EUROPEAN PARLIAMENT

# ELECTION OBSERVATION DELEGATION TO THE PARLIAMENTARY ELECTIONS IN AZERBAIJAN

## (7 November 2010)

**Report by**
**ANNELI JÄÄTTEENMAKI, Chair of the Delegation**

**Annexes**:

**A. List of participants**
**B. Programme**
**C. Deployment teams**
**D. Press release by the International Election Observation Mission of 8 November 2010**
**E. Preliminary statement of the International Election Observation Mission**

## Introduction

Following receipt of an invitation sent by Mr Ogtay ASADOV, Chairman of the Parliament of the Republic of Azerbaijan on 22 July 2010, the Conference of Presidents of the European Parliament authorised, on 9 September 2010, the sending of an Election Observation Delegation to observe the parliamentary elections in Azerbaijan, scheduled for 7 November 2010, and aimed at renewing the composition of the Parliament (Milli Mejlis).

The European Parliament Election Observation Delegation was composed of seven Members: Mr Andrzej GRZYB (EPP, Poland), Ms Edit Herczog (S&D, Hungary), Mr Zoran THALER (S&D, Slovenia), Ms Anneli JÄÄTTEENMAKI (ALDE, Finland), Mr Metin KAZAK (ALDE, Bulgaria), Ms Nicole KIIL-NIELSEN (Greens/EFA, France) and Mr Milan CABRNOCH (ECR, Czech Republic). Ms Anneli JÄÄTTEENMAKI was appointed Chair of the Delegation at its constitutive meeting.

The Delegation conducted its activities in Azerbaijan between 5 and 8 November 2010 and, as usual, was integrated into the International Election Observation Mission (IEOM). It followed OSCE/ODIHR's methodology in the evaluation procedure and assessed the election for its compliance with the OSCE commitments and other international standards for democratic elections, as well as with the legislation of Azerbaijan.

The European Parliament Delegation also conducted its election observation mission in accordance with the Declaration of Principles of International Election Observation and Code of Conduct adopted by the United Nations in 2005 and endorsed by the European Parliament in 2007. The Members of the EP Delegation signed the Code of Conduct for Members of the European Parliament Election Observation Delegations, in accordance with the decision of the Conference of Presidents of 10 December 2009.

## On the Programme

The EP delegation was surprised to find out that the Head of the EU Delegation to Azerbaijan, Ambassador Roland Kobia, was not present in the country during the elections. In the absence of the Head of the EU Delegation to Azerbaijan, the members of the EP delegation were briefed by Mr Jerome Pons, Head of the Political Section. The Ambassador met the remaining members of the EP delegation on 8 November, after the Election Day. The EP delegation also met the Member States Heads of Missions and the President of Azerbaijan, Mr Ilham Aliyev. On the eve of the elections, the EP delegation participated in the joint briefing with the OSCE PA and the PACE and had the opportunity to meet the leaders of the political parties, representatives of the Central Election Commission, representatives of the Presidential Administration, mass media, domestic observer organizations and NGOs.

In the framework of the International Election Observation Mission, the EP Delegation cooperated with the Parliamentary Assembly of the Council of Europe (PACE) Delegation, chaired by Mr Paul WILLE (ALDE, Belgium), the OSCE Parliamentary Assembly (OSCE/PA) Delegation, headed by Mr Wolfgang GROSSRUCK, and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Election Observation Mission, headed by Ambassador Audrey GLOVER.

On the Election Day, the EP delegation was divided into four groups, and observed election operations in various polling stations, starting from the opening to the closing and the counting of votes. The teams were deployed in Baku and its surroundings, and also in Shamaki and Shirvan.

On 8 November 2010, a joint Press Conference was held by the Heads of the EP, OSCE/PA and PACE Delegations and the OSCE/ODIHR. A Statement on the Preliminary Findings and Conclusions was released and is attached to this report.

## On the EU - Azerbaijan Relations

The relations between the EU and Azerbaijan are governed by the EU-Azerbaijan Partnership and Cooperation Agreement (PCA) signed in 1996 and which entered into force in 1999. According to its Article 2, respect for democracy and human rights constitutes an essential element of partnership and of the Agreement. In July 2010, the EU opened negotiations on an Association Agreement with Azerbaijan.

Following the fifth enlargement of the European Union, the EU launched the European Neighbourhood Policy (ENP) and Azerbaijan became part of this policy in 2004. On the basis of a Country Report published in March 2005, an ENP Action Plan was discussed by the European Commission and the Azerbaijani government and finally adopted on 14 November 2006. Among the priorities of the Action Plan there is the strengthening of "*democracy in the country, including through fair and transparent electoral process, in line with international requirements*". The main EU co-operation objectives, policy responses and priority fields can be found in the Country Strategy Paper 2007-2013. On the basis of bilateral priorities, also a National Indicative Programme (NIP) has been adopted in agreement with the Azerbaijani authorities. Both of these documents identify the consolidation of democracy and good governance as key priorities of the Azerbaijani government.

In 2009 the EU launched the Eastern Partnership**,** the Eastern dimension of the ENP, aiming at substantially upgrading its engagement with the six Eastern neighbours, including Azerbaijan. Democracy, the rule of law, and respect for human rights are among the core values of the Eastern Partnership.

In this regard, the EP Election Observation Missions are an important tool in assessing progress made by Azerbaijan in the sphere of democracy.

## On the Political Parties

Since 1993, the Azerbaijani public and political landscape has been heavily dominated by the ruling New Azerbaijan Party (*Yeni Azərbaycan Partiyası*), led by the incumbent President Ilham Aliyev. This supremacy leaves little room for the opposition parties, which are widely considered to have no real chance of gaining power.

The deficient candidate registration process at the constituency level has further aggravated this context of inequality by leading to the registration of almost all nominated candidates of the majority party and less than half of the opposition candidates. Among the 172 candidates who had been denied registration and appealed, forty three were reinstated, a ratio that illustrates the dysfunction of this registration procedure and a certain arbitrariness in the enforcement of the law. A positive aspect is that all political parties participated in the elections, unlike previous elections.

The share of female candidates has slightly increased from 10 to 13 per cent compared to the last parliamentary elections, but women are still significantly underrepresented in the Azeri political life. In addition, members of the national minorities were represented among candidates of all main political parties.

## On the Campaign and the Media

The Election Code was amended a few months before the elections, contrary to the good practices in this respect. Those last-minute changes resulted in a shortening of the campaign period, reduced to 23 days, and the end of the allocation of a limited state funding to the candidates. Moreover, some longstanding recommendations on legislation identified in previous OSCE/ODIHR and Council of Europe Venice Commission reports remained unaddressed. These include a change in the formula for the composition of the election commissions in order to put an end to the dominance of pro-government forces in the election administration.

The competitiveness of the election campaign has been reduced by an unequal access of political parties to resources necessary for an effective campaigning. The allocation of unsuitable campaign venues and the prevention of political gatherings by opposition candidates in those areas have undermined the respect for freedom of peaceful assembly. Moreover, observers received some credible allegations of intimidation of voters and candidates, and misuse of administrative resources.

Already considered as one of the main issues during previous elections, the media climate has further deteriorated during the last years. The lack of a balanced and unbiased reporting in the electronic and print media resulted in the absence of alternative views. Another worrying trend concerns the cases of threats, violence, persecution and imprisonment of journalists working for remaining independent media, as illustrated by the case of Mr Eynullah Fatullayev. This has had the effect of spreading the self-censorship among journalists to prevent any risk of persecution.

This general lack of independent and objective sources of information, despite a broad range of media, seriously hindered the voters' ability to make an informed choice, in contradiction with the right to freedom of expression guaranteed by the article 10 of the European Convention of Human Rights.

## On the Election Day

During the Election Day, the EP delegation was divided into four groups, and deployed in Baku and its surroundings, and also in Shamaki and Shirvan.

The two EP delegation teams observing the elections in *Baku* and surroundings noted the peaceful atmosphere in which the Election Day took place and the great number of party observers and their young age. The head of the EP delegation talked to this big number of young party observers about their role at polling stations, the importance of these Azeri elections and the electoral campaign in Azerbaijan compared with Finland, the EU member state in which Ms JÄÄTTEENMAKI was elected as member in the European Parliament. Ms JÄÄTTEENMAKI presented the strong competition in Finland which she had to win to be elected, the diversity of political views presented to the Finish citizens during those elections, the activity of the media and the lively political debates.

The EP team who observed the elections in *Shirvan* visited 13 polling stations located in Shirvan and other towns and villages in the region. This team observed the opening of the election at a polling station in Baku. In Shirvan, this team noticed that the electoral process unfolded in a calm atmosphere and in an orderly manner. However, this team observed ballot-stuffing, carrousel voting, deficient inking, assisted voting and group voting. In one polling station all domestic observers were absent during our presence there. In other polling stations, the members of the precinct commission became nervous when the EP delegation entered the premises. Upon the arrival of the EP team, the visible presence of local police was also observed in the majority of the proximity of the visited polling stations. Moreover, some observers were prevented from witnessing the counting of the votes and a significant proportion of the polling stations visited did not include facilities for the access of voters with disabilities.

The fourth EP team was deployed in *Shamakhi* and in towns and villages between Baku and Shamakhi. This team observed the opening and closing of the election in the same polling station in Baku. At the opening of this polling station, the procedures were not respected: no counting of the ballot papers, no signed draft protocol, there were many unauthorised persons entering and leaving the polling station and no checking of identity cards at the entrance. At the closing, the team was prevented by the precinct members from observing the counting by forcing it to remain 10 meters away, but the team resisted to this pressure. Lots of tension and unrest was observed, a total disregard of electoral procedures, no draft protocol was signed. In addition, the team witnessed the threatening of an opposition observer by the members of the precinct commission. The overall conduct of the elections in Shamakhi was generally good, with the exception of a deficient inking process and multiple voting. In addition, the EP team was informed by other international observers present in the region of ballot box staffing. Moreover, opposition observers complained about multiple voting.

## Complaints and Appeals

The legal remedies against decisions on election-related complaints are often untimely and ineffective and lack comprehensive and legal reasoning. This finding raises concerns about the independence of the judiciary and the existence of an effective right to a judicial remedy. Azerbaijan has already been convicted three times this year by the European Court of Human Rights for deficiencies in this area and other convictions are to be feared in the absence of any significant progress in the matter. It is also essential to ensure that those responsible for irregularities in electoral matters are punished in order to avoid the development of an atmosphere of impunity that would undermine the rule of law in the country.

## On Other Observing Organisations

A total of 46,630 domestic and 1,029 international observers were accredited by the CEC and ConECs in an inclusive process. Among the domestic observers, 5,444 represented 11 non-governmental organizations (NGOs), around 8,378 were accredited as party observers and the rest were accredited as individual observers. Several NGOs – including the 'Parliament – 2010' coalition, the Association for Civil Society Development in Azerbaijan, the Election Monitoring and Democracy Studies Centre (EMDS), and the 'Democracy Learning' Public Union – conducted long-term and short-term observation. Allegedly, most of these observers had not proper training beforehand. The observers of the EMDS, whose registration was suspended by the Ministry of Justice, were accredited as individuals.

Aside from the International Election Observation Mission, the Parliamentary Assembly of the Turkic-speaking countries (TürkPA) and the Commonwealth of Independent States (CIS) also deployed election observation missions.

## Results

| Political Party | Mandates obtained |
|---|---|
| Yeni Azerbaijan Party (*Yeni Azərbaycan Partiyası*) | 74 seats |
| Civic Solidarity Party (*Vətəndaş Həmrəyliyi Partiyası*) | 3 seats |
| Motherland Party (*Ana Vətən Partiyası*) | 2 seats |
| Equality Party (*Müsavat Partiyası*) | - seat |
| Azerbaijani Popular Front Party (*Azərbaycan Xalq Cəbhəsi Partiyası*) | - seat |
| Independents | 38 |
| Candidates who did not indicate their party affiliation | 8 |
| **Total** | **125** |

The Central Election Commission reported turnout was 50.1 percent, out of a total 4.9 million people eligible to vote. These results demonstrate that the Milli Mejlis is clearly dominated by the YAP with the number of members of parliament exceeding 74 deputies, as part of the independents support the ruling party. In this context, the opposition will not be able to play its role and influence on the Government policy. Moreover, in a presidential system such as Azerbaijan's, one could believe that the presidential elections represent the key elections in the country. However, bearing in mind the fact that the presidential elections in 2008 did not bring too much novelty to the political landscape dominated by the YAP, the parliamentary elections in 2010 could have been more revealing if the traditional opposition would be able to offer a third way in Azeri politics and could represent a real alternative. From this point of view, taking into account the above results, these parliamentary elections confirmed once again the strong uncontested leadership of YAP and President Aliyev.

## Conclusions

All the teams deployed to observe the elections reached the same conclusions as illustrated also in the Statement of Preliminary Findings and Conclusions: that the voting process took place in a peaceful atmosphere and the Central Election Commission administered well the technical aspects of the electoral process. However, the framework in which the elections took place was rather undemocratic, given the limitations to media freedom, freedom of assembly, a deficient registration of candidates and lack of a vibrant political debate.

The OSCE/ODIHR long term mission will remain in the country until the end of the election process and will issue a comprehensive final report, including recommendations for improvements, some eight weeks after the completion of the election process.

The European Parliament Election Observation Delegation recommends that the Election Coordination Group, the Committee on Foreign Affairs and the Delegation to the EU-Azerbaijan Parliamentary Cooperation Committee follow-up closely the conclusions and recommendations of this final report.

**Recommendations**

- The European Parliament, through the Delegation to the EU-Azerbaijan Parliamentary Cooperation Committee, is willing to continue to work closely, together with the newly elected Parliament, towards further strengthening democracy and stability in Azerbaijan.

- Profound improvements in the fundamental freedoms of speech and the media are urgently needed, so as to allow the existence of a genuine political debate that ensures representation of the needs of the public in government policy. In particular, it must be ensured that no additional journalists, bloggers or other citizens will be arrested for the sole reason of exercising their right to free expression.

- Azerbaijan has voluntarily expressed its commitment to a number of democratic standards, especially the Article 3 of the first Protocol to the European Convention on Human Rights which guarantees the right to free elections; it must now show good will in their implementation.

**Annexe A**

# EUROPEAN PARLIAMENT

## PARLIAMENTARY ELECTIONS IN AZERBAIJAN

## ELECTION OBSERVATION DELEGATION

## 5 - 9 November 2010

### List of participants

**Members**

Mrs Anneli JÄÄTTEENMAKI, Finland, ALDE, Chair
Mr Andrzej GRZYB, Poland, EPP
Mrs Edit HERCZOG, Hungary, S&D
Mr Zoran THALER, Slovenia, S&D
Mr Metin KAZAK, Bulgaria, ALDE
Mrs Nicole KIIL-NIELSEN, France, Verts/ALE
Mr Milan CABRNOCH, Czech Republic, ECR

**Secretariat**

Mrs Alina Alexandra GEORGESCU**,** Administrator
Mrs Aneta POPESCU-BLACK, Administrator
Mrs Françoise CLAES, Assistant

**Group Staff**

Mr Renaldas VAISBRODAS (ALDE**)**
Ms Tamar GUGULASHVILI (Verts/ALE)

**Interpreters**

Mrs Petra VACHUNOVA (EN-CS), Teamleader
Mrs Eva MATONOKOVA (EN-CS)
Mr Mateusz CYGNAROWSKI (EN-PL)
Mr Bartosz WALICZEK (EN-PL)

Abbreviations :

| | | | |
|---|---|---|---|
| EPP | European People's Party/European Democrats | ECR | European Conservatives and Reformists |
| | | GUE/NGL | European United Left/Nordic Green Left |
| S&D | Progressive Alliance of Socialists and Democrats | EFD | Europe of Freedom and Democracy |
| ALDE | Alliance of Liberal and Democrats for Europe | NI | Non-attached |
| Verts/ALE | Greens/European Free Alliance | | |

**Annexe B**

# EUROPEAN PARLIAMENT

## ELECTION OBSERVATION DELEGATION

## PARLIAMENTARY ELECTIONS IN AZERBAIJAN

## 5 - 9 November 2010

## FINAL PROGRAMME

**Members**

**Mr Andrzej GRZYB, Poland, EPP**
**Mr Zoran THALER, Slovenia, S&D**
**Mrs Edit HERCZOG, Hungary, S&D**
**Mrs Anneli JÄÄTTEENMAKI, Finland, ALDE**
**Mr Metin KAZAK, Bulgaria, ALDE**
**Mrs Nicole KIIL-NIELSEN, France, Verts/ALE**
**Mr Milan CABRNOCH, Czech Republic, ECR**

**Secretariat**

Mrs Aneta POPESCU-BLACK, Administrator
*Belgian mobile phone + 32 498 98 35 98*
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Mrs Alina Alexandra GEORGESCU, Administrator
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*Local mobile phone + 050 225 55 84*
Mrs Françoise CLAES, Assistant
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*Local mobile phone + 050 250 73 26*

**Political Groups**

Mr Renaldas VAISBRODAS, ALDE
Mrs Tamar GUGULASHVILI, Verts/ALE

**Interpreters**

Mrs Petra VACHUNOVA (CS/EN) (team leader)
Mrs Eva MATONOKOVA Eva (CS/EN)
Mr Mateusz CYGNAROWSKI Mateusz (PL/EN)
Mr Bartosz WALICZEK Bartosz (PL/EN)

**Thursday, 04 November 2010**

11:00-18:00 Different meetings to finalize the programme and the logistics *(staff only)*

Arrival of Members and transfer to the hotel
***Venue:***
***The Landmark Hotel Baku***
***90A Nizami Street***
***AZ-1010 Baku***
***Tel. +994 12 465 2000***
***Fax +994 12 465 2010***

**Friday, 05 November 2010**

*08:15 Meeting in front of our hotel*

| ***EUROPEAN PARLIAMENT DELEGATION:*** | |
|---|---|
| 08:30-09:00 | **Briefing by Mr Jerome PONS, Head of the Political Section of the EU Delegation to Azerbaijan**<br>*Venue: EU Delegation: Landmark Business Centre, III Block, 11th floor Nizami Street, 96 – Baku* |
| 09:00-10:00 | **Briefing by the EU Ambassadors to Azerbaijan and the Political Adviser to the EUSR for the South Caucasus**<br>*Venue: EU Delegation: Landmark Business Centre, III Block, 11th floor Nizami Street, 96 – Baku* |
| 11:00-12:00 | **Meeting with Mr Ilham ALIYEV, President of Azerbaijan**<br>*Venue: Presidential Palace* |

| ***JOINT BRIEFING***<br>*Venue Hyatt Regency Hotel*<br>*1 Bakikhanov Street* | |
|---|---|
| Before the briefing | **General Briefing Packs available for collection** |
| 13:00-13:15 | **Opening by the Heads of Parliamentary Delegations**<br>• Special Coordinator Wolfgang Grossruck, Leader of the short-term OSCE observer mission<br>• Mr Paul Wille, Head of the PACE Delegation<br>• Ms Anneli Jäätteenmäki, Head of the EP Delegation |
| 13:15-13:30 | **Background**<br>• Ambassador Bilge Cankorel, Head of the OSCE Office in Baku<br>• Ms. Veronika Kotek, Special Representative of the Secretary General of the Council of Europe<br>• Mr Jerome Pons, Head of Political Section, EU Delegation |

| | |
|---|---|
| 13:30-15:00 | **<u>Briefing by OSCE/ODIHR EOM Core Team</u>**<br>**Introduction**<br>• Ambassador Audrey Glover, Head of Mission (10 minutes)<br>**Political landscape, campaign activities and media landscape**<br>• Mr Marian Gabriel, Political Analyst (10 minutes)<br>• Mr Rasfo Kužel, Media Analyst (10 minutes)<br>*Questions (5 minutes)*<br>**Elections framework, polling procedures and observation forms**<br>• Mr Alexey Gromov, Election Analyst (25 minutes)<br>• Ms Marianna Skopa, Legal Analyst (10 minutes)<br>• Mr Anders Eriksson, Statistics Analyst (10 minutes)<br>*Questions (5 minutes)*<br>**Observers' Safety**<br>• Mr Manuel Amarilla Mena, Security Expert (5 minutes) |
| 15:00-15:30 | *Coffee Break* |
| 15:30-17:30 | **<u>Meetings with representatives of Political Parties</u>**<br>▪ Mr Hikmat Mammadov, Editor-in-Chief, New Azerbaijan Party (YAP)<br>▪ Mr Fazil Mustafa, Chairman, Great Creation Party, Reform bloc<br>▪ Mr Isa Gambar, Chairman, Musavat Party and Mr Ali Kerimli, Chairman, Azerbaijan Popular Front Party, APFP – Musavat bloc<br>▪ Mr Mirmahmud Fattayev, Chairman, Classical Popular Front Party<br>▪ Mr Iqbal Aghazade, Chairman, Umid Party, Karabakh bloc<br>▪ Mr Avaz Temirkhan, Acting Chairman, Azerbaijan Liberal Party, "For the Sake of Human" bloc |
| 17:30-18:30 | **<u>Panel Discussion with NGOs/INGOs and national political experts</u>**<br>▪ M. Alex Grigorievs, Country Director, National Democratic Institute<br>▪ Ms Leila Aliyeva, Founder, Centre for National and International studies<br>▪ Mr Hikmet Hajizadeh, President, FAR Centre |
| During the day | **Distribution of regional briefing packs to PA STO teams deployed OUTSIDE Baku area** |
| 19:30 - | **Dinner of the Head of the EP Delegation hosted by OSCE PA**<br>*Venue: Karvansaray Restaurant, 11 Boyuk Gala Street, Baku*<br>(Head of Delegation + 1 only) |

**Saturday, 06 November 2010**

| | |
|---|---|
| 09:00-09:30 | • Meeting with Mr Shahin Aliyev, Chief of Legislation and Legal Examination Department, Presidential Administration |
| 09:30-10:00 | • Mr Elnur Sultanov, Deputy Chief of Human Rights, Democratization and Humanitarian Affairs Department, Ministry of Foreign Affairs |
| 10:00-10:30 | **<u>Panel Discussion with Domestic Observer Organizations</u>**<br>• Mr Anar Mammadli, Chairman, Election Monitoring and Democracy Studies Center (EMDS)<br>• Mr Mirali Huseynov, President, Learning Democracy Public Association<br>• Mr Maharram Zulfugarli, Chief of Election Headquarters, Association for Civil Society Development in Azerbaijan (AVCIYA) |

| | |
|---|---|
| 10:30-11:00 | **Panel Discussion with Media Representatives**<br>• Mr Ismayil Omarov, Director, Public TV<br>• Mr Rasul Jafarov, Media Monitoring Coordinator, Institute for Reporters' Safety and Freedom<br>• Mr Umud Rahimoglu, Deputy Chairman, Press Council<br>• Mr Khalig Aghaliyev, Program Coordinator, Media Rights Institute |
| 11:30-12:30 | **Electoral Administration**<br>• Mr Mazahir Panahov, Chairperson, Central Election Commission |
| 14:00-16:30 | **Deployment arrangements**<br>▪ Area-specific briefing conducted by OSCE/ODIHR LTO teams 1 and 2<br>**Distribution of regional briefing packs to PA STO teams deployed INSIDE Baku area**<br>Meeting with interpreters and drivers |

**Sunday, 07 November 2010 - ELECTION DAY**

Observation of Opening, Voting, Vote Count

**Monday, 08 November 2010**

| | |
|---|---|
| 08:30-11:30 | ▪ **Debriefing of the EP Delegations** |
| 15:30-16:30 | ▪ **Press conference** of the International Election Observation Mission (IEOM)<br>*Venue: Rotunda Conference Room, Landmark Hotel Baku* |
| 20:00- | ▪ **Dinner hosted by H.E. Mr Roland KOBIA**, Head of the EU Delegation to Azerbaijan<br>*Venue: Residence of the Head of the EU Delegation*<br>*5th floor, 103 Neftchilar Avenue, Baku* |

**Tuesday, 09 November 2010**

09:00-18:00 Different meetings to finalize the administrative aspects of the mission and the logistical arrangements (with ODIHR liaison office) *(staff only)*

*End of the mission*

**Annexe C**

# EUROPEAN PARLIAMENT

## PARLIAMENTARY ELECTIONS IN AZERBAIJAN

## ELECTION OBSERVATION DELEGATION

## 5 – 9 November 2010

### Deployment plan

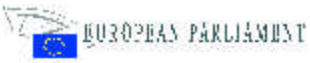
| **Team 1 - BAKU** |
|---|
| **Mrs Anneli JÄÄTTEENMAKI, Chair, Finland, ALDE** |
| Mrs Alina Alexandra GEORGESCU |
| Mr Renaldas VAISBRODAS |
| Local Guide: Mr Emil MALIKOV |
| Driver Mr Ali KHANLAROV |

| **Team 2 – BAKU** |
|---|
| **Mr Andrzej GRZYB, Poland, EPP** |
| **Mr Zoran THALER, Slovenia, S&D** |
| Mr Bartosz WALICZEK |
| Local Guide: Ms Aysel MUSTAFAYEVA |
| Driver: Mr Chingiz MARDANOV |

| **Team 3 - Şamaxı (Shamakhi)**<br>2 hours west of Baku |
|---|
| **Mr Metin KAZAK, Bulgaria, ALDE** |
| **Mrs Nicole KIIL-NIELSEN, France, Verts/ALE** |
| Mrs Françoise CLAES |
| Mrs Tamar GUGULASHVILI |
| Mr Mateusz CYGNAROWSKI |
| Local Guide: Mr Toghrul YUSIFZADE |
| Driver: Mr Elchin JALILOV |

| **Team 4 - Ali-Bayramly, old name for Şirvan (Shirvan)**<br>2.5 hours south-west of Baku |
|---|
| **Mrs Edit HERCZOG, Hungary, S&D** |
| **Mr Milan CABRNOCH, Czech Republic, ECR** |
| Mrs Aneta POPESCU-BLACK |
| Mrs Eva MATONOKOVA |
| Mrs Petra VACHUNOVA |
| Local Guide: Mr Mirsalim MAMMADZADE |
| Driver: Mr Ali RAHIMOV |






# Azerbaijan's elections were peaceful and the opposition participated, but the process overall was not sufficient to constitute meaningful progress in democratic development

BAKU, 8 November 2010 – Yesterday's parliamentary elections in Azerbaijan were characterized by a peaceful atmosphere and all opposition parties participated in the political process, but the conduct of these elections overall was not sufficient to constitute meaningful progress in the democratic development of the country, international observers said in a statement issued today (attached).

The observers noted that the Central Election Commission overall administered the technical aspects of the electoral process well. But limitations of media freedom and freedom of assembly, and a deficient candidate registration process further weakened the opposition and made vibrant political discourse almost impossible. This and a restricted competitive environment created an uneven playing field for candidates, making it difficult for voters to make an informed choice. On the positive side, voters had the opportunity to check the centralized voter register and request correction or inclusion, and the CEC conducted a voter education campaign, including in the media. Voting on election day, was assessed positively in almost 90 per cent of the polling stations visited, while serious problems were noted in 10 per cent. Counting deteriorated with almost a third of polling stations observed rated bad or very bad, with worrying problems like ballot box stuffing noted in a number of places.

"It is never easy to do justice to a country which is developing its democratic institutions, especially in a difficult environment. We have seen the many efforts made to make progress and the areas in which the country does very well, and we welcome them as much as the hospitality demonstrated by all our interlocutors. However, despite all the efforts made, the country needs to do much more to make progress in developing a truly pluralist democracy," said Wolfgang Grossruck who led the short-term OSCE observer mission and headed the delegation of the OSCE Parliamentary Assembly.

"In a welcome departure from the past, the run-up to the elections and election day were peaceful and not marred by violent incidents, all opposition parties opted to participate in the political process, sometimes running as part of electoral blocs, rather than to boycott it as was the case in the past. A positive environment was created by good co-operation between the authorities, international institutions and the domestic actors," said Paul Wille, Head of the delegation of the Council of Europe's Parliamentary Assembly.

"The economic growth and stability are evident in Azerbaijan. Sustainability of this situation can only be reinforced by greater political liberalization and democratization of the country. Independent observers have reported vote count irregularities, harassment of opposition observers and ballot box stuffing. Azerbaijan has to make further efforts to ensure greater democratization," said Anneli Jäätteenmaki, Head of the delegation of the European Parliament.

"Regrettably, our observation of the overall process shows that the conditions necessary for a meaningful democratic election were not established. We are particularly concerned about restrictions of fundamental freedoms, media bias, the dominance of public life by one party, and serious violations on election day. We stand ready to assist the authorities in moving Azerbaijan's elections towards meeting OSCE commitments," said Ambassador Audrey Glover, Head of the OSCE/ODIHR long-term election observation mission.

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## INTERNATIONAL ELECTION OBSERVATION

**Republic of Azerbaijan — Parliamentary Elections, 7 November 2010**

### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

**Baku, 8 November 2010** – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP).

The assessment was made to determine whether the elections complied with the OSCE and Council of Europe commitments for democratic elections, as well as with legislation of the Republic of Azerbaijan. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including the tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report at the Bureau Meeting in Astana on 30 November. The PACE delegation will present its report to the January 2011 session of the Assembly. The EP will present its report in the Committee on Foreign Affairs later in November.

### PRELIMINARY CONCLUSIONS

While the November 7, 2010 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.

Overall, the Central Election Commission (CEC) administered the technical aspects of the electoral process well. However, limitations of media freedom and the freedom of assembly and a deficient candidate registration process further weakened the opposition and made a vibrant political discourse almost impossible. This and a restricted competitive environment created an uneven playing field for candidates making it difficult for voters to make an informed choice. On the positive side, voters had the opportunity to check the centralized voter register and request corrections or inclusion, and the CEC conducted a voter education campaign, including in the media.

Voting on election day was assessed positively in almost 90 per cent of the 1100 polling stations (out of 5175) visited by observers, whereas serious problems were noted in some 10 per cent. Counting deteriorated with almost a third of the 150 polling stations observed rated bad or very bad, with worrying problems like ballot-stuffing noted in a number of places.

Negative aspects of the process included:

- Domination of public and political life by one party.
- The deficient candidate registration process at the constituency level led to the registration of almost all nominated candidates of the majority party and less than half of the opposition candidates.
- Lack of balanced and absence of unbiased reporting in the electronic media, resulting in an absence of alternative views, scarcity of critical print media.
- Unresolved cases of imprisoned journalists.
- Unequal access of political parties to resources necessary for effective campaigning.
- Allocation of unsuitable campaign venues and prevention of political gatherings by opposition candidates outside of these areas.
- Credible allegations of intimidation of voters and candidates, and a misuse of administrative resources.
- Last-minute changes in legislation to shorten the campaign period.
- Recommendations on legislation identified in previous OSCE/ODIHR and Council of Europe Venice Commission reports remain unaddressed.
- Continuation of the dominance of pro-government forces in the election administration because of the formula for the composition of election commissions.
- Legal remedies against decisions on election-related complaints are often untimely and ineffective and lack legal reasoning.

Positive aspects of the process included:

- In a welcome departure from the past, the run up to the elections and the voting day was peaceful and not marred with violent incidents.
- All political parties participated in the elections, in contrast to previous elections.
- All opposition members took their seats at the CEC.
- The CEC held frequent open meetings, completed all requirements within legal deadlines and elaborated regulations well in advance.
- The CEC decided to allocate four minutes of airtime in roundtable discussions on public TV to all candidates.
- Forty three of the 172 candidates who had been denied registration and appealed, were reinstated.
- A very high number of international and domestic observers were registered; international observers enjoyed good co-operation with the CEC.
- Members of national minorities were represented among candidates of all main political parties.
- The share of female candidates increased from 10 to 13 per cent compared to the last parliamentary elections.

The institutions represented by the observers stand ready to co-operate with the newly elected Parliament and the authorities in their efforts to further foster the democratic development in the country.

## PRELIMINARY FINDINGS

### Background

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 lack of dialogue between the ruling party and the main opposition parties. The results of the last parliamentary elections in 2005[1] were not accepted by some opposition parties, which in protest subsequently boycotted the partial repeat parliamentary elections in May 2006 and the October 2008 presidential election. All main opposition parties participated in the 7 November elections.

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

### Legal Framework and Election System

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

The Election Code regulates all types of elections and 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 again, from 75 to 60 days, including a further reduction of the campaign period, which now starts 23 days before election day.[2] Furthermore, the amendments eliminated the provisions under which candidates received limited state funding for the campaign. The amendments failed to address longstanding recommendations by the OSCE/ODIHR and the Council of Europe's Venice Commission, particularly on the composition of election commissions which leaves in place a system which establishes the domination of pro-government forces and there for does not ensure that they enjoy public confidence. Other recommendations address the resolution of electoral disputes, the eligibility of candidates, rules for recounts and the invalidation of election results, and rules for military voting.

The Election Code is at times repetitive and contains several ambiguities, including on candidate eligibility and the complaints and appeals process. Unlike for presidential elections, diaspora voting is not envisaged for parliamentary elections. There is also no special voting 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

1 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".

2 During the 2005 parliamentary elections, the official campaign period was 60 days.

eliminated the conflict with the Election Code with regards to the jurisdiction of courts in election-related disputes and the relevant provisions were streamlined.

Parliamentary elections are conducted under a majoritarian system, with 125 members of parliament elected in single-mandate constituencies for a five-year term. The candidate who obtains the highest number of votes is considered elected. The Election Code stipulates that the number of voters registered in each constituency should not deviate in exceptional cases more than 10 per cent from the average number of voters per constituency. While the CEC made some minor adjustments to constituency boundaries, the number of registered voters in some 35 constituencies deviates more than 10 per cent from the average, and in some cases significantly so, which undermines the equality of the vote.[3]

**Election Administration**

The elections were administered by a three-tiered structure consisting of the CEC, 125 Constituency Election Commissions (ConECs) and some 5,175 Precinct Election Commissions (PECs). Eleven ConECs were in charge of constituencies located in territories which are not under government control. These so-called "ConECs in exile" served some 340,000 internally displaced persons (IDPs) from these areas; the polling stations under their jurisdiction are dispersed in different parts of the country. All commissions are permanent bodies appointed for five years.[4] Under the Election Code, three equal quotas are reserved in each commission for members nominated by the parliamentary majority, parliamentarians elected as independent candidates, and the parliamentary minority (the remaining parties represented in the parliament). By law, all commission chairpersons are members proposed by the parliamentary majority.

The CEC was very active in making preparations for these elections within the legal deadlines; it elaborated numerous regulations well in advance and launched an extensive voter education campaign, including in the media. However, the OSCE/ODIHR EOM noted a lack of written instructions on the implementation of legal provisions on the validity of citizens' IDs for providing signatures during candidate registration. The CEC also provided training of ConECs and PECs, police and executive authorities. The CEC held frequent sessions to which media, the OSCE/ODIHR EOM, as well as domestic observers who requested and received special permission to attend the sessions, were invited. However, CEC members were often not provided before a session with draft decisions, the legal opinions of experts investigating complaints and appeals, and other documents necessary to inform the discussion and the ensuing decisions.

**Voter Registration**

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. The OSCE/ODIHR EOM observed the process of on-line verification of voters' data, followed by inclusion of the voters in the voter lists or correction of inaccuracies. However, there exists a large discrepancy between the CEC who had approximately 4.8 million registered voters on the voter list as of 13 October and the State Statistics Committee, who, as of 1 January 2010, claim more than 6 million people over the age of 18 years were living in Azerbaijan.

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3 The Electoral Code states that the deviation in general should not exceed five per cent. Another 43 differ by more than this legal limit, bringing the total constituencies above five per cent to 78.

4 Election commissions in their current composition were appointed in 2006.

After 13 October, voter lists could be amended only by PECs, including on election day. As a result of these amendments, the total number of registered voters reached 4,844,116 by election day, 1,262 less than on 13 October.[5]

**Nomination and Registration of Candidates**

The process of candidate nomination and registration was handled by the ConECs. Some 1,400 persons were nominated by political parties or by blocs of parties, by groups of voters, or through self-nomination. The ConEC had to examine the submitted documents within a five-day period and to certify the nomination.

In order to register a candidate, a ConEC had to receive, *inter alia*, not less than 450 valid voters' signatures in support of the candidacy.[6] Of the 1,115 prospective candidates, 743 were registered. After 52 withdrawals and 1 deregistration, 690 candidates contested the elections. Over half of the candidates nominated by opposition parties had their registrations rejected, while the 111 ruling New Azerbaijan Party (YAP) candidates were registered. The APFP–Musavat bloc had 38 registered candidates, out of 88 who were initially nominated, followed by the 'Karabakh' and 'Reform' blocs with 34 and 31 registered candidates, out of 95 and 97 initially nominated, respectively. The refusals to register many candidates appeared, in most instances, due to unfairly restrictive implementation of provisions of the Election Code and other legislation and were not always in conformity with legal provisions. As a result, the field of candidates was limited and the right to stand was restricted; this is at odds with existing OSCE commitments, as contained in paragraphs 7.5 and 7.6 of the 1990 OSCE Copenhagen Document and Article 3 of the European Convention on Human Rights.

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. Thirteen cases were verified by the OSCE/ODIHR EOM where voters' signatures were declared invalid by ConECs because these voters' IDs had expired.[7] Many other rejections resulted from ConECs' opinions about the authenticity of the submitted signatures.[8] This was of concern because ConECs as a rule reached their conclusions without having expert opinions of graphologists or other specialists.[9] Invalidation of voters' signatures in some cases resulted from incomplete information on voters, candidates or the persons collecting the signatures.[10]

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

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5 http://www.azstat.org/publications/azfigures/2010/en/004.shtml

6 The possibility to submit a financial deposit in lieu of signatures was removed from the Election Code in 2008.

7 In the case of candidates nominated by 'For Human' bloc (ConECs 23, 90), APFP–Musavat bloc (ConECs 44, 90, 95, 117), 'Karabakh' bloc (ConECs 57, 117), Democratic Azerbaijani World Party (ConEC 90),, self-nominated (ConECs 40, 69,117).

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

9 Art. 59.2 of the Election Code allows for the creation of expert groups, which can include independent experts and specialists.

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

disputed signatures and to correct information about the candidacy,[11] the OSCE/ODIHR EOM observed a lack of openness and transparency in the activity of many ConECs with regard to the registration process.[12] Moreover, the safeguard of the Election Code which states that a decision on denial of registration "should be proportionate to the mistake (shortcoming, violation) made" did not appear to be respected, as prospective candidates oftentimes had their registration rejected for minor technical errors in their documents .

The mission received credible reports of intimidation of and pressure on voters to sign or withdraw their signatures from signature sheets.[13] In addition, the OSCE/ODIHR EOM received allegations of the direct intimidation of candidates, their relatives and their representatives.[14]

**The Campaign Environment**

The political environment is characterized by one party dominating public and political life and the marginalization of political alternatives. The period prior to the start of the official election campaign was characterized by the lack of visible activities of political parties. The main reason given by opposition parties 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.[15] The pre-election environment was not conducive to the fair and free competition of political ideas and platforms, which challenge paragraphs 7.6 and 7.7 of the 1990 OSCE Copenhagen Document, as well as Article 11 of the European Convention on Human Rights. Many interlocutors professed a lack of confidence in the election process.

The 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 the size of the constituency, and were located in peripheral areas. Although any campaign meetings held in other places than the officially allocated ones were considered by the authorities as illegal,[16] a number of candidates held small-scale neighborhood meetings without notifying the authorities. OSCE/ODIHR EOM observers

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11 Art. 59.3, 59.13 and 60.4 of the Election Code.

12 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.

13 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 to Classic Popular Front Party candidates and 'Karabakh' bloc candidates, and one case each to a 'Reform' bloc candidate and to a independent candidate ,. The cases occurred in constituencies 29, 40, 47, 50, 53, 57, 62, 67, 69, 72, 79, 80, 86, and 117.

14 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.

15 The only opposition rally in Baku before the start of the campaign, planned by the APFP–Musavat bloc, was cancelled after the Baku executive stated 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.

16 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 the 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.

received reports of some instances of obstruction of candidates' campaign activities by the police and local authorities, including at officially allocated venues.[17]

The campaign was calm and low-key overall and appeared to generate little public interest. 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.

The newly amended Election Code further shortened the campaign period and removed public funding of political parties or candidates. Many candidates expressed their concerns that the significantly shortened campaign period compared to 2005[18] did not give them enough time to conduct a proper election campaign. Opposition parties and a number of independent candidates complained to OSCE/ODIHR observers about the lack of public funding limiting their ability to campaign and the general environment in which private business feared consequences if they openly gave financial or other support to them. Several opposition candidates faced problems in renting an office for campaign purposes.

The misuse of administrative resources was reported from 19 constituencies where employees of state institutions were involved in campaigning for a particular candidate. OSCE/ODIHR observers received credible allegations of state employees being pressured to vote for a YAP candidate or to attend a particular candidate's campaign events.[19] OSCE/ODIHR EOM LTOs observed one YAP campaign event in Nakhchivan city where a party activist was checking which state institution attendants worked for. Such actions challenge paragraph 5.4 of the 1990 OSCE Copenhagen Documents which calls for a separation between the state and political parties.

**The Media**

While a broad range of media exist in Azerbaijan, there is general lack of independent and objective reporting in electronic media and a scarcity of critical newspapers, which limits voters' access to the pluralistic views and impartial information required to make an informed choice. Furthermore, there is a deterioration of the freedom of expression, in particular due to violence, detentions,[20] defamation lawsuits[21] and other forms of pressure on journalists who express critical opinions and impunity for those who commit such acts.[22] As a result, many journalists resort to self-censorship to avoid repercussions.

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17 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 disproportionally large police presence at a small opposition meeting in ConEC 113.

18 The campaign period has been shortened from 60 days in 2005 to 23 days.

19 Such cases were reported to observers from constituencies: 1, 2, 4, 8, 10, 11, 21, 23, 29, 34, 41, 47, 53, 57, 72, 89, 113, 116 and 125.

20 A newspaper editor, Eynulla Fatullayev, remains in prison despite a European Court of Human Rights judgment that he should be released immediately.

21 A senior state official informed the OSCE/ODIHR EOM that defamation may be decriminalized in the next legislature.

22 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/documents/pr/2010/07/45552_en.pdf, and the

As no opposition party or bloc had more than 60 registered candidates, only the ruling party was eligible for free airtime on public TV and free space in state-owned newspapers. 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 was 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 15 candidates utilized it.

Coverage of the campaign in the news was limited, with TV channels focusing instead on the procedural aspects of the electoral process.[23] All main channels, including public TV, provided extensive news coverage of the authorities, outside of the campaign context.[24] 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. The opposition received hardly any news coverage on the monitored TV channels.[25]

Public TV 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.[26] From 28 October, ITV news programs featured short interviews with representatives from all registered political parties and blocs. Public TV 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 clear bias in favor of the executive authorities and ruling party.[27] 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.[28] This channel had its license suspended in the past and received two warnings from the National TV and Radio

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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.

23 All monitored channels reported extensively on the work of the CEC.

24 This coverage *inter alia* included appearances of the authorities in the media coverage of ceremonial events such as inaugurations of new roads, schools, parks, theatres and a new YAP office, or in activities such as the distribution of flats, houses, cars and other gifts.

25 Article 69.1 of the Election Code guarantees equal conditions for all registered candidates. Article 77.1 of the Election Code stipulates 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 principles of impartiality, comprehensiveness, fullness and truthfulness of information when preparing their programs.

26 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.

27 During the official campaign period, AzTV allocated some four hours and 24 minutes of exclusively positive and neutral time to the president; more than one hour and 26 minutes to the government and more than 24 minutes to the YAP. By contrast, the main opposition bloc received a combined total of only four seconds, which were neutral.

28 For example, only public TV and ANS provided news coverage in connection with the APFP–Musavat bloc criticism of the registration process.

Council (NTRC) this year,[29] one of them for use of improper language in one of their programs which, according to NTRC, violated the special regulations for the protection of minors.[30] The NTRC did not take any immediate action against Lider TV which during its main news program repeatedly showed a video with an opposition newspaper editor having sexual intercourse with a woman. ANS decided not to organize debates among candidates due to restrictive interpretation by NTRC of a 12-minute limit on the amount of advertising in one hour of programming.[31]

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 to the authorities and private *Zerkalo* devoted the bulk of mainly neutral or positive coverage to the authorities. The CEC took no action to provide an effective remedy to the unbalanced news coverage by the state-funded broadcasters, thereby failing to create equal conditions for candidates and political parties, contrary to OSCE commitments as contained in paragraph 7.8 of the 1990 OSCE Copenhagen Document.[32]

**Participation of Women**

Equality of rights between women and men is provided by the Constitution and by the Law on State Guarantees for Women and Men, but there are no specific measures to promote women's participation in politics, elections and government. With few exceptions, women do not have a high profile in Azerbaijani politics. In the outgoing parliament, only 14 out of 125 MPs are women. None of the 20 current cabinet ministers is a woman.

In these elections, 13 per cent of registered candidates were women, some 3 per cent more than in 2005. Out of 20 women nominated by YAP, all 19 who submitted documents were registered. In the case of the APFP–Musavat bloc, only one of the four female nominees was registered. None of the five female nominees of the 'Karabakh' bloc were registered, while of the five women nominated by the Classic Popular Front Party, two were registered. The majority of female contestants stood as independent candidates. Women were also under-represented in the higher levels of the election administration. Out of 18 CEC members, only four are female, while only three of the 125 ConECs are chaired by women. In polling stations visited by international observers on election day, 25 per cent of PECs were chaired by women, and women accounted for 60 per cent of the full membership of these PECs.

**Participation of National Minorities**

Despite the fact that national minorities account for roughly ten per cent of the population of Azerbaijan, minority-related issues did not appear to be a significant factor in the elections. There are no political parties participating in the elections which represent the interest of a

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29 According to the Law on Television and Radio Broadcasting, a third warning could result in suspension of the license.

30 According to Articles 2.7 and 2.8 of the Special Regulations for Programs that Affect Children 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.

31 The NTRC interpreted a 12-minute limit on the amount of advertising per hour of programming as applicable for 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.

32 Paragraph 7.8 of the 1990 OSCE Copenhagen Document provides for unimpeded access to the media on a non-discriminatory basis.

particular national minority. However, members of national minorities were represented among the candidates across all main political parties.

**Complaints and Appeals**

Due to a protracted complaints and appeals process, which often resulted in decisions which did not include comprehensive reasoning, overall complainants were not afforded effective remedy. Complaints and appeals can be filed by voters, candidates, political parties and blocs and their representatives, observers and election commissions. Actions and decisions 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 actions of the CEC, can be appealed to the Court of Appeals. Decisions of the Court of Appeals can be further challenged to the Supreme Court.

For the investigation of complaints at CEC and ConEC level, expert groups were constituted, comprising nine and three members, respectively. The Election Code does not provide any criteria for their selection.[33] In practice, the groups consisted of commission members and staff. According to the OSCE/ODIHR, the expert groups did not add any fact-finding capacity, as was the stated intention, since the published advisory opinions did not contain detailed argumentation.

The timeframe for reviewing complaints and appeals for cases filed before election day is three days. The Election Code foresees that expert groups can ask for an extension of the investigation period. This provision is problematic since it does not set an upper time limit. This possibility was used extensively by the CEC and resulted in a protracted dispute-resolution period which in combination with the abbreviated election period and ambiguous legal provisions undermined the right to seek effective and timely remedy. Review of cases by the Supreme Court was conducted at least up to 6 November.

Up to 2 November, the CEC reviewed 234 complaints, out of which 175 challenged ConEC decisions on candidate registration. Other cases alleged inaction and unlawful conduct by ConECs. The CEC satisfied 35 complaints on candidate registration and one regarding the withdrawal under pressure of a candidate in ConEC 85; it dismissed all other complaints as groundless. Cases were reviewed in a hasty manner, with little or no debate; the CEC adopted the expert's opinion in all cases. Only on one occasion was a plaintiff able to attend the CEC review session and present his arguments. The CEC claims to have used a graphologist as part of the expert review of complaints. At least 100 complaints were reviewed by ConECs, pertaining mostly to unlawful interference by executive and municipal authorities and obstruction of election campaign by other candidates, the vast majority of which were dismissed as groundless or unsubstantiated. In contravention of the relevant legal provisions, the vast majority of CEC and ConEC decisions did not include comprehensive reasoning.[34] 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.

As of 8 November, 100 appeals were lodged with the Baku Court of Appeals, out of which 89 were examined in their merits. Almost all of them, except for approximately four cases, asked for the annulment of CEC decisions that refused registration to candidates. Only five of these

[33] Article 112.1.1 of the Election Code simply states that members of election commissions who are lawyers may be included in these groups. The rules for appointing these groups shall be determined by the CEC.

[34] Articles 25.2.2 and 112.4 of the Election Code.

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. 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;[35] the Court displayed an inconsistent approach with regards to deadlines. In contravention of domestic legislation,[36] a big part of the decisions of the Court of Appeals lack legal argumentation and reasoning and do not address the arguments of the appellants.

The OSCE/ODIHR EOM is aware of at least 30 cases reviewed by the Supreme Court pertaining to candidate registration. In four of these cases did the Supreme Court annul the Court of Appeals decision and enabled the candidates to register. The last final decision in favor of a candidate before election day was rendered on 3 November, although further Supreme Court hearings could take place after election day to resolve outstanding candidate registration disputes.

**Domestic Observers**

The Election Code provides for domestic and international observation of the entire election process. A total of 46,630 domestic and 1,029 international observers were accredited by the CEC and ConECs in an inclusive process. Among the domestic observers, 5,444 represented 11 non-governmental organizations (NGOs), around 8,378 were accredited as party observers And the rest were accredited as individual observers. Several NGOs – including the 'Parliament – 2010' coalition, the Association for Civil Society Development in Azerbaijan, the Election Monitoring and Democracy Studies Center (EMDS), and the 'Democracy Learning' Public Union – conducted long-term and short-term observation. The observers of EMDS, whose registration was suspended by the Ministry of Justice,[37] were accredited as individuals.

**Election Day**

While election day was generally calm but tense, international observers reported a high occurrence of serious irregularities and procedural violations, including ballot box stuffing. The CEC started issuing results by constituency and precinct on its website on election night. Preliminary CEC data put voter turnout at 50 per cent.

Opening procedures were assessed negatively in 21 per cent of polling stations visited, 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.

International observers assessed the voting process in almost 90 per cent of the 1,100 polling stations (out of 5,175) visited by observers, whereas serious problems were noted in some 10 per cent. The most widely observed procedural violations 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 7 per cent, not all voters were marked with ink. Several PECs did not

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35 Article 112.1 of the Election Code.

36 The Civil Procedures Code (art.220.2 and 220.4 requires that a court decisions should include a motivation part.

37 The case is currently before the Baku Court of Appeals. EMDS's predecessor, 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 in the European Court of Human Rights.

apply these procedures at all. International observers reported from seven polling stations that voters who had already been inked were nonetheless allowed to vote. International observers noted a series of identical signatures on the voter list in 95 polling stations, ballot box stuffing in a 61 cases, and carousel voting in five polling stations. Additionally, group voting was observed in 7 per cent of polling stations visited. In 7 per cent of polling stations visited, not all voters marked their ballots in secret. Almost 45 per cent of polling stations visited were not easily accessible for voters with disabilities.

International observers reported 63 instances of tension in and outside polling stations, 20 attempts to influence voters who to vote for, and nine cases of intimidation. Unauthorized persons were identified in 78 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 noted some cases where observers and proxies were expelled from polling stations and received reports of them being pressured, detained or physically aggressed. International observers were restricted in their observation in 114 polling stations.

International observers assessed the vote count negatively in 31 per cent of counts observed. In over 11 per cent of counts observed, the number of ballots in the mobile or stationary ballot box was higher than the number of signatures on the voter lists, and 24 ballot boxes contained clumps or stacks of ballots, suggesting that ballot box stuffing had occurred earlier. In a few cases the PEC performed the count in a different room. Results were tampered with in 12 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, of DVCs retained, or of requests for mobile voting. Ballot validity was not always determined in a reasonable and consistent manner, with PECs not voting on validity of disputed ballots in 61 per cent of counts observed. In 21 per cent of counts observed, not everybody present was able to clearly see how ballots had been marked, and in 33 per cent, the data established were not announced aloud before being entered into the protocol.

Over 30 per cent PECs 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 10 cases and was not filled in completely and in pen in 12 cases. Some PECs did not complete the protocol immediately after concluding the count, as required by law. In 35 per cent of counts observed, the PEC did not post a copy of the protocol for public scrutiny, and frequently, observers were not given copies upon request.

*The English version is the only official document.*
*However, this statement is also available in Azerbaijani.*

## MISSION INFORMATION & ACKNOWLEDGEMENTS

The OSCE/ODIHR Election Observation Mission opened in Baku on 28 September with 16 experts in the capital and 22 long-term observers deployed throughout Azerbaijan. The OSCE PA conducted a pre-election visit on 14-17 October, and the PACE pre-election mission visited Baku on 18-21 October.

On election day, some 405 short-term observers were deployed, including a 51-member delegation from the OSCE PA, a 31-member delegation from the PACE and a 16-member delegation from the EP. In total, there were observers from 41 OSCE participating States. Voting was observed in over 1,200 polling stations out of a total of 5,175. Counting was observed in 145 polling stations.

Mr. Wolfgang Grossruck (Austria), OSCE PA Vice-President and Head of the OSCE PA Delegation, appointed by the OSCE Chairperson-in-Office as Special Coordinator, led the short-term OSCE observer mission. Mr. Paul Wille (Belgium) headed the PACE delegation. Ms. Anneli Jäätteenmaki (Finland) led the European Parliament delegation. Ambassador Audrey Glover (United Kingdom) is the Head of the OSCE/ODIHR Election Observation Mission.

The observers wish to thank the authorities of the Republic of Azerbaijan for the invitations to observe the elections, the Central Election Commission for its co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs and other authorities for their assistance and cooperation. The observers also wish to express appreciation to the OSCE Office in Baku, the Special Representative of the Secretary General of the Council of Europe, the Delegation of the European Union, and embassies and international organizations accredited in Azerbaijan for their co-operation and support.

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