

INSTRUCTION

on procedures of conducting pre-election campaign in mass media in Presidential Elections of the Republic of Azerbaijan

This instruction establishes procedures of conducting pre-election campaign in mass media during Presidential Elections of the Republic of Azerbaijan (hereinafter referred to as presidential elections).

The instruction has been made in accordance with requirements of Article 47 of the Constitution of the Republic of Azerbaijan, the Election Code of the Republic of Azerbaijan (hereinafter referred to as - Electoral Code), the laws of the Republic of Azerbaijan "On mass media " and "On Advertising".

1. Explanation of some concepts used in the instruction

1.1. Pre-election campaign by means of TV and radio (hereinafter referred to as - TV-radio) – TV-radio broadcasting of information, in a manner and form established by legislation, for campaigning electorate to vote for a candidate;

1.2. Pre-election campaign by periodicals – placing information in periodicals, in a manner and form established by legislation, for campaigning electorate to vote (not to vote) for a candidate;

1.3. Pre-election campaign on mass media - speech, interview, press conference, open discussion, debate, round-table discussion, political advertising, TV and radio broadcasting, TV and video films about candidate (except for feature films);

1.4. speech – explaining election program and platform to electorate by TV-radio broadcasting;

1.5. interview – answers given by registered candidates, their authorised representatives and agents*, political party with registered candidate, authorised representatives of political parties, blocs of political

** While participating in pre-election campaign, authorized representatives and agents of registered candidates, political parties, blocs of political parties shall function within their competence and should not be legally obstructed to execute their authorities.*

parties to questions of mass media people during meetings with these people;

1.6. **press conference** – comments on election program, including answers to media questions, made by registered candidates, political parties, blocs of political parties, their authorised representatives and other legitimate persons;

1.7. **open discussion** – discussing election program and platform with other subjects;

1.8. **debate** – open exchange of views of two or more registered candidates, as well as, authorised representatives of political parties, bloc of political parties with regards to election program;

1.9. **round-table discussions** – discussions and exchange of views between candidates, authorised representatives of political parties and bloc of political parties registered within pre-election campaign and media representatives, TV-radio audience;

1.10. **political advertising** – placing advertising material, in a manner established by legislation, in mass media to form public opinion in favour of election program or platform.

2. Duration and subjects of pre-election campaign

2.1. As established by legislation pre-election campaign in connection with Presidential Elections shall commence 23 days prior to voting day and stop 24 hours before starting voting (voting day). Conducting any pre-election campaign shall be banned on voting day and from 08.00 on the eve of voting day.

2.2. Below subjects are entitled to conduct pre-election campaign:

2.2.1. registered candidates;

2.2.2. political parties with registered candidates;

2.2.3. blocs of political parties with registered candidates;

2.2.4. pre-election campaign, on behalf of subjects mentioned in items 2.2.1-2.2.3 of this Instruction, can be conducted by their authorised representatives and delegates within authority empowered to them.

2.3. TV-radio broadcasting organisations specified, according to type of property and broadcasting capabilities, to participate in pre-election campaign are as below:

2.3.1. Public TV-radio broadcasting organisations covering half, more than half or less of the Azerbaijan Republic's territory;

2.3.2. TV-radio broadcasting organisations founded by physical and juridical persons and based on private property.

2.4. Periodicals specified, according type of property and broadcasting capability, to participate in election:

2.4.1. state-owned press periodicals – founded by governmental agencies, organisations, departments or state budgeted periodicals

broadcasted to half, more than half or less than half of the territory of the Republic of Azerbaijan;

2.4.2. **private periodicals** – founded by independent physical or juridical persons.

2.5. Air time for pre-election campaign by TV-radio broadcasting organisations mentioned in items 2.3.1 and 2.4.1 of this instruction, as well as, publications in periodicals shall be provided on free or paid basis, and by organisations mentioned in items 2.3.2 and 2.4.2 of this instruction on paid basis, only.

3. Procedures and terms of providing air time in TV-radio broadcasting organisations and publications in periodicals on free basis

3.1. Registered presidential candidates, political parties, bloc of political parties with registered candidates are entitled to free air time in public TV-radio broadcasting organisations covering half or more than half of the Azerbaijan Republic's territory, to free publications, as a minimum, in weekly state periodicals covering half or more than half of the Azerbaijan Republic's territory.

3.2. List of the subject TV-radio broadcasting organisations and periodicals' editorial offices shall be published by Central Election Committee of the Azerbaijan Republic (hereinafter referred to as - Central Election Committee), in accordance with recommendations of National TV and Radio Council, as well as, Azerbaijan Press Council, no later than 20 days after official publication of decision on calling elections. Prior to commencement of pre-election campaign the subject TV-radio broadcasting organisations and periodicals' editorial offices shall inform Central Election Committee of duration and cost of free air time to ensure payment of free air time and publication cost of registered presidential candidates after completion of elections.

3.3. Central Election Committee shall, in a week's period after commencement of pre-election campaign, carry out casting of lots among registered candidates, political parties, blocs of political parties to distribute provided free air time according to their applications. Casting of lots for providing publications in periodicals mentioned in item 3.1 of this instruction shall be carried out by appropriate periodicals as per procedure and within a period mentioned in this instruction.

3.3.1. Upon completion of general registration campaign subjects are allowed to refer to Central Election Committee before a period mentioned in item 3.3 of this instruction. Central Election Committee based on these applications is allowed to carry out casting of lots in advance.

3.3.2. Central Election Committee's notice of place and time of casting of lots shall be officially published at least 24 hours prior to casting of lots.

3.3.3. Relevant election committee members, candidates, authorised representatives or delegates of political parties, blocs of political parties with registered candidates, the Azerbaijan Republic's citizens having observer's status on legal ground, media people and international observers can participate in casting of lots.

3.3.4. Casting of lots shall be arranged and carried out by a Central Election Committee founded ballot committee. Casting of lots shall be carried out on the date, time declared by ballot committee and among registered candidates who have applied for air time, political parties with registered candidates, authorised representatives of blocs of political parties with assistance of TV-radio broadcasting organisations representatives and subjects mentioned in item 3.3.3 of this instruction.

3.3.5. According to number of subjects to participate in casting of lots identical quadrangular paper pieces of the similar size shall be prepared. These pieces of paper with scope of air time, shall be numbered, folded up, cast into a box and mixed up. Then every ballot committee member shall pull out a folded paper and declare the number written on it. Candidates, political parties, blocs of political parties, upon their wish, also may be charged with this task

3.3.6. Provision of air time following to casting of lots by ballot committee shall be registered by a protocol and a table (appendix 1 to the instruction) be drawn up and submitted to Central Election Committee which shall publish it in a manner established by legislation.

3.4. Casting of lots with regards to provision of place for publications in periodicals shall be carried out according to procedure and within a period specified in item 3.3 of this Instruction. Protocol and table shall be drawn up and published based on result of the casting of lots (appendix 2 to the instruction).

3.5. Total free air time provided by public TV-radio broadcasting organisations for pre-election campaign should not be less than 3 hours a week.

3.6. Volume of free provided publication pages in each of periodicals founded by governmental agencies, offices, organisations or those state budgeted which cover half or more than half of the Azerbaijan Republic's territory should make up at least 10 percent of total weekly publication pages before pre-election campaign.

3.7. Should candidates, political parties, blocs of political parties refuse to use free air time in TV-radio broadcasting organisations, as well as, publication place in periodicals until broadcasting or publication, unused air time and publication place can not be used for other purposes including pre-election campaign. In this case provided, but unused air time and publication place should be kept vacant in the subject period and in the subject scope, and reasons of unavailability be mentioned.

4. Procedures and terms of providing paid air time and paid publication place in TV-radio broadcasting organisations

4.1. Public TV-radio broadcasting organisations and periodicals should, on contractual basis, provide paid air time and paid publication place to enable registered candidates, political parties with registered candidates, blocs of political parties to conduct campaign. Broadcasting or publication of pre-election campaign material by private TV-radio broadcasting organisations and periodicals should be based on free will principle. These structures can not be forced to participate in pre-election campaign. If private TV-radio organisations and periodicals agree to participate in pre-election campaign, terms of broadcasting or publication of pre-election campaign material should be equal for all candidates, political parties and blocs of political parties.

Note: these procedures do not apply to periodicals founded by registered candidates, political parties, blocs of political parties.

4.2. Should TV-radio broadcasting organisations and periodicals founded by physical and juridical persons confirm availability of air time and publication place for pre-election campaign, they give to Central Election Committee appropriate notices thereof, make public payment grounds, terms and amount for provision of air time and publication place for pre-election campaign material no later than 30 days after official publication of decision on calling election. Once campaign subjects are determined, they also should be given a notification thereof in a manner specified by legislation. Paid air time shall be provided in accordance with laws on advertising.

4.3. Settlement of paid air time and publication place provided by TV-radio broadcasting organisations and periodicals specified in items 2.3 and 2.4 of this instruction shall be carried out on equal basis and terms for election subjects.

4.4. Public TV-radio broadcasting organisations should keep in reserve additional air time to conduct pre-election campaign on paid basis. Total provided air time can not be less than and twice as much as total free air time, except for periodicals founded by physical and juridical persons, total paid publication place provided in other periodicals should not be less than total number of pages provided for free publication.

4.5. Norm of paid usage of air time and publication place provided for every registered candidate, political parties with registered candidates, blocs of political parties shall be determined by dividing total scope of time and place into number of subjects supposed to participate in casting of lots.

4.6. Date and time of pre-election campaign material broadcasting is established on the basis of notice given by registered candidates, political parties with registered candidates, blocs of political parties or delegates thereof by TV-radio broadcasting organisations and editorial offices of

periodicals in the result of casting of lots among subjects of casting of lots with assistance of persons mentioned in item 3.3.3 of this instruction.

4.7. Casting of lots for provision of air time and place in periodicals shall be conducted within period and in a manner specified in this instruction.

4.8. After casting of lots air time and place for publication in periodicals are provided on the basis of signed contract. The contract covers the following:

4.8.1. form of pre-election campaign;

4.8.2. broadcasting time, date or publication date;

4.8.3. duration of provided air time, scope of place provided for publication, payment procedure and amount;

4.8.4. form and terms of participation of a leading journalist in TV-radio broadcasting process.

4.9. In addition to the above mentioned other terms may also be determined on contractual basis to ensure lawful pre-election campaign.

4.10. After implementation of contractual terms, usage of provided air time (place for publication) a statement of air time usage, including name of broadcast (publication material) and time of broadcasting (publication), shall be drawn up.

4.11. Registered candidate, political party, bloc of political parties should submit payment order of complete settlement of amount for provided air time and publication places in periodicals to appropriate bank no later than 48 hours before provision of air time or date of campaign material publication. Bank should transfer money without delay. Duration of cashless settlement should not be more than 2 banking days.

4.12. Cost of air time and publication place provided in periodicals shall be paid at the expense of election fund means, only.

4.13. If provided air time and places in periodicals are rejected after casting of lots, at least 2 days and 5 days notices thereof should be given, accordingly, to appropriate TV-radio broadcasting organisation and appropriate periodical's editorial office. TV-radio broadcasting organisations and periodical editorial offices can not use the disengaged air time and publication place for pre-election campaign purposes. These structures shall make use of the disengaged opportunities at their discretion, except for pre-election campaign.

4.14. In case the contract is liquidated TV-radio broadcasting organisations can make use neither of the disengaged air time, nor periodicals for pre-election campaign purposes.

4.15. In accordance with requirement of clause 79 of Election Code free and paid air time provided by TV-radio organisation for pre-election campaign or free and paid place provided in periodical pages should be registered by the appropriate TV-radio organisation and periodical's editorial office. The registration should be made in a separate book with date of provision of publication place and description of campaign material for each

registered candidate, political party, or bloc of political parties. Central Election Committee should be given a notification of the registration no later than 5 days before and no earlier than 5 days after voting day. The notification shall be given in a form of letter reflecting extract from the book.

5. Restrictions associated with conducting pre-election campaign in mass media

5.1. The below subjects are banned to conduct election:

5.1.1. foreign states and foreign juridical persons;

5.1.2. State owned TV-radio broadcasting organisations, except for those specified in clause 77.1 of Election Code;

5.1.3. foreign citizens;

5.1.4. persons without citizenship;

5.1.5. citizens under 18 years old;

5.1.6. juridical persons of the Azerbaijan Republic, if by the date of official publication of decision on calling elections share (property) of foreign states, foreign juridical persons, foreign citizens or persons without citizenship in charter capital of the Azerbaijan Republic's juridical persons is more than 30 percent;

5.1.7. international organisations and international public movements;

5.1.8. state authorities and municipal structures;

5.1.9. state, municipal organisations and agencies;

5.1.10. juridical persons with more than 30 percent of state or municipality share in their charter capital by the date of official publication of decision on calling elections;

5.1.11. charitable organisations, religious unities, agencies, organisations;

5.1.12. persons performing their duties or functions and at the same time occupying positions in state bodies, offices, organisations or municipal bodies or organisations;

5.1.13. state and municipal officers;

5.1.14. military officers;

5.1.15. election commissions, election commissions' members with decisive voting right and other persons in charge.

5.2. Below actions are banned while conducting pre-election campaign in mass media:

5.2.1. suspending pre-election campaign material broadcasting by goods, jobs and services advertising or broadcasting other programs;

5.2.2. suspending pre-election campaign material broadcasting on TV-radio organisation's channel by broadcasting other TV-radio programs;

5.2.3. charging for information associated with conducting election related measures;

5.2.4. including appeals to forced usurpation of power, forced change of constitutional structure and violation of territorial integrity of the state, assumptions harming citizens' honour and dignity in pre-election campaign material (this ban should be imposed in accordance with clause 47 of Constitution of the Republic of Azerbaijan);

5.2.5. using a form of campaign which leads to social, racial, national, religious enmity and hostility;

5.2.6. conducting campaign which breaks legislation on intellectual property;

5.2.7. in contrary to requirements of clause 19 part 1 of the Law "On Advertising" displaying marking of goods (models) produced in the result of entrepreneurship activity of independent physical persons, commercial and non-commercial organisations, names of commercial organisations and physical persons dealing with entrepreneurship while broadcasting pre-election campaign material by TV-radio broadcasting organisations.

5.3. TV-radio broadcasting organisations and periodicals, as well as, other subjects of pre-election campaign which create conditions for conducting pre-election campaign have to meet their contractual obligations.

6. In case subjects of campaign process break contractual terms while making use of air time and periodicals TV-radio broadcasting organisations are allowed to refer to court for termination of contract for provision of air time and publication place in periodicals.

7. Control over compliance to pre-election campaign regulations specified in Election Code, as well as, in this instruction by means of periodicals shall be carried out by a press team arranged by Central Election Committee and consisting chiefly of journalists.

8. Non-compliance to the terms given in this Instruction is subject to responsibility established by legislation.