

## **DECISION**

### **of Central Election Commission of the Republic of Azerbaijan**

#### **on consideration of the appeal # 179 submitted to the Central Election Commission on November 13, 2015 in the Elections to the Milli Majlis of the Republic of Azerbaijan on November 1, 2015**

In her written apply addressed to the Central Election Commission on November 13, 2015, Musazada Ulkar Farman, candidate registered on Khatai first Con.EC # 33 claimed on law violations in Voting Day in some polling stations of that Con.EC, challenged the decision # 27/80 of that Con.EC, dated November 8, 2015, and required to annul the voting results on several polling stations.

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.

During the investigation process, the candidate to deputy who had appealed was contacted and informed on her rights to submit additional documents and materials, also to participate in the investigation and session. U.F.Musazada participated in the investigation process, informed that she did not have additional documents and materials which include law violations, her participation in the session of the Central Election Commission was provided.

The candidate required in her appeal to annul voting results of polling stations # 2, 5, 8, 9, 12, 13, 14, 16, 19, 20, 21, 22, 28, 29, 31, 32 and 36 of Khatai first Con.EC # 33 by indicating the cases as revealing the persons not included in the voters' list of that Con.EC or not registered on that territory to have participated in the voting, multiply voting, voting of a person in another polling station as well, mass cutting of ballot corners in some polling stations previously and illegal interference to elections by local authorities.

During the investigation process was defined that, the complaint on the polling stations # 8, 9, 29, 31 and 32 from above-mentioned was submitted to the Con.EC by plaintiff, the decision was adopted by investigation of complaint on substance. Therefore, the investigation on the appeal of the plaintiff was conducted not on all polling stations mentioned by her, but on polling stations that were investigated on substance by the Con.EC according to the requirements of the Election Code.

The applicant U.F.Musazada required in her appeal to annul voting results of polling stations # 2, 5, 12, 13, 14, 16, 19, 20, 21, 22, 28 and 36 of that Con.EC by expanding the scope of polling stations where law violations were occurred. It was determined

through the investigation that, the appeal on challenging of voting results of the above-mentioned polling stations was not submitted in comply with legislation to the Con.EC by plaintiff, but in the current time the candidate has missed the defined deadline of appeal submission.

Thus, pursuant to Article 112.1 of the Election Code of the Republic of Azerbaijan and item # 4.1.2 of "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", complaints against the decision and actions (inactions) which violate citizens' election rights within 3 days since that decision is published or made, that action (inaction) is committed or the interested person is informed on that.

During the investigation process was defined that, 3 acts which claimed to have been compiled in the 5 polling stations on the Voting Day and submitted by the applicant U.F.Musazada were not compiled according to the legislation, were in the same substance and content, were not compiled according to the relevant rules, also time of compilation of those acts, the number of polling station where claimed law violations were occurred, they were signed only by the candidate. In that case 3 acts submitted for investigation cannot be regarded as evidence.

During the investigation process, observers who had observed in the polling station # 8 - K.A.Mukhtarov, M.S.Sharifov, S.V.Abbasova, A.M.Ismayilova, T.A.Karimov, PEC chairman E.B.Mammadov, secretaries N.Sh.Dadashov, O.Mehdiyeva, members I.E.Aghamaliyev, N.Latifova, D.A.Novruzova and member with consultative voting right A.S.Guliyev, observers who had observed in the polling station # 9 - N.A.Salmanova, T.G.Mukhtarov, R.Y.Ismayilzada, A.G.Ismayilov, K.A.Karimov, PEC chairman R.Gurbanov, secretaries M.Chobanova, F.Garayev and member A.Y.Badalova, observers who had observed in the polling station # 29 - F.M.Hasanzada, E.A.Gurbanov, Kh.N.Yagubov, R.M.Aliyev, PEC chairman N.I.Maharramova, secretary Y.K.Mustafayev, members G.S.Abdullayeva və F.Kh.Hasanova, observers who had observed in the polling station # 31 - S.M.Aliyev, I.V.Asgarov, T.N.Aliyev, N.A.Aliyev, Ch.R.Karimov and A.S.Bashirov, PEC chairman A.E.Mahmudlu, secretaries U.Mammadova, Z.O.Namazova and member I.K.Alakbarova, observers who had observed in the polling station # 32 - A.D.Mahsimov, T.A.Taghiyev, H.A.Hasanov, A.H.Badalov and R.E.Salayev, PEC chairman K.S.Manafov, secretaries T.H.Nadirov, A.L.Mammadova, members S.A.Chobanova and N.A.Safarov, registered candidate J.A.Rzazada and his authorized representative J.D.Dadashov, authorized representative of registered candidate A.Aliyev V.O.Ahmadov informed in their affidavits that observers had been normally facilitated to observe freely and unimpeded in polling stations, voters voted in person, any interference was not committed during the compilation of the voting results protocol and were provided with copies of the PEC voting results protocols, they left the polling station, not any law violation was recorded in the polling station, not any law violation was found during the processes of the voting and vote counting.

Since video recording in the CD attached to the complaint was achieved by violation of the principle of observation, it cannot be regarded as evidence. Thus, pursuant to Article 41.1.3 of the Election Code observation should be open and pursuant to Article 42.2.8 of that Code to address suggestions and comments on the organization of voting to the chairperson of the Precinct Election Commission or, in the chairperson's absence, the person who assumes the chairperson's powers. In the case indicated in the appeal the plaintiff did not consider failure of observers to comply with the requirements of the above-mentioned election legislation.

Thus, since some claims on law violations that supposed to occur in some polling stations of Khatai first Con.EC # 33 dislocation were not justified, the appeal of the registered candidate U.F.Musazada shall not be implemented due to groundlessness and the decision # 27/80 of that Con.EC, dated November 8, 2015 shall be remained in force without any changes.

Taking the above mentioned as a basis, pursuant to Articles 19.4, 28.2, 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 # 179 submitted by Musazada Ulkar Farman, candidate registered on Khatai first Con.EC # 33 on November 13, 2015 in the Elections to the Milli Majlis of the Republic of Azerbaijan on November 1, 2015 shall not be implemented due to groundlessness and the decision # 27/80 of that Con.EC dated November 8, 2015 shall be remained in force without making amendments.
2. The decision shall be enforced upon its publication.

CEC Chairman

Mazahir Panahov

CEC Secretary

Arifa Mukhtarova

CEC Secretary

Mikayil Rahimov