

**INTERIM REPORT No. 2
13–26 September 2013**

1 October 2013

I. EXECUTIVE SUMMARY

- The 9 October presidential election is to be contested by ten candidates, of which eight were nominated by political parties, one by an initiative group of voters and one self-nominated.
- On 13 September, the Central Election Commission (CEC) decided on the three remaining candidate nominees, accepting one and rejecting two on the basis of insufficient supporting signatures. The rejected candidates challenged the CEC expert group criteria for disqualifying signatures. In total, the CEC denied nomination or registration to five potential candidates.
- The official campaign began on 16 September and while it has been generally calm, it has been marred by some reported incidents of intimidation of family members of political figures. To date, the campaign has lacked substantive debate and has focused on personality rather than concrete political platforms.
- The OSCE/ODIHR Election Observation Mission (EOM) has monitored 21 campaign rallies so far. The CEC published a list of 152 indoor and outdoor venues designated for presidential election campaign events. Although allocated in line with the law, some candidates consider these venues to be unsatisfactory for holding public events.
- Technical preparations for the election continue at all levels of the election administration, with the CEC meeting legal deadlines and training some 32,000 polling officials. Voters can vote at 5,273 regular and 219 special polling stations in-country, as well as at 38 polling stations abroad.
- As of 14 September, the total number of registered voters was 5,016,365, an increase of some 30,000 since the May annual update. The CEC received and processed some 4,000 requests for verification of voter list entries online or through their telephone hotline. The CEC informed the OSCE/ODIHR EOM that more than 4,400 de-registration voting cards have been issued to absentee voters so far.
- The CEC has allocated six hours of free airtime on public television and radio to candidates per week. Two candidates objected to the roundtable format for the free airtime. Following the 19 September televised candidate roundtable, the CEC issued a ‘serious’ warning to candidate Jamil Hasanli for violating Article 106 of the Constitution by insulting the honour and dignity of the President and members of his family.
- Restrictive legal provisions and a subsequent call by the CEC not to publish or broadcast any campaign material in favour or against a candidate appear to have limited the editorial coverage of the campaign in the media. The OSCE/ODIHR EOM media monitoring results for the pre-campaign period indicate that the incumbent President received a much greater amount of coverage in news programmes on television in comparison to other political actors.
- The Baku Court of Appeals has so far received nine election appeals. Candidate registration appeals are still pending in the Supreme Court 11 days into the 22-day campaign period. As such, a rejected nominee, even if successful on appeal, would have a significantly reduced period to campaign.

II. CANDIDATE REGISTRATION

On 13 September, the Central Election Commission (CEC) decided on the three remaining candidate nominations. One nominee was registered, and two were rejected for an insufficient number of valid

signatures.¹ The election will be contested by ten candidates, of which eight were nominated by political parties, one by an initiative group of voters and one self-nominated. As required by law, the final list of candidates was published on 19 September in the *Azerbaijan* newspaper.

The CEC's candidate registration decisions were made on the basis of findings of an expert working group that verified support signatures and checked the financial assets documents of nominated candidates. Led by a CEC member, the group comprised authorized graphologists and representatives of relevant state institutions.² The OSCE/ODIHR EOM was granted full access to the verification process. Candidates and their authorized representatives had the right to be present. In line with the law and CEC instructions, the group issued opinions assessing the accuracy of support signatures and the financial documentation of each candidate. The expert group's disqualification of seemingly identical signatures based on their practice of "assumption" became a controversial issue and was challenged in court by the rejected candidates.³ To date, five appeals of CEC decisions rejecting the nomination or registration of as many potential candidates were heard in the Baku Court of Appeals (*see Complaints and Appeals*).

Candidates may withdraw from the presidential race up to ten days before election day by notifying the CEC in writing. Withdrawal without financial consequences for the candidate is only possible if the candidate is declared incapacitated by a court decision as a result of serious illness. If the withdrawal occurs after the printing of ballots, voters and officials will be informed through information posted at notice boards of election commissions; the printed ballots will not be altered.

III. THE ELECTION CAMPAIGN AND CAMPAIGN FINANCE

The official campaign period began on 16 September. While the campaign has been generally calm thus far, it has been marred by some reported incidents of intimidation affecting the families of political figures.⁴ The campaign launched by the ruling New Azerbaijan Party (YAP) is active and appears well-organized and resourced. The campaign of the incumbent President emphasizes regional stability, economic progress of the country, and other achievements during his presidency. While the President is not directly campaigning, he continues to tour the country in his official capacity. The OSCE/ODIHR EOM noted three instances of apparent coercion to attend YAP rallies.⁵

¹ Sardar Mammadov (Azerbaijan Democratic Party) was registered as a candidate. Ali Aliyev (Citizen and Development Party) and Ilgar Mammadov (self-nominated) were denied registration. According to the CEC decisions, of 42,634 signatures submitted by Mr. Aliyev, 32,200 were verified, out of which 5,571 were deemed invalid. Of 41,247 signatures submitted by Mr. Mammadov, 9,950 were verified, out of which 4,982 were found to be invalid. The CEC stopped the verification of signatures once the overall number of valid dropped below the required 40,000 signatures.

² The Ministry of Justice, the Ministry of Taxes and the State Service for Registration of Property.

³ In the handwriting analysis during the signature verification process, signatures were compared to other voters' signatures. According to the law, the CEC is not required to verify with any of the voters if they actually signed the list. Rejected candidates challenged that the CEC expert working group disqualified signatures by stating in their report that signatures were 'assumed identical' or 'assumed to be written by the same group of people'.

⁴ Following the rally of the National Council of Democratic Forces (NDCF) on 22 September in Baku, three men including the son of Ali Kerimli, leader of the Azerbaijan People's Front Party (APFP) and co-speaker at the rally were arrested and initially charged with intentional destruction of campaign materials; the charges were later changed to disobeying police orders. On 23 September, the 16 year-old son of the spokesperson of Mr. Hasanli (NDCF initiative group) was beaten and stabbed by unknown assailants in Baku. The police are investigating the case.

⁵ OSCE/ODIHR EOM observations of YAP rallies in Qak and Shamakhi on 20 and 23 of September, respectively (participants being prevented from leaving the rally before the end), and direct communications with participants of a YAP rally in Mingachevir on 25 September (students told by their teachers to attend the rally and not to leave before the end).

The campaigns of the other candidates have begun, but have been more low-key. Some of the candidates informed the OSCE/ODIHR EOM of a lack of financial and human resources, therefore conducting small-scale meetings with voters and door-to door canvassing rather than large-scale rallies. A few EOM interlocutors have reported difficulties in renting private offices and campaign premises in the regions due to alleged pressure from local authorities.⁶ The campaign offices of one candidate informed the EOM about alleged obstruction of their campaign activities.⁷

Thus far, the campaign has been characterized by the absence of substantive debate, with a focus on personality rather than concrete political platforms. To date, the OSCE/ODIHR EOM has observed 21 major campaign events, including 17 rallies in favour of the incumbent President in different locations throughout the country, and 4 rallies in favour of three other candidates.⁸ At the rallies, candidates to some extent addressed socio-economic issues, corruption, and the Nagorno-Karabakh conflict and some candidates appealed for the restoration of civil and political rights, and the abolition of the presidential system of governance.

The CEC published a list of 152 indoor and outdoor venues designated for presidential election campaign events. The OSCE/ODIHR EOM observed that some campaign events on behalf the incumbent President have been held and are scheduled to take place in other locations. Several candidates informed the OSCE/ODIHR EOM that they consider many of these venues to be unsatisfactory for holding public events. All ten candidates are using the internet, including social media to reach out to voters.

The CEC has confirmed that all nominees complied with the obligation to open a dedicated bank account for campaign financing before beginning the signature collection process. Candidates are required to submit an interim report between 20 and 10 days before election day. Reports submitted by contestants on their campaign contributions and expenditures are not made available to the public. The CEC is obliged to publish information on campaign expenses from the financial reports, once the candidate spends over AZN 10,000. The CEC is also obliged to periodically publish the names of legal entities that contributed over AZN 5,000 and the number of individuals that contributed over AZN 250.⁹ No information has been published by the CEC in this respect thus far. All contributions must be made through transfer to the candidate's campaign bank account and individuals must provide their personal details when making contributions.

IV. ELECTION ADMINISTRATION

Technical preparations for the election continue at all levels of the election administration, with the CEC meeting legal deadlines. The CEC has adopted the ballot design and determined the number of ballots to be printed, 5,149,255, which is three per cent higher than the number of voters, as required by law.¹⁰

Voters can vote at 5,273 regular polling stations and 219 special polling stations established in military units, prisons, hospitals and off-shore oil drilling platforms. A further 38 polling stations have been established at consular offices and diplomatic representations for out-of-country voting. The

⁶ The Musavat Party and the Azerbaijan Popular Front Party (APFP) in Mingachevir; the Musavat Party, the APFP and the Umid Party in the Nakhchivan Autonomous Republic.

⁷ The Umid Party alleged that the police prevented transportation of their supporters to a rally in Aghstafa on 22 September.

⁸ One rally of Mr. Agha-zade (Umid Party) in Aghstafa, one of Mr. Hasanli (NCDF initiative group) in Baku, and two of Mr. Ismayilov (Adalat Party) in Khachmaz and Lankaran.

⁹ The current exchange rate for EUR 1 is AZN (Azerbaijan New Manat) 1.04.

¹⁰ This is based on the number of registered voters as of 29 May which according to the CEC was 4,986,269.

CEC received applications from five organizations that plan to conduct separate exit polls on election day.¹¹ To date, one organization has been registered and one has been denied registration.

Six candidates have exercised their legal right to nominate a representative to the CEC with consultative voting rights. The CEC continues to hold regular sessions that are open to observers. In line with previous OSCE/ODIHR recommendations, the CEC has developed special training materials and trained employees of the Ministry of Justice (responsible for voting in prisons), employees of the Ministry of Foreign Affairs (responsible for out-of-country voting) and the Ministry of Interior (responsible for providing election day security), as well as representatives of the Ombudsperson's office. In preparation of training some 32,000 Precinct Election Commission (PEC) members on election day procedures, the CEC printed manuals and trained 250 trainers.

The OSCE/ODIHR EOM has visited all 125 constituency election commissions (ConECs) during the reporting period and received their full co-operation. Their sessions are in most instances convened according to operational needs. Expert working groups to deal with complaints have been appointed, but no ConECs visited by the OSCE/ODIHR EOM have thus far received any complaints. In a number of instances, local branches of opposition parties expressed concerns to the OSCE/ODIHR EOM about the impartiality of the election administration.

V. VOTER REGISTRATION

The update of the voter lists concluded on 14 September with a total number of 5,016,365 registered voters. This number is some 30,000 higher than after the conclusion of the annual update in May.¹² Although not required by law or addressed in CEC regulations, the CEC informed the OSCE/ODIHR EOM that most PECs verify voter lists by going door-to-door. In the absence of regulation, it is unclear on what legal basis PECs decide on modifications to voter lists during such verification.

The CEC informed the OSCE/ODIHR EOM that they received and processed some 4,000 requests for verification of voter list entries online or through its hotline. Efforts to invite citizens to verify their voter data continue at all levels of the election administration, with information posters displayed prominently in public spaces and voter lists posted for public scrutiny at polling stations.

The State Statistical Committee (SSC) informed the OSCE/ODIHR EOM that according to official data as of 1 January 2013, the country's population above the age of 18 years is some 6.8 million. The SSC explains the gap between the population figures and voter data of almost 1.8 million people with differences in methodology for collecting this data, noting that the population data also includes foreign citizens, people in occupied territories, and citizens living abroad but visiting the country at least once a year.¹³ Some OSCE/ODIHR EOM interlocutors expressed concerns about how internal migrants will be able to exercise their right to vote.

Most ConECs distributed de-registration voting cards (DVCs) to PECs by the 14 September deadline. Since then, voters have been able to obtain DVCs at the polling station where they are registered in

¹¹ On 5 June 2013, the CEC passed instructions on the accreditation of organizations planning to conduct exit polls. The Law and Development Public Association has appealed the instructions to the Baku Court of Appeals arguing that the requirement that organizations have relevant experience is a limitation that needs to be regulated by law and is not within the CEC's authority. The appeal is scheduled to be heard on 2 October.

¹² The OSCE/ODIHR EOM has requested a breakdown of this figure from the CEC with further information on how many voters were removed and how many were included.

¹³ According to the SSC estimations the non-voting population includes more than 1 million Azerbaijani citizens living in the Russian Federation, Turkey, Ukraine and other countries; 120,000 living in occupied territories and some 240,000 foreign citizens that have residence in Azerbaijan.

order to vote at another polling station on election day. The CEC has printed and distributed some 450,000 DVCs; according to the CEC on 25 September, more than 4,400 DVCs have been provided to voters. Unused cards must be destroyed prior to the opening of polls on election day.

VI. MEDIA

On 16 September, one day into the official campaign period, the CEC allocated six hours of free airtime on television (TV) and radio to candidates per week. Each candidate has the right to 36 minutes of free airtime per week on the public broadcaster, *İctimai Televiziya və Radio Yayımları Şirkəti* (ITV).¹⁴ Although Article 189.2 of the Election Code allows for different formats, the CEC decided that free airtime should be exclusively broadcast in the form of roundtables. Two candidates objected to the roundtable format.¹⁵

During the 19 September roundtable broadcast by ITV, a heated discussion ensued in respect of alleged foreign assets of the incumbent President and members of his family. Following this event, Jamil Hasanli (NCDF initiative group) was issued a ‘serious’ warning for allegedly violating Article 106 of the Constitution by insulting the honour and dignity of the President and his family (*see Complaints and Appeals*).¹⁶ According to ECtHR case law, however, criminal defamation provisions and special protection given to public office holders are unjustifiable limitations on freedom of expression.¹⁷

One nationwide TV station, ITV, informed the CEC of its intention to broadcast paid political advertising. However, no candidate has purchased additional airtime on ITV. The station informed the OSCE/ODIHR EOM that one request to purchase political advertising by candidate Hasanli was rejected since the legal deadline for allocation of paid airtime passed on 23 September.¹⁸

In a meeting with the OSCE/ODIHR EOM, the management of ITV stated that they will not cover candidates in current affairs and discussion programmes in order to comply with legal provisions that explicitly prohibit the public broadcaster to campaign for or against candidates. ITV stated that they will give equitable coverage to candidates in the news and additionally cover institutional events of the incumbent President according to their newsworthiness.¹⁹ While only ITV is bound by law not to campaign in favor or against candidates, the CEC effectively extended the scope of this prohibition

¹⁴ One-hour roundtables are broadcast on public radio (at 21:00) and on public TV (at 19:00), three times a week.

¹⁵ Mr. Iqbal Agha-zade (Umid Party) informed the OSCE/ODIHR EOM that he had verbally objected to the free airtime format to the CEC. Mr. Hasanli (NCDF initiative group) on 18 September wrote to the CEC, requesting free airtime to be broadcast within the time most viewers can watch it, as stipulated by Article 80.5 of the Election Code, and objecting to the roundtable format. He requested to use his six minutes of daily airtime at his own discretion. On 19 September the CEC rejected Mr. Hasanli’s requests. Upon the request of the OSCE/ODIHR EOM, ITV informed that the audience share for the two first roundtables broadcast on 17 and 19 September was 2.84 and 3.57 per cent respectively.

¹⁶ The law does not define the term ‘serious’ warning, nor the implications pertaining.

¹⁷ Article 323 of the Criminal Code and Article 106 of the Constitution protect the honour and dignity of the Azerbaijani Head of State or President. However, ECtHR case law establishes that the protection of the reputation of the Head of State cannot serve as justification for affording the Head of State privileged status or special protection vis-à-vis the right to convey information and opinions concerning him or her. See *Lingens v. Austria*, Application No. 9815/82, Judgement of 8 July 1986 and other cases.

¹⁸ Article 81.4 of the Election Code requires that paid political advertising time should be allocated within one week after the start of the official campaign. Mr. Hasanli claimed that his representative approached ITV on 23 September but was not allowed entrance and when he returned the following day he was told that the deadline for allocation of paid airtime had passed. On 25 September, Mr. Hasanli filed a complaint to the CEC on this issue. The CEC rejected the complaint.

¹⁹ The OSCE/ODIHR EOM was informed by the CEC media working group that they will not monitor the provision of equitable coverage to presidential candidates in news on ITV.

when it published a call to mass media on its website not to publish or broadcast any campaign material that is in favor of or against candidates, or that might be considered so. Several EOM interlocutors expressed concerns that this would have a dissuasive effect on editorial coverage of the campaign by media.

The OSCE/ODIHR EOM media monitoring of the pre-campaign period between 2 and 15 September indicates that the incumbent President received a much greater amount of coverage in news programmes on television in comparison to other political actors.²⁰ A significant amount of the coverage was devoted to the participation of the incumbent President in a number of public events and to his speeches.

On 17 September, a journalist was detained under Articles 206.3.2 and 228.2.1 of the Criminal Code on the grounds of illegal possession of weapons.²¹

On 25 September, the CEC media working group issued a statement calling on three media outlets – the Azerbaijani service of Radio Liberty (*Azadliq*), the British Broadcasting Company (BBC), and Voice of America – to stop violating Article 74.4.1 of the Election Code, which prohibits campaigning and distribution of campaign materials by foreign legal entities. In their deliberations, the CEC media working group, among other things, pointed to a live broadcast on *Azadliq* of the NCDF rally on 22 September. *Azadliq* informed the OSCE/ODIHR EOM that they provide an extensive and pluralistic coverage of the election campaign and consider the quoted legal provision as restricting media freedom, since balanced reporting on the campaign should not be considered campaigning.

VII. COMPLAINTS AND APPEALS

In accordance with good practice, the CEC and ConECs maintain a registry of complaints and appeals received. On 20 September, the CEC received four complaints regarding incidents that occurred during the televised candidate roundtable on 19 September.²² The complaints were reviewed by experts from the CEC expert group without the participation of the complainants. Mr. Hasanli (NCDF initiative group) disputed that he had been given an opportunity to participate in the expert review and to present additional evidence as guaranteed by the law. In these four matters, the CEC did not notify the subjects of the complaints of the existence of the complaint against them or ask for their positions

²⁰ During the monitored period, before the start of the official campaign, the incumbent President received 50 per cent of all news coverage devoted to political actors in the country on the monitored television stations, including more than five hours of directly allocated airtime broadcasting his speeches. State-owned *AzTV* and the public *ITV* devoted 62 and 28 per cent respectively to the coverage of the President. In comparison to the total coverage devoted to all 10 presidential candidates during the monitored pre-campaign, the incumbent received 98 per cent of coverage, while the nine other received 2 per cent.

²¹ According to the first press reports, the weapons were found at Mr. Hashimli's house during a search that followed a search of the opposition-oriented *Bizim Yol* newspaper office. An official statement on the Ministry of National Security's website states that the weapons were found in Mr. Hashimli's acquaintance's car and that Mr. Hashimli and his acquaintance have been arrested and stand accused of smuggling and the illegal possession of weapons.

²² Two complaints were submitted by YAP: first alleging that Mr. Hasanli (NCDF initiative group) violated Article 106 of the Constitution and Article 88.1 of the Election Code by insulting the honour and dignity of the President and his family and, second, alleging that Mr. Hasanli abused his free airtime and interfered with other candidates using their free airtime. *ITV* also complained that Mr. Hasanli abused his free airtime and interfered with other candidates using their free airtime. The fourth complaint was from Mr. Hasanli alleging that his honour and dignity was insulted by presidential candidate Hafiz Hajiyev (the Modern Musavat Party) and the authorized representative of the incumbent President, Ali Ahmadov, and that he was not allowed to use all of his allotted time.

on the matter.²³ The CEC decided to issue a ‘serious’ warning to Mr. Hasanli, a ‘regular’ warning to Mr. Hajiyev (Modern Musavat Party) and to call on all candidates to avoid insults and discrimination in their campaigns. On 24 September, Mr. Hasanli appealed the CEC decision to the Baku Court of Appeals; the court upheld the decision and the subsequent appeal to the Supreme Court is pending.

Following judicial reforms in 2011 that included the adoption of the Administrative Procedure Code, election complaints and appeals are heard by the newly established Administrative and Economic Chambers in appellate courts (Baku) and the Supreme Court. This reform rectified the previously confusing role of district and appellate court civil chambers, which no longer have jurisdiction in election matters. Since the CEC set the date for the election, the Baku Court of Appeals has received nine appeals.²⁴ Eight matters were subsequently appealed to the Supreme Court. All appeals have been adjudicated within the deadlines prescribed by law.

In appeals challenging the CEC decisions on candidate registration, appellants made two primary arguments: that candidates or their authorized representatives were not informed by the CEC when the review of their signatures was scheduled, as required by law; and that the “assumption” of handwriting experts from the CEC working group that signatures were false is not sufficient to deny registration.

Article 59.3 of the Election Code provides that candidates or their authorized representatives may be present for the verification of signatures and that the election commission “should inform...about examination of documents in advance.” The CEC argued that upon submission of registration documents, authorized representatives are told that the signatures will be verified within seven days and that they may attend. In the consideration of appellants’ arguments, the Baku Court of Appeals questioned the appellants whether they indicated to the CEC that they wanted to be present for signature verification or not, although there is no legal requirement for candidates to do so. The court found that the lack of notification is not sufficient to annul the CEC decision or require that the signature verification process be repeated.

Appellants also challenged the invalidation of signatures on the ground that they “appeared” to have been falsified, that is “executed by one person in the name of other persons.” In their appeals, they argued that the conjecture and speculation of the CEC working group is not sufficient basis for denying registration, an argument made in multiple cases pending with the European Court of Human Rights (ECtHR).²⁵ The Baku Court of Appeals did not address the lawfulness of the CEC basing decisions on working group assumptions; rather, they upheld the CEC decisions because they found that the candidate lacked sufficient signatures to be registered.²⁶

Candidate registration appeals were still pending in the Supreme Court 11 days into the 22-day campaign period. In their appeals, nominees who were not registered stated that they did not have

²³ While Article 112-1.7-9 of the Election Code guarantees the right of a complainant to be present and provide evidence, it does not require the CEC to notify the subject of a complaint that a complaint has been submitted against them or give them the opportunity to present their opinion to the expert assigned to the case.

²⁴ Law and Development Public Union (Exit-poll accreditations), 12 August; Mr. Yashar Mammadov (candidate registration), 16 August; Mr. Ilgar Mammadov (delay in approval of nomination), 28 August; Mr. Rustam Ibrahimbayov (rejected nomination), 30 August; Mr. Fuad Aliyev (candidate registration), 13 September; Mr. Ahmad Orujov (candidate registration), 14 September; Mr. Ali Aliyev (candidate registration), 17 September; Mr. Ilgar Mammadov (candidate registration), 20 September, and Mr. Jamil Hasanli (CEC decision on the four complaints following the candidate roundtable), 24 September.

²⁵ See, *inter alia*, *Annagi Hajibeyli v. Azerbaijan* and *Behbudov v. Azerbaijan*, in both cases the court is in communication with the parties and has asked the government of Azerbaijan to elaborate on the signature verification procedures including the safeguards to prevent arbitrary decisions.

²⁶ In four cases, the Baku Court of Appeals ordered a handwriting expert to review the signatures for the court.

sufficient time to collect signatures and that the signature verification process was too short to provide for a thorough verification. The deadline for signature verification coincides with the start of the campaign. As such, a rejected nominee, even if successful on appeal, will not be able to campaign for the whole campaign period.

VIII. MISSION ACTIVITIES

During the reporting period, the OSCE/ODIHR EOM continued its regular activities, meeting state officials, registered candidates and their campaign offices, party representatives, civil society, media, and diplomatic missions. The EOM Head of Mission paid visits to Shaki, Ganja and the Nakhchivan Autonomous Republic. The EOM long-term observers deployed throughout the country continue to observe election preparations and the campaign in the regions and are preparing for the deployment of short-term observers.

A briefing for members of the diplomatic community accredited in Azerbaijan was held on 13 September. The OSCE/ODIHR EOM Head of Mission was received by the President and candidate Mr. Ilham Aliyev on 24 September. EOM met with Mr. Michel Voisin, Special Co-ordinator to lead the short-term OSCE observer mission during his visit to Azerbaijan, as well as representatives of the Commonwealth of Independent States (CIS) Executive Secretariat, which deployed an election observation mission to Azerbaijan on 10 September.

*The English version of this report is the only official document.
An unofficial translation is available in Azeri.*