

OPINION

of Bakhsheyish Asgarov, member of Expert Group established under Central Election Commission for investigating the complaints about the actions (inactions) violating citizens' election rights on the appeal #08 dated 26 September 2013 by Elman Volodya oghlu Fattah, authorized representative of registered candidate to presidency Jamil Hasanli in Presidential Elections of the Republic of Azerbaijan on October 9, 2013

Baku city

September 27, 2013

Investigating the appeal #08 dated September 26, 2013 by by Elman Volodya oghlu Fattah, authorized representative of registered candidate to presidency Jamil Hasanli in Presidential Elections of the Republic of Azerbaijan on October 9, 2013, as a member of Expert group – Bakhsheyish Asgarov, I determined that:

As the appeal had been compiled in comply with Articles 112, 112-1 of the Election Code of the Republic of Azerbaijan and “Instruction on the rules for filing appeals and complaints on the violation of election rights to Central Election Commission and Constituency Election Commissions and their consideration by these commissions” and submitted within the period implied for the complaint it was accepted for investigation with the participation of the applicant.

Since the applicant was not justified to have appealed to Public TV for the payable airtime within the period defined by law, the commitments of Public TV has been terminated due to the expire of this period and commitment of another typed contract has been emerged on selling the airtime to other partners, the appeal shall not be implemented by being considered invalid.

According to the letter # 1/01-101 dated 27 September 2013 of PTRBC, no one of the registered candidates have applied for the payable airtime. The letter includes that PTRBC has sent a letter to the Central Election Commission within the period defined by legislation regarding the airtime and terms allocated by PTRBC for the payable campaign of the registered candidates in the Presidential elections of the Republic of Azerbaijan to be held on October 9, 2013 and provided additional information on that to the publicity. According to the legislation, additional airtime has been kept in reserve. Pursuant to Article 81.4 of the Election Code, the persons having rights to use payable campaign as implied by Article 80.4 of the Code shall apply to the Company within a week after the start of pre-election campaign and lottery shall be held regarding the additional airtime in reserve for the conduct of payable pre-election campaign. But this period expired on 23 September 2013 and PTRBC has not received any official appeal by campaign actors. Considering that not any entitled person has filed an appeal on the reserved airtime for the payable campaign pursuant to

relevant articles of the Election Code, PTRBC had got the commitment of contract on selling this period to new partners.

According to the letter # 1/01-102 dated 27 September 2013 by PTRBC, there is not any information in the checkpoint on the presence of authorized representative of registered candidate to presidency Jamil Hasanli, Elman Fattah and others in PTRBC on 23 September 2013. Furthermore, the surveillance camera has not recorded the presence of the above-mentioned persons in the checkpoint bureau of PTRBC.

Director of PTRBC Analytical Programs Fuzuli Ismayilov explained that he had not phone call with anyone for the allocation of payable airtime.

Not any evidence proving the applicant's applying to PTRBC within the period and manner defined by law was determined.

Pursuant to Article 75.2 of the Election Code, election campaign shall start 23 days prior to the voting day and finish 24 hours prior to the commence of the voting.

Pursuant to Article 80.4 of the Election Code, the lottery shall be conducted for distributing free airtime allocated in comply with Article 80.7 of the Election Code on the basis of the appeal of registered candidates, political parties and blocs of political parties within a week after the start of the period implied by Article 75 of the Code.

And pursuant to Article 81.4 of the Election Code, payable airtime implied by Article 81.2 of the Code shall be provided by TV and radio broadcasting companies within the period defined by Article 80.4 of the Code. The time and date of airing pre-election campaign materials shall be determined by TV and radio broadcasting companies on the basis of relevant notifications by the authorized representatives through the lottery with the participation of candidates, political parties, blocs of political parties. The lottery shall be conducted within the period defined by Article 80.4 of the Election Code. Airtime shall be provided on the basis of a contract signed after the conduct of lottery.

Taking the above mentioned as a basis, pursuant to Articles 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 **I came to opinion:**

1. The appeal #08 dated 26 September 2013 by Elman Volodya oghlu Fattah, authorized representative of registered candidate to presidency Jamil Hasanli in Presidential Elections of the Republic of Azerbaijan on October 9, 2013 shall not be implemented due to groundlessness.

2. The complainer shall be ensured to be informed on the results of the investigation.

3. The opinion shall be published within 18 hours from the moment of its adoption (on the web site of Central Election Commission) and a copy should be sent to the applicant and relevant bodies.

Member of Expert group

Bakhsheyish Asgarov