

DECISION

of Central Election Commission of the Republic of Azerbaijan

on consideration of the appeal # 166 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, Izzatli Ruslan Teymur, registered candidate on Khatai first Con.EC # 33 claimed that candidates were not provided with equal opportunities for pre-election campaign, law violations were committed in some polling stations on the voting day and requested to annul the Con.EC decision # 26/78, dated November 7, 2015, to investigate his complaint on that to regard the voting results on that Con.EC as invalid.

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 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. R.T.Izzatli participated at the investigation on November 12, 2015, submitted the originals of 15 acts compiled by the observers representing him on the voting day and a disc with audio recording. Although he had been invited to the CEC session, he refused from the participation at the session.

The candidate informed in his complaint that the observation was not facilitated in the polling stations # 3, 5, 8, 9, 12, 14, 16, 18, 19, 20, 21, 22, 28, 29, 32, 36 on the voting day, impossibility of conducting an observation, revealing the persons not included in the voters' list to have participated in the voting, multiply voting, issuing ballot paper to the persons who had not presented ID cards, voting in place of another person, mass cutting of ballot corners by some PEC chairmen, strict violation of the rules for abiding by transparency principles during the vote calculation, not counting the voters' signatures and unused ballot papers, the video taping was not permitted in the polling station, the observers and commission members with consultative voting rights appointed by him were not provided with protocol copies, there was a large discrepancy between the number of the voters who had participated in the voting and the number of the voters recorded in the official protocol, law violations were committed during the vote count and determination of the voting results, therefore requested to annul the voting results on the above-mentioned 16 polling stations and to invalidate the voting results on the Con.EC and although he appealed to the Con.EC on those violations on E-day, the Con.EC did not implement his appeal due to groundlessness by the decision # 26/78 on November 7, 2015.

The reference provided by Khatai first Con.EC # 33 shows that full and equal opportunities were formed to conduct pre-election campaign within that election constituency and every registered candidate was provided with an informative letter # 88, dated October 7, 2015 to hold meetings in indoor and outdoor venues for pre-

election campaign. Candidate R.T.Izzatli did not use this possibility to apply to the Con.EC officially for the arrangement of the meetings and substantiated the case on the grounds that he would hold street-to-street meetings. It was determined through the investigation that not any state institute had intervened in the pre-election campaign, every candidate was provided with equal opportunities and during that period neither Con.EC, nor the Central Election Commission has been filed a complaint on the usage of administrative resources by campaign actors. And the decision # 6/19 of Khatai first Con.EC # 33, dated September 11, 2015 on warning R.T.Izzatli, plaintiff nominated on own initiative on that Con.EC regarding the termination and stopping campaign on social networks prior to the period implied by the Election Code was annulled by the Central Election Commission.

Other registered candidates on that election constituency held meetings freely on different times. This case was also justified by the affidavits of registered candidates Rzazadeh Javanshir Alunbat and Aliyev Arif Mammad. The above-mentioned proved that the claims on that candidates had not been provided with equal opportunities, other registered candidates had used administrative resources and state bodies had intervened in the election process were groundless.

It became evident through the assessment of the documents and materials claimed to include certain law violation, presented by the plaintiff during the investigation process that one of 15 acts was unknown which polling station it concerned, 4 of them did not concern the challenged polling stations and only 9 of them concerned the challenged polling stations. Although 3 of the acts that concerned the challenged polling stations were compiled on the polling station # 18, 3 on the polling station # 9, one on the polling station # 8, another on the polling station # 12 and the remaining one on the polling station # 32, four of them cannot be assessed as facts proving a certain case since they have not been compiled in a relevant manner. Since the video disc added to the appeal has not been submitted in a relevant manner, it cannot be assessed as evidence.

It was determined through investigating the claim on the violation of the rules for using ballot papers during the voting that procedure rules were not abided by in the polling stations # 14, 22, 25, 32 and upper left corners of ballot papers were cut off before issuing to voters. The affidavits provided by the chairmen of those polling stations, commission members and observers who have participated there indicate that the chairmen had explained the case on the grounds that more voters were coming. Thus, upper left corners of nearly 4 ballot papers in the polling station # 14, 10-15 in the polling station # 22, 5 in the polling station # 25 and 12 in the polling station # 32 were cut off before issuing to voters, which had been done due to the above-mentioned reason and that was not repeated after the Con.EC chairman had made warning. M.Suleymanova, chairperson of the polling station # 14, secretaries M. Jabbarova and Y.A.Safarov, T.Sardarova, chairperson of the polling station # 22, secretaries N.R.Huseynov and P.R.Aliyev, A.Aydinli, chairperson of the polling station # 25, secretary F.N.Mamiyeva, K.S.Manafov, chairperson of the polling station # 32, secretaries H.T.Nadirov and A.L.Mammadova informed in their affidavits that the foregoing fact had been committed but the ballot papers with cut off left corners did not include any marks before the names of any candidate. Obviously, there is not any ground to suppose this case to be accepted as activity aiming at deliberately changing the election results and the violation of those rules did not obstruct, anyway, voters to get ballot papers and to vote, also to express their opinions independently.

It was also determined during the investigation that although Guliyev Elnur Elshan who represents the plaintiff's interest in more challenged polling station # 18 compiled 3 acts on the commitment of many law violations in different time periods on the voting day, he compiled and signed an act on non-violation during the voting process, vote count and compilation of protocols in that polling station together with 11 observers at 22.35. and this proves the voting to have been conducted in that polling station in comply with the requirements of the election legislation.

The plaintiff's claims on the discrepancy between the number of the voters who voted in the polling stations, also generally on the election constituency with the number of voters included in the voting results protocol are refuted by a number of persons who had observed in the same polling stations on that time, also by the coincidence of the number of the voters who got ballot papers included in the voters' list with the number included in the official protocol and the results of other procedure rules.

The appeal shall not be implemented since the impossible cases have not been revealed through the investigation to determine voters' will as a result of violating the election legislation on the polling stations # 3, 5, 8, 9, 12, 14, 16, 18, 19, 20, 21, 22, 28, 29, 32, 36 of Khatai first Con.EC # 33 and generally, on that Con.EC and any legal ground has not been determined to annul the voting results on the above-mentioned polling stations and invalidate the voting results on that election constituency.

The investigation of all the cases indicated in the appeal on their subjects fully, thoroughly and fairly formed grounds to implement the appeal partly.

It was determined during the evaluation of the decision # 26/78 of Khatai first Con.EC # 33, dated November 4, 2015 on not implementing the appeal of R.T.Izzatli that the appeal had been examined by the Con.EC within the period and manner defined by law and a relevant decision was submitted to the plaintiff. While investigating that appeal at the Con.EC, the reliability and possibility of the collected evidences were focused on and relevant measures were undertaken for their sources and methods of availability to comply with legal requirements. Thus, the evidences had been collected by the entitled persons and affidavits, information, acts, references and other materials of great importance for the case had been obtained in a manner defined by law.

As the violations claimed in the appeal filed to the Con.EC questioned the voting results on the polling stations, a number of observers representing different interests and PEC members were required affidavits on the cases investigated by the Con.EC regarding the challenged polling stations and other necessary materials were collected. The non-violation of the election legislation was verified through the collected evidences and since the violations indicated in the appeal have not been justified and proved to be groundless, a decision was made to not implement the appeal.

During the investigation any ground was not determined to annul the decision # 26/78 of Khatai first Con.EC # 33, dated November 7, 2015 on not implementing the appeal of R.T.Izzatli, dated November 4, 2015. Therefore, the decision shall be remained enforced without any changes.

Thus, the appeal of registered candidate to deputy R.T.Izzatli shall be partly implemented, the complaint shall be regarded as implemented in the part on the investigation on substance, it shall not be implemented due to groundlessness in the part on the annul of the election results in the polling stations # 3, 5, 8, 9, 12, 14, 16, 18,

19, 20, 21, 22, 28, 29, 32 and 36 of Khatai first Con.EC # 33, to regard the voting results on that Con.EC as invalid and to annul the decision # 31/82 of Khatai first Con.EC # 33, dated November 6, 2015 and that decision shall be remained enforced without any changes.

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 # 166 of Izzatli Ruslan Teymur, registered candidate on Khatai first Con.EC # 33, dated November 10, 2015 shall be regarded as partly implemented in part on the investigation on substance regarding Elections to the Milli Majlis of the Republic of Azerbaijan on November 1, 2015.
2. The decision # 26/78 of Khatai first Con.EC # 33, dated November 7, 2015 shall be remained enforced without any changes and the appeal shall not be implemented due to groundlessness in the other part.
3. The decision shall be enforced upon its publication.

CEC Chairman

Mazahir Panahov

CEC Secretary

Arifa Mukhtarova

CEC Secretary

Mikayil Rahimov