

INTERIM REPORT No. 2
16–26 October 2010

29 October 2010

I. EXECUTIVE SUMMARY

- The Central Election Commission (CEC) continued its active preparations for these elections. It meets frequently; sessions are open to observers and media, and decisions are published promptly. The CEC is continuing its education of voters, lower-level commissions and police. Constituency Election Commissions (ConECs) have provided training on election-day procedures to Precinct Election Commissions (PECs).
- The CEC is making serious efforts to improve the voter lists. Voter lists are available for public scrutiny at polling stations. Voters are able to update their registration at the PECs, but few appear to have done so thus far, and only a small number have requested deregistration voting cards enabling them to vote in a different polling station in the same constituency.
- Refusals to register candidates appeared, in most instances, to be due to an overly restrictive interpretation of provisions of the Election Code. The results of the verification of signatures collected in support of candidates were the main reason for ConECs' decisions to reject requests for registration. Many signatures were invalidated due to expired IDs of signatories, although the CEC had told the OSCE/ODIHR Election Observation Mission (EOM) that this would not be a ground for invalidation. Candidates were frequently not informed in detail which signatures were invalidated nor was the reason for their invalidation given.
- The OSCE/ODIHR EOM received credible reports of intimidation of and pressure on voters to sign or withdraw their supporting signatures, as well as allegations of direct pressure on candidates, their relatives and their representatives.
- The election campaign has thus far been calm and low-key. The use of campaign material is very limited. OSCE/ODIHR EOM observers reported some instances of obstruction of candidates' campaign activities by police and local authorities.
- Media coverage of the elections and the campaign in the news and current affairs programs has been limited and is characterized by a tendency to focus not on the campaign, but rather on other political issues and on procedural aspects of the election. The CEC and the authorities receive significant coverage, while news coverage of opposition candidates remains very limited. Public TV is the only national channel to organize daily roundtable discussions that provide each candidate with four minutes of free airtime.
- As of 25 October, the CEC has reviewed a total of 224 complaints. The CEC upheld 42 complaints against denial of registration by ConECs. The review of complaints by the CEC is performed in an expedited manner, but with little or no debate. CEC and ConEC decisions on complaints almost always lack thorough and detailed reasoning. Plaintiffs are rarely invited to election commission sessions where their cases are reviewed, despite legal provisions and explicit requests by plaintiffs. The Baku Court of Appeals has thus far reviewed over 50 cases, dismissing them all. The court has so far declined to accept as evidence any testimonies of witnesses suggested by the appellants.

II. THE ELECTION ADMINISTRATION

During the reporting period, the Central Election Commission (CEC) continued its active preparations for the upcoming elections. The ruling New Azerbaijan Party (YAP) is the only contestant in these elections who met the requirement for appointing a consultative CEC member.¹ CEC sessions took place frequently and were always open for observers and media. Decisions were published without delay.

The CEC invited media and observers for the start of the printing of ballot papers on 22 October, which is taking place in the printing house of parliament, under the supervision of a commission comprised of three CEC members. The first ballots to be printed are those intended for constituencies where the time limits for complaints and appeals on candidate registration have already expired.

The CEC announced that in an effort to increase the transparency of the process on election day, web cameras will be installed in 500 polling stations throughout the country, enabling the public to follow proceedings on the Internet. OSCE/ODIHR EOM long-term observers (LTOs) reported that in many Constituency Election Commissions (ConECs), the polling stations where such cameras will be installed have already been selected.

The CEC continued its education of voters, lower-level election commissions and police, providing them with materials on election-day procedures. ConECs have trained all Precinct Election Commission (PEC) members on election-day procedures. OSCE/ODIHR EOM LTOs described these training sessions as well-organized and attended.

Voter lists are posted or available for public scrutiny in the polling stations. Voters are able to update their registration at the PECs up to and on election day, but few appear to have done so thus far. Only a few have requested deregistration voting cards, enabling them to vote in a different polling station in the same constituency. The CEC is making continued efforts to improve the voter lists. 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.

The Election Code provides that voter cards are used as a document certifying a voter's inclusion in the voter list of a given polling station. However, the CEC informed the OSCE/ODIHR EOM that voter cards will not be sent to voters and will not be required on election day, due to the ineffectiveness of this provision. Instead, voters will be supplied with notifications on the voting hours and place of voting and will have their finger inked upon receipt of a ballot in the polling station.

III. CANDIDATE REGISTRATION

The registration of candidates by ConECs concluded on 15 October, resulting in the registration of 704 candidates, out of 1,115 applicants. The CEC reviewed and decided on most complaints against ConEC decisions on registration through 26 October. It announced that it overturned 42 ConEC decisions. Some candidates have appealed CEC decisions on their rejection and these are currently being reviewed by the courts. As of 26 October, 41 candidates had withdrawn their

¹ Art. 148.6 of the Election Code provides the possibility to appoint a consultative CEC member only for a party or electoral bloc with more than 60 registered candidates. Consultative members can participate in commission meetings but do not have the right to vote.

candidacy after registration, and one candidate was deregistered on charges of early campaigning, leaving 691 contestants.

More than one half of all registered candidates (387) are self-nominated, although a large number (58) among them are in fact affiliated with a political party, according to their nomination applications. The party which registered the highest number of candidates is YAP (111). The APFP–Musavat bloc has 37 registered candidates,² among 88 who were initially nominated, followed by the ‘Karabakh’ and ‘Reform’ blocs with 31 registered candidates each, out of 95 and 97 initially nominated, respectively.

The refusals to register some candidates appeared, in most instances, due to an overly restrictive interpretation of provisions of the Election Code, especially with regard to the collection and verification of supporting signatures that prospective candidates are required to submit.

The results of the verification of signatures were the main reason for ConECs’ decisions to reject requests for registration. In many cases the verification process was raised by prospective candidates as a cause for concern. OSCE/ODIHR EOM observers received contradictory information on this issue from the CEC and ConECs. The CEC informed the OSCE/ODIHR EOM that voters with invalid IDs will be able to vote on election day, as well as to sign in support of candidates. However, no official regulations were passed on this issue, resulting in uncertainty and ambiguity. A number of cases were verified where voters’ signatures were declared invalid by ConECs because voters’ IDs had expired.³

Many cases of rejection of candidacies resulted from ConECs’ opinions about the authenticity of the submitted voters’ signatures;⁴ this is of great concern because ConECs as a rule reached their conclusions without having expert opinions of graphologists.⁵ The OSCE/ODIHR EOM also did not observe the use of expert opinions during the complaints and appeals process, which could elaborate on problems with the authenticity of signatures, whether in the CEC or in the courts.

Invalidation of voters’ signatures in some cases resulted from incomplete information on voters, candidates or the persons collecting the signatures.⁶ The lack of certain information in the signature sheets can be the grounds for invalidating the signatures.⁷ However, the Election Code requires that before the decision to reject a candidate is adopted, the candidate is made aware of the checking procedure, informed about its results and provided with an opportunity to prove the authenticity of the disputed signatures and to correct the required information.⁸ Article 60.3 of the Election Code states that a decision on denial of registration “should be proportionate to the mistake (shortcoming, violation) made.”

Despite the existence of these legal safeguards, the OSCE/ODIHR EOM was informed about lack of openness and transparency in the activity of many ConECs with regard to the registration process, including the verification of signatures.⁹ Candidates were rejected without being invited

² Seven APFP–Musavat candidates were registered by the CEC after appealing against ConECs decisions which initially denied them registration.

³ In the case of candidates nominated by ‘For Human’ bloc (ConEC 23), APFP–Musavat bloc (ConECs 44, 117), ‘Karabakh’ bloc (ConECs 57, 117), and self-nominated (ConEC 40).

⁴ In the case of candidates nominated by ‘APFP–Musavat’ bloc (ConECs 29, 64, 80), ‘Karabakh’ bloc (ConEC 99), ‘Reform’ bloc (ConEC 67), and self-nominated (ConECs 40, 42, 60, 79, 80, 122).

⁵ Art. 59.2 of the Election Code allows for the creation of expert groups, which can include independent experts and specialists.

⁶ In the case of candidates nominated by ‘APFP–Musavat’ bloc (ConECs 29, 44, 117), ‘Karabakh’ bloc (ConECs 57, 117), and self-nominated (ConECs 60, 122).

⁷ Art. 59.7–59.9 of the Election Code.

⁸ Art. 59.3, 59.13 and 60.4 of the Election Code.

⁹ ConECs 29, 38, 40, 42, 44, 60, 64, 67, 79, 80, 86, 116, 122.

to the ConEC sessions where their registration was discussed and decided upon, and they were also not informed about the time when checks would be performed on the supporting signatures, were not given the reasons for the invalidation of signatures and were not provided an opportunity to correct the required information as stated in the Election Code.

The environment in which candidates were collecting supporting signatures was negatively affected by intimidation of voters and candidates, as frequently reported by opposition and independent candidates to OSCE/ODIHR observers. The OSCE/ODIHR EOM deemed some of the reports it received regarding intimidation of and pressure on voters to sign or withdraw their signatures from signature sheets credible.¹⁰ In addition, the OSCE/ODIHR EOM received allegations of the direct intimidation of candidates, their relatives and their representatives.¹¹ Moreover, the CEC overturned the decision of ConEC 85 cancelling the registration of a candidate who had withdrawn his candidacy as a result of pressure from the ConEC chairperson.¹²

The independence of ConECs was put into question by some candidates,¹³ because of the participation of government executive bodies in the procedure of checking the submitted documentation and the signatures.

IV. THE CAMPAIGN ENVIRONMENT

The competitiveness of the election campaign has been reduced by the fact that a very high number of prospective candidates nominated by opposition parties, particularly by the APFP–Musavat bloc, as well as many self-nominated candidates, were not registered.

The authorities have allocated one outdoor and one indoor venue for candidates’ meetings with voters in most constituencies.¹⁴ In some constituencies, additional venues of this type have been designated. Many opposition candidates told the OSCE/ODIHR EOM that in their view, these venues are not suitable for meetings and are often in locations which are difficult to reach. In addition to the larger venues, a total of almost 5,000 smaller outdoor and indoor places where candidates can meet with voters have been designated, both in urban and rural areas.¹⁵

The campaign can thus far be characterized as calm and low-key. Many candidates have told the OSCE/ODIHR EOM that they expect a low voter turnout and attribute this to widespread apathy

¹⁰ The OSCE/ODIHR EOM has documented 12 cases of withdrawal of signatures by groups of voters sending joint letters to the relevant ConEC. All cases impact either opposition or independent candidates, and all candidates affected allege that the voters who withdrew their signatures were intimidated by the local executive or electoral authorities. Seven of these cases were related to APFP–Musavat candidates, two cases to independent candidates, and one case each to a ‘Reform’ bloc candidate, a Classic Popular Front Party candidate, and a ‘Karabakh’ bloc candidate. The cases occurred in constituencies 29, 40, 53, 57, 62, 65, 72, 79, 80, 86, 106 and 117.

¹¹ Alleged intimidation of candidates by local executive authorities were 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.

¹² During the hearing of this appeal at the CEC on 22 October, the appellant specifically stated that he had withdrawn “against his will”, due to pressure from the ConEC chairperson.

¹³ In the case of candidates nominated by ‘APFP–Musavat’ bloc (ConECs 67, 68, 79, 80), ‘Karabakh’ bloc (ConEC 57) and self-nominated candidates (ConECs 62, 65, 80).

¹⁴ According to a list on the CEC website (http://www.cec.gov.az/en/common/press/Campaign_venues.pdf), the capacity of these outdoor venues ranges from 100 to 20,000, and that of the indoor venues, from 80 to 1,000.

¹⁵ The list available on the CEC website only lists the number of such venues per constituency but does not contain information on their exact location or their capacity.

among voters. Candidates nominated by the ruling YAP and candidates affiliated with YAP frequently hold campaign meetings at the larger allocated venues, while opposition candidates prefer to hold small-scale gatherings, e.g. in the courtyard of apartment buildings, and to campaign from door to door. OSCE/ODIHR EOM LTOs received claims that candidates' campaign activities were obstructed by the police and local authorities, some of them credible.¹⁶ An APFP–Musavat rally announced for 17 October in Baku was not authorized by the city's executive authorities.¹⁷ The two parties decided to cancel the rally altogether because, as a senior Musavat member told the OSCE/ODIHR EOM, "they do not want their supporters to face possible violence or detention by the police". In addition, they were concerned that the participation of the bloc's candidates at an unauthorized rally could be used as grounds to deregister them.

The use of campaign material is very limited and consists mainly of small posters of candidates posted on boards allocated by the authorities for this purpose. In addition, some candidates' posters are on display in windows of shops and other private business premises.

V. THE MEDIA

There has been very limited coverage of the campaign in the news and current affairs programs of the major TV channels. Public TV is the only national TV channel to organize daily roundtable discussions, providing each candidate with four minutes of free airtime to present his or her message to voters. In addition, a number of candidates have utilized free space in two state-owned newspapers. Public TV has so far also been the only national channel to allocate some time for paid political advertising. The CEC continues its extensive voter education campaign through the media.

The OSCE/ODIHR EOM is monitoring the main broadcast and print media outlets.¹⁸ Between 1 and 14 October (prior to the start of the official campaign), all monitored TV channels, including public TV, provided extensive and favorable news coverage of the activities of the authorities, outside the campaign context. Pro-government candidates thus gained an advantage prior to the commencement of the official campaign period, while their competitors received hardly any news coverage on the monitored TV channels.

Media coverage of the official campaign period (from 15 to 25 October so far) is characterized by a tendency to focus not on the campaign, but rather on other political issues and on procedural aspects of the election; the CEC receives significant coverage on all monitored TV channels. In addition, the news coverage continues to be dominated by extensive reporting on the activities of the president, the government and the ruling YAP, which is chaired by the president. There has been a clear tendency to reflect positively on the work and activities of state officials, often pointing out achievements and successes, while independent and critical opinions on their

¹⁶ A candidate who is running in ConEC 85 stopped his campaign activities after having faced serious obstacles in meeting with voters. He told the OSCE/ODIHR EOM that local executive authority officials, municipal officials and a school director obstructed his meeting with voters in a village. The CEC on 21 October decided to forward the candidate's complaint to ConEC 85 for review. Reports of campaign meetings which were interrupted by the police although they were held in authorized places were received from ConECs 16 and 42.

¹⁷ The Baku executive authority in a letter to the organizers, dated 14 October, wrote that the organizers' notification letter did not contain all the information on the planned rally, as required by Article 5 of the Law on Freedom of Assembly. It further stated that opposition parties could organize a meeting at one of the designated venues for candidates' campaign meetings.

¹⁸ The OSCE/ODIHR EOM's monitoring focuses on all political and election-related programs and broadcasts during prime time on AzTV, ITV, ATV, ANS TV, Lider TV, Space and Khazar TV, as well as political and election coverage in the newspapers *Azerbaijan*, *Respublika*, *Yeni Musavat* and *Zerkalo*.

performance have so far been generally absent. For example, only two TV channels, the public broadcaster ITV and privately owned ANS TV, provided some news coverage in connection with the press conference of the APFP–Musavat bloc on 12 October, during which opposition leaders talked about problems with the registration of their candidates.

While ITV has made an effort to limit its political and election-related news coverage of the activities of state officials since 15 October, they still received much more coverage than any other political actors.¹⁹ The bulk of the coverage was devoted to the work of the CEC.²⁰ Unlike ITV, state-funded AzTV, the only TV channel to cover almost the entire country, is no longer legally obliged to provide equal campaign conditions and to allocate free airtime to all candidates.²¹ It devoted favourable and extensive news coverage to the activities of the authorities, both before and after the official start of the campaign.²² Appearances of the president, his wife (who is a YAP candidate), government officials and senior YAP members during ceremonial events such as inaugurations of new roads, schools, parks, theatres and a new YAP office (in Mingechevir), or in activities such as the distribution of flats, houses, cars and other gifts received significant media coverage.

Privately owned Space, Lider TV, ATV and Khazar adopted a similar approach to that of AzTV. Lider TV, Space and ATV also produced news items discrediting opposition candidates and journalists.²³ On 25 October, during its regular news program, Lider TV showed a four-and-a-half minute item which showed an editor of an opposition newspaper in a video (possibly taken by a hidden camera) in an intimate situation with a woman. Following the first appearances of this video on the internet, the editor resigned on 12 October, claiming that this was a provocation against him aimed at discrediting the newspaper.

Another private television, ANS, also devoted the bulk of its news coverage to the authorities and the ruling party, but similar to public TV it also allocated some news coverage to opposition candidates.

VI. COMPLAINTS AND APPEALS

As of 25 October, the CEC had reviewed a total of 224 complaints. Some 175 complaints challenged ConEC decisions that denied registration to candidates. Other complaints pertained to ConEC warnings to candidates for violations of campaign-related provisions or alleged various breaches of legislation and inaction by ConECs. Apart from the complaints on denial of registration which it upheld and the complaint regarding the withdrawal under pressure of a candidate in ConEC 85, the CEC dismissed all other complaints as groundless. Approximately

¹⁹ While the president received more than one hour and four minutes of overwhelmingly positive news coverage between 1 and 14 October, he only received some 20 minutes of such coverage in the first 11 days of the campaign. In addition, the government and YAP received some 19 and 3 minutes, respectively. By contrast, the main opposition bloc received a combined total of less than a minute of mainly negative or neutral news coverage between 1 and 14 October, and less than 20 seconds of neutral coverage between 15 and 25 October.

²⁰ Of the monitored TV channels, ITV devoted the biggest proportion of their prime time news coverage to election-related information – more than 12 per cent during the first 11 days of the campaign.

²¹ The 2008 amendments to the Election Code exempted state TV from this legal obligation.

²² Between 15 and 25 October, AzTV allocated some 2 hours and 14 minutes of exclusively positive and neutral time to the president; and some 39 and 20 minutes to the government and YAP, respectively. By comparison, the main opposition bloc received a combined total of only four seconds, which were neutral.

²³ These disparaging news items *inter alia* portray opposition leaders as traitors who are ready to cede Nagorno Karabakh to Armenia (referring to a declaration on cooperation signed between the Musavat Party, the Armenian National Movement Party and the Georgian Republican Party on 7 October) or politicians whose source of financing might be coming from illegal activities.

70 complaints were filed with ConECs. The vast majority of these complaints alleged interference, pressure and intimidation by executive authorities and by other candidates, in particular during the process of collection of supporting signatures. ConECs have issued some five warnings to candidates who were found in breach of campaign regulations. There has been an inconsistent application of the relevant provisions of the Election Code²⁴ by different ConECs. In ConEC 11, two warnings on early campaigning led to the deregistration of a candidate, while ConEC 25 did not initiate the relevant proceedings even though it issued two warnings to a candidate.

The review of complaints by the CEC is performed in an expedited manner. During sessions observed by the OSCE/ODIHR EOM, the member of the expert group to whom a case is assigned gave a brief introduction to the case, without providing sufficient details or reasons to substantiate the opinion presented to the CEC members. There was little and in some instances no debate among CEC members, and the opinion of the expert was invariably adopted. CEC and ConEC decisions on complaints in almost all cases lack thorough and detailed reasoning, which seriously undermines the possibility of effective redress.

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

The Baku Court of Appeals has so far reviewed over 50 cases, the majority of which relate to candidate registration. All of these cases have been dismissed as groundless or for procedural reasons. During the hearings, the appellants have the opportunity to present their arguments. However, the court has so far declined to accept as evidence any testimony of witnesses proposed by the appellants. The decisions reviewed by the OSCE/ODIHR EOM lack detailed and substantiated reasoning and do not properly address the arguments of the appellants.

VII. OSCE/ODIHR EOM ACTIVITIES

During the reporting period, the OSCE/ODIHR EOM continued its regular activities, meeting state officials, party representatives, candidates, the election administration, court officials, representatives of the media and civil society, and diplomatic missions. The OSCE/ODIHR EOM also met with the Vice-President of the OSCE PA and special coordinator of short-term OSCE observers, Mr. Wolfgang Grossruck, and with Mr. Paul Wille, the Head of the Delegation of the Parliamentary Assembly of the Council of Europe (PACE), on the occasion of their respective pre-election visits to Baku. LTOs deployed throughout the country continue to observe electoral preparations and the campaign in the regions and are preparing for the deployment of short-term observers.

²⁴ Article 113.2 of the Election Code.