



Office for Democratic Institutions and Human Rights

# REPUBLIC OF AZERBAIJAN

## PARLIAMENTARY ELECTIONS

7 November 2010

OSCE/ODIHR Election Observation Mission  
Final Report



Warsaw  
25 January 2011

## TABLE OF CONTENTS

<b>I.</b>	<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>II.</b>	<b>INTRODUCTION AND ACKNOWLEDGMENTS.....</b>	<b>4</b>
<b>III.</b>	<b>POLITICAL CONTEXT .....</b>	<b>4</b>
<b>IV.</b>	<b>ELECTION SYSTEM AND THE LEGAL FRAMEWORK .....</b>	<b>5</b>
A.	ELECTION SYSTEM .....	5
B.	LEGAL FRAMEWORK .....	5
<b>V.</b>	<b>THE ELECTION ADMINISTRATION.....</b>	<b>6</b>
<b>VI.</b>	<b>VOTER REGISTRATION .....</b>	<b>8</b>
<b>VII.</b>	<b>NOMINATION AND REGISTRATION OF CANDIDATES.....</b>	<b>8</b>
<b>VIII.</b>	<b>THE ELECTION CAMPAIGN.....</b>	<b>10</b>
<b>IX.</b>	<b>THE MEDIA .....</b>	<b>12</b>
A.	GENERAL MEDIA ENVIRONMENT .....	12
B.	LEGAL FRAMEWORK FOR THE MEDIA .....	13
C.	OSCE/ODIHR EOM MEDIA MONITORING.....	13
<b>X.</b>	<b>PARTICIPATION OF WOMEN .....</b>	<b>15</b>
<b>XI.</b>	<b>PARTICIPATION OF NATIONAL MINORITIES .....</b>	<b>16</b>
<b>XII.</b>	<b>DOMESTIC OBSERVERS .....</b>	<b>16</b>
<b>XIII.</b>	<b>PRE-ELECTION COMPLAINTS AND APPEALS .....</b>	<b>16</b>
<b>XIV.</b>	<b>ELECTION DAY.....</b>	<b>18</b>
A.	OPENING AND VOTING .....	18
B.	COUNTING .....	19
<b>XV.</b>	<b>TABULATION AND ANNOUCEMENT OF RESULTS .....</b>	<b>20</b>
<b>XVI.</b>	<b>POST-ELECTION COMPLAINTS AND APPEALS.....</b>	<b>22</b>
A.	ADJUDICATION OF POST-ELECTION COMPLAINTS BY THE CEC.....	22
B.	ADJUDICATION OF APPEALS BY THE COURTS .....	23
C.	COMPILATION AND ADOPTION OF THE FINAL RESULTS PROTOCOL .....	23
<b>XVII.</b>	<b>RECOMMENDATIONS.....</b>	<b>23</b>
A.	PRIORITY RECOMMENDATION .....	24
B.	OTHER RECOMMENDATIONS .....	25
	<b>ANNEX: ELECTION RESULTS .....</b>	<b>28</b>
	<b>ABOUT THE OSCE/ODIHR.....</b>	<b>29</b>

**REPUBLIC OF AZERBAIJAN  
PARLIAMENTARY ELECTIONS  
7 November 2010**

**OSCE/ODIHR Election Observation Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Ministry of Foreign Affairs of the Republic of Azerbaijan, and based on the recommendation of the Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) for the 7 November 2010 parliamentary elections. These elections were assessed for compliance with OSCE commitments and other international standards for democratic elections, and domestic legislation. For election-day observation, the OSCE/ODIHR EOM joined efforts with delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP).

The Statement of Preliminary Findings and Conclusions issued by the OSCE/ODIHR, the OSCE PA, the PACE and the EP on 8 November concluded that “[while] the 7 November parliamentary elections in the Republic of Azerbaijan were characterized by a peaceful atmosphere and all opposition parties participated in the political process, the conduct of these elections overall was not sufficient to constitute meaningful progress in the democratic development of the country.”

Certain conditions necessary for a meaningful and competitive election were lacking in these elections. The fundamental freedoms of peaceful assembly and expression were limited and a vibrant political discourse facilitated by free and independent media was almost impossible. A deficient candidate registration process, a restrictive political environment, unbalanced and biased media coverage, disparity in access to resources to mount an effective campaign, misuse of administrative resources as well as interference by local authorities in favor of candidates from the ruling party created an uneven playing field for candidates. Not all electoral contestants were able to compete on a basis of equal treatment by the authorities as called for in paragraph 7.6 of the OSCE Copenhagen Document. Overall, these elections failed to meet a number of key OSCE commitments for democratic elections and important elements of Azerbaijani domestic legislation.

Amendments to the Election Code were passed hastily in June 2010 in the period immediately before the elections. They shortened the election period and the official campaign period, limiting candidates’ opportunity to campaign in an already restrictive political environment. The amendments did not address issues contained in longstanding recommendations of the OSCE/ODIHR and the Venice Commission of the Council of Europe, such as the formula for the composition of election commissions which, establishes the domination of pro-government forces and therefore does not ensure that they enjoy public confidence. In a positive development, the Civil Procedure Code was harmonized with the Election Code with regard to the jurisdiction of courts in electoral disputes.

The Central Election Commission (CEC) completed all technical electoral preparations and requirements within legal deadlines, elaborated numerous regulations well in advance and launched an extensive voter education campaign, including in the media. At the same time, failure to pass formal instructions on several key aspects of the process led to uneven implementation of the Election Code. The CEC held frequent meetings open to the media,

---

<sup>1</sup> This report is also available in Azerbaijani. However, the English version remains the only official document.

international and domestic observers. These meetings would have been more productive and inclusive had CEC members always been provided in advance with the necessary documentation. The CEC undertook serious efforts to improve the quality of the centralized voter register, although the large number of voters registered on election day indicates that further measures are necessary. From 8 October the CEC operated at its full composition, after the opposition ended its boycott and parliament voted to seat the nominated members.

The process of candidate registration at the constituency level was not always in conformity with legal provisions and lacked inclusiveness, particularly during the process of verifying support signatures of potential candidates. Signatures were declared invalid because of expired IDs, because of incomplete information on the supporter or the person collecting the signatures, or were deemed as falsified without referring to expert opinions. This resulted in over half of the candidates nominated by opposition parties having their registrations rejected. In contrast, the ruling party saw all its candidates registered. Some prospective candidates were not provided with an opportunity to correct deficiencies in their documents and were denied the fundamental right to stand for minor technical errors despite the legal safeguard according to which a decision on denial of registration “should be proportionate to the mistake (shortcoming, violation) made.”<sup>2</sup>

The OSCE/ODIHR EOM received credible allegations of intimidation and pressure on some candidates to withdraw, on voters to sign or withdraw their support for candidates and to attend rallies of ruling party candidates, a number of which were substantiated. Such actions are not conducive to campaigning in a free and fair atmosphere, and voter intimidation limits the ability of voters to freely choose their representatives without fear of retribution, both contrary to paragraph 7.7 of the Copenhagen Document.<sup>3</sup>

The political environment continued to be marked by the dominance of public and political life by one party and by the marginalization of political alternatives. The campaign was calm and low-key, generating little public interest. Campaign activities outside of officially allocated areas were considered illegal by the authorities, and the venues were often unsuitable for campaign events. Campaign activities were sometimes obstructed by police and local authorities.

The general media situation is characterized by the deterioration of the freedom of expression, including pressure on and detention of journalists. While a broad range of media exists in Azerbaijan, the lack of independent and objective reporting in broadcast media and scarcity of critical newspapers limit voters’ access to pluralistic views and impartial information. In news broadcasts, coverage of the campaign was limited, with all main channels providing extensive and mostly positive coverage of the authorities and the ruling party, while opposition views were largely absent. Although the CEC provided each candidate with four minutes of free airtime in the form of daily roundtable debates, this was not enough to make up for the general absence of sufficiently pluralistic coverage. In this context, it was difficult for voters to make a fully informed choice.

The CEC reviewed election disputes in open meetings but its decisions lacked comprehensive reasoning. In only one of more than 200 cases heard by the CEC before election day did a plaintiff attend the CEC session where his case was reviewed. This was largely due to the failure to comply with the legal requirement to inform plaintiffs about the place and time of the meeting

---

<sup>2</sup> Art. 60.3 of the Election Code of the Republic of Azerbaijan.

<sup>3</sup> Paragraph 7.7 of the Copenhagen Document calls on States to ensure that political campaigning can be “conducted in a fair and free atmosphere in which neither administrative action, violence or intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear and retribution.”

considering the complaint one day in advance. Some 35 out of 172 potential candidates who had not been registered and appealed the decision were reinstated by the CEC, mostly after the start of the campaign. In more than two-thirds of cases which it heard before election day, the Baku Court of Appeal did not address the arguments of the plaintiffs and did not provide legal reasoning. Overall, complainants were not always afforded effective remedy.

The share of female candidates increased slightly compared to the last parliamentary elections as did the number of women elected, from 14 in the outgoing parliament to 20. However, women remained under-represented as candidates and in the higher levels of the election administration. Issues related to national minorities did not appear to be a significant factor in the elections. Members of national minorities were represented among candidates of all main political parties.

A very high number of international and domestic observers were accredited in an inclusive process. Several domestic NGOs registered substantial numbers of observers, although one of the largest domestic observer groups had to have its observers registered as individuals after its registration was suspended by the Ministry of Justice.

On election day, international observers assessed voting procedures negatively in 11 per cent of the 1,247 polling stations visited, with serious violations and important procedural shortcomings. Ballot box stuffing was noted in 63 polling stations and seemingly identical signatures on voter lists were noted in 100 polling stations. The most widely observed procedural violation was a failure to ink voters and to check them for traces of ink, an important safeguard against multiple voting. Candidate, party and bloc proxies were present in almost all polling stations visited, and domestic observers were seen in over half. Hindrance of independent domestic election observation activities and of international observers by PECs impacted negatively on the transparency of the election process.

The vote count was assessed negatively in 47 of the 152 polling stations where it was observed (32 per cent), with instances observed of more ballots found in the ballot box than voters who turned out to vote as well as tampering with results. Reconciliation procedures were often not performed, many counts lacked transparency, and a substantial number of Precinct Election Commissions (PECs) had problems completing the results protocols. In 40 of the counts observed, PECs did not post a copy of the results protocol for public scrutiny as provided by law.

During the tabulation process at Constituency Election Commissions (ConECs), problems were noted with regard to the transparency of the process, ConEC members' understanding of the tabulation procedures, and the organization of the computerized data entry. Procedures were frequently not followed, despite training of ConEC members and the existence of a CEC instruction on the receipt and review of PEC protocols.

Positively, the CEC started issuing results by constituency and precinct on its website on election night. However, checks by the OSCE/ODIHR EOM of polling-station result protocols against the data posted on the CEC website showed some discrepancies in the data, including a few polling station results that differed by hundreds of votes.

The review of post-election complaints and appeals by the CEC and the courts generally did not follow the principles of due process. The CEC did not discuss the substance of complaints, disregarded the credibility of alleged irregularities and took a formalistic approach when dealing with many complaints. The Baku Court of Appeal and the Supreme Court rejected all appeals, generally without proper investigation of the appellants' arguments. Overall, the courts failed to provide an effective remedy. The final election results were compiled by the CEC and validated

by the Constitutional Court while cases were still pending and before all legal deadlines for appeals had expired.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Ministry of Foreign Affairs of the Republic of Azerbaijan, and in line with the recommendation of the Needs Assessment Mission conducted in Baku from 21 to 24 June, the OSCE/ODIHR on 28 September 2010 deployed an EOM for the 7 November parliamentary elections. The mission was headed by Ambassador Audrey Glover and consisted of 16 experts and 22 long-term observers (LTOs) from 22 OSCE participating States, who were based in Baku and nine regional centers.

For election-day observation, the OSCE/ODIHR EOM joined efforts with delegations of the OSCE PA, PACE and EP. In total, there were 405 observers, including over 300 seconded by OSCE participating States, from 41 OSCE participating States.

These elections were assessed for compliance with OSCE commitments and other international standards for democratic elections, and domestic legislation. This final report follows a Statement of Preliminary Findings and Conclusions released at a press conference on 8 November.<sup>4</sup>

The OSCE/ODIHR EOM wishes to thank the Ministry of Foreign Affairs of the Republic of Azerbaijan for the invitation to observe the elections, and the Central Election Commission (CEC) for its co-operation and for providing accreditation documents. The OSCE/ODIHR EOM also wishes to express appreciation to other national and local state institutions, election authorities, candidates, political parties and civil society organizations for their co-operation, and to the OSCE Office in Baku, embassies of OSCE participating States and Partners for Co-operation, and international organizations accredited in Azerbaijan for their support.

## III. POLITICAL CONTEXT

The President of the Republic of Azerbaijan, Ilham Aliyev, on 3 September 2010 announced parliamentary elections for 7 November, in line with the Constitution. The elections took place in a political environment characterized by a general lack of dialogue between the ruling party and the main opposition parties. The results of the previous parliamentary elections in 2005<sup>5</sup> were not accepted by some opposition parties, which in protest subsequently withdrew from the partial repeat parliamentary elections in May 2006 and the October 2008 presidential election.

Azerbaijan has a strong presidential system in which the executive branch exercises broad authority relative to the parliament. The outgoing parliament (*Milli Majlis*) was dominated by the ruling New Azerbaijan Party (YAP), which held 64 out of 125 seats. Forty-five seats were held by deputies elected as independent candidates, who usually supported the ruling party. The strongest opposition party, Musavat, had four deputies in the parliament. Some opposition parties, including the Azerbaijan Popular Front Party (APFP), refused to take up their seats in parliament after the 2005 elections.

---

<sup>4</sup> See at <http://www.osce.org/odihr/elections/azerbaijan/item/74789>.

<sup>5</sup> The International Election Observation Mission for the 2005 parliamentary elections concluded that the elections “did not meet a number of OSCE commitments and Council of Europe standards and commitments for democratic elections.”

For these elections YAP ran alone, while the main opposition parties, Musavat and APFP, were united in the APFP–Musavat bloc. Two other opposition blocs, ‘Karabakh’ and ‘For Human’, included parties which were former allies of Musavat or APFP, further fragmenting the opposition. Two more blocs, ‘Democracy’ and ‘Reform’, were comprised of parties seen as loyal to the government. In addition, the Classic Popular Front Party, the Azerbaijan National Independence Party and the Democratic Azerbaijan World Party registered significant numbers of candidates. Independent candidates represented more than one third of all registered candidates.

The ongoing conflict with Armenia over Nagorno Karabakh continues to have an impact on the election process. A large number of internally displaced persons (IDPs) registered in the constituencies of their origin are dispersed around the country, presenting an additional challenge for candidates to campaign and for the election administration to conduct elections.

#### **IV. ELECTION SYSTEM AND THE LEGAL FRAMEWORK**

##### **A. ELECTION SYSTEM**

Parliamentary elections are conducted under a majoritarian system. Members of parliament are elected in 125 single-mandate constituencies for a five-year term, in one round of voting. The candidate who obtains the highest number of votes is considered elected. The Election Code provides that if no candidate, or only one candidate, is registered in a constituency, elections are postponed for up to two months in that constituency; if at least two candidates were registered but their number drops to less than two between the end of the registration period and election day, elections are postponed for up to three months in that constituency.

The Election Code stipulates that the number of voters registered in each constituency should not deviate more than five per cent – and in exceptional circumstances no more than ten per cent – from the average number of voters per constituency. While the CEC made some minor adjustments to constituency boundaries before these elections, the number of registered voters in 78 constituencies deviated more than 5 per cent from the average, and in 35 of these by more than 10 per cent (in some cases significantly<sup>6</sup>), which undermined the equality of the vote.

##### **B. LEGAL FRAMEWORK**

The primary legislation for these elections consisted of the Constitution of the Republic of Azerbaijan (1995, last amended in 2009) and the Election Code (2003, last amended in 2010). The legal framework also included the Law on the Freedom of Assembly (2008), the Law on Radio and TV Broadcasting, the Code of Civil Procedures, and relevant provisions of the Criminal Code and the Code of Administrative Offences, as well as regulations of the CEC.

The Election Code has been amended several times since its adoption. The latest amendments were introduced hastily in June 2010, with little public debate. They reduced the election period from 75 to 60 days, including a further reduction of the campaign period, which now starts 23 days before election day, and thereby limited candidates’ opportunity to reach out to voters. Furthermore, the amendments eliminated the possibility for candidates to receive state funding for their campaign. The amendments failed to address longstanding recommendations by the OSCE/ODIHR and the Venice Commission, particularly on the composition of election commissions. Other recommendations that remain unaddressed pertain to the resolution of

---

<sup>6</sup> Five constituencies deviate by more than 20 per cent.

electoral disputes, the eligibility of candidates, rules for recounts and the invalidation of election results, and rules for military voting.<sup>7</sup>

The Election Code is at times repetitive and contains several ambiguities, including on candidate eligibility, de-registration of candidates and election dispute resolution. There are no special voting procedures for voters in hospitals who are unable to visit a polling station on election day. In a positive development, amendments to the Code of Civil Procedures enacted after the 2008 presidential election eliminated the conflict with the Election Code with regards to the jurisdiction of courts in election-related disputes, and the relevant provisions were streamlined.

## V. THE ELECTION ADMINISTRATION

The 7 November parliamentary elections were administered by a three-tiered system of election administration, headed by the 18-member CEC. There are 125 ConECs and 5,175 PECs. These election commissions are permanent bodies appointed for a five-year term. Members of the CEC are elected by parliament, ConECs are appointed by the CEC, and PECs by the relevant ConECs.

In addition, 139 temporary polling stations were formed in military units and prisons.<sup>8</sup> By law, military personnel must generally vote in regular polling stations, with a few exceptions.<sup>9</sup> However, military voting took place widely in military bases, as in practice the military determine which units fall under the exceptional rules. The OSCE/ODIHR has previously recommended that military personnel vote in regular polling stations, with exceptions strictly limited.<sup>10</sup>

Eleven ConECs were in charge of constituencies representing territories which are not or only partially under government control. These so-called “ConECs in exile” served some 340,000 IDPs; the polling stations under their jurisdiction were located throughout the territory of the country.

According to the Election Code, the composition of all election commissions reflects the representation of political forces in the parliament: three equal quotas are reserved for members nominated by the parliamentary majority (i.e. YAP), parliamentarians elected as independent candidates, and the parliamentary minority (defined as the remaining political parties represented in the parliament).

This formula remains highly contentious, since in practice it establishes the domination of the election administration by pro-government forces, which have a decisive majority in all commissions.<sup>11</sup> Moreover, the chairpersons of all election commissions are by law nominees of

---

<sup>7</sup> See the 2008 Joint Opinion of the OSCE/ODIHR and the Venice Commission on the Draft Law on Amendments and Changes to the Electoral Code of the Republic of Azerbaijan, and the 2005 Final Opinion on the Amendments to the Election Code of Azerbaijan, both available at: <http://www.osce.org/odihr/elections/azerbaijan/item/16853>.

<sup>8</sup> The total number of military polling stations, their distribution by constituencies and their exact addresses were not provided to the OSCE/ODIHR EOM by the CEC.

<sup>9</sup> Polling stations can be created in military units of border troops and those located at the areas of military conflict. Furthermore, military polling stations can be established for voters serving under special regime or if it would take more than one hour to reach the closest ordinary polling station from the military unit.

<sup>10</sup> Election observation at military units was largely restricted. All military polling stations showed a voter turnout which was higher than the average in the country, including 46 military polling stations with 100 per cent voter turnout and another 59 polling stations with more than 90 per cent turnout.

<sup>11</sup> A minimum two-thirds requirement is in place for the quorum and for adopting decisions in the election administration.



the parliamentary majority. This domination undermines confidence in the independence and impartiality of election administration bodies and does not ensure that they enjoy public confidence. The OSCE/ODIHR and the Venice Commission have repeatedly recommended that the formula be revised in a manner which would ensure that election commissions are not dominated by pro-government forces and enjoy public confidence, in particular the confidence of political parties contesting the elections. This recommendation has not been addressed.

In protest against this formula, some opposition parliamentary parties did not nominate their election-commission members to the CEC. On 8 October, however, opposition parties put forward nominations for the vacant seats in the CEC and the parliament filled these seats, including one from the quota of the minority and one from the quota of the independent parliamentarians (which requires agreement from the minority). Since then, the CEC operated in its full composition.

Political parties and blocs of parties which had more than 60 registered candidates could appoint a consultative member to all levels of election commissions. Consultative members are entitled to participate in the commission sessions and express opinions, as well as provide the nominating parties and candidates with more direct access to election-related information, but they do not have the right to vote on decisions. As a result of the candidate registration process, only YAP was entitled to and used this right to appoint one consultative member to each election commission for these elections. In addition, however, each registered candidate could appoint consultative members to the ConECs and PECs in the constituency where they were running.

The CEC elaborated numerous rules and regulations, conducted an extensive voter information and education campaign, including in the media, and provided trainings for lower-level commissions, representatives of executive authorities, and the police. However, the OSCE/ODIHR EOM noted that despite the time to prepare, the CEC provided a written instruction for the implementation of legal provisions on the validity of citizens' IDs for election purposes only two days before election day, leaving this issue ambiguous during the process of validation of voters' signatures in support of candidates.

Overall, the necessary election preparations were carried out smoothly and within the required timeframe, including the posting of voter lists, the notification of voters about the place and time of voting, and the printing and distribution of ballot papers and other election material. CEC sessions were public and attended by the media, the OSCE/ODIHR EOM, other international organizations, and domestic observers who requested permission to attend CEC sessions. However, the agenda was often distributed just before the sessions and CEC members were often not provided in advance of a session with draft decisions, the legal opinions of experts investigating complaints and appeals, and other documents needed to prepare for the session. This often negatively affected the discussions on draft decisions. The CEC maintained an informative website, and all decisions were published in the state newspaper *Azerbaijan*.

OSCE/ODIHR EOM LTOs assessed the performance of ConECs as generally efficient and professional as far as the technical preparations of the election process were concerned. However, they expressed serious concerns regarding the impartiality of ConECs, which generally appeared to favor YAP candidates or incumbent independent candidates. The lack of impartiality of ConECs became particularly apparent during the candidate registration process and in the handling of electoral disputes by ConECs.

## VI. VOTER REGISTRATION

A voter may be included in the voter list of the relevant precinct on the basis of his or her permanent place of residence. This information is provided by the heads of the relevant executive authorities and municipalities or commanders of military units, who are in charge of the accuracy, completeness, and timely submission of the data.

The integrated nationwide voter list is handled by the CEC, within the state computerized information system, on the basis of the data approved annually by 30 May by PECs and updated no later than 25 days prior to election day (13 October 2010). After this date and until election day, voters residing within the electoral precinct can be added to the voter list only by PECs.

The CEC undertook serious efforts to improve the centralized voter register, including through an active voter education campaign. Voter lists of all polling stations were available on the CEC website and in PEC premises for public familiarization.

Observers noted a large discrepancy between the CEC data, which included some 4.8 million registered voters (as of 13 October), and data of the State Statistics Committee,<sup>12</sup> according to which more than 6 million people over the age of 18 years are living in Azerbaijan. The reasons for this discrepancy were never explained to the OSCE/ODIHR EOM.

Despite efforts made, additional measures are required to improve the accuracy of the voter register. As a result of amendments to voter lists made after 13 October, the total number of voters included in regular and supplementary voter lists increased by 2.8 per cent, reaching some 4,980,000. This was largely due to the additional inclusion of around 100,000 voters in temporary polling stations in military units and prisons, after the approval of the voter lists by PECs. The number was raised further due to a CEC instruction providing that voters who on election day found that their names were not included in the voter list could apply to the PEC with a request for receiving a ballot, by filling in a special form and submitting documents proving residence within the boundaries of the precinct. PECs were obliged to consider such requests immediately, adding some 35,000 voters in supplementary voter lists on election day.

Citizens who were away from the place where they were registered as a voter could apply for a de-registration voting card (DVC), which enabled them to vote in a different polling station within the constituency where they were registered. Only around 3,000 persons used a DVC on election day, mainly due to the relatively small size of the constituencies.

## VII. NOMINATION AND REGISTRATION OF CANDIDATES

The two-step process of candidate nomination and registration was handled by the ConECs. First, candidates could be nominated by political parties or by blocs of parties, by groups of voters, or through self-nomination. A political party could nominate individuals who are not party members. After examining the submitted candidate notifications and nominating party documents within a five-day period, the ConECs certified the nomination of 1,412 candidates. Of these, some 445 were nominated by 5 registered electoral blocs, some 350 were nominated by 11 political parties, and the rest were self-nominated or nominated by initiative voter groups.

In order to register a candidate, a ConEC should have received, *inter alia*, not less than 450 valid voters' signatures in support of the candidacy. The possibility to submit a financial deposit *in*

---

<sup>12</sup> <http://www.azstat.org/publications/azfigures/2010/en/004.shtml>.

*lieu* of signatures was removed from the Election Code in 2008. Within seven days, the ConEC had to check all the submitted documents and the collected signatures and pass a decision on registration of the candidate or on refusal of registration. Some 300 nominees did not submit the documents and signature sheets required for their registration.

Of the 1,115 prospective candidates who submitted their registration documents before the deadline of 8 October, only 699 were initially registered by ConECs. As a result of complaints, 35 rejected candidates were later registered by the CEC, and a further 9 candidates were registered on the basis of Court of Appeal and Supreme Court decisions. Most registrations upon complaint or appeal were instituted after the start of the official campaign period.<sup>13</sup> After 52 candidates withdrew and one was de-registered, 690 candidates ultimately contested the elections.

Over half of the candidates nominated by opposition parties had their registrations rejected, while all 111 YAP candidates who had submitted the required documents were registered.<sup>14</sup> The APFP–Musavat bloc had 38 registered candidates, out of 88 initially nominated, followed by the ‘Karabakh’ and ‘Reform’ blocs, with 34 and 31 registered candidates, out of 95 and 97 initially nominated, respectively.

The results of the verification of signatures collected in support of candidates were the main reason for ConECs’ decisions to reject requests for registration and were in many cases cause for concern. Fourteen cases were verified by the OSCE/ODIHR EOM where voters’ signatures were declared invalid by ConECs because these voters’ IDs had expired.<sup>15</sup> Many other rejections resulted from ConECs’ opinions about the authenticity of the submitted signatures.<sup>16</sup> This was of concern because ConECs as a rule reached their conclusions without having expert opinions of graphologists or other specialists.<sup>17</sup> Invalidation of voters’ signatures in some cases resulted from incomplete information on voters, candidates or the persons collecting the signatures.<sup>18</sup>

Although the Election Code requires that a candidate be made aware of the checking procedure and its results in order to be provided with an opportunity to prove the authenticity of the disputed signatures and to correct information about the candidacy,<sup>19</sup> the OSCE/ODIHR EOM observed a lack of openness and transparency in the activity of many ConECs with regard to the registration process.<sup>20</sup> Moreover, the safeguard of the Election Code which states that a decision

---

<sup>13</sup> The Code of Good Practice in Electoral Matters of the Venice Commission states that validation of signatures must be completed by the start of the election campaign (I.1.3.v). In the explanatory report it is stated that in all cases candidatures must be validated by the start of the election campaign, because late validation places some parties and candidates at a disadvantage.

<sup>14</sup> Of the 114 YAP candidates initially nominated, three did not submit the documentation required for registration.

<sup>15</sup> In the case of candidates nominated by the ‘For Human’ bloc (ConECs 23, 90), the APFP–Musavat bloc (ConECs 90, 95, 106, 117), the ‘Karabakh’ bloc (ConECs 57, 117), the Democratic Azerbaijani World Party (ConEC 90), and self-nominated candidates (ConECs 40, 44, 69, 117).

<sup>16</sup> In the case of candidates nominated by the ‘APFP–Musavat’ bloc (ConECs 29, 47, 50, 64, 80, 94, 95, 109), the ‘Karabakh’ bloc (ConECs 11, 23, 63, 99, 110), the ‘Reform’ bloc (ConECs 53, 67, 109), the ‘For Human’ bloc (ConEC 90), and self-nominated candidates (ConECs 40, 42, 43, 60, 79, 80, 110, 117, 122).

<sup>17</sup> Art. 59.2 of the Election Code allows for the creation of expert groups, which can include independent experts and specialists.

<sup>18</sup> In the case of candidates nominated by the ‘APFP–Musavat’ bloc (ConECs 29, 50, 90, 106, 117), the ‘Karabakh’ bloc (ConECs 57, 99, 117), and self-nominated candidates (ConECs 43, 44, 60, 69, 72, 122). In some cases, signatures were invalidated due to incomplete addresses, despite the fact that villages in which the signatories are registered often do not have street addresses.

<sup>19</sup> Art. 59.3, 59.13 and 60.4 of the Election Code.

<sup>20</sup> ConECs 11, 29, 38, 40, 42, 43, 44, 47, 50, 57, 60, 62, 63, 64, 67, 73, 75, 76, 79, 80, 86, 94, 99, 111, 116, 122.

on denial of registration “should be proportionate to the mistake (shortcoming, violation) made”<sup>21</sup> did not appear to be respected, as prospective candidates often had their registration rejected for minor technical errors in their documents.

The refusal to register many candidates appeared, in most instances, to be due to unfairly restrictive implementation of provisions of the Election Code and other legislation. As a result, prospective candidates were denied the right to stand based on minor technical mistakes and without due consideration of the principle of proportional responses to errors enshrined in domestic legislation.

The OSCE/ODIHR EOM received credible reports of intimidation of and pressure on voters to sign or withdraw their signatures from signature sheets.<sup>22</sup> In addition, the mission received allegations of direct intimidation of candidates, their relatives and their representatives.<sup>23</sup> Such intimidation and pressure negatively restricted political campaigning in a fair and free atmosphere, in contradiction to Article 7.5 and 7.7 of the Copenhagen Document.

## VIII. THE ELECTION CAMPAIGN

The political environment was characterized by the continuous domination of public and political life by one party and the marginalization of political alternatives. YAP, chaired by President Aliyev, has been the dominant political force since the 1995 parliamentary elections. In a marked contrast to the 2008 presidential election, all major opposition political parties participated in the elections.

The pre-election environment was not conducive to the fair and free competition of political ideas and platforms; the whole environment and competitiveness of the election campaign was adversely affected by the fact that a very high number of prospective candidates nominated by opposition parties, as well as many self-nominated candidates, were not registered. Many interlocutors professed a lack of confidence in the election process. Many candidates expressed their concerns that the significantly shortened campaign period compared to 2005<sup>24</sup> did not give them enough time to conduct a proper election campaign.

Prior to the start of the official election campaign, there were no visible activities of political parties. The main reason was a restrictive interpretation of the Election Code by executive and electoral authorities with regard to possible meetings by political parties and candidates before the official start of the campaign. The only planned opposition rally in Baku before the start of the campaign, organized by the APFP–Musavat bloc, was cancelled after the Baku executive

---

<sup>21</sup> Art. 60.3 of the Election Code.

<sup>22</sup> The OSCE/ODIHR EOM has documented 14 cases of withdrawal of signatures by groups of voters sending joint letters to the relevant ConEC. All cases impacted either opposition or independent candidates, and all candidates affected alleged that the voters who withdrew their signatures were intimidated by the local executive or electoral authorities. Eight of these cases were related to APFP–Musavat candidates, two cases each to Classic Popular Front Party and ‘Karabakh’ bloc candidates, and one case each to a ‘Reform’ bloc candidate and to an independent candidate. The cases occurred in constituencies 29, 40, 47, 50, 53, 57, 62, 67, 69, 72, 79, 80, 86, and 117.

<sup>23</sup> Alleged intimidation of candidates by local executive authorities was reported from ten constituencies. These cases concerned candidates of APFP–Musavat in constituencies 65, 73, 82, 83, 89 and 98; ‘Karabakh’ bloc candidates in constituencies 99, 113 and 115; and Azerbaijan Democratic World Party candidates in constituencies 83 and 88.

<sup>24</sup> The campaign period was shortened from 60 days in 2005 to 22 days (the campaign period begins 23 days before election day and ends 24 hours before the opening of the polls). In addition, several candidates were registered only during the campaign period after appealing to courts, which further limited their campaign opportunities.

authorities stated in a letter that the “planned rally is not considered reasonable” and the CEC chairperson warned the organizers about possible negative consequences. The Baku executive authorities, invoking the same argument, also objected to a second meeting planned for 17 October, which was also subsequently cancelled. This violates paragraphs 7.6, 7.7 and 9.2 of the 1990 OSCE Copenhagen Document.<sup>25</sup>

The official campaign period was calm and low-key overall and appeared to generate little public interest. Executive authorities allocated a number of small venues for candidates to conduct meetings. In particular in Baku and some other cities, the number of such venues was limited relative to the high number of registered voters, and they were often located in peripheral areas. Although any campaign meetings held in places other than those officially allocated were considered illegal,<sup>26</sup> a number of candidates held small-scale neighborhood meetings without notifying the authorities. OSCE/ODIHR EOM observers received reports of some instances of obstruction of candidates’ campaign activities by the police and local authorities, including at officially allocated venues; such issues are at variance with paragraph 7.7 of the Copenhagen Document.<sup>27</sup>

Political platforms and issues were given little prominence; local community issues dominated the agenda of most candidates’ meetings with voters. No large public rallies or campaign meetings were held, either by the ruling party or the opposition. Campaigning was largely done by door-to-door canvassing by candidates and supporters. No public debates between the ruling and opposition parties were organized among candidates or party leaders. The use of campaign material was very limited and consisted mainly of small posters of candidates posted on boards allocated by the authorities for this purpose.

Opposition parties and a number of independent candidates complained to OSCE/ODIHR EOM observers about the lack of public funding, which in their view limited their ability to campaign, as well as the general environment in which private business feared consequences if they openly gave financial or other support to them. In addition, the CEC decision<sup>28</sup> to allocate free air time to all candidates, but not to political parties, and the absence of possibilities for parties to put up any party posters or billboards led to a further marginalization of the role of political parties in the election campaign.

The campaign was affected by a high number of cases of interference by local executive authorities in the election process. The misuse of administrative resources was reported from 20 constituencies where employees of state institutions were involved in campaigning for a particular candidate during working hours. OSCE/ODIHR EOM observers received reports of state employees being pressured to vote for a YAP candidate or to attend a particular candidate’s

---

<sup>25</sup> Paragraph 9.2 of the Copenhagen Document states that “everyone will have the right of peaceful assembly and demonstration.” Article 11 of the European Convention on Human Rights also states that “everyone has the right to peaceful assembly and to freedom of association with others”.

<sup>26</sup> The Law on Freedom of Assembly states that only a relevant executive body can change the list of proposed venues, and authorities warned political parties to not conduct what they considered unauthorized rallies. In line with the law, any organizer of a meeting has to notify the executive authority in writing five days in advance of a planned event. There are no special rules on the application of the law during an election campaign period. Nevertheless, ConECs orally instructed candidates to request meetings in writing for their approval.

<sup>27</sup> Cases of obstruction and interference from the side of executive authorities and/or the police of meetings held at officially allocated venues were reported from constituencies 16, 19, 23, 34, 42, 47, 57, 61 and 85. OSCE/ODIHR EOM observers reported a disproportionately large police presence at a small opposition meeting in ConEC 113.

<sup>28</sup> Only the YAP had more than 60 registered candidates, which is the legal requirement to qualify for free airtime on public TV and free space in state-funded newspapers. The provisions on free airtime and space had been one of the main reasons why some political parties had formed blocs for these elections.

campaign events.<sup>29</sup> OSCE/ODIHR EOM LTOs observed one YAP campaign event in Nakhchivan city where a party activist was checking which state institution the participants worked for. Such actions could contravene paragraph 5.4 of the 1990 OSCE Copenhagen Document, which calls for a separation between the state and political parties.

The OSCE/ODIHR EOM received credible allegations of intimidation and pressure on registered candidates and their activists to withdraw during the campaign period. Several opposition candidates faced difficulties in renting an office for campaign purposes, allegedly after owners were warned by local authorities.<sup>30</sup>

## IX. THE MEDIA

### A. GENERAL MEDIA ENVIRONMENT

While a broad range of media exist in Azerbaijan, the general lack of independent and objective reporting in electronic media and a scarcity of critical newspapers limit voters' access to pluralistic views and impartial information, which are a basic requirement for the ability to make an informed choice. Furthermore, freedom of expression has deteriorated in recent years, in particular due to violence, detentions, defamation lawsuits<sup>31</sup> and other forms of pressure on journalists who express critical opinions, and impunity for those who commit such acts.<sup>32</sup> As a result, many journalists resort to self-censorship to avoid repercussions.

While less than two weeks after the elections a district court in Baku and the Baku Court of Appeal freed two bloggers, Emin Abdullayev and Adnan Hajizade, who had been imprisoned on charges widely viewed as fabricated in response to satirical postings,<sup>33</sup> a newspaper editor, Eynulla Fatullayev, remains in prison despite numerous calls by domestic and international organizations for his release.<sup>34</sup> The OSCE Representative on Freedom of the Media was "encouraged by the positive developments" in respect of the released bloggers, but she called on the Azerbaijani authorities to "build on this trend and release Fatullayev from custody without delay."<sup>35</sup>

---

<sup>29</sup> Such cases were reported to observers from constituencies 1, 2, 4, 8, 10, 21, 23, 29, 34, 41, 47, 53, 57, 72, 85, 86, 89, 113, 116 and 125.

<sup>30</sup> Cases of pressure on and intimidation of opposition candidates by local executive authorities were reported from constituencies 6, 11, 23, 30, 47, 86, 98 and 113.

<sup>31</sup> A senior state official informed the OSCE/ODIHR EOM that defamation may be decriminalized in the next legislature.

<sup>32</sup> See, *inter alia*, the OSCE Representative on Freedom of the Media's Regular Report to the OSCE Permanent Council, 29 July 2010, at <http://www.osce.org/fom/documents/70956>, and the Council of Europe Resolution 1750 "The functioning of democratic institutions in Azerbaijan", at <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta10/ERES1750.htm>.

<sup>33</sup> See the statement by the OSCE Representative on Freedom of the Media of 10 September 2009, at <http://www.osce.org/fom/item/51295>.

<sup>34</sup> In the case of Mr. Fatullayev, the European Court of Human Rights (ECtHR) ruled in April that his imprisonment was illegal. In November, the Supreme Court upheld the ECtHR judgment overturning the conviction of Mr. Fatullayev on charges of defamation, incitement to ethnic hatred and terrorism, but left in force the sentence for tax evasion, increasing it to 26 months (the period since Mr. Fatullayev's imprisonment in April 2007). Since the period of his imprisonment was taken into consideration, the Supreme Court decided to release Mr. Fatullayev. He nevertheless remains in prison on drug-possession charges (the drugs were allegedly found in his prison cell) for which the editor received a 30-month sentence. The OSCE Representative on Freedom of the Media stated that this last sentence "shows that Azerbaijan is unwilling to fulfill its media-freedoms commitments" (see below).

<sup>35</sup> See the statement by the OSCE Representative on Freedom of the Media on 19 November 2010, at <http://highlights.osce.org/fom/item/74175>.

## **B. LEGAL FRAMEWORK FOR THE MEDIA**

The Election Code regulates the conduct of the media during elections. Article 69.1 of the Election Code guarantees equal conditions for all registered candidates. Article 77.1 of the Election Code stipulates the responsibility of public TV and state-funded newspapers to create equal conditions for registered candidates. In addition, Article 32 of the Law on Television and Radio Broadcasting stipulates that broadcasters should observe the principles of impartiality, comprehensiveness, fullness and truthfulness of information when preparing their programs.

The Election Code also stipulates that parties and electoral blocs which register candidates in more than 60 constituencies are eligible for free airtime on public TV and free space in state-owned newspapers. As no parties or blocs, with the exception of YAP, had more than 60 registered candidates, only the ruling party was eligible for this free airtime and free space. Therefore, the CEC adopted a decision to provide each candidate with four minutes of free airtime in the form of regular daily roundtable discussions on public TV. The four minutes of free airtime allocated to each candidate were the only opportunity for them to present their message to voters, as no other national TV channel organized debates or political talk shows with candidates. Contestants could also use free space in state-owned newspapers and buy time for paid political advertising, although only two national channels offered this opportunity and only 15 candidates utilized it.

To supplement the media-related provisions of the Election Code, the CEC adopted a decision in July 2010 which further regulated the campaign in the media. While the CEC reviewed the election-related programming, it did not conduct systematic media monitoring. The CEC established a special working group on the media, composed of CEC members and journalists from various media outlets, to assist the CEC in overseeing compliance with the media-related provisions of the Election Code. The working group held one session and considered one complaint by an independent candidate about bias coverage against him in an opposition newspaper. While the working group suggested issuing a warning to this newspaper, the CEC did not follow this suggestion and did not adopt any decision.

## **C. OSCE/ODIHR EOM MEDIA MONITORING**



The OSCE/ODIHR EOM's media monitoring was conducted over two periods, 1–14 October (prior to the start of the official campaign) and 15 October–5 November (covering the entire official campaign period). It focused on seven TV stations<sup>36</sup> and four daily newspapers.<sup>37</sup> Media monitoring included quantitative and qualitative analysis of the coverage, assessing both the amount of time and space allocated to each contestant and the tone of the coverage.

Between 1 and 14 October, all monitored TV channels, including public TV (ITV), devoted a considerable portion of their coverage to state authorities and their activities, which was disproportionately high even when taking into account the need for the media to inform the public about governmental policies and actions. Pro-government candidates gained an advantage prior to the commencement of the official campaign period as their competitors received hardly any news coverage on the monitored TV channels.

---

<sup>36</sup> AzTV (state TV), ITV (public TV), ATV, ANS TV, Lider TV, Space and Khazar TV.

<sup>37</sup> *Azerbaijan, Respublika, Yeni Musavat and Zerkalo.*

Coverage of the official campaign in the news was limited, with TV channels focusing instead on the procedural aspects of the electoral process.<sup>38</sup> All main channels, including ITV, provided extensive news coverage of the authorities, outside of the campaign context. There was a tendency to reflect positively on the work and activities of state officials, often pointing out achievements and successes, while independent opinions on their performance were generally absent. Appearances of the President, his wife (a YAP candidate), government officials and senior YAP members in the media coverage of ceremonial events such as inaugurations of new roads, schools, parks, theatres and a new YAP office (in Mingechevir), or in activities such as the distribution of flats, houses, cars and other gifts, gave additional media exposure to the YAP campaign. In contrast, the opposition received hardly any news coverage on the monitored TV channels. The coverage of the campaign contradicted the Election Code regarding equality, and the Law on Television and Radio Broadcasting regarding balance and impartiality in election related programming.

ITV reduced its political and election-related news coverage of the activities of state officials after the start of the campaign, but they still received much more coverage than other political actors.<sup>39</sup> From 28 October, ITV news programs featured short interviews with representatives of all political parties and blocs which had registered candidates in these elections. ITV also aired a regular special program entitled 'People Choose', which was fully devoted to the elections. Apart from featuring the debates among candidates, the program also focused on preparations of the elections and voter education.

State-funded AzTV showed a strong bias in favor of the executive authorities and the ruling party. During the official campaign period, AzTV allocated some 4 hours and 24 minutes of exclusively positive and neutral time to the President, more than 1 hour and 26 minutes to the government and more than 24 minutes to YAP. By contrast, the main opposition bloc received a combined total of four seconds, which were neutral. Most private TV channels adopted a similar approach. Some private channels also produced news items discrediting opposition candidates and journalists.

Private ANS also devoted the bulk of its news coverage to the authorities and YAP, but like public TV it also allocated some news coverage to opposition candidates.<sup>40</sup> This channel had its license suspended in the past and received two warnings from the National TV and Radio Council (NTRC) in 2010,<sup>41</sup> one of them for use of improper language in one of their programs which, according to the NTRC, violated the special regulations for the protection of minors.<sup>42</sup> ANS decided not to organize debates among candidates due to the NTRC's restrictive interpretation of a 12-minute limit on the amount of advertising in one hour of programming.<sup>43</sup> The NTRC did not take any immediate action against Lider TV which during its main news

---

<sup>38</sup> All monitored channels reported extensively on the work of the CEC.

<sup>39</sup> Between 15 October and 6 November, the president received more than 44 minutes of overwhelmingly positive news coverage. In addition, the government and YAP received some 37 and almost five minutes, respectively. By contrast, the main opposition bloc received a combined total of some three and a half minutes of neutral news coverage.

<sup>40</sup> For example, only ITV and ANS provided news coverage in connection with the APFP–Musavat bloc's criticism of the registration process.

<sup>41</sup> According to the Law on Television and Radio Broadcasting, a third warning could result in suspension of the license.

<sup>42</sup> According to Articles 2.7 and 2.8 of the Special Regulations for Programs that Affect Children's and Minors' Physical, Mental and Moral Development, it is prohibited to broadcast erotic movies and programs about sex or use improper language between 07:00 and 23:00 hours.

<sup>43</sup> The NTRC interpreted a 12-minute limit on the amount of advertising per hour of programming as applicable to political advertising and debates. It maintained that if a candidate were to speak about his or her platform during a debate, this would constitute political advertisement, thus the 12-minute limit would apply.



program repeatedly showed a video with an opposition newspaper editor having sexual intercourse with a woman.

While the print media generally provided a more diverse range of views than television, the state-funded newspapers *Azerbaijan* and *Respublika* showed their clear support for the authorities. Private *Yeni Musavat* supported the main opposition bloc and provided some critical coverage of the government and mainly neutral coverage of the president. Private *Zerkalo* devoted the bulk of its coverage to the authorities (mainly neutral or positive), but also devoted some neutral coverage to the opposition.

The CEC did not take action to address the unbalanced news coverage by ITV and state-funded media. As such, not all electoral contestants were provided with unimpeded access to the media on a non-discriminatory basis as provided for by paragraph 7.8 of the 1990 OSCE Copenhagen Document. The strikingly unbalanced coverage in the broadcast media also challenged the ability of parties and blocs to compete with each other on a basis of equal treatment.

While the media situation in the regions varied, the overall situation was similar to one at the national level. Regional media generally did not provide objective coverage of the elections. Seven out of eleven OSCE/ODIHR EOM LTO teams received complaints from candidates running in their regions about a lack of access to regional media.

Most TV channels (apart from ANS), including public TV, covered the international election observers' Statement of Preliminary Findings and Conclusions selectively and in a distorted manner. Most media focused only on positive aspects of the assessment, while ignoring critical findings and shortcomings detailed in the conclusions and findings of the statement.

## **X. PARTICIPATION OF WOMEN**

Gender equality is provided for in the Constitution and the 2006 Law on State Guarantees for Women and Men. However, due to a lack of effective enforcement mechanisms, women continue to play a marginal role in political and public life. Although women account for 51.2 per cent of the country's population, in these elections they represented just 13 per cent of contestants (98 out of 743). Five electoral blocs and six political parties nominated female candidates. Of 20 women nominated by YAP, 19 were registered (17.1 per cent of all registered YAP candidates). The majority of female contestants were registered as independent candidates (59 per cent of all women candidates).

Throughout the election campaign, female candidates, with few exceptions, received scant media attention. Issues of particular interest to women, such as early marriages, domestic violence, family programs, or low levels of political participation, were generally not addressed in party platforms or at rallies.

In the outgoing parliament, only 14 out of 125 of MPs (11 per cent) were female. The new parliament will have 20 female members (16 per cent). None of the current cabinet ministers or mayors is a woman. All political party leaders are men. Women are also under-represented in political parties, although YAP reports having around 50 per cent female members.

At the top level of the election administration, women remained under-represented. Four of 18 CEC members were women, while only three of the 125 ConECs were chaired by a woman. In polling stations visited by international observers on election day, 25 per cent of PECs were chaired by women, while women accounted for 60 per cent of these PECs.

## **XI. PARTICIPATION OF NATIONAL MINORITIES**

The largest minority groups in Azerbaijan are Lezgins, Russians and Talysh. Despite the fact that national minorities are estimated to account for roughly ten per cent of the population, minority-related issues did not appear to be a significant factor in the elections. The election platforms of the ruling party as well as of the APFP–Musavat bloc were silent on issues concerning national minorities.

There were no political parties participating in the elections which represent the interest of a particular national minority. However, members of national minorities were represented among the candidates across all major political parties. One member of the Russian minority and one member of the Jewish community were elected, both as YAP candidates.

## **XII. DOMESTIC OBSERVERS**

The Election Code allows for both domestic and international observers to monitor the entire election process. A total of 43,173 domestic observers were accredited by ConECs for monitoring within the respective constituencies. In addition, the CEC accredited 3,466 domestic observers for nationwide observation, as well as 1,029 international observers representing 21 organizations.

One of the largest domestic observer organizations, the Election Monitoring Center (EMC), was deregistered as an NGO on 14 May 2008 by a district court, at the request of the Ministry of Justice. EMC's appeal in this case is currently pending at the ECtHR. The Election Monitoring and Democracy Studies Center (EMDS) was created as the successor of EMC, but its registration was suspended by the Ministry of Justice.<sup>44</sup> However, EMDS observers were able to obtain accreditation as individuals.

The registration of observers was inclusive. Among the registered domestic observers, 8,378 were accredited as party observers, 32,740 were accredited as individual observers, and 5,444 represented 11 civil society organizations. The pro-governmental 'Parliament–2010' coalition and the Association for Civil Society Development in Azerbaijan, as well as the non-governmental EMDS and the 'Democracy Learning' Public Union, fielded considerable numbers of observers and conducted long-term and short-term observation of these elections.

Despite the large numbers of domestic non-party observers registered, OSCE/ODIHR EOM observers did not note a very active participation of these observers during election day. Moreover, cases of hindrance of independent domestic election observation activities by PECs were observed, which impacted negatively on the transparency of the election process.

## **XIII. PRE-ELECTION COMPLAINTS AND APPEALS**

Complaints and appeals can be filed by voters, candidates, political parties and blocs and their representatives, observers and election commissions. Actions and decisions as well as omissions of election commissions that violate electoral rights can be challenged at the higher election commission. Decisions of election commissions upon complaints, as well as decisions and

---

<sup>44</sup> On 3 December, EMDS's appeal in that case was rejected by the Baku Court of Appeal.

actions of the CEC, can be appealed to the Court of Appeal. Decisions of the Court of Appeal can be further appealed to the Supreme Court. The timeframe for submitting a complaint or appeal is three days from the day a violation occurred or a decision was adopted or published, or the day the plaintiff was informed of the decision if the period was more than three days. Complaints and appeals lodged before election day should be reviewed and decided upon within three days; complaints and appeals submitted on or after election day should be reviewed and decided upon immediately.

The Election Code foresees the creation of expert groups at CEC and ConEC level for the adjudication of electoral disputes, consisting of nine and three members, respectively; it does not, however, provide any criteria for the appointment of these experts. It only states that commissioners with legal background may be members of these groups. The relevant CEC instruction sets as criteria professionalism, ability to conduct factual and legal analysis, experience in the field of elections and existence of high public confidence in their professional activity. In practice, expert groups were composed of commissioners and in some cases also of administrative staff members. The CEC claimed that they did not opt for external lawyers as it would have been difficult to assess whether they enjoy public confidence. It is questionable whether the expert groups added any fact-finding capacity, as was the stated intention when they were introduced, since they consisted of those already working for the election administration and their advisory opinions did not contain detailed argumentation based on the facts or the law.

The Election Code allows for an extension of the three-day investigation period upon the request of the expert group. This provision creates a problem since it does not set an upper time limit for the extension. The possibility to extend the investigation period was used extensively by the CEC and resulted in a protracted dispute-resolution process, which in combination with the shortened election period and ambiguous legal provisions undermined the right to seek an effective and timely remedy. The review of cases for candidate registration by the Supreme Court was conducted up to 6 November. The last registration of a candidate by the CEC upon a court decision took place on 4 November.<sup>45</sup>

By election day, the CEC had reviewed some 250 complaints. The OSCE/ODIHR EOM was provided with only one tenth of these complaints, despite repeated oral and written requests. Some 175 complaints challenged ConEC decisions on refusal of candidate registration and the rest alleged inaction and unlawful conduct by ConECs. The CEC satisfied 35 complaints on candidate registration, mostly after the start of the election campaign, and one regarding the withdrawal under pressure of a registered candidate, in ConEC 85; it dismissed all other complaints as groundless. Cases were reviewed in a hasty manner, with practically no debate; the CEC adopted the expert's opinion in all cases, even though the experts never presented the findings of the investigation during the sessions.

The Election Code provides that the plaintiff must be invited to attend the investigation of the case if he or she has explicitly made that request and that the plaintiff has the right to present new evidence.<sup>46</sup> Plaintiffs informed the OSCE/ODIHR EOM and also repeated before the courts that they were not notified by election commissions at all levels when their cases were being reviewed, even though they had explicitly and repeatedly requested to be present. Only on one occasion before election day was a plaintiff able to attend the CEC review session and present his arguments, which were, however, not examined or taken into account by the CEC.

---

<sup>45</sup> On 10 November, the candidate (ConEC 57, Umid party) requested the cancellation of the elections on the grounds that he did not have sufficient time to campaign. His request was dismissed by the CEC.

<sup>46</sup> The Code of Good Practice in Electoral Matters of the Venice Commission states that in order to have an effective system of appeal, "the applicant's right to a hearing involving both parties must be protected" (II.3.3).

At least 100 complaints were reviewed by ConECs, pertaining mostly to unlawful interference by executive and municipal authorities and police as well as obstruction of their election campaign by other candidates. The vast majority of these complaints were dismissed as groundless or unsubstantiated. In contravention of the relevant legal provisions, almost all CEC and ConEC decisions failed to include comprehensive reasoning.<sup>47</sup> In addition, the decisions did not indicate the means of legal redress. This challenged the commitments contained in paragraphs 5.10 and 5.11 of the 1990 OSCE Copenhagen Document.<sup>48</sup>

Until 8 November, 100 appeals were lodged with the Baku Court of Appeal, out of which 89 were examined on their merits. All but four of them requested the annulment of CEC decisions that refused the registration of candidates. Only five of these appeals were granted. Parties had the opportunity to present their arguments during the hearings; however, in most cases the court declined to accept testimonies of witnesses and other evidence suggested by the appellants and did not explain why such evidence was not considered. The court sent only 32 case files to be examined by expert graphologists. Deadlines for submitting appeals were not always respected, in part due to ambiguities in the relevant legal provision.<sup>49</sup> The court displayed an inconsistent approach with regard to deadlines; in some cases it reviewed and satisfied appeals lodged after the three-day deadline, while in other cases it dismissed appeals on the grounds of being filed after the legal deadline. In contravention of domestic legislation,<sup>50</sup> more than half of the decisions of the Court of Appeal lacked legal argumentation and reasoning and did not address any of the arguments of the appellants.

The OSCE/ODIHR EOM is aware of over 30 cases reviewed by the Supreme Court pertaining to candidate registration. In only four of these cases did the Supreme Court annul the Court of Appeal's decision and enable the candidates to register. The last final decision in favor of a candidate before election day was given on 3 November. In most cases, the Supreme Court failed to rectify the above-mentioned shortcomings of the decisions of election commissions and of the Court of Appeal.

#### **XIV. ELECTION DAY**

While election day was generally calm and peaceful, international observers reported a high occurrence of serious irregularities and procedural violations, including ballot box stuffing. Official CEC data put voter turnout at 49.56 per cent.

##### **A. OPENING AND VOTING**

Opening was assessed positively in 81 of the 101 polling stations visited; the negative assessment in the other 20 polling stations were due to procedural shortcomings such as frequent failure to record the serial numbers of the ballot box seals, to cancel unused DVCs, and to record the number of ballots received in the draft protocol. In six polling stations, international observers were restricted in their observations during opening.

---

<sup>47</sup> Articles 25.2.2 and 112.4 of the Election Code.

<sup>48</sup> Paragraph 5.10 of the Copenhagen Document states that "everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity." Paragraph 5.11 states that "administrative decision against a person must be fully justifiable and must as a rule indicate the usual remedies available."

<sup>49</sup> Article 112.1 of the Election Code.

<sup>50</sup> The Civil Procedures Code (Articles 220.2 and 220.4) requires that court decisions should include a motivation part.

Overall, international observers assessed voting positively in 89 per cent of polling stations visited, while voting was assessed negatively in a considerable 11 per cent of the 1,247 polling stations visited (127 polling stations), indicating systemic irregularities. The most widely observed procedural violations during voting concerned inking, an important safeguard against multiple voting. In 12 per cent of polling stations visited, not all voters were checked for traces of invisible ink; in 8 per cent, not all voters were marked with ink. Twenty-three PECs where voting was observed did not check voters for ink at all, and 12 PECs did not ink any voters. International observers reported from seven polling stations that voters who had already been inked were nonetheless allowed to vote. Almost 45 per cent of polling stations visited were not easily accessible for voters with disabilities.

International observers noted a series of identical signatures on the voter list in 100 of the polling stations visited, and ballot box stuffing in a significant 63 cases. Group voting was observed in 7 per cent of polling stations visited, proxy voting in 2 per cent, and multiple voting in 1 per cent. In 25 polling stations visited, voters were allowed to vote although they were not able to produce any of the prescribed identity documents.<sup>51</sup> In 54 of the 386 polling stations where DVCs were used while international observers were present, these were not always retained.

In 7 per cent of polling stations visited, not all voters marked their ballots in secret. International observers also noted 12 cases where one person was “assisting” numerous voters, potentially undermining the secrecy of the vote. Web cameras were installed in 500 polling stations in different regions. The CEC announced that the purpose of these cameras, which provided for the possibility to follow voting and counting procedures in these polling stations on the Internet, was to increase the transparency on election day. International observers reported from 36 polling stations visited that the placement of these cameras did not safeguard the secrecy of the vote; in some polling stations, these cameras were mounted right above the voting booths.

International observers reported 65 instances of tension in and outside polling stations, 20 attempts to influence for whom voters should cast their ballots, and 9 cases of intimidation of voters. They also noted instances of campaigning or the presence of campaign material in the vicinity of and inside polling stations. Unauthorized persons were identified in 79 polling stations and interfered in or directed the process in 19 instances.

Proxies of candidates, parties and electoral blocs were present in 91 per cent of polling stations visited, and domestic non-party observers, in 56 per cent. International observers said that some domestic observers were not able to say which organization they represented. International observers noted some cases where observers and proxies were expelled from polling stations and received reports of them being pressured, detained or physically assaulted. Regrettably, international observers were restricted in their observation in 114 polling stations.

## **B. COUNTING**

While 105 of the 152 counts observed were evaluated positively, observers assessed the vote count negatively in a 47 instances (32 per cent), a significantly high number. In 14 cases, the number of ballots in the mobile or stationary ballot box was higher than the number of signatures on the voter list or the written requests for mobile voting, and 31 ballot boxes contained clumps or stacks of ballots, suggesting that ballot box stuffing had occurred earlier. In a few cases, the

---

<sup>51</sup> The following documents can be used by voters for identification purposes on election day: ID card, temporary ID, IDP card (for IDPs), military ID, and stateless person ID card (for stateless persons who have been residing in Azerbaijan for more than five years and are allowed to vote).

PEC counted the ballots in a different room. Election results were tampered with in 13 polling stations.

Significant procedural errors and omissions were reported from over one quarter of counts observed. A considerable number of PECs did not perform basic reconciliation procedures required by law, such as counting and entering into the protocols the number of voters' signatures on the voter lists (61 cases), of DVCs retained (25 cases), or of requests for mobile voting (25 cases). Twenty-eight PECs did not cancel unused ballots after the end of voting, and 33 did not place spoiled ballots in a separate envelope. Fifty-one PECs did not enter all figures from the reconciliation procedures in the draft protocol before opening the ballot boxes, and 41 did not crosscheck them for mathematical consistency. In five polling stations where the count was observed, ballot box seals were not intact when the boxes were opened, and in 13 cases, their serial numbers did not match those entered in the draft protocol during the opening of the polling station.

Ballot validity was not always determined in a reasonable and consistent manner (16 and 14 cases, respectively), with PECs not voting on the validity of disputed ballots in 42 of the counts observed. In 31 counts observed, not everybody present was able to see clearly how ballots had been marked, and in 12 instances, PEC members or observers were not allowed to examine ballots upon request. In 48 counts observed, the data established was not announced before being entered into the draft protocol. In ten polling stations, unauthorized persons were present during the count, and in six, such persons interfered in or directed the process. Persons other than PEC members were seen participating in the count in 12 polling stations.

Forty-two PECs observed had problems completing the results protocol. Eight PECs revised data they had entered into the draft protocol earlier. The result protocol had been pre-signed in 12 cases and was not filled in completely and in pen in 13 cases. Some PECs did not complete the protocol immediately after concluding the count, as required by law. In 40 of the counts observed, the PEC did not post a copy of the protocol for public scrutiny, and frequently, observers were not given copies upon request.

Contrary to legal requirements, after the count in 19 of the counts observed the PEC was not accompanied by at least two PEC members during the transfer of the election material to the ConEC. In four cases, the material was not transferred directly to the ConEC.

## **XV. TABULATION AND ANNOUNCEMENT OF RESULTS**

The tabulation process at the ConEC level was assessed positively in 69 of the 86 ConECs where it was observed and negatively in 17 ConECs (20 per cent).<sup>52</sup> The transparency of the process was assessed negatively in 15 cases, ConEC members' understanding of the tabulation procedures in six cases, and the organization of the data entry in eight cases.

International observers assessed the premises and facilities of 15 ConEC as inadequate, while the number of people present negatively affected the process in 22 ConECs. In six ConECs, tension or unrest was noted. Candidate or party proxies were present in 46 ConECs where tabulation was observed, and domestic non-party observers, in 21. Unauthorized persons, mainly police who had not been invited into the premises by the ConEC chairperson, were present in 27 ConECs,

---

<sup>52</sup> International observers filed a total of 242 reports on the handover of election material and the tabulation of results, from 86 ConECs. The process at ConEC level was assessed as bad or very bad in one or more observation reports filed from the following ConECs: 1, 8, 10, 15, 21, 27, 29, 36, 45, 57, 60, 72, 91, 98, 99, 106, and 113.

but they were not seen interfering in the process. International observers reported 23 instances where they were restricted in their observation at the ConEC. Forty-three observation reports filed from ConECs indicated that not all those present had a clear view of the procedures, often due to the fact that various parts of the process took place in different rooms.

Procedures were frequently not followed at the ConEC level, despite training of ConEC members and the existence of a CEC instruction on the receipt and review of PEC protocols.<sup>53</sup> International observers filed 40 reports that PECs were filling in results protocols at the ConEC premises, rather than at the polling station as required by law, and 30 reports that PECs were making corrections to their results protocols at the ConEC premises without a prior formal ConEC decision to that effect. Thirty-nine reports indicated that PEC chairpersons were not present during the data entry of the results from their polling stations, despite being required to do so. International observers also noted in 61 reports that the ConEC chairperson did not sign the computer printouts of polling station result protocols immediately after checking them against the original protocol, and they filed 72 reports that the ConEC chairperson did not sign and stamp the printouts after they had been approved by a ConEC decision.

The CEC started issuing preliminary election results by constituencies and precincts on its website on election night and posted most protocols during the following day. The OSCE/ODIHR EOM was informed by some candidates that the data in the certified copies of the polling station results protocols did not coincide with the data posted on the CEC website.<sup>54</sup> Meanwhile, these candidates claimed, including during court hearings, that they were not informed about any changes to the initial protocols. Moreover, checks of result protocols obtained at polling-station level by international observers against the data posted on the CEC website also showed some discrepancies, including the number of votes obtained by individual candidates.<sup>55</sup> The differences amounted to hundreds of votes being given or taken away from candidates in a number of the polling stations where discrepancies were observed.<sup>56</sup>

The OSCE/ODIHR EOM in one instance received strong indications that possible manipulation of election results may have been organized before election day. On 6 November, OSCE/ODIHR EOM LTOs were handed an unsigned and unstamped draft results protocol for ConEC 2, PEC 3, by an opposition candidate. In this protocol, figures had already been entered, including the number of votes which would supposedly be obtained by each candidate. Some figures, including the number of votes obtained by three of the four candidates, did not correspond to the data in the official PEC protocols, as posted on the CEC website, although the differences were minor. However, the number of votes for the winning YAP candidate was identical to the officially announced number of votes received.

---

<sup>53</sup> This CEC instruction was adopted in 2003 but has remained in force since, including for the 2010 elections. Lack of adherence to procedures was reported from ConECs 1, 4, 8, 10, 15, 29, 58, 78, 91, 98, and 100.

<sup>54</sup> Such cases were verified by the OSCE/ODIHR EOM for ConEC 46 (PECs 7, 14, 17, 20, 23, 25, and 30) and ConEC 80 (PECs 2, 3, 4, 6, 7, 8, 10, 16, 28, 29, and 37).

<sup>55</sup> Such cases were noted for ConEC 88, PECs 6, 20 and 32, and for ConEC 109, PEC 5.

<sup>56</sup> For example, in ConEC 79, PEC 16, the results protocol shows the winning candidate having received 511 votes and the second place candidate 45. However, the winning candidate on the results protocol had only 65 votes on the CEC website. The second place candidate on the Protocol had 526 votes on the website. Also in ConEC 79, in PEC 15 the results protocol show the winning candidate having received 395 votes and the second place candidate 114. However the winning candidate on the results protocol had only 14 votes on the CEC website. The second place candidate on the protocol had 495 votes on the website. The number of unused ballot papers also dropped by over 500, from 875 to 367.

## XVI. POST-ELECTION COMPLAINTS AND APPEALS

### A. ADJUDICATION OF POST-ELECTION COMPLAINTS BY THE CEC

The CEC reviewed, up to 22 November, over 120 complaints, 73 of which requested the invalidation of results in 50 constituencies. Plaintiffs cited grave irregularities such as ballot stuffing, multiple voting and proxy voting, in particular in military polling stations, voting by unauthorized persons, interference and pressure by executive officials, obstruction of observers, breaches of the law during the vote count and the tabulation of results, and discrepancies between PEC and ConEC protocols. They also requested the prosecution of officials and individuals who allegedly committed electoral offences.

The CEC review of complaints lacked due process and transparency; the investigation was conducted solely by one member of the expert group to whom the case was assigned and whose opinion was presented only briefly and was always adopted unquestioningly by the majority of CEC members. The substance of the complaints was not discussed during the CEC sessions. Instead of attempting to ascertain the authenticity of the dispute, it invoked formalistic reasons to deny a thorough examination of the complaints. On one occasion, the CEC debated whether a complaint should be discussed on its merits, because there was a difference between the plaintiff's signature on the complaint and the signature on his ID, while no effort was made to contact the plaintiff. Some complaints were dismissed on the grounds that there were differences in the signatures of observers who signed several statements on violations and because the CEC estimated that observers could not have visited a certain number of polling stations within the time indicated in the statements.

Documents which had been submitted as evidence, such as PEC protocols, were not examined or discussed during the sessions, under the pretext that they were not the originals. In response to complaints alleging that groups of people were carried around by buses and voted multiple times, the CEC chairperson stated during a session that the CEC only investigates events inside polling stations and that all else does not concern the CEC.<sup>57</sup> Plaintiffs attended the sessions where their complaints were being reviewed only on very few occasions and complained that they were given very short notice before the session. They also claimed that PECs and ConECs in several instances refused to accept their complaints. Even though ConECs at times sent their decisions by mail, with delivery to the plaintiffs taking several days, the CEC dismissed the subsequent appeal on the grounds that they were submitted past the three-day legal deadline.

The CEC dismissed most complaints, except for approximately 20 which it partially satisfied;<sup>58</sup> the CEC consequently invalidated the results of 43 polling stations in 17 constituencies.<sup>59</sup> No reason was given for the invalidation of these polling stations, other than "irregularities" which were not specified during the review session or in the respective CEC decision. Several recounts were performed; however, the reasons which prompted them were also not specified. The conditions under which the recounts took place were also unclear. In some instances, the polling stations for which ballots were recounted were not those the plaintiff had complained about.

---

<sup>57</sup> The CEC chairperson made this statement during the CEC session of 18 November 2010, during the review of a complaint filed by candidate Adil Sadigov regarding irregularities in polling stations of ConEC 41.

<sup>58</sup> More than one complaint was filed regarding certain constituencies.

<sup>59</sup> The CEC annulled polling-station results in constituencies 9, 10, 15, 22, 26, 31, 40, 47, 57, 60, 63, 64, 84, 85, 88, 107 and 113. In addition, the results in three polling stations in three other constituencies were annulled by the respective ConECs. As these annulments did not impact on the overall results in these 20 constituencies, no constituency results were cancelled.



## **B. ADJUDICATION OF APPEALS BY THE COURTS**

Over 60 appeals against CEC decisions were lodged with the Baku Court of Appeal, all of which were dismissed. The court upheld all CEC decisions without proper investigation of the appellants' arguments. The court in all but a few cases did not call and did not examine testimonies of witnesses suggested by the appellants. The reasons why the court did not call witnesses and hear testimonies were not indicated in the decisions, even though the Code of Civil Procedures clearly states that the section of a court decision which is motivating the decision should mention the reasons for refusal to accept any evidence referred to by the persons participating in a case.<sup>60</sup>

Requests by appellants to have original documents which they had previously submitted to the CEC returned to them were routinely refused. In one case, the appellant requested the court to oblige the CEC to provide the footage from the video camera installed in a polling station as evidence.<sup>61</sup> The CEC lawyer claimed that the video recordings were in the archive and could not be submitted. The Court did not address the request either during the hearing or in its decision. Results protocols certified by PECs which were different from those posted on the CEC website were presented during hearings but were not taken into account by the court, which accepted the CEC's explanation that after recounts no discrepancies were found.

The OSCE/ODIHR EOM is aware of approximately 30 cases that were reviewed by the Supreme Court. Requests to the court by the OSCE/ODIHR EOM for information regarding election-related cases went unanswered. The court did not address the shortcomings and deficiencies in the adjudication of complaints by the CEC and the Baku Court of Appeal and dismissed all appeals. Attorneys of the appellants claimed they were given notice of only an hour or two before the hearings. Overall, the courts failed to provide effective remedy and on occasions even failed to comply with domestic legislation.

## **C. COMPILATION AND ADOPTION OF THE FINAL RESULTS PROTOCOL**

The CEC compiled and sent to the Constitutional Court the final protocol of the election results on 22 November, even before the deadlines for challenging CEC decisions in the courts had expired. The protocol was signed by 17 out of 18 CEC members.<sup>62</sup> The Constitutional Court validated the election results by a final decision on 29 November, when cases were still pending before the Baku Court of Appeal and deadlines for challenging Court of Appeal's decisions to the Supreme Court had not expired. This effectively deprived stakeholders of the opportunity to exercise their constitutional right to seek legal redress.

## **XVII. RECOMMENDATIONS**

The following recommendations are offered for consideration by the authorities, political parties and civil society of the Republic of Azerbaijan, in further support of their efforts to conduct elections in line with OSCE commitments and other international standards for democratic elections. These recommendations should be read in conjunction with other recommendations

---

<sup>60</sup> Article 220.4 of the Code of Civil Procedures.

<sup>61</sup> Appeal on the CEC decision concerning constituency 41.

<sup>62</sup> The CEC member representing the Umid party asked for a document containing his objections to the final protocol to be attached to the protocol. He told the OSCE/ODIHR EOM that the CEC chairperson would accept the document only if the CEC member signed the final protocol.

offered previously by the OSCE/ODIHR.<sup>63</sup> The OSCE/ODIHR stands ready to assist the authorities and civil society of Azerbaijan to further improve the electoral process.

#### **A. PRIORITY RECOMMENDATION**

Serious efforts should be made to allow for a competitive environment for genuine parliamentary elections with equal and fair conditions for all candidates. This includes:

- a. Ensuring an inclusive candidate registration process. The implementation of existing legal provisions on candidate nomination and registration should be improved by increasing transparency of verification rules and procedures, by offering detailed and timely information to candidates about the results of the verification and about possible deficiencies in their documentation, and by providing a genuine opportunity to correct them. Decisions to reject candidacies should be well-grounded and reasoned. Minor technical mistakes or inaccuracies should not be grounds to restrict the fundamental right of citizens to stand for office.
- b. Building an election administration which enjoys the confidence of major political stakeholders. The Election Code should be amended through an inclusive process to revise the composition of election commissions at all levels, with the aim of finding a formula that will instill confidence and impartiality in the work of the election administration. In order to increase inclusiveness and build trust, chairpersons of ConECs and PECs could represent different political parties.
- c. Allowing for a campaign period where fundamental freedoms of peaceful assembly and expression are respected. The continuous problems regarding undue interference of local executive authorities in the election process, in particular regarding the failure to provide conditions for free and equal campaigning and the misuse of administrative resources in favor of certain candidates, should be resolutely addressed as it is the responsibility of the State to enable contestants to compete on a basis of equal treatment and to ensure that political campaigning is conducted in a free and fair atmosphere. The restrictive approach of the executive authorities regarding the allocation of official venues for the conduct of the campaign should be reviewed. With the official campaign period reduced from 60 to 22 days, efforts should be made to ensure that candidates and political parties can reach out to voters and organize rallies at any time, not only during election periods.
- d. Developing free and independent media. The editorial line of media outlets should be determined without interference by the authorities, and journalists should not be subject to undue pressure. Media outlets should provide fair, objective and balanced reporting of political forces, especially during an election period, in line with international good practices. The State should ensure that state-owned and funded media in particular treat electoral contestants equally, as provided for by paragraph 7.6 of the OSCE 1990 Copenhagen document and Articles 69.1 and 77.1 of the Election Code.
- e. Improving the conduct of voting, counting and tabulation processes. Serious violations of election-day procedures, including cases of ballot-box stuffing and multiple voting, should immediately be investigated as these practices undermine the integrity of

---

<sup>63</sup> All previous OSCE/ODIHR election final reports can be found at:  
<http://www.osce.org/odihr/elections/azerbaijan>.

electoral processes. Perpetrators, including election commission members who participate in or tolerate such practices, should be prosecuted in accordance with the law.

- f. Developing transparent and effective election dispute resolution. The CEC, ConECs and the courts should review complaints and appeals in an open and transparent manner and examine all evidence including testimonies of witnesses in order to render grounded and reasoned decisions in conformity with the Election Code. The Election Code should ensure the right of plaintiffs to a fair hearing, with the participation of both parties.
- g. The Election Code should be amended to clarify jurisdictions and deadlines, eliminating the ambiguities during recounts and invalidation of results. The grounds for recounts and the conditions under which recounts are to be conducted should be clearly established in the law.

## **B. OTHER RECOMMENDATIONS**

### **LEGAL FRAMEWORK<sup>64</sup>**

- 1. The Election Code should ensure that the final results protocol is compiled by the CEC and forwarded to the Constitutional Court for validation only after the expiry of the appeals deadlines and after all appeals are heard by the courts.

### **ELECTION ADMINISTRATION**

- 2. The CEC should review its current working practice and rules of procedure, particularly with regard to the distribution of work within its administration, and ensure that all CEC members receive information and material required for their work. Agendas and draft decisions should be distributed to members of election commissions and party and candidate representatives before a commission meeting, allowing them to familiarize themselves with the issues to be discussed and decided.
- 3. In order to ensure the equality of the vote, the boundaries of electoral constituencies should be redrawn so that deviations in the number of registered voters are minimized and the current numerous cases of significant deviations in constituency sizes are avoided, as required by Article 29.3.1 of the Election Code.
- 4. In line with legal provisions for military voting, the CEC should grant permission to establish a polling station in a military unit only in certain well-defined cases, and when voters serving in the military are at a great distance from ordinary polling stations. The election administration should retain the responsibility for the organization and conduct of transparent military voting.
- 5. In order to enhance the performance of lower-level commissions, the CEC would need to adopt regulations in a timely manner and provide the necessary effective training to lower-level commissions. This will help ensure uniform implementation of election procedures. Training should especially focus on areas identified as problematic by

---

<sup>64</sup> All joint legal opinions with concrete recommendations on how to improve the legal framework for elections can be found at <http://www.osce.org/odihr/elections/azerbaijan>.

international and domestic observers, such as the voting, counting and tabulation procedures.

#### **CANDIDATE REGISTRATION**

6. Provisions on the cancellation of candidacy could be reviewed, with a view to reduce the reasons for cancellation, as some of them are disproportionate.
7. The deadlines of the process of candidate registration could be reviewed to ensure that reinstated candidates have sufficient time to effectively campaign and reach out to voters.

#### **ELECTION CAMPAIGN AND CAMPAIGN FINANCING**

8. Consideration could be given to reintroducing the state funding of individual candidates' campaigns. Public funding could also be extended to all political parties representative of a minimum level of the citizenry's support and presenting candidates in an election, following a public discussion on the issue among all political actors.

#### **ADJUDICATION OF ELECTION DISPUTES**

9. The Election Code should clearly set criteria for the appointment of expert groups to hear complaints and appeals. Furthermore, an upper time limit for the extension of investigation of complaints and appeals should be defined in the Code.
10. Should web cameras continue to be used in polling stations, the status and use as evidence during the review of electoral disputes of the footage recorded by these cameras should be regulated by the Election Code.

#### **MEDIA**

11. The independence of public TV should be further strengthened, including through the development of impartial editorial practices, especially in the news programs. Reporting should be balanced and factual, including when covering activities of the authorities, in line with international good practice.
12. The CEC, in cooperation with the National TV and Radio Council, should ensure respect for the media-related provisions of the Election Code during the campaign, including equitable news coverage of election contestants on ITV or other state-owned or financed media. Systematic media monitoring by the NTRC during an election campaign period could assist the CEC in carrying out this task.
13. Consideration could be given to amending Articles 77, 80 and 83 of the Election Code which stipulate that to be eligible for free airtime and space, a party or bloc needs to register candidates in more than 60 constituencies. One of the main advantages of providing free airtime is to give smaller parties or minor candidates an opportunity to deliver their electoral messages, as they otherwise do not get significant media coverage. Contrary to paid airtime, which is often not affordable for such parties or candidates, the lack of finances should not be an obstacle to access the airwaves or print space.

## **GENDER**

14. A genuine effort should be made by political parties to increase the number of women in senior positions within their executive and administrative bodies. Parliament and state authorities should create the necessary conditions to promote and facilitate the inclusion of women in top government posts and in the higher levels of the election administration.

## **ELECTION DAY**

15. The rights of domestic and international observers to effectively follow election-day procedures should be guaranteed. To this end, further training and clear instructions to PECs and ConECs could be considered.
16. The CEC should ensure that inking procedures, which constitute an important safeguard against multiple voting, are strictly and uniformly implemented by election commissions, including checking of voters' fingers for traces of ink and application of ink upon issuance of ballots.
17. Efforts could be undertaken to increase the respect for the secrecy of the vote, including voter education campaigns, further training of election commissions and adequate placing of web cameras in polling stations.

## ANNEX: ELECTION RESULTS

<b>Aggregated Data from ConEC Results Protocols<sup>65</sup></b>	<b>Number</b>
Total number of voters included in voter lists	4,928,594
Number of voters included in regular voter lists	4,893,844
Number of voters included in supplementary voter lists	34,750
Number of voters who voted with de-registration voting cards	2,190
Number of voters who were issued de-registration voting cards	3,238
Number of ballots provided to PECs	4,876,741
Number of voters who voted	2,442,365
Number of spoiled ballot papers	2,483
Number of ballot papers cast	2,441,687
Number of invalid ballots	51,857
<i>Percentage of invalid ballots (based on number of ballots cast)</i>	<i>2.12%</i>
Number of valid votes	2,389,830
<i>Turnout (based on total number of voters included in voter lists)</i>	<i>49.56%</i>

<b>Contestant</b>	<b>Number of Nominated Candidates</b>	<b>Number of Registered Candidates</b>	<b>Number of Standing Candidates</b>	<b>Number of Mandates Won</b>
YAP	115	111	107	69
'APFP-Musavat' Bloc	88	38	37	
'Karabakh' Bloc	95	34	34	1
'Reform' Bloc	97	31	27	3
Classic Popular Front Party	71	30	28	
Azerbaijan National Independence Party	64	25	24	
Democratic Azerbaijani World Party	59	22	18	
'For Human' Bloc	77	21	19	
'Democracy' Bloc	88	18	15	4
Modern Musavat Party	22	7	6	
Motherland Party	9	7	6	2
National Democratic Party	4	3	2	
Azerbaijan Social Democratic Party	4	2	2	
Progress Party	1	1	1	
Azerbaijan Liberal-Democratic Party	2	0	0	
Self-nominated Candidates	616	393	364	46
<b>Total</b>	<b>1,412</b>	<b>743</b>	<b>690</b>	<b>125</b>

[Source: Central Election Commission of the Republic of Azerbaijan; [www.cec.gov.az](http://www.cec.gov.az)]

<sup>65</sup> These figures do not include the corresponding data from the 46 polling stations where the election results were cancelled.

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)).