

OPINION

of Valida Kazimova, 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 11 submitted to CEC on November 25, 2014

Baku

26 November 2014

Having investigated the appeal # 11 submitted to CEC on November 25, 2014 by Zakir Musa Suleymanov, registered candidate on Gapanli municipality of Shamkir-Dashkasan Con.EC # 100 in the Municipal elections on December 23, 2014 regarding to annul the Con.EC decision on the registration of the candidacy of Shaheddin Hasan Huseynov and adopting a relevant decision on refusal from registering his candidacy, as a member of Expert Group, I have determined that:

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" approved by the CEC decision # 11/53-2 dated August 12, 2008 (amended by decisions # 15/58-6 dated July 23, 2010 and # 5/16 dated October 19, 2012), it was accepted for implementation and relevant investigation was held on this.

By justifying his appeal, Z.M.Suleymanov informed that Sh.H.Huseynov, registered candidate on Gapanli municipality of Shamkir-Dashkasan Con.EC # 100 had been subjected to corrective labour by the enforced court decision and meanwhile, he had not reimbursed the loss on civil action up today.

A reference provided by Main Operations and Statistics Department of the Ministry of Internal Affairs of the Republic of Azerbaijan reveals that Sh.H.Huseynov was subjected to corrective labour for 2 years upon being deprived of the right to be engaged in certain activity at governmental and local management bodies for 3 years by Articles 308.1 and 46.1 of the Criminal Code of the Republic of Azerbaijan according to the sentence of Shamkir region court, dated August 3, 2012 and by the sentence of Ganja Court of Appeals, dated September 19, 2012 that sentence was changed to be subjected to corrective labour for one year upon being deprived of the right to be engaged in certain activity at governmental and local management bodies for one year.

Article 308.1 of the Criminal Code of the Republic of Azerbaijan that Sh.H.Huseynov had been convicted by is not classified as crimes defined by Articles 15.4-15.5 of that Code.

Pursuant to Articles 13.3.1 and 13.3.2 of the Election Code of the Republic of Azerbaijan, the accused people sentenced to imprisonment by the enforced court decision and prisoners convicted for the crimes (grave, specifically grave) implied by Articles 15.4-15.5 of the Criminal code of the Republic of Azerbaijan shall not have the right to be elected (passive election right) municipality member.

Through a full, comprehensive, fair and impartial investigation legal grounds were found to keep in force the argued decision of the Con.EC without any amendments.

According to the above-mentioned, the complaint shall not be implemented due to its groundless factors and the decision # 21/59 of Shamkir-Dashkasan Con.EC # 100 shall be kept in force without being amended.

The Con.EC decision on the registration of Sh.H.Huseynov had been adopted in comply with Article 60 of the Election Code.

According to the above-mentioned, the complaint shall not be implemented due to its groundless factors and the decision # 21/59 of Shamkir-Dashkasan Con.EC # 100, dated November 22, 2014 shall be kept in force without being amended.

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:**

1. The complaint by Zakir Musa Suleymanov, registered candidate on Gapanli municipality of Shamkir-Dashkasan Con.EC # 100 shall not be implemented due to its groundless factors.
2. The decision # 21/59 of Shamkir-Dashkasan Con.EC # 100, dated November 22, 2014 shall be kept in force without being amended.
3. 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

Valida Kazimova