

Approved by Decision 1/4-1 dated on January 8, 2009 and amended by decision # 10/42, dated July 26, 2016, # 1/2 dated 15 March 2019 and # 4/14 dated 4 August 2022 of the Central Election Commission of the Republic of Azerbaijan

## INSTRUCTION

### on procedures of conducting pre-referendum campaign in mass media

#### 1. General Provisions

1.1. This instruction establishes procedures of conducting referendum campaign in mass media during referendum in the Republic of Azerbaijan. The instruction has been prepared in accordance with requirements of Article 47 of the Constitution of the Republic of Azerbaijan, Election Code of the Republic of Azerbaijan (hereinafter referred to as – Election Code), of the Law “on Mass Media” of the Republic of Azerbaijan.

1.2. Explanation of some concepts used in the Instruction:

1.2.1. **Pre-referendum campaign by means of TV and radio (hereinafter referred to as – TV-radio)** broadcasting of information, in a manner and form established by legislation, for campaigning for or against issues put on referendum;

1.2.2. **Pre-referendum campaign by periodicals** – placing information in periodicals, in a manner and form established by legislation, for campaigning electorate to vote for or against issues put on referendum;

1.2.3. **Pre-referendum campaign on mass media** – speech, interview, press conference, open discussion, round table, political advertisement, TV and video films about issues put on referendum (excluding feature films);

1.2.4. **Speech** – explanation of the position of a referendum campaign group on the issues put on referendum to the voters by TV-radio broadcasting;

1.2.5. **Interview** – answers given by authorized representatives and agents of the registered referendum campaign group to the questions put during the meetings with mass media representatives;

1.2.6. **Press conference** – comments on the position of a relevant referendum campaign group on the issue (issues) put on referendum, including answers to the questions raised by authorized representatives of the registered referendum campaign groups and other persons defined by legislation in mass media;

1.2.7. **Open discussion** – discussion of the issues put on referendum with subjects of campaign;

1.2.8. **Debate** – open exchange of views of agents on behalf of two and more registered referendum campaign groups on the issues put on referendum;

1.2.9. **Round-table discussions** – exchange of views and questions and answers between representatives of the registered referendum campaign group, mass media representatives and TV-radio audience in the frame of referendum campaign events;

1.2.10. **Political advertisement** – placing advertising material in mass media, in a manner established by legislation, in order to form public opinion for or against issues put on referendum;

## **2. Terms and subjects of pre-referendum campaign**

2.1. According to the rules established by legislation, the referendum campaign shall commence 23 days prior to Voting Day and finish 24 hours prior to Voting Day. Any form of referendum campaigning on Voting Day and the preceding day from 08.00 a.m. shall be prohibited;

2.2. Registered referendum campaign groups are entitled to conduct referendum campaign.

***Note:** referendum campaign is conducted by authorized representatives and agents of referendum campaign groups within their authority.*

2.3. Below are the TV-radio broadcasting organizations that can participate in referendum campaign process on the basis of the type of property and broadcasting capabilities:

2.3.1. Public TV-radio broadcasting organizations covering half, more than half of the territory of the Republic of Azerbaijan;

2.3.2. Public TV-radio broadcasting organizations covering less than half of the territory of the Republic of Azerbaijan as well as relevant local branches of TV-radio broadcasting organizations indicated in Item 2.3.1.

2.3.3. TV-radio broadcasting organization being founded by municipalities;

2.3.4. TV-radio broadcasting organizations founded by persons and legal entities and based on private property.

2.4. Below are the periodicals that can participate in pre-referendum campaign process on the basis of the type of property and broadcasting capabilities:

2.4.1. **Periodicals** - founded by state bodies, organizations, administration or funded by the state budget of the Republic of Azerbaijan and distributed in half, more than half or less of the territory of the Republic of Azerbaijan;

2.4.2. **Municipal periodicals** – periodicals founded by municipalities;

2.4.3. **Private periodicals** – founded by independent persons and legal entities;

2.5. Air time for conducting referendum campaign by TV-radio broadcasting organizations mentioned in Item 2.3.1, 2.3.2, 2.3.3, 2.4.1 and 2.4.2 of this Instruction, as well as publications in periodicals shall be provided on free or paid basis, and by organizations mentioned in Items 2.3.4, 2.4.3 of this Instruction on paid basis, only.

## **3. Procedures and terms for providing air time in TV-radio broadcasting organizations and publications in periodicals on free basis:**

3.1. Registered referendum campaign group numbering 40, 000 and more members shall be entitled to free air time provided by the TV-radio companies which air programming or are distributed in half of the territory of the Republic of Azerbaijan or more, relevant space for free advertising in state periodicals issued at least once a week and covering half or more than half of the Republic of Azerbaijan.

3.2. The registered referendum campaign groups that collected the required number of signatures at the appropriate election constituencies in accordance with the Election Code and that have 20,000 or more members are entitled to get free air time to conduct pre-referendum campaign at the relevant administrative unit on the public TV and radio companies that air in less than half of the territory of the Republic of Azerbaijan as well as the relevant branches of TV and radio companies mentioned in item 3.1 of these Instructions and free space in the state periodicals distributed in less than half of the territory of the Republic of Azerbaijan and published at least once a week

3.3. Founders of the registered referendum campaign groups which collected the signatures from the relevant constituency and which have 2,000 or more members are entitled to get free air time on TV and radio companies whose founders are municipal institutions and to get free space in the municipal periodicals published at least once a week.

3.4. Central Election (Referendum) Commission of the Republic of Azerbaijan (hereinafter referred to as Central Election Commission) shall not later than 20 days after official publication of the decision to appoint a referendum publish a list of TV-radio companies and periodicals mentioned in Item 3.1 of this Instruction, on the basis of proposal of Audiovisual Council of the Republic of Azerbaijan, as well as Azerbaijan Press Council.

3.5. Constituency Election (referendum) Commission (hereinafter referred to as Constituency Election Commission) shall, at the latest within 30 days after official publication of the decision (order) to appoint a referendum, publish a list of TV-radio companies and periodicals mentioned in Item 3.2 and 3.3 of this Instruction, on the basis of the presentation of Audiovisual Council of the Republic of Azerbaijan, as well as Azerbaijan Press Council.

3.6. Central Election Commission shall, within a week after commencement of pre-referendum campaign, conduct lottery with the purpose of division of free airtime among registered referendum campaign groups on the basis of submitted applications in accordance with Item 3.1 of this Instruction. Relevant Constituency Election Commission shall conduct lottery with the purpose of division of free air time in accordance with item 3.2 and 3.3 of this Instruction. According to the rules and terms indicated in this Instruction, relevant periodicals shall conduct lottery, in order to allocate space for publications in periodicals mentioned in Item 3.1, 3.2 and 3.3.

3.7. Upon completion of general registration and before the terms indicated in Item 3.6 of this Instruction started, campaign subjects can apply to the Central Election Commission and Constituency Election Commission. Relevant election commissions can conduct lottery earlier than scheduled time, on the basis of submitted applications.

3.8 Election commission shall, at least 24 hours prior to conducting of lottery, officially publish information on place and time of its conduct.

3.9. Members of relevant election commissions, authorized representatives or agents of registered referendum campaign groups, citizens of the Republic of Azerbaijan who obtained status of observers in a manner defined by legislation, mass media representatives as well as international observers can take part in conducting of a lottery.

3.10. Lottery shall be organized and implemented by a lottery commission which should be established by the relevant election commission. A lottery shall be conducted among authorized representatives of registered referendum campaign groups which applied for this, TV-radio representatives and other subjects indicated in Item 3.9 of this Instruction, in order to use day, time and airtime announced by lottery commission.

3.11. Four-corned identical pieces of paper equal to the number of subjects participating in a lottery shall be prepared. These pieces of paper with a scope of air time, as well as publications in periodicals, shall be numbered, folded up, casted into a box and mixed up. Then, one by one every member of a lottery commission shall pull out a folded paper and declare the number written on it. Registered referendum campaign groups, upon their wish, can also be charged with this task.

3.12. A lottery commission shall draw up a relevant protocol to make official the results on allocating airtime. A table (Appendix # 1 to Instruction) shall be attached to this protocol and published upon submission to the relevant election commission.

3.13. A lottery for allocating space in periodicals shall be conducted in accordance with rules and terms indicated in Item 3.6 of this Instruction. A protocol and a table (Appendix # 2 to Instruction) on the results of a lottery shall be drawn up.

3.14. The total volume of free air time for referendum campaign allocated by the TV and radio companies should be no less than 3 hours a week, according to the Item 3.1 of this Instruction. The total volume of the free airtime for referendum campaigning allocated by the TV and radio companies referred to in Item 3.2 of this Instruction, should be no less than 1 hour and 30 minutes a week. If the total airtime of those broadcasting companies is less than 2 hours during a day, the mentioned airtime should

not be less than  $\frac{1}{4}$  of the total programming time. The allocated free airtime should be within the time when most viewers can watch it.

3.15. The total volume of free space for referendum campaigning allocated by each periodicals founded by government bodies, administration, organization or funded by the state budget should be no less than 10% of pages published during a week.

3.16. If referendum campaign group refuses to use free air time allocated by TV and radio companies as well as free space in periodicals, this unused air time and space in periodicals cannot be used in other purposes including referendum campaign. In this case, the unused time and space in periodicals shall be left empty and the reasons of not using it shall be indicated there.

3.17. The TV and radio companies indicated in Item 3.2 of this Instruction shall allocate  $\frac{1}{3}$  of the total programming time to the joint discussions and round tables of relevant referendum campaign groups. In accordance with Article 80.6 of Election Code, if one of the referendum campaign groups refuses to participate at the relevant events, this cannot serve as a reason for extending allocated free air time.

3.18. In order to conduct joint campaign events at the channels of each TV and radio companies indicated in Item 3.1 and 3.2 of this Instruction in accordance with the rules of legislation, airtime shall be divided and counted for the relevant referendum campaign groups. Campaign groups should use this time on equal basis. In this case, the volume of airtime which is used by each referendum campaign group shall be defined.

#### **4. Procedures and terms for providing air time in TV-radio broadcasting organizations and publications in periodicals on paid basis**

4.1. The TV and radio companies and periodicals mentioned in Item 3.1 of this Instruction, shall allocate paid airtime and print-space for referendum campaign groups, on a contractual basis. Referenda campaign group with number of members less than 20,000 cannot use this airtime and print-space. Private TV and radio companies which air or publish referendum campaign materials shall undertake these measures on a voluntary basis. These bodies cannot be forced to participate in referendum campaign. If private TV and radio companies and publications give their consent to participate in referendum campaign, the conditions for airing or printing referendum campaign materials should be equal for all referendum campaign groups.

**Note:** *These procedures do not apply to periodicals founded by political parties.*

4.2. Within at the latest 30 days of the official publication of the decision (order) determining referendum, the relevant TV and radio companies and periodicals founded by persons and legal entities, shall publish information on the amount and conditions for placing campaign materials and send the notification on the possibilities for allocating airtime and print-space to the Central Election Commission. In accordance with rules established by law, this information shall be sent to referendum subjects after they are defined.

4.3. The TV and radio companies shall establish equal amount of payment for allocated paid airtime and print-space for referendum subjects.

4.4. Public TV and radio companies shall keep in reserve additional air time to conduct referendum campaign. Total airtime provided by Public TV and radio companies cannot be less than and twice as much as total free air time. Except for periodicals founded by persons or legal entities, total paid print-space provided in other periodicals should not be less than total number of pages provided on free basis.

4.5. The norms for use of paid airtime of TV and radio companies indicated in Item 3.1 of this Instruction and print-space of periodicals indicated in Item 3.2 and 3.3 of this Instruction shall be defined by dividing the total amount of reserved airtime and print-space by the total number of referendum campaign groups.

4.6. Referenda campaign groups numbering 20,000 and more members, as well as referendum campaign groups numbering 2,000 and more members can use print-space in periodicals defined in a manner indicated in Item 4.5 of this Instruction on the paid basis.

4.7. The time and date of pre-referendum campaign materials to be aired shall be determined by the TV and radio companies and redaction of periodicals, on the basis of the results of a lottery conducted among referendum subjects, in the presence of the persons indicated in Item 3.9 of this Instruction, and a notification on this should be submitted to referendum campaign groups or agents of these groups.

4.8. A lottery shall be conducted to divide airtime and allocate place in periodicals in periods and terms indicated in this Instruction.

4.9. Airtime shall be presented on the basis of a contract signed after the lottery.

Following shall be included to the contract:

4.9.1. The method of pre-referendum campaign;

4.9.2. Airtime date and time, publication dates;

4.9.3. Terms of allocated airtime, scope of place for publication, payment procedures and amount

4.9.4. Form and terms of participation of a leading journalist in the process of TV and radio programming.

4.10. In addition to above mentioned, other conditions ensuring conduct of referendum campaign in accordance with legislation may be added to the contract.

4.11. An act on use of air time (publication) as well as the name the broadcast (publication material) and the time of airing (space for publication) shall be drawn up after implementation of contract conditions.

4.12. Referenda campaign group shall submit the payment order for transfer of the full amount of money for airtime to the relevant bank at least 48 hours prior to the broadcasting day. The relevant bank should transfer money immediately receiving the payment order. The bank transfer should not take more than two banking days.

4.13. Payment of airtime and print-space in periodicals should be made from the referendum fund of a referendum campaign group.

4.14. If referendum campaign group refuses to use airtime and print-space in periodicals after the lottery, it should inform the relevant TV and radio company about this decision 2 days prior to the broadcasting day and relevant redaction of periodical at least 5 days prior to the publication. TV and radio companies and periodicals cannot use the vacant airtime and print-space for purposes of conducting pre-referendum campaign. These organizations use those opportunities upon their own suppositions excluding pre-referendum campaign.

4.15. If the contract is terminated, TV and radio companies cannot use the vacant airtime as well as print-space in periodicals for purposes of conducting pre-referendum campaign.

4.16. The TV and radio companies and periodicals allocating free or paid airtime or print-space for referendum campaign groups, should register the cost and volume of the allocated print-space and airtime in accordance with requirements of Article 79 of Election Code. The registration should be recorded in a special book form and it shall indicate the date for allocating print-space, nature of printed campaign materials. Central Election Commission shall be informed about the registration at latest 5 days prior to Voting Day and at least 5 days after Voting Day. An extract from the book should be made in the form of a letter.

## **5. Restrictions associated with conduct of the pre-referendum campaign in mass media**

5.1. The below subjects are prohibited to conduct the pre-referendum campaign:

5.1.1. foreign states and foreign juridical persons;

5.1.2. state-owned TV and radio companies, except those specified in article 77.1. of

the Election Code;

5.1.3. foreign citizens;

5.1.4. persons without citizenship;

5.1.5. citizens under 18 years of age;

5.1.6. juridical persons of the Republic of Azerbaijan, if by the date of the official publication of the decision on conduct of referendum share (property) of foreign states, foreign juridical persons, foreign citizens or persons without citizenship in charter capital of juridical person of the Republic of Azerbaijan is more than 30%;

5.1.7. international organizations and international public movements;

5.1.8. state authorities and municipalities;

5.1.9. state, municipal organizations and agencies;

5.1.10. juridical persons with more than 30% of the state or municipality share in their charter capital by the day of the official publication of the decision (order) on conduct of referendum;

5.1.11. charity organizations, religious unions, agencies, organizations;

5.1.12. persons performing their duties or functions and at the same time holding posts in the state bodies, offices, organizations or municipal bodies and organizations;

5.1.13. state and municipal officers;

5.1.14. military officers;

5.1.15. election commissions, election commission members and other officials.

5.2. It is prohibited to do the following actions during pre-referendum campaign in the mass media.

5.2.1. to stop broadcasting campaign material by advertising goods, jobs and services or broadcasting other programs;

5.2.2. to stop broadcasting pre-referendum campaign materials on TV radio companies by broadcasting other TV-radio programs;

5.2.3. to demand payment for information about conduct of the pre-referendum campaign;

5.2.4. to give views calling on to take power by force, change the constitutional structure by force and violate the territorial entity of the state, criticize citizens' honour and dignity (this prohibition should be applied in accordance with article 47 of the Constitution of the Republic of Azerbaijan);

5.2.5. use of a campaign form which leads to the social, racial, national, religious enmity and hostility;

5.2.6. conduct of a campaign violating laws on intellectual property;

5.2.7. *Excluded.*

5.3. TV-radio companies and periodicals as well as other subjects of the pre-referendum campaign, which created conditions for conduct of the pre-referendum campaign, have to meet their contractual obligations.

## **6. Final provisions**

6.1. If the subjects of the campaign process violate the terms determined by the contract during use of air time and periodicals the TV-radio companies and periodicals may appeal to court for termination of the contract for provision of air time and allocation of space for publication in periodicals.

6.2. Control over compliance to the pre-referendum campaign rules determined by the Election Code as well as the Instruction by means of periodicals shall be carried out by the Press Group organized by the Central Election Commission and composed mainly of journalists.

6.3. Non-compliance to the terms given in the Instruction is subject to responsibility established by legislation.





