

DECISION

of Central Election Commission of the Republic of Azerbaijan

on consideration of the appeal # 183 submitted to the Central Election Commission on November 14, 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 14, 2015, Rahimov Mutallim Gara, the representative of Ismayilov Ilyas Abbas, candidate nominated on his own initiative and registered on Tovuz-Gazakh-Aghstafa Con.EC # 106 challenged the decision # 24/78 of that Con.EC, dated November 7, 2015 and requested to annul that decision.

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. He informed that he did not have additional documents and materials apart from acts and video recordings which were attached to the appeal.

M.G.Rahimov substantiated his complaint on the grounds that the requirements of relevant articles of Election Code were violated in the elections on Tovuz-Gazakh-Aghstafa Con.EC # 106, the appeal submitted to the Con.EC was not investigated correctly, the observer appointed by the candidate in the polling station # 24 violated the rights of R.O.Valiyev, the relevant decision of the Con.EC was not signed by commission member and secretary.

50 acts attached to the complaint and supposed to have been occurred law violations in the some polling stations on the Voting Day were investigated. During the investigation process was defined that, 21 acts out of those acts did not include information on which polling station the law violation had been committed on and 2 acts did not include information on the date when the law violation had been committed on, the most acts were signed by one person, it was impossible to determine the content of violations in some acts and those acts were not submitted to the precinct election commissions.

During the investigation process, illegal removal of R.O.Valiyev, the observer appointed by the registered candidate from the polling station # 24 was not justified. Thus, in the affidavits of observers who had observed in the polling station # 24 - N.A.Valiyeva, Sh.V.Gasimova, A.M.Safarov, R.G.Gasimov, N.M.Shabanova, A.J.Israfilov and others,

as well as PEC chairman G.P.Rahimova, secretary D.G.Gurbanov, members O.A.Musayeva, M.M.Aliyeva, M.O.Asgarova and others the occurrence of such case was not mentioned. At the same time signature of R.O.Valiyev on the act that was compiled at 20.25 o'clock in the polling station # 24 reaffirms that such case did not occurred. It was defined that the appeal of observer R.O.Valiyev on violation of his rights was not submitted to the Con.EC.

Since the acts on law violations in the polling stations # 28 and 30, located in Jafarli and Chayli villages compiled about the same time in separate villages jointly by observers V.R. Zeynalov, O.E.Valiyev, Kh.I.Nasibov and Z.M.Yusibov were not reliable, cannot be regarded as evidence.

The acts on the law violations supposed to have been committed compiled in the polling stations # 1 and 8 were signed by A.V.Afandiyev, lawyer appointed by registered candidate I.A.Ismayilov, observer M.H.Mammadov, also members with decisive right representing Justice Party in the above-mentioned PECs Y.M.Karimov and Sh.Z.Jafarov. The above-mentioned commission members participated in the compilation of protocols on voting process, vote counting and voting results and signed that protocol.

It was determined through the investigation that, the candidate M.G.Rahimov appealed to the Con.EC on the law violations supposed to have been committed, the cases that mentioned in the appeal were considered in detail by the commission within the manner and time period defined by law and a grounded decision was adopted on that. It was defined from the commission's session protocol dated on November 7, 2015, related with not signing of decision of the Con.EC by the commission secretary and member, commission secretary G.M.Aghazada and member T.M.Muradov could not attend the session for a respectful reason, therefore the relevant decision was not signed by them.

Pursuant to Article 19.10 of the Election Code an election commission meeting shall be considered valid upon the attendance of two thirds of its members with decisive voting rights. Pursuant to Article 19.14 of that Code an election commission's decisions and its meetings minutes shall be signed by the commission's chairperson and secretaries. If not signed by the above mentioned persons, then the decisions and minutes shall be signed by the commission members who voted for these documents.

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 chaiperson'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 the claims on the law violations supposed to have been committed in some polling stations of Tovuz-Gazakh-Aghstafa Con.EC # 106 were not justified, also the law violations which do not allow to determine the voters' will on that election constituency

during voting process and determination of voting results were not defined, the appeal of the M.G.Rahimov, the representative of registered candidate I.A.Ismayilov shall not be implemented due to groundlessness and the decision # 24/78 of that Con.EC, dated November 7, 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 # 183 submitted by Rahimov Mutallim Gara, the representative of registered candidate Ismayilov Ilyas Abbas on November 14, 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 # 24/78 of Tovuz-Gazakh-Aghstafa Con.EC # 106 dated November 7, 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