

## **OPINION**

of Irada Hajiyeva, 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 06 submitted to CEC on November 22, 2014

Baku

23 November 2014

Having investigated the appeal # 06 submitted to CEC on November 22, 2014 by Musa Burjubay Ismayilov, nominee on Boyuk Bahmanli municipality of Fuzuli Con.EC # 84 on his own initiative in the Municipal elections on December 23, 2014 regarding the annul of the Con.EC decision on the refusal from registering his candidacy and adoption of a relevant decision on the registration of 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 complaint, the complainant informed that he had nominated his candidacy on on his own initiative on Boyuk Bahmanli municipality of Fuzuli Con.EC # 84 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 34 voters' signatures within that municipality instead of 30 voters' signatures, but his candidacy was refused from registration by the Con.EC decision # 16/3 dated November 17, 2014 without any reason.

During the investigation process the documents which have led to the adoption of the argued decision by the Con.EC and submitted for the candidate registration were requested to be sent by the Con.EC to the Working Group under CEC for opinion providing upon the conduct of relevant investigation.

By justifying its decision # 16/3 dated November 17, 2014 on the refusal from registering the candidacy of M.B.Ismayilov, the Con.EC informed that the signature sheet submitted by the candidate was made amendments and those amendments had not been approved by a person approving the signature sheet.

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. He informed that he had included October instead of November on dates of signature as a technical mistake and requested the Con.EC to provide him with signature sheets to re-collect signatures for rectifying that mistake, but as the Con.EC informed him about impossibility of doing that, he edited it himself.

The opinion and protocol dated November 23, 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 by M.B.Ismayilov for the candidacy registration had been collected in comply with the Election Code. All of 34 voters' signatures collected by nominee Musa Ismayilov were considered valid. Regarding the amendments made to the signatures date by the nominee, the explanation of the Con.EC chairperson proves that the amendments in the submitted signature sheets have been made by the nominee. 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 his candidacy.

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 and less than 9.999 populations. The population number within the territory covered by Boyuk Bahmanli municipality is within the limits defined by the above-mentioned Article of the Election Code.

Pursuant to Article 60.4 of the Election Code, in a case that mistakes and erases can be avoided by making edits by a candidate, then the election commission shall warn the candidate within 24 hours and register the candidate after he had made relevant editing.

While adopting a decision on the refusal from registering the candidacy of M.B.Ismayilov, the Con.EC had not taken into consideration the requirements of that article.

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 # 16/3 of Fuzuli Con.EC # 84, dated November 17, 2014 on the refusal from registering the candidacy of M.B.Ismayilov on Boyuk Bahmanli 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 complaint # 06,dated November 22, 2014 by M.B.Ismayilov nominated on Boyuk Bahmanli municipality of Fuzuli Con.EC # 84 on his own initiative shall be implemented and the Con.EC decision # 16/3 dated November 17, 2014 on the refusal from registering his candidacy shall be annulled.
2. The candidacy of Musa Burjubay Ismayilov, nominee on Boyuk Bahmanli municipality of Fuzuli Con.EC # 84 on his own initiative shall be registered to municipality membership.
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

Irada Hajiyeva