

INSTRUCTION on status of members of election commissions with consultative rights

The status of the commissioner with consultative right who functions under an election (referendum) commission (hereafter referred to as election commissions) shall be determined by Article 21, 22, 126, 148.6, 182.4 and 223 of Election Code and this Instruction.

1. Rules on appointment of the members of election commission with consultative rights and basis of their activities

1.1. During a referendum, a Central Referendum Commission of the Republic of Azerbaijan (hereafter referred to as the Central Election Commission) or Constituency Election Commission member with consultative voting rights may be appointed only by the referendum campaign groups registered with the relevant commission.

1.2. During elections to the Milli Majlis, political parties and blocs of political parties, which have registered candidates in more than 60 single-mandate constituencies, may appoint a member with consultative voting rights to each election commission.

A candidate registered in a single-mandate election constituency may appoint a member with consultative voting rights to the relevant election constituency or each of the Precinct Election Commissions within the territory of the election constituency.

1.3. Each registered presidential candidate may assign a member with consultative voting rights to each election commission.

1.4. During municipal elections, the political parties or bloc of political parties that nominate candidates in more than half of all municipalities of the Republic of Azerbaijan may appoint one member with consultative voting rights to the Central Election Commission. Political parties or blocs of political parties that nominate candidates in more than half of all municipalities in one constituency during municipal elections may appoint one member with consultative voting right to the relevant Constituency Election Commission.

1.5. While conducting of referendum, the appointed member of election commission with consultative right shall implement only the activity that is related to conducting of referendum. While holding of presidential elections, the appointed member of election commission with consultative right shall implement only the activity that is related to holding of presidential elections. While holding of elections to Milli Majlis, the appointed member of election commission with consultative right shall implement only the activity that is related to holding of elections to Milli Majlis. While holding of municipal elections, the appointed member of election commission with consultative right shall implement only the activity that is related to holding of municipal elections.

2. Rules on the approval of a candidacy of the member of election commission with consultative voting right by the relevant election commission.

The following documents shall be submitted to the relevant election commission by the registered candidate, political party, bloc of political parties and referendum campaign groups:

2.1.1. Registered candidates mentioned in Article 1.2 and 1.3 of this Instruction

- written application on the appointment of the member with consultative right (Appendix 1 made to Instruction) (the application should contain the election commission appointed for, surname, name, patronymic, date of birth, main working or service place, position (if not any, type of activity), address of residence, serial number of ID card or its substitute document;

Note: *The above mentioned documents shall be submitted to relevant election commission by the registered candidate or authorized representative of a candidate.*

2.1.2. Political parties and blocs of political parties mentioned in Article 1.2 and 1.4 of this Instruction

- Relevant presentation based on the decision on the appointment of the member with consultative right adopted in the joint meeting, convention and conference of political party (Appendix 2 made to Instruction) (the application should contain the election commission appointed for, surname, name, patronymic, date of birth, main working or service place, position (if not any, type of activity), address of residence, serial number of ID card or its substitute document;

Note: *The above mentioned documents shall be submitted to relevant election commission by authorized representatives of political party and bloc of political parties.*

2.1.3. Referendum campaign group mentioned in Article 1.1 of this Instruction

- Relevant presentation based on the decision on the appointment of the member with consultative right adopted in the meeting of referendum campaign group (Appendix 3 made to Instruction) (the application should contain the election commission appointed for, surname, name, patronymic, date of birth, main working or service place, position (if not any, type of activity), address of residence, serial number of ID card or its substitute document;

Note: *The above mentioned documents shall be submitted to relevant election commission by authorized representative of referendum campaign group.*

2.2. 2 colored photos sized 3X4 should be attached to the applications and presentations mentioned above in order to approve a member of relevant election commission with consultative right.

2.3. The member with consultative right who is appointed by the referendum campaign group, registered candidate, political party with registered candidate and bloc of political parties shall be approved by the relevant election commission within 3 days and provided with the badge containing surname, name, patronymic and photo that allow to determine his/her status by the relevant election commission pursuant to Article 40.15 of Election Code (Appendices # 4, 4a, 5, 5a, 5b, 5c, 5d, 6, 6a, 6b, 7, 7a made to Instruction). The member with consultative right shall have this badge while being in the voting room on the voting day.

Note: *The member with consultative right as well as other persons participating in elections (referendum) shall follow the terms indicated in Article 2.6 of Election Code:*

- *To respect freedom of the press;*
- *To not obstruct the professional activities of representatives of the mass media; to not violate or interfere in election (referendum) campaign of candidates and parties (blocs of political parties);*
- *To not obstruct the distribution of election campaign materials or referendum campaign materials;*
- *To not destroy or spoil election campaign posters, referendum campaign posters, or other campaigning materials;*
- *To not obstruct pre-election (pre-referendum) mass activities;*
- *To cooperate with election (referendum) bodies and their officials in the conduct of free, peaceful and organized elections;*
- *To not obstruct voters from free expression of their will;*
- *To respect authorized persons and observers and to cooperate with them;*
- *To follow and assist in maintaining of the secrecy of voting;*
- *To not influence voters to one's side through illegal activities;*
- *To not interfere in the activities of election (referendum) commissions without reasons; to not violate the process of voting and vote counting;*
- *To respect legally approved results of elections (referendums), to present each complaint regarding the elections (referendums) to the authorized body, and to abide by the decision of that body regarding the relevant complaint;*
- *To not make speeches that intimidate, slander or call to violence, or distribute materials with such content;*
- *To not offer rewards to voters, or threaten them with punishment;*
- *To not use administrative, municipal or other public resources outside the circumstances prescribed in Election Code;*
- *To not pressure, bribe or use other methods in contradiction with legislation to entice voters to vote or refrain from voting;*
- *To not pressure, bribe or use other methods in contradiction with legislation to force voters to participate or avoid participation in referendum campaign groups, to nominate themselves or not nominate themselves, to withdraw or not withdraw their candidacy, or to take part or avoid participation in the pre-election (pre-referendum) campaign process;*
- *Not to use the activities or assistance provided by any official as grounds for supporting or not supporting a candidate or an issue put to referendum.*

3. Rights and responsibilities of the member with consultative right

3.1. A member with consultative right of election commissions shall have the following rights:

- 3.1.1. to be timely informed about sessions of the relevant election commission;
- 3.1.2. to give proposals on issues related to authorities of the relevant election commission, make a speech in the session of election commission and suggest voting on these issues;
- 3.1.3. to ask questions to other participants of the meeting of the election commission regarding the issues in the agenda and get answers on them;
- 3.1.4. to be familiarized with each election document (including voters list, ballots), election documents of lower election commissions; obtain copies of documents (except for voters lists, ballot papers and voter cards); get familiarized with documents that display information which is not considered as a state, commercial or other kind of secret by the law;
- 3.1.5. to complain about decision, action or lack of action of election commission to relevant upper election commission and to the court pursuant to the rules established by Election Code
- 3.1.6. to observe election procedure as an observer;
- 3.1.7. to be familiarized with voters lists;
- 3.1.8. to be in the voting room of the relevant precinct at any time on the voting day and to observe the process of checking the invisible ink on voters' fingers using an ultraviolet lamp;
- 3.1.9. to observe checking of invisible ink on voters' fingers using an ultraviolet lamp before submission of ballot papers;
- 3.1.10. to observe providing voters with ballot papers;
- 3.1.11. to observe voters' voting outside the voting place;
- 3.1.12. to observe counting the number of voters and counting of ballot papers, cancelled ballot papers;
- 3.1.13. to require attaching observation results to the protocol of the election commission;
- 3.1.14. to review envelope to put ballot papers in, each completed or uncompleted ballot paper under conditions ensuring observation and at certain distance in order to check the validity of vote and be familiarized with protocols of election commissions and other documents on the voting results and electoral returns;
- 3.1.15. to apply to the chairman of the Precinct election Commission (PEC), in his absence, to the person substituting him about the comments and suggestions related to the voting.
- 3.1.16. get a copy, without payment, of documents of election commissions, as well as protocols on the voting results and electoral returns, approved attachment documents compiled by election commissions or received by them since commencement of the work of election commissions on the voting day and stamping ballot boxes up to reception of protocols on the voting results by election commissions; to make copies or buy additional copies at the price defined by Central Election Commission.

Note: *election commission should approve the copies of mentioned documents under request of the member of election commission with consultative right.*

3.2. The member with consultative right of election commission shall be prohibited to do the following actions:

- 3.2.1 to be the member with consultative right of another election commission at the same time;
 - 3.2.2. to provide with ballot papers and de-registration cards for voting;
 - 3.2.3. to count the ballot papers;
 - 3.2.4. to cancel ballot papers and de-registration cards for voting;
 - 3.2.5. to compile the protocols on the voting results and returns;
 - 3.2.6. to vote while adopting decisions on the authorities of election commissions;
 - 3.2.7. to sign the decisions adopted by the relevant election commission;
 - 3.2.8. to ask voters about how they will vote and how they voted;
 - 3.2.9. to put signature instead of a voter and under his/her request when receiving of ballot paper.
 - 3.2.10. to fill out a ballot paper under request of a voter;
 - 3.2.11. to undertake actions impeding the work of election commission;
 - 3.2.12. to conduct election campaign among voters;
 - 3.2.13. to undertake actions or call voters to support of other candidate, political party (issue discussed at referendum) or implement the actions which are assessed as supporting;
 - 3.2.14. to answer the voters' questions (with the exception of questions regarding their status);
 - 3.2.15. to undertake other actions prohibited by law.
- 3.3. With the exception of the above mentioned actions which are prohibited to do, the member of election commission with consultative right shall have the same rights as the member of election commission with decisive voting right.

Note: During the observation the member of election commission with consultative voting right shall envisage the principals for conducting of observation (not to influence the electoral process in favor of one candidate or political party, to take into account all circumstances and facts related to observation; to conduct open observation, to base

observation findings on facts). The member of election commission with consultative voting right shall make formal the revealed facts according to determined rules and compiling a relevant act about it and if possible, to draw attention of interested persons while making the facts formal. The member of election commission with consultative right shall guarantee transparency, prevent assumed violations, and ensure the elimination of the results of such violations by continually informing the election commissions about these violations.

4. The terms of authority and termination of authority of the member of election commission with consultative right

4.1. The authorities of a member of election commission with consultative right shall start from the moment of his/her appointment and be terminated in 30 days after official publication of results (overall results) of election (referendum), but if the upper election commission receives a complaint on decision, action (lack of action) of a lower election commission, and if rules of voting or vote counting have been violated and court investigation on these facts is in progress, then their authorities shall be terminated only after the upper election commission or the court adopts decision on the issue of the complaint.

Note: *the authorities of a member of election commission with consultative right shall be terminated when the body which appoints the member loses its status.*

If political parties or referendum campaign groups are merged, only one member with consultative right shall be presented at election commission, the rest of members with consultative right should be recalled. If a political party or referendum campaign group does not fulfill this requirement, the member of election commission with consultative voting right should be withdrawn from the relevant election commission on the basis of his own discretion.

Authorities of a member of election commission with consultative right can be terminated or passed to another person by the decision of referendum campaign group, candidate, political party that nominated a candidate and bloc of political parties that appointed a member with consultative right.

Authorities of a member of election commission with consultative right shall immediately be terminated in the following cases:

4.1.1. when being an authorized representative of referendum campaign group as well as a candidate for presidency, deputy of the Milli Majlis or for a member of municipality;

4.1.2. when being an elected member or official of a state authorities or municipality;

4.1.3. when being terminated of citizenship of the Republic of Azerbaijan, or being a citizen of another country;

4.1.4. when accusatory court verdict about him/her comes into force;

4.1.5. when he/she is recognized by court decision that has come into force, to be incapacitated or with limited capacity, or considered missing or dead;

4.1.6. when violation of provisions of Article 17.6 of the Election Code of the Republic of Azerbaijan is approved by a court decision.

5. Responsibility of a member with consultative right

5.1. The commission members with consultative rights shall be subject to liability established by the Criminal Code or Code of Administrative Offences of the Republic of Azerbaijan for violation of requirements of the Election Code of the Republic of Azerbaijan.