ON BEHALF OF THE REPUBLIC OF AZERBAIJAN

DECISION

##### OF THE CONSTITUTIONAL COURT

##### OF THE REPUBLIC OF AZERBAIJAN

*On the Results of Elections of Deputies to the Milli Majlis*

*of the Republic of Azerbaijan held on 5 November, 2000*

# 22 November, 2000 Baku city

The Constitutional Court of the Republic of Azerbaijan composed of Kh.Hajiyev (Chairman), Judges: F.Babayev, B.Garibov, R.Gvaladze (Reporter Judge), S.Salmanova, A.Sultanov (Reporter Judge), E.Mamedov;

joined in the proceedings by: the Court Clerk I. Ismayilov,

M. Panahov, Chairman of the Central Election Commission (CEC) of the Republic of Azerbaijan; S.Gasimova, Deputy Chairman of the CEC; I.Abbasov and G. Huseynguliyev, secretaries; F.Javadov, E.Aleskerov, V.Asadov, Y.Huseynov, E.Gurbanov, V.Mahmudov, R.Maherramov, I.Mamedov, S.Mamedov, I.Nasirov, N.Pashayev, M.Salimzadeh and A.Tagiyev, members;

Experts: E.Nasirov, chief lecturer of the constitutional law board of the law faculty of Baku State University and R. Ismaylov, chief lecturer of the same board, candidate of legal sciences;

in accordance with Articles 86 and 130.5 of the Constitution of the Republic of Azerbaijan has examined via procedure of a special constitutional proceeding the materials, submitted by the CEC of the Republic of Azerbaijan on the results of elections to Milli Majlis of the Republic of Azerbaijan held on 5 November, 2000.

Having heard the reports of Judges R. Gvaladze and A. Sultanov, reports of Chairman of the CEC M.Panahov, secretaries of the Commission I.Abbasov and G.Huseynguliyev, members V.Mahmudov, Y.Huseynov, I.Nasirov and A.Tagiyev, conclusions of the experts E.Nasirov and R.Ismaylov, the Constitutional Court of the Republic of Azerbaijan

**DETERMINED AS FOLLOWS:**

## According to the Article 84.2 of the Constitution of the Republic of Azerbaijan and the Decree of the President of the Republic of Azerbaijan of 6 July, 2000 “On Setting the Date of Elections to Milli Majlis of the Republic of Azerbaijan” the elections to Milli Majlis of the Republic of Azerbaijan were held on 5 November, 2000.

##  According to the Article 86 of the Constitution of the Republic of Azerbaijan and Article 75.2 of the Law of the Republic of Azerbaijan “On the Elections to Milli Majlis”, on 15 November, 2000 with a view of the verification and confirmation of the results of elections to Milli Majlis the CEC submitted to the Constitutional Court of the Republic of Azerbaijan the protocols N1 and N2 of the district election commissions with enclosed relevant documents, its resolution concerning the determination of the results of elections on single multi-mandate electoral district. Two dissenting opinions of six members of the CEC are attached to above mentioned materials.

 In connection with the petition the resolution of the CEC on recognition of the results of elections as a void in Khatai 2 N10, Sumgayit 1 N38, Akhsu-Kurdamir N51, Imishli N68 electoral districts, the resolution on results of examination of complaints and requests received by the CEC, the list of materials, submitted on complaints and written requests to district election commissions and the Gerneral Prosecutor’s Office, the letter of the General Prosecutor’s Office of 21 November, 2000, N 11/395 on the results of examination of complaints and written requests, submitted by the CEC to the General Prosecutor’s Office, the letter of the Ministry of Justice of 21 November, 2000, N92-1/4 on the results of examination of complaints concerning the results of the elections by the district (city) courts, letter of the Court of Appeal of 21 November, 2000, N5A-33/2000 were enclosed to materials of the case.

According to the Article 86 of the Constitution of the Republic of Azerbaijan the accuracy of results of elections shall be verified and confirmed by the Constitutional Court of the Republic of Azerbaijan as specified by legislation. According to the Article 75 of the Law of the Republic of Azerbaijan “On Elections to Milli Majlis”, the CEC shall present to Constitutional Court protocols N1 and N2 of the district election commissions (according to the present Law with documents enclosed), the CEC’s own resolution concerning the determination of the results of elections on single multi-mandate electoral district.

From the documents presented to the Constitutional Court it is visible that on 5 November the elections to Milli Majlis were held in 99 electoral districts, in 95 electoral districts the elections were recognized as taken place and on each of them the candidates for the deputies were defined.

 By the resolutions of the CEC of the Republic of Azerbaijan of 6 November, 2000, N42/171, 8 November, 2000, N43/172, 9 November, 2000, N44/173 and 13 November, 2000, N46/175 in Khatai N10, Sumgayit 1 N38, Akhsu – Kurdamir N51 and Imishli N68 electoral districts the results of elections were recognized as void.

By the protocol of the CEC of 14 November, 2000 on elections on single multi-mandate electoral district and allocation of deputy mandates among political parties, blocs of political parties the following has been determined:

1. The total number of the voters on electoral rolls of constituencies of electoral districts – 4.212.915
2. The number of ballots distributed among voters on the elections day – 3.000.198
3. The number of the eliminated ballots – 1.140.341
4. The number of the valid ballots – 2.897.864
5. The number of the void ballots – 100.434
6. The number of the votes given for the list of single candidates of political parties, blocs of political parties – 2.883.819
7. The total number of votes given for each list of single candidates of political parties, which took part in allocation of deputy mandates:

New Azerbaijan Party – 1.809.801

Party of Popular Front of Azerbaijan – 313.059

Party of the Civil Solidarity – 182.777

The Communist Party of Azerbaijan – 182.029

 By it’s letter of 18 November, 2000, N10/20 the CEC of the Republic of Azerbaijan submitted to the Constitutional Court the references of the CEC members on Yasamal urban N56, Sabirabad-Saatli N94 electoral districts for their examination.

 In connection with the presented materials, the General Prosecutor’s Office and the Ministry of Justice requested for information on results of examination of complaints concerning the results of elections.

 According to the letter of the General Prosecutor’s Office of 21 November, 2000, N11/395 concerning submitted by the CEC 55 materials to the Prosecutor’s Office, in 48 cases the institution of criminal proceeding was dismissed, in 3 cases the criminal proceeding was instituted and cases on Yasamal N7, Hajigabul – Salyan N94, Barda N56 and Gusar N65 electoral districts are still being examined.

 From the letter of Ministry of Justice of 21 November, 2000, N92-1/4 it follows that on the results of voting and results of elections to Milli Majlis, district (city) courts of the Republic of Azerbaijan received 27 claims challenging the decisions of electoral districts, eight of them were abolished, 17 of them were replied in connection with non –observance of requirements of the Civil Procedure legislation, one is set aside and in one case the plaintiff refused to claim.

 In its letter of 21 November, 2000, N5A-33/2000 the Court of Appeal indicated that on 20 November, 2000 the Judicial Chamber on Civil Cases of this Court set aside the claim of Party of National Independence of Azerbaijan concerning the abolition of resolution of the CEC of the Republic of Azerbaijan on the definition of results of elections on single multi-mandate electoral district and recognition of the elections as void. Besides, the claim of Samedov.A.G., concerning the recognition of the results of elections on Khatai 2 N10 electoral district as void was also set aside.

 Examination of the materials, extra added documents and references of experts showed that in 88 of 95 electoral districts protocols N1, N2, extra documents enclosed to them and protocol of the CEC conform to the Law of the Republic of Azerbaijan “On Elections to Milli Majlis”. In connection with the infringement of Law, the protocols N1 and N2 of the rest seven electoral districts: Yasamal 2 N7, Khatai 1N9, Astara N53, Barda city N56, Gusari N65, Hajigabul-Salyan N94, Shamkir urban N99 can not be recognized as conforming to the Law.

 In connection with the above stated and being guided by Articles 86 and 130.5 of the Constitution of the Republic of Azerbaijan, Articles 72.1, 75, 76, 78, 81, 83 and 85 of the Law of the Republic of Azerbaijan “On the Constitutional Court”, the Constitutional Court of the Republic of Azerbaijan

**DECIDED:**

1. To confirm the results of elections of deputies to Milli Majlis of the Republic of Azerbaijan held on 5 November, 2000 on the following electoral districts:

# Sharur-Sadarak district N1

## Sharur-Babek district N2

## Nakhchivan district N3

## Babek-Shahbuz district N4

## Julfa-Ordubad district N5

Yasamal 1 district N5

Yasamal-Nasimi district N6

Hatai district N11

Nizami district N12

Nizami-Hatai district N13

Garadag district N14

Sabunchi district N15

Sabunchi-Surahan district N16

Sabunchi-Azizbekov district N17

Azizbekov district N18

Surahan 1 district N19

### Surahan 2 district N20

## Binagadi 1 district N21

## Binagadi 2 district N22

Binagadi-Garadag district N23

Narimanov 1 district N24

Narimanov 2 district N25

Nasimi 1 district N26

Nasimi 2 district N27

Sabail district N28

Ali-Bayramli-Salyan district N29

Evlah district N30

Kapaz district N31

Nizami district N32

Kapaz-Nizami district N33

Tartar-Evlah –Agdash-Geychay district N34

Lenkoran urban region district N35

Lenkoran rural region district N36

Mingechevir district N37

Sumgait 2 district N39

Sumgait 3 district N40

Shusha-Hojali-Hojavent-Tartar-Kelbajar district N41

Sheki urban region district N43

Sheki rural – Qakh district N44

Tartar-Kelbajar district N45

#### Absheron district N46

Agdam urban region district N47

Agdam rural region district N48

Agdash district N49

Agstafa district N50

Agjebedi district N52

Balakan district N54

Beylagan district N55

Barda-Agjebedi district N57

Bilasuvar district N58

Gazah district N59

Qakh-Zakatal district N60

Gabala district N61

Gobustan-Siazan-Hizi district N62

Guba district N63

Guba-Devichi district N64

Zakatala-Balakan district N66

Zardob-Imishli district N67

Ismailli district N69

Yardimli-Masalli district N70

Lachin-Kelbajar district N71

Kurdamir district N72

Gedabek district N73

Geranboy-Naftalan district N74

Geychay district N75

Lerik-Lenkoran district N76

Masalli urban region district N77

Masalli rural-Lenkoran district N78

Neftchala-Salyan district N79

Oguz-Sheki-Gabala district N80

Saatli district N81

Sabirabad district N82

Sabirabad-Saatli district N83

Salyan district N84

Samuh-Shamkir-Geranboy district N85

Zangilan-Gubadli district N86

Tovuz urban region district N87

Tovuz rural-Gedabek district N88

Ujar district N89

Fizuli district N90

Khanlar-Dashkesan district N91

Hachmaz district N92

Hachmaz-Divichi district N93

Jebrail-Fizuli district N95

Jalilabad urban region district N96

Jalilabad rural region district N97

Shamahi-Ahsu district N98

Shamkir rural region district

2. Not to confirm the results of elections to Milli Majlis of the Republic of Azerbaijan held on 5 November, 2000, on Yasamal 2 N7, Hatai 1 N9, Astara N59, Barda urban region N56, Gusari N65, Gadjigabul-Salyan N94, Shamkir urban region N99 electoral districts.

 3. Taking into account the item 2 of the present decision, to confirm the results of elections to Milli Majlis of the Republic of Azerbaijan, determined by the CEC of the Republic of Azerbaijan on single multi-mandate electoral district.

4. The decision comes into force from the date of its publication.

5. The decision is subject to publication in the “Azerbaijan” newspaper and “Bulletin of the Constitutional Court of the Republic of Azerbaijan”.

6. The decision is final and cannot be cancelled, changed or interpreted by any body or official.