



EUROPEAN PARLIAMENT

Election Observation Delegation to the Presidential Elections in Azerbaijan

(9 October 2013)



**Report by
Pino Arlacchi, Chair of the Delegation**

Annexes:

- A. Final programme (including list of participants)**
- B. Joint Statement on the Azerbaijan Presidential Election by the Delegations of the Parliamentary Assembly of the Council of Europe and the European Parliament**

Introduction

The Democracy Support and Election Coordination Group (DEG) decided on 4 July 2013 not to include the 9 October presidential elections in Azerbaijan among the priorities for European Parliament's election observation missions during the second half of 2013. Subsequently, in September 2013, the national Assembly of Azerbaijan, the Milli Mejlis, sent an invitation to the European Parliament. The Conference of Presidents finally decided on 12 September 2013 to accept the Azerbaijani invitation and to send an election observation delegation to the presidential elections in Azerbaijan.

The European Parliament Election Observation Delegation was composed of Mr. Pino ARLACCHI (S&D, Italy), Mr. Filip KACZMAREK (EPP, Poland), Mr. Joachim ZELLER (EPP, Germany), Mr. Evgeni KIRILOV (S&D, Bulgaria), Ms Norica NICOLAI (ALDE, Romania), Mr. Milan Cabrnoc (ECR, Czech Republic) and Mr. Fiorella PROVERA (EFD, Italy). Mr. Pino ARLACCHI was appointed Chair of the Delegation at its constitutive meeting. The European Parliament Delegation performs election observation in accordance with the Declaration of Principles of International Election Observation. Members of the EP Delegation signed the Code of Conduct for Members of the European Parliament Election Observation Delegations, in conformity with the decision of the Conference of Presidents of 13 September 2012.

The Delegation conducted its activities in Azerbaijan from 6 to 10 October 2013 and, as it is always the case for European Parliament election observation delegations, it was integrated within the framework of the International Election Observation Mission (IEOM). The European Parliament Delegation worked along with the Delegation of the Parliamentary Assembly of the Council of Europe (PACE) headed by Mr. Robert WALTER (United Kingdom), with the Delegation of the OSCE Parliamentary Assembly headed by Ms Doris Barnett (Germany), as well as with the Special Coordinator and Leader of the short-term OSCE observer mission Mr. Michel VOISIN (France) and with the OSCE/ODIHR mission headed by Ms Tana de ZULUETA (Italy). The European Parliament Delegation participated in the meetings organised by the IEOM the days before the elections, meeting with candidates, opposition, media, NGOs, etc, in order to obtain a solid background and a full picture of the situation. The European Parliament Delegation had also a separate programme to complement the IEOM one, and obtain the maximum of information prior to the Election Day. See below the consolidated EP programme.

Azerbaijan - EU Relations

Azerbaijan is part of the European Neighbourhood Policy since the inception of this policy in 2004, and is also part of the Eastern Partnership, launched in 2009. The current legal framework for the EU-Azerbaijan bilateral relations is the 1999 Partnership and Cooperation Agreement (PCA).

Negotiations on an Association Agreement were launched in 2010, in parallel with similar negotiations with Armenia, Georgia, Moldova and Ukraine. This new agreement will significantly deepen Azerbaijan's political association and economic integration with the EU. The Third Eastern Partnership Summit, which will be held in Vilnius on 28 and 29 November 2013, should – in Commissioner Štefan Füle's words - 'make a step forward in the

talks with Azerbaijan'. However the initialling of the document is not foreseen in Vilnius. All Eastern Partnership Association Agreements contain as well a Deep and Comprehensive Free Trade Agreement (DCFTA), but the establishment of a DCFTA is a less central objective in Azerbaijan than in other Eastern Partnership countries because Azerbaijan is not yet a member of the World Trade Organisation (WTO), and is unlikely to join in the short term.

The European Commission's Country Strategy paper (CSP) covering the period 2007-2013 states that, as an oil and gas producer and transit country, Azerbaijan has a pivotal role to play in ensuring the EU's security and diversification of energy supply. The EU also recognises the crucial importance of a peaceful settlement of the Nagorno-Karabakh conflict and supports the mediation of the OSCE Minsk Group. The EU is firmly supporting the territorial integrity of Azerbaijan, respecting at the same time the international law principle of self-determination. The European Parliament has declared that the current status quo on Nagorno-Karabakh and on the surrounding regions of Azerbaijan occupied by Armenian troops is unsustainable and unacceptable.

Political Situation in Azerbaijan

The Azerbaijani constitution was adopted in 1995 and was amended in 2009. It establishes a presidential political system, although the Parliament is also directly elected and it gives its consent to the President's choice for Prime Minister. The President of Azerbaijan is elected by universal suffrage for a mandate of five years. Mr. Ilham Aliyev was elected president in the elections held in 2003 and 2010. Among the constitutional amendments approved by referendum in 2009 there was the lifting of the previous limit of two consecutive mandates for the President of the Republic, thus allowing President Ilham Aliyev to run for re-election in 2013. The Venice Commission was critical of this constitutional modification.

The single-chamber parliament, the Milli Mejlis, has 125 members and is elected every five years in single-mandate constituencies (first-past-the post system), in a single voting round. At the last parliamentary elections in 2010, the President's party, New Azerbaijan, obtained an overall majority of 71 seats. The second largest force in Parliament is made by the independent MPs (41). The nine other parties with parliamentary representation (Civic Solidarity, Motherland, Great Creation, Civic Unity, United People's, National Revival, Justice, Democratic Reform and Hope) obtained a small number of seats (3 to 1 each). For the first time since independence there is not a single MP from parties decisively opposing the president and his government.

Azerbaijan has seen in the last years a tremendous economic growth, however its economy needs diversification (and particularly its exports), as it depends too much on the hydrocarbon sector. Society in Azerbaijan is much secularised, as opposed to the rigour religious rigour of its southern neighbour, Iran, despite sharing the same religion (Siite Islam) and the fact that there are more Azeri ethnic persons living in Iran than in Azerbaijan. In January 2013 there were widespread popular demonstrations in different cities against corruption and nepotism as well as against abuses suffered by army conscripts.

The 2013 Presidential Candidates

The Central Electoral Commission (CEC) received twenty two applications for candidacies and, following the relevant checks based on the legislation in force, it accepted ten of them.

The composition of the CEC and that of the rest of the election administration is controversial, as the OSCE/ODIHR claims that the appointment procedure for CEC members can provide a pro-government result.

The incumbent president, Mr. Ilham Aliyev, was nominated as candidate of the New Azerbaijan Party and became from the beginning the heavy favourite to win the election and secure a third five-year term in office. The President decided not to participate in his party's campaign on the grounds that his personality and policies were largely known by all Azerbaijani citizens, and that his duties and high responsibilities absorbed his available time. As a result, during the campaign, there were no debates between credible candidates at the Azerbaijani television channels. Mr Aliyev's decision not to run a presidential campaign caused concern among the opposition and the international community.

The other nine registered candidates (in chronological order of registration) were:

- Mr. Igbal Aghazade, of the Azerbaijan Umid (Hope);
- Mr. Araz Alizade, of the Azerbaijan Social Democrat Party;
- Mr. Gudrat Hasanguliyev, of the United Azerbaijan People's Front;
- Mr. Hafiz Hajiyev, of the Modern Musavat (Equality) Party;
- Mr. Zahid Orudj, independent;
- Mr. Faraj Guliyev, of the National Revival Movement;
- Mr. Ilyas Ismayilov, of the Justice Party;
- Mr. Jamil Hasanli, of the National Council of Democratic Forces;
- Mr. Sardar Mammadov, of the Democratic Party.

Despite being imprisoned since February 2013 on charges of inciting the January riots, the candidacy of the leader of the new opposition party 'Republican Alternative Movement' (REAL), Mr. Ilgar Mammadov, was initially accepted. However, following the checking of the supporting signatures, the CEC finally rejected on 13 September his candidacy. Mr. Mammadov's subsequent appeal was not sustained by the Supreme Court. Mr. Ilgar Mamadov, along with also opposition leader Tofiq Yagublu and 16 other militants have been under pre-trial detention since February until 3 November, when the trial was opened in the town of Sakhi.

The true opposition in Azerbaijan has traditionally been severely divided. The coalescence of a number of well-known opposition groups into a 'National Council of Democratic Forces' (NCDF) in 2013 in order to run for the elections under a single candidacy was considered a significant development. The initial NCDF candidate, the screenwriter and Oscar Academy winner Rustam Ibrahimbeyov, was disqualified by the CEC because of his admitted double nationality (Azerbaijani and Russian) and for his having fixed his residency outside the country for a period longer than the last 10 years (both requirements are included in the election code). The NCDF alternative and final candidate, the historian Mr. Jamil Hasanli, was much less known by the people.

The Electoral Context

Since the 2010 parliamentary elections the Election Code was amended three times, i.e. February 2011, April 2012 and April 2013. These amendments followed some of the previous OSCE/ODIHR recommendations and improved the country's electoral context. However, several other recommendations were not met, and the amendments also included other elements of concern, e.g. the removal of state funding for the candidates' electoral

campaigns and the shortening of the official campaign period from 28 to 23 days. In line with OSCE commitments the Election Code provide for access of national and international observers.

Voter registration is passive in Azerbaijan and based on information about permanent residents provided by the municipalities. Every five years the CEC puts in motion 125 election constituencies in charge of setting up the respective voters lists. From 4 September 2013 on, the lists of voters for the presidential elections were displayed at the polling stations for public scrutiny and eventual requests for amendments. According to the CEC the total number of voters included in the lists was 4.9 million; this figure caused concern to some international observers because the population of Azerbaijan with an age over 20 is estimated to be around 6.4 million (although this estimation is based on registered residents including foreigners and probably includes many Azeris living abroad). In Azerbaijan citizens are allowed to register for voting until (and during) the same day of the elections, provided that they can produce a proof of residency on the territory of the electoral precinct.

The months before the election were characterized by a reinvigorated authoritarian activity by the public authorities, notably the detention of some opposition leaders militants and journalists, and the adoption of two legislative acts that restricted in practice the freedom of expression: In March 2013 a new law introduced heavy procedures to keep running NGOs, following allegations that western donors and media were radicalising the local youth. In May legislation punishing defamation and insults was particularly stiffen, with heavier penalties. The EU expressed concern for the adoption of both legislative acts.

The Azerbaijani authorities actively called for a broad international observation of the presidential elections.

Campaign activities were of a limited scope, probably as a result of the incumbent's decision not to campaign and of lack of finance by other candidates. However, the Azerbaijani public was surprised to listen, for the first time in television, open and clear criticisms made by the opposition candidate, Mr. Hasanly, about the alleged personal fortune kept outside the country by President Aliyev and his family. Candidates had the chance to hold rallies in public spaces and express their views, although the opposition complained that the areas allocated to their rallies were not placed at central areas of the cities.

The media gave wide attention to election-related information. However the time devoted to cover the official activities and visits of the incumbent President was extensive and disproportionate. The Government decided in September on salaries increases of an average of 10% for civil servants and other state-related jobs. The national minimum salary and the amounts of scholarships were also augmented.

Programme of the EP Election Observation Delegation

Before Election Day, OSCE/PA, PACE and the EP delegations were extensively briefed by experts from the ODIHR mission. Presentations were made on the political environment, the campaign activities, the media landscape and the legal framework of the parliamentary elections. The joint briefing programme for the Delegations of the Parliamentary Assemblies also included roundtables with media representatives and NGOs, meetings with the electoral administration, candidates and leaders of factions in Parliament.

In addition to the joint briefings, the European Parliament Delegation organised a working breakfast with the EU Member States Ambassadors through. The European Parliament Delegation was also briefed by Mr. Toralf Pilz, Chargé d'affaires of the EU Delegation to Azerbaijan, and was received separately by Azerbaijani top officials, i.e. the President of the Republic, the Chairman of the National assembly – Milli Mejlis - and the Minister of Foreign Affairs.

Election Day

On Election Day, the EP Delegation split into four teams, three of them were deployed in Baku and its surrounding areas, and the fourth one in Sakhi, a province capital located at the north-west of the country, at five hours drive from the capital. The four teams visited a significant number of polling stations from the opening to the closure and the counting process. Several of the polling stations visited were only observed by the EP Delegation, while others were also visited by other observers of the IEOM and by other foreign observers, like the CIS.

According to the Members of the Delegation, there were sound technical preparations for the elections and the investments made by the Azerbaijani administrations for this purpose were significant. Web cameras were installed in a large number of polling stations in order to allow observation of counting procedures on life via internet. The majority of these web cameras were well focussed, i.e. without giving the possibility to affect the secrecy of voting. Inking the left thumb of voters was mandatory in all poll stations as a safeguard to avoid double voting. The invisible ink was readable by ultraviolet devices applied to all voters at the entrance of the poll stations. In a few cases the Members observed that the thumb checked was the wrong one. Overall, the material conditions of the polling stations were good, with rooms, booths, tables and other material in good condition and extra chairs reserved for observers and citizens.

The voting process was orderly, calm and well organized in the polling stations visited. During the observation, voting procedures were respected satisfactorily, i.e. registration was duly checked and identification verified. Law enforcement forces were seen standing only outside the polling stations, and no political propaganda or other campaign material were identified inside the buildings where the poll stations were located. Citizen observers and candidates' proxies were present in all polling stations: while proxies of some candidates maintained only constant presence in a few polling stations, the incumbent, Mr. Aliyev had observers' presence in all of them and Mr. Hasanli in many. The EP Delegation did not witness any intimidation to the voters or any serious wrongdoings during the voting or counting processes.

Press conferences and preliminary statements

There was a disagreement with ODIHR on the draft text that this organisation produced.

Both the European Parliament Delegation and the ODIHR long-term mission arrived to the conclusion that the political context in the months prior to the Election Day was not satisfactory. However, they also perceived too rigorous ODIHR criticisms on areas where

electoral rules have similarities with other countries around the world (e.g. requirements to become president) or on areas which were not necessarily relevant for an election observation mission.

EP and PACE delegations disagreed on the perceptions about the Election Day itself and, particularly, on the tone used for the overall conclusions and analysis. According to the ODIHR preliminary report, its long-term mission observed 1151 of the 5273 polling stations set up across the country, and reported malpractices in what it can be objectively considered a small number of cases: ODIHR saw indications of box stuffing in 37 of these stations, which represents 3.2 % of those observed and just 0.7% of the total number of polling stations. The ODIHR also detected some type of interference in 1,1% of the polling stations, group voting in 7% of them and signs of falsifications of voter list entries were spotted in 15 polling stations (i.e. 0,003% of the total number of stations). However the ODIHR concluded that 58% of the polling stations deserved a bad or very bad rating. There were no definitions provided in the ODIHR report about what a ‘bad and very bad’ assessment meant. More importantly there were no differences made between ‘bad and very bad’ or information provided about the number of cases assessed in each of these categories. The latter information was essential, because although we most probably would have agreed what does mean a serious election offence (very bad), the gravity of those named simply as ‘bad’ could at least have been jointly analysed and discussed.

In the end the Delegations of the European Parliament and of the Parliamentary Assembly of the Council of Europe (PACE) issued a separate joint statement and held a joint press conference on the day after the elections (10 October 2013) based on their own observation activities. The joint statement acknowledges (for what these two Delegations have seen) that ‘electoral procedures on the eve and on election day have been carried out in a professional and peaceful way’. Nevertheless, the statement refers also to ‘improvements [that] are still desirable with regards to the electoral framework, notably concerning the respect of fundamental freedoms during the months before the election’. Finally, the two Delegations stated that they ‘encourage the authorities to carefully consider previous and current recommendations from the international community’.

On 10 October, the OSCE/ODIHR preliminary statement, sustained by the Delegation of the OSCE Parliamentary Assembly (PA), was notably negative in its conclusions, missing constructive criticisms. The statement argued, among other, that the presidential elections suffered from significant problems throughout all its stages, including the Election Day. The statement also said that the elections were ‘undermined by limitations on the freedoms of expression, assembly and association that did not guarantee a level playing field for candidates’. The ODIHR statement however recognised as well that ‘the CEC efficiently administered the technical preparations of the elections’.

The Special Coordinator and Leader of the short-term OSCE observer mission, Mr. Michel Voisin, made public declarations in Baku that were dissenting from the ODIHR’s statement, stressing that he was ‘pleased with the good organisation of the election, the [high] number of candidates and the peaceful atmosphere on the election day, despite shortcomings...Mr Voisin added that he ‘shared the opinion of the PACE and European Parliament’. In the same line, the Head of the OSCE Parliamentary Delegation, the German MP Doris Barnett, said at the OSCE Parliamentary Assembly held in Budva, Montenegro on 14 October, that ‘based on my observations at 59 polling stations on the Azerbaijani Election Day, I can note that the

elections were prepared well, and the election process was almost no different from German elections in many respects’.

Just after the ODIHR statement was issued, the ruling New Azerbaijan Party declared that the statement was partial and biased. The OSCE/ODIHR press conference, also held on 10 October, turned particularly tense at the question time, when some Azerbaijani citizens showed their anger towards the leaders of the long-term observation team by approaching the podium shouting at them and recriminating their attitude.

Results

On 17 October, the CEC unanimously adopted the final results protocol:

The election turnout was of 71.62%, slightly lower than the last presidential elections in 2008 which reached 75.64%, but higher than the 2003 presidential elections (62.85%).

Ilham Aliyev:	3,126,113 votes (84.54%)
Jamil Hasanli:	204,642 votes (5.53%)
Igbal Aghazade:	88,723 votes (2.40%)
Gudrat Hasanguliyev:	73,702 votes (1.99%)
Zahid Orudj:	53,839 votes (1.45%)
Ilyas Ismayilov:	39,722 votes (1.07%)
Araz Alizade:	32,069 votes (0.87%)
Faraj Guliyev:	31,926 votes (0.86%)
Hafiz Hajiyev:	24,461 votes (0.66%)
Sardar Mammadov:	22,773 votes (0.62%)
Invalid and blank votes:	36,622 votes
Total:	3,734,592 votes (100%)

The media made headlines with the message, apparently released inadvertently by a smartphone app of the Central Election Commission on the day before polls (8 October), about the alleged final results being released in advance. In this app the results showed Mr. Ilham Aliyev as the winner with 72.76% of the votes, while Mr. Jamil Hasanli, obtained 7.4%. The message was recalled, claiming that the app's developer had mistakenly tested the app with the 2008 election results. The final results did not coincide with these figures.

The day after the elections (10 October) the second-placed candidate, Mr. Jamil Hasanli, called for the results to be annulled due to vote-rigging. He added that there had been electoral fraud and government control of all television channels.

Post-electoral developments

Some street demonstrations in Baku contesting the results during the days were held following the Election Day. The largest was on 12 October with a number of participants of around five thousand. Mr. Hasaly addressed the demonstrators saying that the real turnout of the elections was only 20% and that 65 – 70% of the votes were casted for him. Although Mr. Haslay’s allegations on government control prior to the Election day may be well founded, his assessment about the ‘real results’ seemed largely disproportionate; analysts may have disagreements on the real figures of the final results, but there was practically a unanimous conclusion reached accepting that Mr. Aliyev had neatly won the elections. In the

end the 12 October demonstration and the subsequent police actions turned violent, and an undefined number of citizens were arrested and others were injured.

International media reported that at least nine additional MEPs' were in Azerbaijan observing the presidential elections, outside the framework of the official European Parliament Delegation.

On 23 October 2013 the European Parliament adopted a Resolution on the European Neighbourhood Policy. In its Article 32 it stated that the presidential elections in Azerbaijan did not meet OSCE standards. The Azerbaijani authorities, including the Milli Mejlis, reacted expressing a strong disappointment: Mr Elkhan Suleymanov, Vice-president of the Euronest Parliamentary Assembly and Head of its Azerbaijan delegation accused on 24 October the European Parliament 'of creating subversion and unrest in Azerbaijan' and suspended the activities of the Azerbaijani delegation in Euronest. At the 2 November meeting of the Euronest Bureau in Kyiv, Mr. Suleymanov stressed his country's arguments and left the meeting.

Appeals

Just after the elections results were released, presidential candidate Jamil Hasanli filed a complaint to the CEC requesting to invalidate the results in a number of polling stations and election constituencies based on alleged violations of the election code and other laws. On 13 October 2013, the CEC did not grant the appeal stating that the claims on violations could not be verified. Subsequently Mr. Hasanli introduced an appeal to the Baku Court of Appeal, which on 15 October also refused to grant the claim.

Mr. Hasanli also filed a complaint at the Baku Court of Appeal requesting to deem as invalid the 17 October CEC protocol on the final results of the elections. On 18 October the Court denied the appeal and Mr. Hasanli took this decision to the Supreme Court on 21 October, which also refused to grant his complaint.

Conclusions

Observing and analysing electoral processes in the countries of the OSCE area is an important task of the European Parliament. This is even more the case when elections are held in countries of the Eastern Partnership.

The International Election Observation Mission (IEOM) for the Azerbaijan 2013 presidential elections demonstrates that a better coordination between the different components of a credible international observation mission should be achieved. Separate statements and subsequent separate press conferences are neither beneficial for the constituent institutions and organisations of the IEOM, nor for the common final objective of accompanying the countries of the OSCE area in their road to become consolidated democracies. Undoubtedly the ODIHR long-term missions (like the EU long-term missions in other areas of the world) dispose of technical skills that the parliamentarians may not have. However, the expression of political judgements, interpreting the available data, should not be in the sole hands of technical staff and should be at least the result of shared views on the elections observed. Objective technical advice and objective observation by elected representatives are both the

essential pillars of any international election observation mission. Unfortunately in this occasion a common text, putting together input from these two important elements, was not possible to reach. In the future further efforts will have to be made by all in order to avoid a repetition of this situation.

With the only aim of avoiding public discrepancies between international organisations in such politically sensitive moments for the countries concerned as presidential or parliamentary elections are, it would be appropriate to consider two different possibilities for EP election observation missions carried out as from the next legislature:

- 1) Insist that the EU starts observing elections also in the OSCE area, which is not the case so far. EU long-term election missions have a solid reputation across the world of a good and professional work. Moreover in those cases cohesion between the EP short-term election observation mission and the EU long-term one is facilitated by the fact that both missions are chaired by MEPs; Or
- 2) The sending of an election observation delegation might not be the best way for the European Parliament to develop/maintain democracy dialogue with the concerned country. In some countries, in particular in the OSCE area, a more democracy/human rights oriented EP delegation - monitoring later stages of the electoral cycle and not Election Day itself - might be a better option for the EP as a political actor than an election observation delegation.