

## **DECISION**

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

**on the consideration of the appeal # 20 dated November 9, 2013 by**

**Khagani Asadulla Mammad, member with consultative right at Tartar Con.EC # 95  
by Jamil Hasanli, registered candidate in Presidential Elections of the Republic of  
Azerbaijan of October 9, 2013**

Appealing to the Central Election Commission of the Republic of Azerbaijan in written form, Khagani Asadulla Mammad, member with consultative right at Tartar Con.EC # 95 by Jamil Hasanli, registered candidate in Presidential Elections of the Republic of Azerbaijan of October 9, 2013 informed that his appeals on law violations committed in Tartar Con.EC # 95, sent to this Con.EC on October 10 and 11, 2013 had not been replied by the commission and therefore, he asked for taking relevant measures in a manner defined by legislation.

As the appeal had been compiled in comply with Articles 112 and 112-1 of the Election Code of the Republic of Azerbaijan and "Instruction on the rules for filing and consideration of the appeals and complaints to the Central Election Commission and Constituency Election Commissions of the Republic of Azerbaijan", it was adopted to the implementation by a member of the Expert Group under the Central Election Commission, necessary steps were taken for defining the alleged law violations, relevant opinion on the investigation of the appeal was provided and it was reviewed at the session of the Central Election Commission.

It was determined through the investigation that Khagani Asadulla Mammad, member with consultative right at Tartar Con.EC # 95 by Jamil Hasanli, registered candidate in Presidential Elections appealed to the above-mentioned Con.EC with complaints on October 11 and 12, 2013, claimed on law violations committed in some polling stations of Tartar Con.EC # 95 on the voting day and asked for taking relevant measures.

During investigation it was determined that Khagani Asadulla Mammad sent his first complaint to the chairman of Tartar Con.EC # 95 on October 11 and second complaint on October 12 by "Azerpocht" LLC. Those complaints entered the Con.EC on October 18, 2013, the commission did not pay attention to the date of posting the appeals by the applicant, thereby not implementing them due to the missed deadline, adopted a decision on this on October 21, 2013.

Thus, procedural violation was determined to have been committed by the Con.EC regarding the adoption, justification and compile of the decision. Therefore, the decision of Tartar Con.EC # 95 shall be annulled due to its incompatibility with the Election Code of the Republic of Azerbaijan and "Instruction on the rules for filing and consideration of the appeals and complaints to the Central Election Commission and Constituency Election Commissions of the Republic of Azerbaijan".

By considering the complainer's request, a part of his appeal on the law violations alleged to have been committed in Tartar Con.EC # 95 was adopted for investigation.

During investigation it was determined that the appeals on the law violations alleged in Tartar Con.EC # 95 on the voting day were attached the copies of the acts on the compile by the persons holding observation in some polling stations of the above-mentioned constituency and the verification of these violations.

The Central Election Commission of the Republic of Azerbaijan considers that as not the originals of the acts claimed to register the violations officially, but only copies without any vital testimony had been attached to the appeals and it became impossible to what the claimed cases concerned, also, as not any supplementary documents or materials were submitted as evidences, the appeal shall not be implemented due to legal groundlessness.

So, the applicant was called in the process of investigation and requested to submit the originals of those acts if existed since the attached copies had not form any legal consequence, he was also offered to present any supplementary evidences on the cases mentioned in the appeal if he had got any. But the applicant did not submit any supplementary evidences or materials for the investigation.

It is worthy to note that results of the Presidential Elections in the Republic of Azerbaijan on October 9, 2013 were approved and declared officially by decision dated October 19, 2013 of Plenum of the Constitutional Court of the Republic of Azerbaijan.

Taking the above mentioned as a basis, pursuant to Articles 2.6, 19.4, 19.14, 28.2, 28.4, 41, 112, 112-1 of Election Code of the Republic of Azerbaijan and items 1, 2, 4, 6 and 7 of the Instruction "on the rules for filing the appeals and complaints on violation of election rights to Central Election Commission and Constituency Election Commissions and their consideration by these commissions", the Central Election Commission decides:

1. The appeal # 20 dated November 9, 2013 by Khagani Asadulla Mammad, member with consultative right at Tartar Con.EC # 95 by Jamil Hasanli, registered candidate in Presidential Elections of the Republic of Azerbaijan of October 9, 2013 shall be partly implemented and decision # 10/77 of Tartar Con.EC # 95, dated October 21, 2013 shall be annulled due to its incompatibility with legislation.
2. The appeal in the part on the law violations committed in some polling stations of Tartar Con.EC # 95 shall not be implemented due to groundlessness.
3. The decision shall be enforced upon its publication.

Chairman Mazahir Panahov

Secretary Arifa Mukhtarova

Secretary Mikayil Rahimov