

OPINION

of Bakhsheyish Asgarov, member of Expert Group under CEC to investigate the complaints against actions (inactions) and decisions violating citizens' election rights in the Municipal Elections on December 23, 2014

on the appeal 16 submitted to CEC on December 4, 2014

Baku

December 4, 2014

Having investigated the appeal # 16 submitted to CEC on December 4, 2014 by Kerim Fazil Kerimli, nominee on Gizilaghaj municipality of Masalli village Con.EC # 71 on his own initiative in the Municipal elections on December 23, 2014 regarding illegal refuse from registering his candidacy by the above-mentioned Con.EC and undertaking relevant measures defined by law on this, as a member of Expert Group, I have determined that:

The complaint was sent by post on 26.11.2014, two days after submitting to K.f.Kerimli on the same day by the decision # 17/63 dated November 24, 2014 of Masalli village Con.EC # 71 and submitted to CEC on 04.12.2014. In other words, the appeal was sent in comply with the item # 4.1.2 of Instruction "On the rules for submission and processing of appeals and complaints on the violation of election rights to the Central Election Commission and Constituency Election Commissions of the Republic of Azerbaijan".

Since the appeal had been submitted in comply with Articles 112 and 112-1 of the Election Code of the Republic of Azerbaijan and the Instruction "On the rules for submission and processing of appeals and complaints on the violation of election rights to the Central Election Commission and Constituency Election Commissions of the Republic of Azerbaijan", it was accepted for implementation and relevant investigation was held on this.

The applicant was informed on the investigation, also noted on his right of presenting additional evidences and documents on the complaint and invited to take part in the investigation.

By justifying his complaint, citizen K.F.Kerimli informed that he had nominated his candidacy on Gizilaghaj municipality of Masalli village Con.EC # 71 in Municipal elections on December 23, 2014, submitted signature sheets and other necessary documents attached to them to the Con.EC upon the collection of voters' signatures within that municipality, but his candidacy was refused from registration by the Con.EC without any reason.

By justifying its decision on the refusal from registering the candidacy of K.F.Kerimli, the Con.EC informed according to the opinion provided by an expert of the Working Group to check the signature sheets and the attached documents, none of 44 voters' signatures included the date of signature, also date of issue of the signing persons' ID cards. Therefore, the signatures were considered invalid and the number of signatures was not sufficient for the candidate's registration.

In the case of the reasons defined by Articles 60.2.2 and 60.2.4 of the Election Code, when mistakes and erasings could be edited by a candidate in relevant documents, then according to Article 60.4 of the Code, the relevant election commission shall consider a norm to inform the candidate on this within 24 hours.

The opinion and protocol dated December 5, 2014, compiled as a result of examining the documents necessary for the candidate registration by the Working Group revealed that voters' signatures included in the signature sheet submitted for the registration of K.F.Kerimli had been collected in comply with the Election Code. So, all of 44 voters' signatures collected by the candidate were considered valid.

Explanation of Kh.Khanmammadov, chairman of Masalli village Con.EC # 71, an act compiled at the Con.EC on November 22, 2014 and an act on phone conversation with K.Kerimli, dated December 5, 2014 reveal that the Con.EC had not informed K.Kerimli nominated on his own initiative on Gizilaghaj municipality in comply with legislation. So, the Con.Ec had the phone number of K.Kerimli, the information on irregularities in the documents submitted for registration had been delivered not directly to him, but to his countryman. According to K.Kerimli, he had been lately informed on the invitation to the Con.EC. His countryman who had informed him lately justified that he did not want him to be disappointed. When he came to the Con.EC on November 24, 2014 knew of the refusal from his registration.

It was also determined during the investigation that the signature sheet submitted by K.F.Kerimli for his registration had been compiled orderly and all the requisites except date of issue of the signing persons' ID cards and date of signatures had been accurately completed.

Pursuant to Article 57.4 of the Election Code, while signing in the signature sheet, a voter shall include their surname, name, patronymic, address of residence, serial number and date of issue of ID card or its substitute document and date of signature. The Article also specifies inclusion of the above-mentioned necessary information about voters in signature sheets by the person collecting signatures.

Obviously, Masalli village Con.EC # 71 failed to arrive in proper consequences on the application of Articles 60.2 and 60.4 of the Election Code.

The opinion and protocol dated December 5, 2014, compiled as a result of examining the documents necessary for the candidate registration by the Working Group revealed that voters' signatures included in the signature sheet submitted for the registration of K.F.Kerimli had been collected in comply with the Election Code. So, all of 44 voters' signatures collected by the candidate were considered valid.

So, pursuant to Article 215.1.5 of the Election Code, every nominated citizen shall collect 30 valid voters' signatures to be registered to the municipality membership within a territory with more than 4.999 population number. It is justified by a reference of the relevant executive authority that the population number within the territory covered by Gizilaghaj municipality is within the limits as defined by the above-mentioned Article of the Election Code.

Since the number of the valid signatures was sufficient for the registration of the candidacy on that municipality and other necessary documents had been compiled in accordance with the Election Code, there were legal grounds to register the candidacy of K.F.Kerimli.

So, through a full, comprehensive, fair and impartial investigation legal grounds were determined to annul the argued decision of the Con.EC and to implement the complaint.

According to the above-mentioned, the complaint shall be implemented due to its grounded factors, the decision # 18/65 of Masalli village Con.EC # 71, dated November 24, 2014 on the refusal from registering the candidacy of K.F.Kerimli on Gizilaghaj municipality shall be annulled and his candidacy to the municipality membership on that election constituency shall be registered.

Pursuant to Articles 59, 60, 112, 112-1, 215.1.5, 216.1 of the Election Code of the Republic of Azerbaijan and items # 1-7 of "On the rules for submission and processing of appeals and complaints on the violation of election rights to the Central Election Commission and Constituency Election Commissions of the Republic of Azerbaijan", **I have determined that:**

1. The appeal # 16, dated December 4, 2014 by Kerim Fazil Kerimli, nominee on Gizilaghaj municipality of Masalli village Con.EC # 71 on his own initiative shall be implemented and the Con.EC decision # 18/65 dated November 24, 2014 on the refusal from registering his candidacy shall be annulled and the candidacy of Kerim Fazil Kerimli nominated on Gizilaghaj municipality of Masalli village Con.EC # 71 on his own initiative shall be registered to municipality membership.

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

Bakhsheyish Asgarov