

**INTERIM REPORT NO. 1
1–17 September 2008**

I. EXECUTIVE SUMMARY

- The Central Election Commission (CEC) on 30 July called a presidential election for 15 October 2008, in accordance with constitutional provisions. The President is elected by popular vote for a five-year term. If no candidate receives more than half of the votes cast, a second round is held between the two candidates who obtained the highest number of votes.
- Seven presidential candidates were registered by the CEC, including incumbent President Ilham Aliyev. Three prospective candidates were rejected. Several opposition parties decided not to participate in, or to boycott, the election.
- Recent amendments to the Election Code incorporated some of the recommendations made by the OSCE/ODIHR and the Council of Europe's Venice Commission, but other recommendations were not addressed. While some of the recent amendments have the potential to improve the election process if fully and appropriately implemented, others could have a negative impact.
- The election will be administered by the CEC, 125 Constituency Election Commissions (ConECs), and some 5,150 Precinct Election Commissions (PECs). The membership of commissions is incomplete, since part of the opposition refused to participate in the nomination process. The CEC is very active in making preparations for the election and holds frequent meetings.
- Some 4.8 million citizens of Azerbaijan will be eligible to vote. Voter lists were posted for public scrutiny on 10 September. Citizens may apply for a de-registration voting card, which allows them to vote in a polling station outside the place where they are registered.
- The election campaign, which officially started on 17 September, will take place in a polarized political environment, but in the absence of key opposition parties. There appear to be differing interpretations by the authorities with regard to the implementation of new legal provisions on the places and venues in which campaign meetings can be held.
- Numerous interlocutors have expressed concerns about the media situation in Azerbaijan. Under recent amendments to the Election Code, no campaigning is allowed on State TV. Free airtime and other campaign-related programs will only be available on Public TV. On 5 September, the OSCE/ODIHR Election Observation Mission (EOM) started monitoring seven TV stations and four newspapers.
- Amendments to the Election Code established expert groups within the CEC and ConECs to review complaints, and to support their fact-finding capacity. The newly formed expert groups appear to be mainly composed of existing commission members and staff lawyers.
- The OSCE/ODIHR EOM opened its office in Baku on 1 September, with a 12-member core team and 28 long-term observers who are deployed to 11 locations throughout the country.

II. INTRODUCTION

The Central Election Commission (CEC) of the Republic of Azerbaijan on 30 July called a presidential election for 15 October 2008, in accordance with constitutional provisions. Following an invitation from the Government and the conduct of a Needs Assessment Mission,¹ the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 1 September. The OSCE/ODIHR EOM, led by Ambassador Boris Frlec, consists of a 12-member core team based in Baku and 28 long-term observers (LTOs) who were deployed on 9 September to 11 locations throughout the country. The OSCE/ODIHR EOM is drawn from 23 OSCE participating States. Participating States have been requested to second 450 short-term observers to observe voting, counting and tabulation.

III. BACKGROUND

Following the 2005 parliamentary elections, the main opposition parties alleged widespread falsification and declared that they considered the elections invalid and the new Parliament illegitimate. The opposition called for the annulment of results and new elections. In ten out of the 125 constituencies, the results were cancelled by the CEC and the Constitutional Court, and repeat elections were held in these constituencies in May 2006. The leader of the Liberal Party refused to take up her seat, and several opposition parties decided to boycott the newly elected Parliament. Since then, despite several attempts and mediation efforts, dialogue between the Government and the opposition has been almost non-existent.

The upcoming presidential election will be the third presidential election held since the current constitution was adopted in 1995. In 2003, incumbent President Ilham Aliyev was elected to his first term, with 77 per cent of the votes cast.

IV. THE LEGAL FRAMEWORK

The Constitution of the Republic of Azerbaijan defines the State as a democratic and secular republic based on the rule of law. The President is elected by popular vote for a five-year term and may not serve more than two consecutive terms. The President is elected by the absolute majority of votes cast; if no candidate receives more than half of the votes cast, a second round is held between the two candidates who obtained the highest number of votes.

The Election Code governs the conduct of all elections and referenda in the country. The last set of amendments to the Code, adopted in June 2008, was assessed jointly by the OSCE/ODIHR and the Council of Europe's European Commission for Democracy through Law (Venice Commission).² While the amendments took into account some recommendations made by the OSCE/ODIHR and the Venice Commission, they did not address others or only addressed them partially. Some of the recent amendments have the potential to improve the election process if fully and appropriately implemented, such as the inking of voters and an explicit prohibition on interference in the election process. However, some amendments could have a negative impact, particularly those regarding the election campaign. These include the exclusion of State TV as a medium for campaigning and the reduction of the length of the official campaign period (from 60 to 28 days). Other potential areas of concern relate to the adjudication of election-related disputes and to the freedom of assembly.

¹ OSCE/ODIHR Needs Assessment Mission Report, 11 July 2008 www.osce.org/odihr-elections/32175.html

² "Joint Opinion on the Draft Law on Amendments and Changes to the Electoral Code of the Republic of Azerbaijan", 26 June 2008, www.osce.org/odihr-elections/13447.html

According to the Election Code, State bodies and local executive authorities should assist registered candidates in organizing and holding meetings and open discussions with citizens and provide facilities for such meetings free of charge. The implementation of the newly adopted Law on Freedom of Assembly may be problematic since it provides for a list of places to be proposed by executive authorities for holding gatherings, meetings and demonstrations.³ Interpretations by the authorities differ as to whether the list of places proposed by local executive authorities for holding political meetings and rallies is exhaustive (i.e., whether meetings and rallies can only take place in these places) or merely indicative.

The Presidential Administration informed the OSCE/ODIHR EOM that meetings would be restricted to those venues on the lists. However, some OSCE/ODIHR EOM LTOs were told by local authorities and ConEC members that meetings in other places should not be banned as long as they did not disturb public order. The Baku municipal authorities have allocated 11 venues for political meetings and rallies, none of which are in central Baku, and another four indoor venues for campaign events of registered presidential candidates. In addition, LTOs reported that the local executive authorities of the 11 Baku city districts have also allocated indoor and outdoor venues. Some opposition parties have criticized the venues designated by the Baku municipal authorities as being in “unsuitable, remote and scarcely populated areas”.

Another recent amendment attempts to address the issue of undue pressure and interference in the work of election commissions and in the election process by clearly prohibiting such conduct by “legal entities, officials of state bodies or municipalities and other natural persons”. The extent to which this amendment will address past shortcomings will depend upon its implementation in good faith by the authorities. The OSCE Office in Baku has conducted trainings for all executive authorities on non-interference in the election process, in conjunction with the Presidential Administration.

Following the adoption of the amendments to the Election Code, some other relevant laws, such as the Code of Civil Procedure, should have been amended in order to avoid inconsistencies and confusion. Such amendments have yet to be passed. In this context, the OSCE/ODIHR EOM has received conflicting information as to whether district courts will have a role in adjudicating election-related complaints.

V. THE ELECTION ADMINISTRATION

The presidential election will be administered by a three-tier election administration consisting of the Central Election Commission (CEC), 125 Constituency Election Commissions (ConECs, one for each parliamentary constituency) and some 5,150 Precinct Election Commissions (PECs). All commissions are permanent bodies appointed for a five-year term. The CEC is elected by the Parliament, ConECs are appointed by the CEC, and PECs by the relevant ConECs. According to legal provisions which entered into force after the 2005 parliamentary elections, three equal quotas are reserved in each commission for members nominated by the parliamentary majority (i.e. the ruling New Azerbaijan Party); parliamentarians elected as independent candidates; and the parliamentary minority (the remaining political parties represented in the Parliament). Chairpersons of all commissions are from the members proposed by the New Azerbaijan Party.

The formula for composition of election commissions remains a contentious issue among political parties. The OSCE/ODIHR and the Venice Commission have previously recommended

³ Law on Freedom of Assembly, Article 9 section VI.

that the formula for composition be revised in a manner which would ensure the confidence of political parties and ensure that they are not dominated by pro-government forces. This recommendation has not been addressed.⁴

The makeup of all commissions is incomplete due to the refusal of some opposition parties to take part in the nomination of commission members. In view of the forthcoming election, the CEC has started the appointment of ConEC members representing the “minority”, which is to be followed by the appointment of the missing PEC members.

In addition, every registered candidate may delegate one member to each commission. This member participates in sessions but does not have a vote on decisions. So far, only one consultative member of the CEC, representing the Modern Musavat Party, has been appointed.

The CEC has been very active in making preparations for the election. The CEC has elaborated numerous rules and regulations, launched a voter information campaign and prepared – in cooperation with the international non-governmental organization IFES – an election-day guide and a video to be used for the training of PEC members. Initial trainings for lower-level commissions were conducted in August and a second series of trainings is planned for the second half of September.

The CEC holds frequent meetings, to which representatives of the media, the OSCE/ODIHR EOM, the OSCE Office in Baku and IFES are invited. The official CEC website is informative and updated regularly. The OSCE/ODIHR EOM enjoys good cooperation with the CEC and ConECs.

VI. VOTER REGISTRATION

The CEC is responsible for the maintenance of the centralized voter register. After the regular annual update, which was completed at the end of May, the number of registered voters was 4,761,710. Voter lists of all polling stations are available on the Internet. PECs posted printed copies for public familiarization on 10 September, within the legally provided deadline. Only PECs are entitled to add voters to the voter list after 20 September. Such additions can also be made on election day, when supplementary lists will be used for that purpose.

Citizens who will be away from the place where they are registered as a voter can apply for a de-registration voting card (DVC), which enables them to vote in a different polling station. ConECs already started issuing DVCs. After 20 September and until 12 October, DVCs will only be issued by PECs.

VII. CANDIDATE NOMINATION AND REGISTRATION

The CEC approved all 21 applications for nomination. Ten of the 21 prospective candidates submitted the required registration documents and support signature sheets within the legal deadline (5 September, 18:00 hours). Prospective candidates must obtain at least 40,000 signatures of registered voter from at least 60 constituencies. The amendments to the Election Code decreased the number of signatures (previously 45,000), but also eliminated the possibility for prospective candidates to submit a financial deposit in lieu of signatures.

⁴ See the “Joint Recommendations on the Electoral Law and the Electoral Administration in the Republic of Azerbaijan” (CDL-AD(2004)016rev), 1 June 2004, by the Venice Commission and the OSCE/ODIHR at www.osce.org/odihr-elections/13447.html

Seven presidential candidates were registered by the CEC: the incumbent President and Chairman of the governing New Azerbaijan Party (YAP), Ilham Aliyev; the Chairman of the Ümid Party, Iqbal Agazadeh; the Chairman of the Modern Musavat Party, Hafiz Hajiyev; the Chairman of the Azerbaijani Unified Popular Front Party, Gudrat Hasanguliyev; the Chairman of the Great Establishment Party, Fazil Mustafayev Gazamfaroglu; the Chairman of the Liberal-Democratic Party, Fuad Aliyev; and Mr Gulamhuseyn Alibayli (self-nominated).

One prospective candidate presented empty signature sheets, while the registration of two other prospective candidates was rejected due to a high number of supporting signatures which were considered invalid by the CEC.

VIII. THE POLITICAL ENVIRONMENT AND THE ELECTION CAMPAIGN

The election campaign, which officially started on 17 September, will take place in a political environment which is sharply polarized between parties supporting the Government and the opposition. Furthermore, the opposition is fragmented and only holds some eight out of 125 seats in the current Parliament. The election campaign itself will also take place in the context of a boycott by several opposition parties.

The incumbent President has indicated he will have a limited personal participation in the campaign, informing the OSCE/ODIHR EOM that he would not campaign in person, and stating that he wanted to give the other candidates more campaign visibility. The incumbent appears to have a well-organized campaign. He also enjoys the support of the ruling New Azerbaijan Party (YAP). President Aliyev has appointed 50 Members of Parliament to act as his authorized representatives in the regions.

Three of the other candidates are Members of Parliament (Mr. Alizadeh, Mr. Hasanguliyev and Mr. Gazamfaroglu). Their parties each hold one seat in the Parliament.

The latest amendments to the Election Code, in particular the shortening of the official campaign period, and the fact that the composition of election commissions remains unchanged, were strongly criticized by a number of opposition parties. Some of them, among them the Musavat Party, the Popular Front Party and the Liberals, announced that they would boycott the presidential election, citing the lack of significant improvements to the legal framework and what they consider to be the continuing and global deterioration of basic freedoms as the main reasons. Several other parties announced that they would not participate in the upcoming election, but do not use the term “boycott”. Opposition leaders have told the OSCE/ODIHR EOM that they have had increasing difficulties to carry out regular party activities and to organize meetings with voters, and have had almost no access to broadcast media. The authorities rejected these claims as groundless.

Prior to the start of the campaign, President Aliyev ordered that official portraits and billboards featuring him be removed throughout Azerbaijan. Billboards depicting late President Heydar Aliyev, sometimes together with the incumbent President, remain posted in numerous locations.

IX. THE MEDIA

Despite a broad range of media operating in Azerbaijan, including public and private broadcasters and print media, a number of domestic interlocutors and international organizations have repeatedly expressed concerns about the lack of pluralism in the country’s broadcasting sector and media independence. In their opinion, the media environment has deteriorated in

recent years.⁵ Reportedly, major TV channels favour in their coverage Government policy positions, and very rarely air alternative views.

These interlocutors also highlight as particularly problematic the fact that a significant number of journalists who criticized the Government became subjects of criminal prosecution and/or civil lawsuits, in some cases resulting in prison sentences and large fines. The President pardoned five imprisoned journalists in December 2007, but three journalists still remain in jail. The authorities have stated that the three individuals were convicted by courts of serious crimes, not for their work as journalists. The OSCE Representative on the Freedom of the Media has called on the Government to “start reforming its handling of the media and to stop the targeted imprisonment as a first step towards compliance with international standards.”⁶

There are a few independent or opposition-minded newspapers which offer alternative views and/or present criticism of the Government. However, their difficult economic situation limits their circulation and geographic outreach. On 22 July, the President signed a decree according to which 38 print media outlets, including opposition-oriented and independent newspapers, received some financial assistance from the State (5,000 AZN per outlet, app. 4,350 Euros).

The Election Code contains detailed regulations for the broadcast and print media during the pre-election campaign, providing for, *inter alia*, allocation of free time and space on Public TV and other State-funded media for candidates, rules for paid political advertising, and regulations that Public TV and other State-funded media should create equal conditions for registered candidates. To supplement these provisions, the CEC adopted a decision on 18 July to further regulate the campaign in the media. The recent amendments to the Election Code removed the legal obligation of State-funded AzTV to provide equal campaign conditions and banned it from conducting any form of campaign. Free airtime for candidates and other campaign-related programs will only be available on Public TV and radio, which will each organize three one-hour roundtable discussions among candidates per week. On 17 September, the CEC held a lottery to determine the order in which candidates will speak in roundtables on public TV and radio.

As stipulated in the Election Code, 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 CEC informed the OSCE/ODIHR EOM that it was not planning to undertake its own media monitoring and that the group would only consider complaints submitted to the CEC.

Since 5 September, the OSCE/ODIHR EOM has been conducting quantitative and qualitative monitoring of seven TV stations⁷ and four daily newspapers.⁸

X. COMPLAINTS AND APPEALS

The latest amendments to the Election Code clarified which types of information should be provided in a formal complaint. Under the amendments, expert groups should be created at the CEC and at ConECs, composed of nine and three experts, respectively. The rules for establishing

⁵ See, *inter alia* the OSCE/ODIHR Needs Assessment Report, the OSCE Representative on Freedom of the Media Regular Report to the OSCE Permanent Council, 15 November 2007, at www.osce.org/documents/rfm/2007/11/28110_en.pdf, and the Council of Europe Resolution 1545 “Honouring of obligations and commitments by Azerbaijan,” at <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta07/ERES1545.htm>

⁶ OSCE Representative on Freedom of the Media, www.osce.org/fom/item_1_30104.html

⁷ AzTV, ITV, ATV, ANS TV, Lider TV, Space and Khazar TV.

⁸ Azerbaijan, *Respublika*, *Yeni Musavat* and *Zerkalo*.

these expert groups are not provided by the Code and are thus at the discretion of the CEC. Expert groups are supposed to carry out investigations on matters related to complaints and provide advisory opinions to election commissions.

Even though the primary purpose of expert groups was to add fact-finding capacity to the work of election commissions, expert groups established for the current election mainly consist of election commission members and lawyers from commissions' secretariats, in keeping with the relevant CEC instruction. Essentially, this is the same group of people who were dealing with complaints in previous elections.

Although not stipulated by the Election Code, according to a CEC instruction it will be possible to extend the three-day deadline for expert groups to investigate complaints when necessary. This in turn would extend the time for election commissions to make decisions beyond the legal deadline.

The OSCE/ODIHR EOM has only been informed of one complaint submitted to the CEC, by Mr. Arif Aliyev, who contested the CEC decision not to register him as a candidate. The complaint was rejected.⁹ The CEC decision was then appealed to the Baku Court of Appeal where it was also rejected. In addition, the Green Party on 16 September appealed the CEC decision to not register its Chairman Mais Gulaliyev due to a high number of invalid support signatures. The appeal was based, *inter alia*, on the fact that the CEC did not provide detailed information on which signatures were invalid, as required by the Election Code. The Baku Court of Appeals rejected the complaint on 17 September.

XI. DOMESTIC AND INTERNATIONAL OBSERVERS

The electoral framework provides for international and domestic election observation. Local observers are registered as individuals or as representatives of a registered candidate, party or NGO working in the field of elections. 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. Nonetheless, the organization plans to conduct election-day observation using observers registered as individuals rather than by the organization.

The domestic NGO group “Association for Civil Society Development in Azerbaijan” is planning to send observers to all polling stations on election day. Another domestic observer coalition, “Free, Transparent and Fair Elections”, is monitoring 50 ConECs and plans to conduct an exit poll in 600 polling stations in 60 constituencies.

XII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM opened its office in Baku on 1 September 2008. The Head of Mission has met the President of the Republic, the Minister of Foreign Affairs, the Minister of Interior, the Chairman of the CEC, the Chairman of the Supreme Court and other officials, as well as the Head of the OSCE Office in Baku and Ambassadors of OSCE participating States. The OSCE/ODIHR EOM has conducted initial meetings and established regular contact with the CEC, presidential candidates, major political parties, civil society and the media.

⁹ Mr. Aliyev missed the legal deadline for the submission of relevant documents for his registration.