

Opinion

of Mr. Ramiz Ibrahimov member of Expert Group under CEC to investigate the complaints against actions (inactions) and decisions violating citizens' election rights in the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on June 18, 2016

on the appeal 01 submitted to CEC on May 11, 2016

Baku

13 May 2016

Having investigated the appeal 01 submitted to CEC on May 11, 2016, Natig Mehman Jafarov, authorized representative of Ilgar Eldar Mammadov, nominee on his own initiative in the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on Aghdash Con.EC # 90, appointed to June 18, 2016, as a member of Expert Group Ramiz Ibrahimov, I have determined that:

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.

In his written complaint addressed to the Central Election Commission on May 11, 2016, Natig Mehman Jafarov, authorized representative of Ilgar Eldar Mammadov, nominee on his own initiative in the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on Aghdash Con.EC # 90, appointed to June 18, 2016 requested to regard the Con. EC decision on the abandon (disfranchisement) of the candidacy of I.E.Mammadov as invalid and to commission the Con.EC with the adoption of that decision. And in the appendix made to the complaint on that date on changing the grounds and requirements of the complaint, he requested to annul (eliminate) the decision (action) of Aghdash Con.EC # 90, dated May 8, 2016 on the annul of the decision on the approval of the candidacy of I.E.Mammadov and to adopt a decision on remaining enforced the decision on the approval of the nomination of I.E.Mammadov on that election commission.

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. Although he informed on his intend to participate at the session, he did not attend the session.

Authorized representative N.M.Jafarov informed in the complaint that I.E.Mammadov was sentenced to imprisonment for 7 (seven) years upon being accused by the resolution of Shaki Court of Severe Crimes, dated March 17, 2014. I.E.Mammadov was nominated on his own initiative in the repeat Elections to the Milli Majlis of the Republic

of Azerbaijan on Aghdash Con.EC # 90, appointed to June 18, 2016 and after the candidacy has been approved by the Con.EC, the authorized representative was submitted signature sheets on May 3, 2016. Meanwhile, by the decision of Shaki Court of Appeals, dated April 29, 2016, the resolution of Shaki Court of Severe Crimes concerning I.E.Mammadov, dated March 17, 2014 was remained enforced. On May 5, 2016 a press release by the Head of Media and Public Relations Department of the CEC Secretariat concerning I.E.Mammadov was issued. The press release information that the candidacy of I.E.Mammadov was approved. On April 28, 2016 and his authorized representative was submitted signature sheets. I.E.Mammadov had possessed passive election rights up to that time. On April 29, 2016 the resolution of Shaki Court of Appeals on I.E.Mammadov came into force. Pursuant to Article 13.3.1 of the Election Code, I.E.Mammadov lost his passive election right upon this. Afterwards, the Con.EC required signature sheets back and they were handed over upon compiling an act. Notwithstanding all these, the Con.EC did not adopt any decision. Meanwhile, it is unknown whether the Central Election Commission has adopted such a decision or not.

It was determined through the investigation that the Notification on the nomination of I.E.Mammadov who had been detained at Shaki Penitentiary Isolation for the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on Aghdash Con.EC # 90, appointed to June 18, 2016 and other documents were provided to the Con.EC on April 25, 2016, despite the deadline to approve the candidacy by the Election Code to be 5 (five) days, the Con. EC approved the candidacy of I.E.Mammadov within (three) days on April 28, 2016 by the decision # 6/17, sent that decision to the authorized representative immediately and informed him by phone. On May 3, 2016 the Con.EC provided N.M.Jafarov, authorized representative of the candidate with 11 (eleven) signature sheets to collect voters signatures of the candidate.

The letter # 38, submitted by Aghdash Con.EC # 90 regarding the investigation, dated May 13, 2016 provides that the signature sheets presented to N.M.Jafarov, authorized representative of I.E.Mammadov to collect signatures in support of the candidate were returned empty, unsigned and unfilled to the Con.EC by a person called Jeyhun who had introduced himself as an assistant of N.M.Jafarov on May 5, 2016. In this regard the Con.EC sent a letter to N.M.Jafarov, candidates authorized representative on May 6, 2016 and having informed him about the delivery of the provided signature sheets to the Con.EC by unauthorized person, requested him to express an opinion on the matter in legal way.

Further it was determined during the investigation that the media representatives who were aware of the signatures of nominee I.E.Mammadov to have been returned empty and unfilled to the Con.EC addressed to the Media and Public Relations Department of the CEC Secretariat on May 5, 2016 with the request of clarifying on that and were interested in the reasons. It was provided in the press interview that on April 25, 2016 the documents for the nomination of I.E.Mammadov were submitted to Aghdash Con.EC # 90, the commission considered them without delay, approved the candidacy on April 28, 2016 and he was rendered assistance like other election actors. Afterwards, upon mentioning the cases on passive election right implied by Article 56, 85 of the Constitution of the Republic of Azerbaijan and Articles 13.3.1 and 13.3.2 of the Election

Code, it was informed that the return of empty and unfilled signature sheets to the Con.EC could have been related with the enforcement of the resolution of Shaki Court of Appeals concerning I.E.Mammadov, dated April 29, 2016.

The above-mentioned letter provided by Aghdash Con.EC # 90 shows that authorized representative N.M.Jafarov visited the Con.EC on May 8, 2016 and informed that signature sheets had been returned empty and unfilled upon his request. Although he had been informed by the Con.EC on the enough time for collecting signatures and offered to take them back, he intended to return the empty and unfilled signature sheets to the Con.EC and later, the signature sheets were received upon the compilation of an act on returning 11 signature sheets, the authorized representative signed the act and was provided with a reference on that in a manner defined by law.

It was determined through the above – mention that the candidacy of I.E.Mammadov was approved upon considering his state, despite the fact that the resolution of Shaki Court of Appeals, dated April 29, 2016 was remained enforced, his authorized representative was provided with signature sheets on May 3, 2016 and it was facilitated to collect signatures in support of the candidate and submit necessary documents for registration. However, they did not benefit by the provided opportunities, the authorized representative returned 11 empty and unfilled signatures sheets without having collected any voters signature on May 8, 2016, therewith the failure of submitting other documents implied in Article 58 of the Election Code for the registration of the candidate 2 copies of the protocol on the results of signature collection, complied in the form defined by the Central Election Commission, notification on the amendments made to the submitted information on the candidate, information on the amount and sources of the candidates income and property belonging to the candidate based on the right to property, annual financial report to the Con.EC made impossible to register his candidacy as implied in Article 60 of the Election Code, also III part of Article 56, Article 85 of the Constitution of the Republic of Azerbaijan, Articles 13.3.1 and 13.3.2 of the Election Code and the Con.EC adopted a relevant decision on that on May 11, 2016.

It was determined through the investigation that Aghdash Con.EC # 90 had not adopted a decision on the annual of the decision # 6/17, dated April 28, 2016 on the approval of the candidacy of I.E.Mammadov. Thus, due to the groundlessness of the appeal by the authorized representative N.M.Jafarov regarding the annual of the lacking decision and as it was not considered to adopt a decision on remaining the decision not annulled in the election legislation enforced regarding the part on remaining the not annulled Con.EC decision # 6/17 on the approval of the candidacy, dated April 28, 2016, the appeal shall not be implemented.

According to the above-mentioned, the appeal of authorized representative N. M.Jafarov shall not be implemented.

Pursuant to Articles 19.4, 28.2,112 and 112-1 of the 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”, I have determined that:

1. The appeal # 01 May 11, 2016 by Natig Mehman Jafarov, authorized representative of Ilgar Eldar Mammadov, nominee on his own initiative in the repeat Elections to the Milli Majlis of the Republic of Azerbaijan on Aghdash Con.EC # 90, appointed to June 18, 2016 shall not be implemented due to groundlessness.
2. The opinion shall be published no later than 18 hours upon its adoption (shall be posted on the website) and its copy shall be sent to the applicant.

Expert Group member

Ramiz Ibrahimov