

## **DECISION**

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

#### **on consideration of the appeal # 177 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 his written apply addressed to the Central Election Commission on November 13, 2015, Huseynov Ramin Nizami, registered candidate nominated on own initiative on Narimanov-Nizami Con.EC # 18 challenged the decision # 24/56 of the Con.EC, dated November 7, 2015 and requested to annul that decision, to regard the voting results in 14 polling stations of that Con.EC as invalid and to adopt a decision on the invalidation of the voting results on that election constituency.

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 his rights to submit additional documents and materials, also to participate in the investigation and session. The candidate informed that he would not be able to participate at the investigation, but he will send his representatives. The representative did not come to the investigation and the candidate did not take part at the session.

The candidate claimed in his complaint that the violation of election legislation was observed in the polling stations # 3, 5, 7, 9, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 28 on the voting day and requested to invalidate the voting results on the Con.EC upon appealing on that to the Con.EC. R.N.Huseynov was not invited to the investigation process by the Con.EC and he participated at the session. It was mentioned at the Con.EC decision upon legally assessing the relevant acts compiled by the observers who had observed the election process and attached to the appeal on the committed violations that the presence of the same observers in separate poling stations at the same time questions the integrity of observation. Furthermore, the electoral actors who had compiled the acts presented by R.N.Huseynov have not provided affidavits yet. Therewith, the decision implies that the violations concerning the polling stations should have been submitted to the PECs firstly. As those acts have not been provided to the relevant PECs, the supposed violations are impossible to be investigated.

It should be indicated with regard to the above-mentioned that since the complaint submitted by the plaintiff had not been attached any document and in spite of inviting him to the investigation process, not any additional document was submitted except the acts presented to the Con.EC concering the cases mentioned by him, the investigation was held basing on the affidavits provided by the Con.EC. So, the information with unknown source was included on the foregoing polling stations in the plaintiff candidate's complaint. Though that information was supposed to concern the voting day, it became impossible to define the status of the persons who had submitted the information, absence of signatures and to admit the above-mentioned information as

reliable evidence. The records and photos in CD disc attached to the complaint cannot be admitted as evidences due to their availability through violating the principles of observation. Thus, pursuant to Article 41.1.3 of the Election Code, the observation should be open and pursuant to Article 42.2.8 of that Code, the observer shall have the right to address the PEC chairman or substitute person with their suggestions and comments concerning the arrangement of the voting. And in the case mentioned in the appeal the plaintiff did not take into account that the observers had not abided by the above-mentioned requirements of the election legislation.

Regarding the appeal filed to the Con.EC, PEC members representing different political forces and observers who had observed in the challenged polling stations, as well as, L.Gurbanova who had observed in the polling station # 3, A.Gasimov, D.Gambarova, A.Aghayeva who had observed in the polling station # 5, E.Abbasova, P.Gudratova, A.Valiyeva who had observed in the polling station # 7, S.Sadigova, T.Taghiyeva who had observed in the polling station # 9, F.Seyidova, S.Balakishiyeva who had observed in the polling station # 14, A.Rahimova, I.Hajiyeva who had observed in the polling station # 15, I.Abdullayeva who had observed in the polling station # 16, T.Gambarova, G.Dadashova who had observed in the polling station # 17, M.Ismayilova who had observed in the polling station # 18, S.Seyidova, M.Yusifova who had observed in the polling station # 19, G.Babayeva who had observed in the polling station # 20, A.Dadashova, Z.Babayeva who had observed in the polling station # 21, J.Khalilova who had observed in the polling station # 22, E.Mammadova, O.Biryukova, M.Mammadova, G.Yusifzadeh who had observed in the polling station # 28 verified in their affidavits that the election legislation was complied with in the voting process, vote counting and tabulation upon determination of results, any law violation was not allowed and the observation process was not interfered in. The members of the foregoing PECs also refuted the cases indicated in the appeal by their affidavits.

In the light of the investigation, the video records on the challenged polling stations were reviewed by selection upon using the records of the webcams installed in the polling stations # 3, 4, 7, 9, 12, 16, 17, 19, 22 and 27 of the Con.EC. It was determined while reviewing the video records on the polling station # 7 where the violation was claimed to have been committed, that especially visually impaired voters had voted in that polling station and they were facilitated fully to vote, but they came to the polling station and exercised their right with the assistance of other persons due to their physical impairment. Any violation was not discovered while reviewing the records, meanwhile it should be indicated that visually impaired Aliyev Vugar Elbrus was a registered candidate on Narimanov-Nizami Con.EC # 18 and not any appeal had been filed by himself or his observers concerning the violations on the voting day.

It was determined through the investigation that the Con.EC had conducted investigation on the appeal of registered candidate R.N.Huseynov, provided his participation at the session and he made himself familiar with the affidavits provided by the relevant persons for the investigation and other documents. 103 acts and affidavits compiled by a number of observers representing different interests and who had observed in 14 polling stations on the voting day where law violations were claimed in the appeal to have been committed refuted the law violations claimed to have been committed in the polling stations indicated by the plaintiff and the violation mentioned by the candidate was also refuted.

As a result of detailed and fair investigation, the Con.EC has arrived in proper conclusion to not implement the complaint of candidate R.N.Huseynov.

Along with legally assessing the results of the investigation on the Con.EC decision which has been complained against, during the investigation process of the current appeal a number of observers who had conducted observation since the commencement of voting till vote counting and finalizing the compilation of the voting results protocols were contacted and they verified that they had compiled and signed an act on non-violation of the election legislation on the polling stations observed by them.

As the legal grounds have not been determined to implement the complaint and annul the Con.EC decision on the complaint, the appeal shall not be implemented upon regarding as invalid and the decision # 24/56 of Narimanov-Nizami Con.EC # 18, dated November 7, 2015 shall be remained as enforced.

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 # 177 of Huseynov Ramin Nizami, registered candidate nominated on own initiative on Narimanov-Nizami Con.EC # 18, dated November 13, 2015 shall not be implemented due to groundlessness and the Con.EC decision # 24/56, dated November 7, 2015 shall be remained enforced without any changes.
2. The decision shall be enforced upon its publication.

CEC Chairman

Mazahir Panahov

CEC Secretary

Arifa Mukhtarova

CEC Secretary

Mikayil Rahimov