 4, 6 and 7 of the "Instruction on the rules for submission and investigation of the appeals and complaints filed to the Central Election Commission of the Republic of Azerbaijan and Constituency Election Commissions", the Central Election Commission **decides**:

1. The appeal # 155 of Akbarli Itizam Nizam, registered candidate nominated by Musavat Party on Imishli Con.EC # 79, dated November 10, 2015 shall be partly implemented, the voting results on the polling station # 38 shall be invalidated and the appeal shall not be implemented in the remaining part due to groundlessness.
2. The decision # 38/109 of Imishli Con.EC # 79, dated November 6, 2015 which has been challenged by the candidate shall be partly annulled in relation to the voting results of the polling station # 38 and remained enforced in the remaining part.
3. The decision shall be enforced upon its publication.

CEC Chairman

Mazahir Panahov

CEC Secretary

Arifa Mukhtarova

CEC Secretary

Mikayil Rahimov