



**INTERNATIONAL ELECTION OBSERVATION MISSION
REPUBLIC OF AZERBAIJAN
ELECTION TO THE MILLI MAJLIS
5 November 2000**

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Baku, 6 November 2000 – The International Election Observation Mission (IEOM) for the 5 November 2000 elections to the Milli Majlis (Parliament) of the Republic of Azerbaijan issued this statement of preliminary conclusions and findings. The IEOM is a joint effort of the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE).

Ms. Paula Kokkonen, the OSCE Chairman-in-Office Special Representative for the election in Azerbaijan leads the OSCE Election Observation Mission. Mr. Nikolai Vulchanov heads the OSCE/ODIHR Election Observation Mission. Mr. Andreas Gross leads the Parliamentary Assembly delegation of the Council of Europe.

The statement of preliminary findings and conclusions is issued before the completion of complaint and appeal procedures, before the final certification of results and before a complete analysis of the observation findings. The OSCE/ODIHR will issue a comprehensive final report on these elections approximately one month after the completion of the process.

The Election Observation Mission wishes to express appreciation to the Ministry of Foreign Affairs and the Central Election Commission for their assistance and cooperation during the course of the observation.

PRELIMINARY CONCLUSIONS

The 5 November 2000 elections to the Milli Majlis (Parliament) of the Azerbaijan Republic constitute progress over previous elections, in particular in enhancing political pluralism. However, they fell short of international standards and significant improvements will have to be achieved in order to meet such standards for democratic elections.

The elections took place within an improved legislative framework that incorporated a number of recommendations proposed by the international community. However, the serious deficiencies in regard to implementation of the election legislation call for significant improvement in the future. The

authorities and the political parties are to be commended for their close cooperation with the international community during the legal drafting process.

The new amended CEC law provided multi-party election commissions at all levels, in contrast with past practices. In many instances the election commissions were subject to interference and pressure from the executive authorities.

Compared to the previous elections the political parties were finally able to register for the 25 seats in the proportional ballot, although the late registration of eight of them did affect their ability to conduct a full campaign. All parties and candidates had generally better opportunities to conduct their campaign, however in the last ten days they met an increasing number of obstacles such as harassment of political activists, hindered access to meetings room and to advertising space.

The major problem relates to the registration of candidates. Approximately half of the candidates were barred from running in the single mandate constituency races on the basis of invalid or deficient collection of signatures. Election Commissions failed to establish a credible procedure to verify voter signatures in support of candidature petitions. In many cases the registration was rejected on mere suspicion of fraudulent signatures rather than proven facts. It also appears that prominent public figures irrespective of their political affiliation were targeted. In addition, the rejected candidates were not given an opportunity to redress even minor errors. In the end, the signature verification process by the election commissions was subject to abuse, manipulation and arbitrary decisions. This limited both voters' choice and the right to be elected.

The appeal process did not redress this situation. The Central Election Commission, instead of deciding on appeals of candidates registration denials as the law stipulates, referred almost all complaints to the courts, causing undue delays and confusion. In many cases the courts also failed to address these complaints effectively. Thus the lack of action by the CEC was not remedied by the legal system and the appeal process was flawed.

The media provided for a diversity of political views. The legal provisions for free airtime were respected, and political parties were able to present their platforms and freely express their opinions. Nevertheless, the EOM noted a strong bias in favour of the incumbents outside the free airtime in the state-owned media. In contrast, some private broadcast media tried to provide a more balanced coverage of the elections, even though there are indications of self-censorship and of intimidation of media representatives.

Among other concerns is the new provisions relating to the accreditation of the domestic non-partisan observers, which are less liberal and a step back from the previous Presidential election.

On election day, observers reported that voting was conducted in a generally calm atmosphere, but in contrast to the official figures, voter turnout was reported to be very low. The elections were marred by numerous instances of serious irregularities, in particular a completely flawed counting process. Observers reported ballot stuffing, manipulated turnout results, pre-marked ballots and producing either false protocols or no protocols at all. Additionally, party proxies frequently suffered intimidation, harassment and sometimes even arrest whilst carrying out their legitimate activities. Unauthorised local officials often controlled the process and sought to influence voters. In several instances, international observers were denied access to polling stations and were frequently expelled from election commission premises.

The OSCE/ODIHR, the OSCE Parliamentary Assembly and the Parliamentary Assembly of the Council of Europe stand ready to continue the dialogue with the authorities and civil society of Azerbaijan, to address the concerns in this statement and the recommendations that will be detailed in a final report.

PRELIMINARY FINDINGS

Background

Azerbaijan held its first nation wide local elections in December 1999 but the results of 60 municipalities were canceled by a decision of the Central election Commission because of serious infringements. Therefore repeated elections were organised in March 2000. The Congress of Local and Regional Authorities of Europe delegation noted that “repeated elections marked a significant improvement in the voting and counting procedures compared to the December local elections”.

The accession of Azerbaijan to the Council of Europe has formed the backdrop of the Parliamentary elections. Azerbaijan has been guest member since 1996. The Parliamentary Assembly of the Council of Europe recommended to the Committee of Ministers on 28 June to admit Azerbaijan as full member of the Council. However, the Committee decided to postpone the admission to after the conduct of the elections to the Milli Majlis. The simultaneous accession of Azerbaijan and Armenia is considered to foster stability and security in the region.

Most of the leading parties in Azerbaijan are facing internal dissension. Following the death of A. Elchibey, former President of the Republic of Azerbaijan and Chairman of the Popular Front, the party split in two wings: the “reformers” led by the Deputy Chairman, Ali Kerimov and the “classics” headed by Mirmakhud Fattayev. Both wings have sought for legal and political recognition as the official successor of the Party. As a consequence the Democratic Congress, an umbrella organisation for opposition political parties, also split in two factions along the similar line.

Legislative Framework

Throughout the months preceding these elections, the OSCE/ODIHR provided assistance to the authorities and civil society of Azerbaijan to improve the electoral legislation. The OSCE/ODIHR reviewed and commented on the Law of the Central Election Commission (CEC Law) in an effort to ensure multiparty representation in election commissions at all levels and the participation of opposition political parties in the decision making process. Furthermore, in a concerted effort, the OSCE/ODIHR and the Council of Europe issued recommendations that were partly included in the Law on the Parliamentary Elections adopted on 5 July 2000.

The current legislation provides for an adequate framework for the conduct of pluralist elections provided that the laws are supplemented by decisions of the CEC and implemented appropriately, in a consistent and transparent manner.

Although these laws marked significant improvement compared to previous legislation, a number of shortcomings remained, in particular: (1) the signature requirements and verification procedures for candidates; (2) the disqualification of a party list from the proportional contest if one of the top three names withdraws without a “compelling reason” (3) the absence of provisions for non-partisan election observers; and (4) lack of transparency of the tabulation procedures at the TEC level.

Additionally, serious deficiencies were noted in regard to the implementation of the election legislation.

Election Administration

A three-tiered election administration includes a Central Election Commission (CEC), 100 Territorial Election Commissions (TEC), and some 5,001 Polling Station Election Commissions (PEC).

The Central Election Commission was appointed in accordance with the new CEC Law. The CEC is composed of three political “interest groups”: (1) six members appointed by the parliamentary majority; (2) six appointed by the so-called independent parliamentarians; and (3) further six members appointed by the parliamentary minority. As all decisions in the CEC are taken by a two-thirds majority, the composition allows for any two political interest groups combined to make decisions without the agreement of the third group, which was very frequently observed. This also ensures that a single political interest alone cannot paralyze the activities of the CEC.

Although all CEC members had the opportunity to freely express their opinions, representatives of the opposition were marginalised or bypassed from the decision making process on sensitive issues by the CEC majority, such as the formation of a working group responsible for checking signatures required for candidate registration and for consideration of complaints against the rejection of candidates or against interference of local authorities and police. Moreover, on several occasions critical decisions were adopted outside official CEC sessions and without the consent of the required two-thirds majority of the CEC, especially the appointment of experts for checking signatures and the printing of ballot papers.

The CEC failed to fully respect deadlines set forth in the election law. As a consequence, preparation of the signature petitions for the single-mandate constituencies, of voter lists and ballot printing were delayed, thus shortening the time for collecting signatures, posting the voter lists, and distributing ballots to the TECs. In addition, complaints and appeals were not addressed in due course in an appropriate manner. Instead of issuing in a timely manner decisions to uphold or overturn relevant TEC decisions, in the majority of cases the CEC advised the plaintiffs to appeal to court – an approach not envisaged by the law. CEC instructions mainly repeated the provisions of the law rather than providing sufficient details for polling procedures.

At times, the activities of the CEC lacked transparency and accountability. The CEC was not able, until the very last moment to provide the EOM with the list of candidates refused registration; it also did not allow the EOM to observe the printing of ballots.

The CEC appointed the TECs mostly in accordance with the law. In general, both the CEC and TECs cooperated with the EOM. However on occasion, they refused unjustifiably to provide requested information and election documents and prevented meetings of observers with representatives of the opposition. Also, TEC and PEC chairpersons, who are often employees of the local administration, were subjected to pressure from the local executive authorities. In constituencies 43, 61 and 81, the police and executive authorities allegedly threatened signatories with losing their job if they do not withdraw their support to some candidates.

Registration of Candidates

By 22 September 2000, the CEC had registered five political parties to contest the proportional ballot and refused the application of eight parties and blocs on suspicion that some signatures on candidate application petitions were falsified, bringing the number of signatures in support of a candidate below the 50,000 required for registration. The High Court of Appeals confirmed the CEC decision. However, following a letter from President Aliyev published on 6 October, the CEC reversed its original decision and registered all parties and blocs initially denied registration. Though the OSCE/ODIHR welcomed this decision that broadened the voters' choice, the late registration did affect their ability to conduct a full campaign and questions remain as to the independence of the CEC as well as the functioning of the judiciary system in the Republic.

Only 408 candidates out of 817 who applied for the single mandate constituencies were registered. The New Azerbaijan Party (NAP) had 140 candidates registered, while the three main opposition parties combined registered 90 – Musavat 22, Azerbaijan National Independence Party 28, and the Popular Front 40. In addition, 147 so-called independent candidates were registered. The main reason for denial of registration was allegedly forged signatures, although dubious and frivolous reasons were also given, including an omission of the year 2000 in signature petitions. The CEC failed to establish a credible and consistent procedure to verify voter signature petitions. As a result, at the TEC level, signature verification procedures were inconsistent and candidates were rejected based on suspicion rather than facts. In addition, candidates were not given the opportunity to redress minor omissions and the appeals process was flawed. Thus, the signature procedures were open to abuse, manipulation and arbitrary decisions. As a result, voters' choice was restricted as well as the right for candidates to be elected.

The CEC received about 250 complaints alleging arbitrary rejection of candidates. The CEC was not able to address this large number of complaints and referred complainants to the courts. In some cases evidence supporting the plaintiffs' appeal was now accepted. According to the election law, acts of TECs can be appealed either to the CEC or to district courts. The law provides no exception. Notwithstanding, the CEC declined to consider some 200 of the complaints. The Court of Appeals also declined to consider these complaints and referred the matters to the district court that adjudicated the complaints but very rarely to the benefit of the complainant. Additionally, the law obligates the CEC to decide on such complaints within 5 days. However, the CEC generally failed to comply with this deadline, letting court deadlines slip as well, thus denying candidates the possibility to appeal with the courts and to start campaign activities.

Voter Registers

Throughout the year, the authorities developed a nation-wide computerized voter register from which polling station voter lists would be extracted. The operation was initiated in February by a decree of the Head of the Presidential Administration. While the development of a nationwide computerized voter register was a step forward and may improve the electoral process on polling day, the implementation of the project lacked transparency and a specific legislation. Also, the voter register extracts were not posted in the precincts on time, 25 days before election day, denying voters the possibility to remedy any errors in the lists.

Campaign

Up to ten days before the polling day, the election campaign marked an improvement over previous elections. Political parties and candidates were able to conduct their campaigns, meet with voters, and had partial access to billboards. Nonetheless, posters of the ruling party were predominant. Only minor violent incidents were reported during a rather low-key campaign.

However, the last days of the campaign were marred by increasing interference and pressure from the authorities. Opposition party activists were harassed and in some occasions beaten up or detained. Opposition political parties faced increasing difficulties to arrange meetings with voters. Printing houses and advertising agencies had to obtain authorization from local executives before selling advertising space to opposition parties and therefore opened the process to indirect control from the executive bodies. Posters of opposition parties were torn down. The separation between the state and the ruling party became blurred as state assets were used more frequently for campaigning purposes.

Media

In the framework of the proportional contest, legal provisions for the use of free airtime on the State media were respected, allowing all political party representatives to present their platforms to the electorate and freely express their opinions.

Outside the free airtime, the State-owned television, AZTV 1 which is the only channel covering the whole territory of the country, showed strong bias in favor of the party in government, dedicating to them about 90% of the election program coverage, 70% of which was positive. The coverage of the opposition was extremely marginal, about 1% of political broadcast.

Some private broadcast media tried to provide a more balanced coverage of the election campaign. The private ANS television generally presented a variety of views to the electorate in a generally balanced manner. Yet, the ANS does not cover the whole country. ANS was innovative in organizing debates between political parties and giving them an opportunity for outspoken speech.

Though the print media displayed a broad variety of views, they could not compete with television in the dissemination of campaign information.

The lack of transparency in licensing of broadcast frequencies, inspection threats by the taxation offices, recent rise of the price of paper, and questionable decisions to close down media created an uncertain environment for the development of independent media and an atmosphere of intimidation. Consequently, many were forced to exercise self-censorship.

Election Day (polling)

On election day, observers reported that polling was conducted in a generally calm atmosphere, although unrest and isolated acts of violence were reported. In addition, the report on a very low turnout contradicts the official figures. Voting was marred by numerous instances of serious irregularities including a completely flawed counting process, manipulated turnout figures, production of either false protocols or no protocols at all, multiple voting and series of apparently identical signatures on the voter lists. Subsequent summary investigation of this case without consideration to due process of law raises serious concerns. Observers witnessed ballot stuffing and received numerous

reports of this practice. In Sumgait pre-marked ballots were found in the safe of a PEC. This fact is indicative of the flawed procedures concerning the security of sensitive election material.

Party proxies often suffered intimidation, harassment and sometimes even arrest whilst carrying out their legitimate activities. Campaign material was frequently displayed in or around polling stations. Unauthorised local officials often controlled the process and sought to influence voters. In other cases voters experienced intimidation. The secrecy of the vote was poor with many reports of voters showing their marked ballots before casting and a very high instance of “group voting”.

Observers reported the procedures for closing the poll were frequently ignored and the counting of ballots was often conducted in an agitated atmosphere. The number of ballots received was seldom recorded and unused ballots were rarely invalidated cancelled. Overall the conduct of the count was exceptionally poor and once ballot boxes were opened, it became apparent that many ballots were unfolded and appeared in “stacks”, thereby indicating ballot stuffing had taken place.

Regrettably, in several instances, international observers were denied access or expelled from polling stations.

The International Observation Mission calls upon the Azeri authorities to vigorously investigate all cases of election fraud in an open and transparent manner and apply the relevant criminal provisions and repeating voting where required.

Tabulation at constituency and national levels

Early during the preparations for the elections, the CEC informed the EOM that an automated system would be set up to inform the electorate on the turnout throughout election day and for the tabulation of the vote results at the TEC and CEC levels. Accordingly, the tabulated results from TECs should be transferred to the CEC electronically via modem and the public telephone network. In some cases observers were prevented from viewing the entry of the results data into the computerised results tabulation system, diminishing its transparency.

The aggregation procedures at the TEC level also raised serious concern. In several TECs observers witnessed incomplete results protocols completed at the TEC. Some PEC protocols were first delivered to the local executive instead of the TEC. Observers reported false protocols being presented to the TEC and entered into the computer tabulation system.

Despite a lacuna in the election law, the CEC instructed TECs to provide a copy of the protocols to observers, if requested. However, international observers sometimes did not have access to TEC and in some instances were expelled from the premises. The CEC also stated that preliminary results would be available 36 hours after the closing of polls. The CEC Information Centre released partial results based on some 25 % of the protocols on 6 November at 9.30.

The statement is also available in Azeri language. However, the English version remains the only official document.

MISSION INFORMATION

The OSCE/ODIHR Election Observation Mission was established on 4 October in Baku with 17 international experts and long-term observers, visiting most of the 99 single-seat constituencies throughout Azerbaijan. Their findings include the monitoring of the CEC activities since 12 July, the pre-election preparations, the monitoring of the Media, the court cases and the election campaign. On election day, the International Election Observation Mission deployed more than 200 short-term observers, including 21 parliamentarians from the OSCE Parliamentary Assembly and 18 from the Parliamentary Assembly of the Council of Europe. Observers visited over 700 polling stations out of the 5,001 across Azerbaijan.

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