

## OPINION

of Tofiq Hasanov, member of Expert Group established under Central Election Commission for investigating the complaints about The actions (inactions) violating citizens' election rights on the appeal #15 by Mustafa Mustafa oghlu Hajili, authorized representative of registered candidate to presidency Jamil Hasanli in Presidential Elections of the Republic of Azerbaijan on October 9, 2013

Baku city

07 October 2013

Investigating the appeal #15 dated October 02, 2013 by Mustafa Mustafa oghlu Hajili, authorized representative of Jamil Hasanli, registered candidate to presidency in the Presidential elections of the Republic of Azerbaijan appointed to October 9, 2013, as a member of Expert group – Tofiq Hasanov, I determined that:

Applying to the Central Election Commission of the Republic of Azerbaijan in written form on 5 October 2013, Jamil Poladkhan oghlu Hasanli, registered candidate in the Presidential elections of the Republic of Azerbaijan on October 9, 2013 informed on undue interference of Zulfugar Jafarov, deputy head of Gabala region executive authority in the election process, the arrest of Imran Ismayilov, Musavat Party by his order for the reason that he had disseminated the campaign materials of candidate Jamil Hasanli and by being taken to the court, he had been subjected to penalty action in the form of administrative imprisonment for 7 days, therefore he requested to undertake relevant measures on undue interference of Zulfugar Jafarov and illegal decisions of legal protection bodies.

As the appeal had been compiled in comply with Articles 112 and 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" dated 12 August 2008, it was adopted to investigation by the member of the Expert Group established under Central Election Commission and relevant opinion was provided and considered at the session of Central Election Commission.

The applicant was kept contact in the process of investigation and was informed on the right to participate in the investigation and he was invited to assist the investigation and suggested to present the evidences if he had got any additional evidences related to the cases indicated in the appeal.

At the result of thorough, fair and impartial investigation of the appeal, it was determined on the basis of the followings that any undue interference of Zulfugar Jafarov, head of the department of working with area management

and local self-government bodies (he was indicated as the deputy head of Gabala region executive authority in the appeal) was not found out during the dissemination of the campaign materials of Jamil Hasanli by member of Musavat Party Imran Ismayilov.

So that, Zulfugar Jafarov, head of the department of working with area management and local self-government bodies indicated in his explanation that he did not know any person called Imran Islamyilov, did not have any contact with him and all the claims indicated about him in the appeal were slanders, because he did not interfere in the campaign of any political party.

Mehman Abbasov, commission member representing Azerbaijan Democratic Reforms Political Party at Gabala Con.EC # 116, Elsever Shukurov, commission member representing Azerbaijan Hope Party at this Con.EC, Intigam Dadashov, chair of district organization of Unified Azerbaijan Popular Front Party, Kheyreddin Jabbarov, chair of local organization of Azerbaijan Hope Party indicated in their explanations that registered candidates to presidency had been facilitated normally to post their campaign materials within this election constituency and to conduct equal campaign, dissemination of the campaign materials of registered candidates to presidency had not been obstructed in any way and campaign was being conducted independently and freely.

Reference # 1630 dated 5 October 2013 by Gabala region executive authority points out that any activity was not planned in Mikhligovag village on 3 October 2013. Zulfugar Jafarov, head of the department of working with area management and local self-government bodies was in the office on that day.

The copy of decision # 3(025)-358/2013 dated 4 October 2013 by Gabala region court, attached to the case material shows that Imran Eldar oghlu Ismayilov had been subjected to administrative imprisonment for 7 days by being convicted by Article 296 of Administrative Offences Code of the Republic of Azerbaijan.

Thus, any incidents of undue interference of Zulfugar Jafarov, head of the department of working with area management and local self-government bodies of Gabala region executive authority in the election process and any illegal actions committed against him by Imran Ismayilov, member of Musavat Party during the dissemination of campaign materials of registered candidate Jamil Hasanli were not determined at the investigation.

The fact of arresting Imran Ismayilov by Zulfugar Jafarov, head of the department of working with area management and local self-government bodies of Gabala region executive authority for the reason of disseminating campaign materials of candidate Jamil Hasanli, intimidating him by punishment in case of conducting campaign for Jamil Hasanli and by taking Imran Ismayilov to Gabala region Police office, and then to the court, to subject him to the penalty action in the form of administrative imprisonment for 7 days were not justified during the investigation. Instead, it was determined that Imran Ismayilov, member of Musavat Party had been subjected to the penalty action in the form of administrative imprisonment not due to the dissemination of campaign materials of candidate Jamil Hasanli, but exactly due to the commitment of administrative offence. So that, it was

defined through decision # 3(025) – 258/2013 dated 4 October 2013 by Gabala region Court that Imran Eldar oghlu Ismayilov committed the actions breaking the public order and openly expressing disrespect to the publicity, by swearing and humiliating the sufferer Teymur Suleyman oghlu Mustafayev, made little hooliganism in the shop of Nij settlement of Gabala region at 20.00 on October 4, 2013. Therefore, he was accused and arrested in administrative form for 7 (seven) days by Article 296 of the Administrative Offences Code of the Republic of Azerbaijan.

The explanations of the sufferer Teymur Mustafayev, witnesses Shaig Abbasov and Mehdi Veyselov make clear that any representative of Gabala region executive authorityç as üell asç Zulfugar Jafarov üas not on the place of commitment during this little hooliganism.

As obvious, Imran Ismayilov was subjected to administrative liability for the commitment of administrative offence not due the claims indicated in the complaint.

According to the above-mentioned, Central Election Commission reckons that the appeal shall not be implemented due to groundlessness.

Taking the above mentioned as a basis, pursuant to Articles 19.4, 19.14, 28.2, 28.4, 112, 112-1 of Election Code of the Republic of Azerbaijan and 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” dated August 12, 2008, **I came to opinion:**

1. The appeal #15 dated 05 October 2013 by Mustafa Mustafa oghlu Hajili, 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.

2. 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 applicants.

Member of Expert group

Tofiq Hasanov