

INTERIM REPORT
7 – 24 January 2020

29 January 2020

I. EXECUTIVE SUMMARY

- On 5 December, following an appeal of the parliament, and with the consent of the Constitutional Court, the president announced early parliamentary elections to be held on 9 February 2020. Members of parliament are elected by a simple majority from 125 single-mandate constituencies for a five-year term. The number of registered voters in over half of the constituencies deviates from the average by more than what the law allows.
- Parliamentary elections are primarily regulated by the Constitution and the Election Code. The Constitution provides for fundamental rights and freedoms but the regulatory framework imposes a number of restrictions on these freedoms. Many long-standing recommendations by ODIHR and Council of Europe's Venice Commission, including those related to freedoms of assembly and expression, media environment, and candidate registration, have yet to be addressed.
- Elections are administered by the Central Election Commission (CEC), 125 Constituency Election Commissions (ConECs) and around 5,500 Precinct Election Commissions (PECs). Thus far, the CEC has held regular sessions open to accredited observers and the media. Decisions were in general adopted unanimously and posted on the CEC website. Election commissions appear professional and well-resourced. The CEC is undertaking the measures to ensure that internally displaced persons (IDPs) are able to exercise their voting rights.
- There are some 5.2 million registered voters of whom 340,689 are IDPs. Voter lists were available for public scrutiny between 5-15 January and voters could verify their own data online and request corrections. Election day registration is possible based on proof of residency. A difference of approximately 2 million persists between the number of registered voters as per CEC data and the number of citizens of voting age according to the State Statistics Committee.
- ConECs registered 1,637 candidates of whom some 83 per cent are self-nominated. Nineteen political parties fielded a total of 272 candidates. A total of 80 members of the outgoing parliament (64 per cent) are seeking reelection. Women comprise 21 per cent of registered candidates. Four prospective nominees were denied nomination due to previous convictions and a non-expunged criminal record, despite the rulings of the European Court for Human Rights. As of 24 January, 239 of registered candidates have withdrawn.
- The official 22-day election campaign period started on 17 January and is thus far low key with limited visibility. Candidates can organize campaign events in the 136 indoor and 136 outdoor venues pre-selected by the CEC. The holding of an event in a venue not designated by the CEC is regulated by the Law on Freedom of Assembly which requires a five day-notification period.
- Campaign finance legislation does not foresee direct public funding of the campaign, sets limits for donations and expenditures and obliges candidates to report on their campaign finances. Parties and candidates can use their own finances, and donations can be made by individuals and legal entities.

Anonymous and in-kind donations are prohibited. While the CEC and ConECs oversee the implementation of campaign finance regulations, they are not required to pro-actively conduct audits.

- While the Constitution guarantees freedom of expression and the right of access to information and prohibits censorship, these rights are severely restricted by different laws. Although television is the most prevalent media, it is mainly used as a source of entertainment, while social media platforms are used for seeking alternative political information.
- Complaints and appeals can be filed by voters, candidates, political parties and blocs, their representatives, as well as by observers and election commissions. Decisions of election commissions can be appealed to the higher election commission, followed by the courts of appeal, with the Supreme Court as the last instance. Amendments in 2017 restricted representation in all cases, including election related ones, exclusively to lawyers who are members of the Bar Association. There were 34 complaints filed with the CEC and appellate courts concerning candidate registration mostly focused on contested supporting signatures and incomplete supporting documentation.
- The Election Code provides for citizen and international election observation, in line with OSCE commitments. Some ODIHR EOM interlocutors stated that legal provisions related to foreign funding limit the possibility of civil-society organisations to deploy observers. As of 24 January, the CEC and ConECs had accredited 17,733 individual observers and 1,724 nominated by non-governmental organisations. In addition, some 32,106 representatives of candidates and of 19 political parties were accredited.

II. INTRODUCTION

Following an invitation from the government of Azerbaijan, and based on the recommendation of a Needs Assessment Mission conducted from 19 to 21 December 2019, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 7 January. The mission, led by Ambassador Peter Tejler, consists of a 12-member core team based in Baku and 26 long-term observers (LTOs) deployed on 14 January across Azerbaijan. Mission members are drawn from 23 OSCE participating States. ODIHR has requested participating States to second 350 short-term observers to observe election day proceedings, including voting, counting and tabulation of results.

III. BACKGROUND AND POLITICAL CONTEXT

On 5 December 2019, following the appeal of the parliament to dissolve it, and with the consent of the Constitutional Court, the president dissolved the parliament and set early parliamentary elections to be held on 9 February 2020.¹ In its appeal to the president, parliament justified the call for early elections by the need to harmonize legislative work with the pace of economic, judicial and social reforms set by the president. The upcoming early parliamentary elections take place within a political environment dominated by the ruling New Azerbaijan Party (YAP), which holds a majority of 65 seats in the outgoing parliament. Parties that formally constituted the parliamentary opposition but largely supported YAP hold 12 seats, while 38 seats held by members elected as independent candidates, who typically have

¹ The regular term for parliamentary elections was 1 November 2020.

also voted in line with the ruling party.² All 12 parties represented in the outgoing parliament are contesting these elections.

Several ODIHR EOM interlocutors noted that these elections will be a chance for new people to enter the political arena, while other ODIHR EOM interlocutors opined that these elections will only bring further reallocation of mandates among ruling elites. Over the course of the past few years and most recently, several long-standing senior executives within the presidential administration and the cabinet of ministers have been replaced or moved to a different position.

The authorities stated to the ODIHR EOM that there is a political will to organize elections in a free and fair atmosphere. Several ODIHR EOM interlocutors have expressed serious concerns regarding respect of fundamental rights and freedoms in Azerbaijan.³ Some opposition parties stated that they have decided to boycott the elections due to the restrictive environment, in particular related to access to media, and restrictions on freedom of assembly during the campaign. Several prospective nominees were prevented from running in the elections despite judgements of the European Court of Human Rights (ECtHR) to expunge the criminal records of these individuals.⁴

Women are underrepresented in public life, holding 20 seats in the outgoing parliament (16 per cent), 2 out of 15 posts of a chairperson of state committees, and no ministerial posts. Out of 55 registered political parties no party is headed by a woman. Concerns about women's political participation have been raised by the UN Committee on the Elimination of Discrimination against Women (CEDAW).⁵

The authorities noted that the early parliamentary elections will take place in the context of an ongoing conflict with Armenia. It was stressed that the unresolved conflict has a number of negative implications on the country. The authorities stated that the situation complicates the administration of elections, in particular the organization of voting for large numbers of internally displaced persons (IDPs).

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

Members of parliament (MPs) are elected by a simple majority from 125 single-mandate constituencies for a five-year term. The Election Code stipulates that the number of voters registered in each constituency should not deviate by more than 5 per cent and in exceptional circumstances by not more than 10 from the average number of voters per constituency. However, deviations exceeding these limits currently occur in 75 of the constituencies.⁶ ODIHR previously recommended that the boundaries

² See [stenograms](#) of the parliament. Other parliamentary parties include: Civil Solidarity Party (VHP – two deputies), Azerbaijan Social Democratic Party, Civil Unity Party, Democratic Enlightenment Party, Great Structure Party, Motherland Party, National Revival Party, Party of Democratic Reforms, Social Welfare Party, United Azerbaijan Popular Front Party, and Unity Party with one deputy each. Ten seats were vacant before the dissolution of the parliament.

³ According to international human rights bodies and civil society organizations, there is a large number of political prisoners in Azerbaijan. See, for example, UN Human Rights Council's [Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan](#) (20 February 2017). See also 2019 [report](#) of the Commissioner for Human Rights of the Council of Europe.

⁴ See, for example, [Ilgar Mammadov v. Azerbaijan](#), No. 919/15 (ECtHR 16 November 2017).

⁵ See UN Committee on the Discrimination against Women (CEDAW) [Concluding Observations on the fifth periodic report of Azerbaijan](#) (12 March 2015), CEDAW/C/AZE/CO/5, paragraphs 26-27.

⁶ Based on information from the [CEC database](#) a deviation of more than 5 per cent occurs in 30, and deviation of more than 10 per cent occurs in 45 out of 125 constituencies.

of constituencies be revised in order to ensure the equality of the vote. The Election Code requires constituencies' boundaries to be reviewed every five years.⁷

Parliamentary elections are primarily regulated by the Constitution (last amended in 2016), and the Election Code (last amended in February 2019).⁸ The Constitution provides for fundamental rights and freedoms, including the freedoms of assembly, expression, association, and access to information, as well as the right to take part in the political life. It also guarantees universal, equal and direct suffrage by secret ballot. While revisions of the Election Code in 2018 and 2019 were of a technical nature, many long-standing recommendations of the ODIHR and the Council of Europe's European Commission for Democracy through Law (Venice Commission), including those related to freedoms of assembly and expression, media environment, and candidate registration, have yet to be addressed.

Several ODIHR EOM interlocutors stated that the current legal framework and its implementation does not provide for free election campaigning, noting concerns previously voiced over limitations to fundamental freedoms of expression, assembly and association.⁹

Azerbaijan is party to major international and regional instruments related to the holding of democratic elections, including the European Convention on Human Right (ECHR).¹⁰ The ECHR obliges countries to execute the judgments of the European Court of Human Rights (ECtHR). Azerbaijan has executed 36 out of 157 decisions adopted by the ECtHR.¹¹

V. ELECTION ADMINISTRATION

The elections are administered by the Central Election Commission (CEC), 125 Constituency Election Commissions (ConECs) and 5,573 Precinct Election Commissions (PECs), with 18, 9 and 6 commission members respectively.¹² The CEC informed the ODIHR EOM that it is making the necessary arrangements to facilitate the exercise of voting rights for internally displaced persons (IDPs) from territories affected by the ongoing conflict with Armenia. Voting will not take place in 10 out of 125 constituencies. Polling stations within constituencies not under or only partially under government control have since 1993 been relocated to constituencies across the country where IDPs reside. For

⁷ While the most recent decision posted on the CEC website on the review of boundaries is from October 2014, the CEC informed the ODIHR EOM that the last changes to the delimitation of boundaries took place in 2015.

⁸ Other relevant laws include the Law on Freedom of Assembly, the Law on Radio and Television Broadcasting, the Law on Political Parties, the Law on Non-Governmental Organizations, the Law on State Registration and the State Register of Legal Entities, the Law on Access to Information, relevant provisions of the Criminal Code, the Code of Administrative Procedures and the Civil Procedures Code, as well as regulations of the CEC.

⁹ See the [UN Human Rights Committee "Concluding observations on the fourth periodic report of Azerbaijan" \(16 November 2016\)](#), CCPR/C/AZE/CO/4, paragraphs 38, 40 and 42. See also the Resolution of the Parliamentary Assembly of Council of Europe "[The functioning of democratic institutions in Azerbaijan](#)" (11 October 2017), paragraphs 6, 7 and 8.

¹⁰ Including the 1966 International Covenant on Civil and Political Rights, 1979 Convention for Elimination of All Forms of Discrimination against Women, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 2003 Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities, and the 2002 Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States. Azerbaijan is also a member of the Council of Europe's Venice Commission and Group of States against corruption (GRECO).

¹¹ See the 2018 European Court of Human Rights [statistics](#) and Azerbaijan country [profile](#). Violations of the right to free elections have occurred in 23 cases.

¹² One seat at the CEC remains vacant.

these elections, 14 ConECs with 523 polling stations will serve IDPs.¹³ Additionally, 131 polling stations were established in military units in exceptional cases and in prisons and detention centers.

All election commissions are permanent bodies appointed for a five-year term, with the current composition established in 2016.¹⁴ CEC members are elected by parliament, ConECs are appointed by the CEC, and PECs by the respective ConECs. By law, the composition of all election commissions reflects the representation of political forces in the parliament: three equal quotas are reserved for members nominated by the parliamentary majority, the parliamentary minority (defined as the other political parties represented in the parliament), and independent MPs. ODIHR EOM interlocutors noted that given that there is no political differentiation between the three groups in the parliament that nominate the commissioners, the formula cannot provide for an impartial and independent election administration in practice. Chairpersons of all commissions are, by law, nominees of the parliamentary majority.

Three out of 17 CEC members are women, including one of two CEC secretaries. According to the CEC, at the ConEC and PEC levels 17 and 37 per cent of members, respectively, are women, chairing 2 and 25 per cent of corresponding commissions. Most commissioners have extensive experience from previous elections. Parties and blocs of parties that register candidates in more than 60 constituencies may appoint a member with consultative rights to each commission. A candidate registered in a constituency may have the same representation in the ConEC and PECs within that constituency.¹⁵

Thus far, the CEC has held regular sessions open to accredited observers and media to which the ODIHR EOM was invited in a timely manner and provided with an agenda prior to the sessions. During the sessions observed by the ODIHR EOM, most commission members engaged in discussions on relevant topics. Decisions were in general adopted unanimously and were posted on the CEC website in a timely manner.

The CEC informed ODIHR EOM that it organized trainings for ConECs on electoral dispute resolution and plans to conduct training of election commissions as well as the police and executive authorities, prior to election day. The CEC developed voter information posters as well as video spots that are currently being aired on the public and state broadcasters. To enhance accessibility of polling stations for voters with physical disabilities, ramps will be installed, and for the visually impaired voters there will be a Braille kit provided. As in previous elections, 1,000 web cameras will be installed at pre-selected polling stations around the country, with the stated aim to enhance transparency of the process.

The 89 ConECs met with by the ODIHR EOM observers to date are well resourced and reported that they are prepared for their duty, despite the fact that the elections were called early and administered partly concurrently with local elections, held on 23 December 2019. Most ConECs hold sessions on an ad-hoc basis and publish decisions or information about registered candidates on their noticeboards. While most ConECs were open and forthcoming towards ODIHR EOM observers, two of them demonstrated a lack of transparency by denying ODIHR observers access to their sessions.

¹³ IDPs constitute some six per cent of the electorate and the vast majority of them will vote for candidates from constituencies where they do not reside.

¹⁴ However, in September 2019, after the CEC deputy chairperson representing non-partisan deputies was appointed deputy head of the office of Cabinet of Ministers, a newly appointed deputy chairperson took up his seat in the CEC.

¹⁵ For these elections, only YAP has members with consultative voting rights in election commissions at all levels. Parties and self-nominated candidates delegated a total of 4,685 members with consultative voting rights in ConECs and PECs.

VI. VOTER REGISTRATION

By law, citizens 18 years of age or older by election day are eligible to vote, unless deprived of their legal capacity by a court decision.¹⁶ Voting rights are granted to persons with a registered residence in the country who have a valid identification card or passport. Voters who are abroad on election day are not entitled to vote in parliamentary elections.

Voter registration is passive. It is based on extracts of local residency data provided to the CEC, who maintains an integrated nationwide voter register. PECs provide an update of the lists to the CEC through ConECs annually by 30 May. The lists are again updated at least 25 days prior to election day. Preliminary extracts of voter lists were available for public review between 5 and 15 January. Additionally, voters could verify their own data online, by using a CEC hotline as well as query other voters' data and request changes at the respective PEC. Between the two updates, the number of voters has increased by 25,098.

The number of registered voters as of 15 January was some 5,238,000 of whom 340,689 are IDPs. After this date and until and on election day, voters registered within the constituency and upon presenting a proof of residency can be added by PECs to a supplementary voter list. In addition, voters can apply for de-registration voting card (DVCs) that grant them the possibility to vote at a precinct different from their residence, within the territory of their ConEC.¹⁷

There is a longstanding difference between the data from the CEC on the number of registered voters and the data from the State Statistical Committee (SSC) on the number of citizens of voting age, with the latter being almost 2 million higher.¹⁸ Many ODIHR EOM interlocutors opined that a lack of public information to explain this difference creates mistrust in the accuracy of the voter register.

VII. CANDIDATE NOMINATION AND REGISTRATION

The right to stand for parliament is granted to eligible voters, without dual citizenship or obligations before other states and without prior conviction for a serious crime. Four political and civil society activists were denied nomination due to previous convictions and a non-expunged criminal record, despite the rulings of the ECtHR.¹⁹

Candidates can be self-nominated or nominated by a registered political party, a coalition of parties, or a group of voters.²⁰ Each candidate must submit their notification and nominating party documents to the ConEC in order to be nominated. In addition, nominated candidates must be endorsed by at least

¹⁶ The UN Committee on the Rights of Persons with Disabilities (CRPD) has recommended Azerbaijan to “remove restrictions and immediately restore the right to vote for persons deprived of legal capacity”. See: CRPD “[Concluding Observations on Azerbaijan](#)” (12 May 2014), CRPD/C/AZE/CO/1, paragraph 45. In response to previous ODIHR EOM recommendation that restrictions on voting rights of persons with intellectual and psychosocial disabilities be removed, the authorities stated that the recommendation will be considered by the next parliament’s convocation.

¹⁷ A total of 150,000 de-registration voting cards were printed for this purpose. Voters can obtain DVCs from the relevant PEC until 6 February.

¹⁸ The SSC informed the ODIHR EOM that the number of citizens of voting age, as of December 2019 is estimated at 7,325,000. According to the SSC, this data includes Azerbaijani citizens residing abroad, foreign citizens residing in Azerbaijan, as well as the population of Nagorno-Karabakh based on the 1989 Soviet Union census.

¹⁹ The Committee of Ministers at the Council of Europe has regularly urged Azerbaijan to revoke the convictions and delete the criminal records of eight applicants before the European Court of Human Rights (ECtHR) known collectively as the “Ilgar Mammadov group”; however, on 6 January 2020, the government maintained its [non-execution of the ECtHR decision](#).

²⁰ A candidate may stand in only one constituency and does not have to be registered to vote in that constituency.

450 supporting signatures of voters and provide declarations on income and property, and their first campaign finance report to their respective ConEC.²¹ On nomination and registration of candidates, for these elections the CEC adopted three instructions as well as rules to supplement legal requirements to stand.²² The two-step process of candidate registration was handled by ConECs with some involvement from the CEC.²³

The registration of candidates, who submitted their nominations by 10 January to ConECs, concluded on 17 January. Nomination status was granted to the vast majority of those who had applied for it.²⁴ A total of 1,637 were registered of which some 83 percent (1,357) are self-nominated. Nineteen political parties nominated 272 candidates with YAP fielding the largest number (122) followed by *Musavat* (25) and *Umid* (21). A total of 81 MPs or 65 per cent of the outgoing members of parliament are seeking reelection.²⁵

According to the 89 ConECs visited by the ODIHR EOM, the non-registration of prospective candidates was mostly due to the following reasons: incomplete documentation, in particular property and income declarations and for not respecting the deadlines. As of 24 January, the CEC received and decided on 35 candidate registration related complaints filed against decisions of ConECs (*See Complaints and Appeals*).

Positively, nominated candidates and their representatives were invited to the sessions of ConECs where their registration was discussed and decided upon. However, according to ConECs visited by the ODIHR EOM, very few of them requested an expert opinion in cases where signatures were contested. In instances where property or income declarations were not submitted, candidates were not given an opportunity to provide the missing documents.

Of registered candidates, 21.8 percent are women. There are no legal requirements to promote women candidates. As of 24 January, 239 candidates withdrew their candidacy after being registered. The majority of withdrawals come from self-nominated candidates who are public sector workers. By law, candidates can withdraw up to 10 days prior to election day.

VIII. CAMPAIGN ENVIRONMENT

The official campaign period commenced on 17 January and will last until 24 hours before the start of voting. The CEC has designated 136 indoor and 136 outdoor venues throughout the country for campaign purposes. Political parties and candidates must submit a request to the relevant ConEC specifying the venue and the time slot. The law is silent on how many days prior to an event a request must be submitted and on the deadline for ConECs to respond. The holding of an event in a venue not designated by the CEC is regulated by the Law on Freedom of Assembly. Accordingly, a notification

²¹ A voter can sign in support of more than one candidate in the constituency where the voter resides.

²² Between March and December 2019, the CEC adopted instructions clarifying the nomination procedure for self-nominated candidates and those nominated by a group of voters. The CEC also adopted rules for the handover of signature lists to prospective candidates and clarified the procedure for checking the accuracy of information submitted. Some relevant instructions from the 2015 parliamentary elections remain in force.

²³ ConECs had five days to examine the documents and certify nomination and seven days to check the accuracy of declarations, verify signatures and decide on the registration of a candidate. The CEC's working group participated in the verification of signatures only in response to a candidate's appeal against a ConEC's decision to deny registration.

²⁴ Based on data posted on the CEC website as of 17 January, of 2,431 applicants who submitted their notification and nominating party documents to the ConECs, 2,358 were accepted; of 2,247 who received signature lists 1,774 returned them completed to the ConECs, along with other registration documents.

²⁵ More than one third of YAP candidates for these elections (45 of 122) are outgoing MPs.

must be sent to the local authorities at least five days before the event.²⁶ While the legislation prescribes advance notification of a peaceful assembly, in practice a permission is required.²⁷ Campaign activities are prohibited on the territory of military units, military organizations and military institutions and in buildings registered as cultural facilities.

Many ODIHR EOM interlocutors stated that the fundamental freedom of assembly is not respected by the authorities, noting that the last authorized political rally was held in Baku in January 2019. According to ODIHR EOM interlocutors, on the event of unauthorized rally of the opposition on 19 October in Baku, authorities used physical force to disperse it, arresting many activists and opposition leaders. They also stated that, although guaranteed by the Constitution, fundamental freedoms of assembly, association and movement are severely limited by the legal framework and its implementation, pointing to systematic harassment and criminal prosecution of those who express critical views of the government.²⁸ The leader of the Azerbaijan Popular Front Party remains unable to travel abroad having not been issued a passport since 2005.

Thus far the campaign has been low-key. The dissemination of campaign materials, flyers and posters has begun, and several candidates informed the ODIHR EOM that they plan to use door-to-door canvassing. Campaigning has been visible mostly in social media with some candidates starting their online campaign prior to the official start date. The ODIHR EOM observed a limited number of campaign events so far, during which local issues, mostly related to social policy and welfare, were raised.²⁹ Some opposition parties noted that the campaign period of 22 days is too short to properly convey the message to the electorate.

IX. CAMPAIGN FINANCE

There is no public funding for financing the campaign. Candidates can fund their campaigns from their own resources and donations from individuals and legal entities. Candidates must open a dedicated bank account with a bank determined by the CEC, for all campaign related transactions. Political parties that have more than 60 registered candidates can form a unified campaign fund. Each candidate can spend maximum AZN 500,000 (some EUR 265,000), with contribution limits set at AZN 3,000 for individuals, and AZN 50,000 for legal entities.³⁰ Parties can use their own finances to fund their nominees by up to AZN 150,000.³¹ Foreign, state, charitable and anonymous donations as well as in-kind donations are prohibited.

²⁶ Notifications submitted less than five days prior to the event must include an explanation for the delay.

²⁷ See [Human Rights Committee Concluding observations \(2016\) CCPR/C/AZE/CO/4](#). Over the course of 2019, *Musavat* and NCDF informed ODIHR EOM that they have submitted 12 notifications all of which were denied. On one occasion, the authorities provided an alternative venue on the outskirts of Baku.

²⁸ In addition, see also the UN Human Rights Committee "[Concluding observations on the fourth periodic report of Azerbaijan](#)" (16 November 2016), CCPR/C/AZE/CO/4, paragraphs 38, 40 and 42.

²⁹ Five events organized by YAP, five by independent candidates, and one by the Great Creation Party, were so far observed by the ODIHR EOM.

³⁰ EUR 1 equals approximately AZN 1.89 (Azerbaijani *Manat*).

³¹ In 2019 approximately AZN 3 million was allocated from the state budget for funding of political parties. Of this amount, 10 per cent should be allocated proportionally to those parties not represented in parliament but who nevertheless have received at least three per cent of valid votes in the last parliamentary elections. Forty per cent should be divided equally among parties represented in parliament and a further 50 per cent proportionally to the number of their elected MPs.

The Election Code stipulates that candidates must report to the ConEC on their campaign finance three times.³² Reports should be posted on the respective commission board within five days of receiving the report. If figures reported are above a certain amount, they must also be published in the local media. The bank should provide the relevant ConEC with an update of the account on a weekly basis. As of ten days before election day, information must be provided at least every three days and ConECs are obliged on a bi-weekly basis to provide the media with information on amounts received and spent by the candidates.

The CEC and ConECs oversee campaign finance via the control and audit services created within each commission. However, the law does not require them to pro-actively conduct an audit. Violation of campaign finance regulations, including for non-submission and non-publication of reports may result in financial penalties.³³ Contestants may be fined and deregistered in case expenditures are above the permitted amounts.³⁴

X. MEDIA

While the Constitution guarantees freedom of expression, the right of access to information, and prohibits censorship, these rights are severely restricted by different laws. The Law on Mass Media provides for restrictions on freedom of the media in cases of a military state of emergency and operations against religious extremism. Slander and public insult, including in social networks, are criminal offences and are punishable by up to three years of imprisonment, or up to five years if it targets the president. Moreover, the OSCE Representative on Freedom of the Media (RFoM) regularly expresses concerns about charges for grave crimes against journalists as well as about their ability to report in a free and safe manner, without fear of intimidation.³⁵ According to the Council of Europe five journalists remain in detention.³⁶

The Ministry of Transportation, Communications and High Technologies is entitled to block websites and ban media outlets based on their content without a court decision. Not all decisions of the ministry and the courts on the blocking of websites are publicly available, and there is no consolidated list of blocked websites.³⁷

Twelve television (TV) channels have nation-wide coverage. While the state broadcaster *AzTV* and the public *ITV* are funded from the state budget, according to some ODIHR EOM interlocutors some private broadcasters have excessive debts. In addition, the limited advertisement market results in the dependence of many media outlets on state funding. Some 30 private print outlets receive monthly financing from the presidential fund of state support for mass media development.³⁸ Nevertheless, circulation of print media remains low.³⁹ According to some ODIHR EOM interlocutors, state-

³² An initial report at the time of registration, an interim report between 10 and 20 days prior to election day, and a final report no later than 10 days after the publication of the final election results.

³³ For the non-submission and non-publication of financial reports fines range between AZN 1,000 to 2,000. Fines for individual donors range from AZN 100 to 500; for officials from AZN 1,500 to 2,000, and for legal entities AZN 5,000 to 7,000.

³⁴ A court decision is required for deregistering a candidate on the basis of expenditures exceeding the prescribed cap by five per cent.

³⁵ See the OSCE RFoM statements from [22 October 2019](#), [22 February 2019](#), [22 January 2019](#), [22 December 2018](#).

³⁶ See the Council of Europe [platform to promote the protection of journalism and safety of journalists](#).

³⁷ See the OSCE Representative on Freedom of the Media (RFoM) statement from [10 August 2018](#).

³⁸ See also OSCE RFoM statement from [20 February 2019](#).

³⁹ The circulation of the most widely read newspapers with political content is not higher than 8,000 copies per day.

affiliated media have easier access to information provided by official sources, than other media outlets.⁴⁰

Even though TV is still the most accessible media across the country, many interlocutors opined to the ODIHR EOM that it is mostly a source of entertainment, while social media platforms are used for seeking alternative political information. The Election Code provides for the allocation of free airtime in the public broadcaster and of space in the print media during the official campaign period only for those parties with candidates registered in more than 60 election constituencies.⁴¹ Contestants can also buy time for paid political advertising; *ITV* is the only broadcaster which has offered contestants this opportunity. Many ODIHR EOM interlocutors raised concern over the excessive cost of political advertising during the campaign.⁴²

The Election Code defines campaigning in the media as speeches, interviews, press conferences, open discussions, debates, round-table discussions, and political advertising, and TV and radio programmes. ODIHR interlocutors stated that due to such a broad definition most media outlets refrain from covering the campaign of candidates, in order to avoid accusations of unequal coverage and instead focus on the activities of the CEC.

The National Television and Radio Council (NTRC) oversees broadcast media and is empowered to grant and withdraw broadcasting licenses.⁴³ A media group under the auspices of the CEC is tasked to oversee the campaign coverage in the media and to resolve media-related issues during the campaign.⁴⁴

On 11 January, the ODIHR EOM commenced qualitative and quantitative monitoring of election-related coverage of 11 media outlets: five national and four regional TV channels, and two newspapers. The ODIHR EOM also conducts qualitative analysis of online media outlets and follows election-related content on social media platforms.⁴⁵

XI. COMPLAINTS AND APPEALS

Complaints and appeals can be filed by voters, candidates, political parties and blocs, their representatives, as well as by observers and election commissions. Decisions of election commissions can be appealed to the higher election commission, followed by the courts of appeal, and with the Supreme Court as the last instance. Complaints related to action or inaction of the CEC can be lodged directly to the respective court of appeal, based on the residency of the plaintiff. Complaints and appeals submitted more than 30 days before election day should be decided within 3 days, while those

⁴⁰ Even though journalists can challenge a refusal or a delay in the provision of information, they can only be represented in court by a lawyer who is a member of the bar. Alternatively, they can represent themselves.

⁴¹ For these elections, only YAP qualified for free airtime and space in newspapers with national coverage. On 17 January, YAP announced that it does not intend to use free airtime.

⁴² The cost per second is AZN 22-60 and 7-25 on TV and radio respectively, depending on the time it is aired. This amounts to up to AZN 3600 and 1500 per minute on TV and radio respectively (some EUR 1,900 and 795 per minute).

⁴³ The NTRC is financed by the state and all six members are appointed by the president.

⁴⁴ The Media Group consists of 4 CEC members and 15 representatives of media outlets. The latter are approved by the CEC. The head of the Media Group is elected by the Group's CEC members. During its sessions, the Media Group considers applications and complaints regarding campaign rules for media coverage. If a violation is identified by the Media Group, the CEC may launch an administrative offense procedure. As of 24 January, the Media Group had not held any sessions.

⁴⁵ Prime-time of the following TV channels: *AzTV* (state), *ITV* (public), *ATV*, *Real* and *Xazar* (private channels), as well as regional channels *ARB Kapaz*, *Dunya TV*, *Naxchivan TV*, and *Qafqaz*; newspapers: *Iki Sahil* and *Xalq Qazeti*. The ODIHR EOM also follows election-related coverage in the Azerbaijani versions of the following online outlets: apa.az, haqqin.az, turan.az.

submitted within 30 days before election day should be decided within 2 days. Complaints submitted on election day and the day after elections must be considered immediately. If additional time is required for the investigation, all aforementioned deadlines can be extended by up to three days upon commission decision.

Complaints filed to the CEC and ConECs are dealt with by internal expert groups composed of commission members and staff with a legal background. The expert assigned to a case conducts an investigation and prepares a draft decision to be considered and voted upon during the session. The CEC conducted trainings across the country for experts assigned to deal with complaints and also for a mixed group of judges serving in appellate courts and commission members.

As of 24 January the CEC received 35 complaints and adopted decisions on all of them.⁴⁶ Three of the cases related to ConECs not approving the nomination of prospective candidates based on past convictions. A further 32 complaints challenged the non-registration of candidates, 18 of which were rejected, 9 upheld, 4 partially upheld and 1 withdrawn. Adjudication deadlines were respected, however due to timelines prescribed in the Election Code several appeals were not exhausted by the start of the campaign. Two of ten appeals to the CEC against ConEC decisions on signature lists were not satisfied. Conversely, the CEC rejected 12 of 15 appeals against ConEC decisions on registration denied on the basis of incorrect or incomplete disclosure of property ownership.⁴⁷ A total of 11 appeals were submitted to the Baku Court of Appeal and 5 further to the Supreme Court. None of the 16 appeals were satisfied on merit. Overall and to date, no interlocutors raised concerns regarding the adjudication process. The ODIHR EOM is aware of a limited number of complaints submitted to the regional prosecutor offices.⁴⁸

An electronic judicial system was launched in 2014 with a view to randomly assign judges to cases. Amendments in 2017 restricted representation in all cases, including election related ones, exclusively to lawyers who are members of the Bar Association.⁴⁹ Several ODIHR EOM interlocutors stated that a shortage of lawyers in the Bar Association, especially in the regions, and recent disbarments of lawyers involved in cases of a political nature may undermine the protection of suffrage rights before the judiciary.⁵⁰

XII. ELECTION OBSERVATION

The Election Code provides for citizen and international election observation. Citizens can register to observe individually, or as representatives of non-governmental organizations working in the field of elections or as representatives of candidates and political parties. As of 24 January, 17,733 individual observers, 1,724 observers nominated by non-governmental organizations and 400 international

⁴⁶ The CEC has also received a few applications to which it has responded in writing directly to the applicant.

⁴⁷ Other grounds for appealing ConEC decisions or filing a complaint against them included: candidates missing the deadline for the submission of registration documents, inaction of ConECs, and dual citizenship.

⁴⁸ These cases pertain to pressure on candidates to withdraw from the race, and property documents falsified by state authorities.

⁴⁹ Before the amendments to the Civil Procedures Code and the Administrative Procedures Code, the law “On Advocates and Advocates’ Activity” obliged representation by a certified lawyer only in criminal courts and in all cases of the Supreme Court.

⁵⁰ See also the Commissioner for Human Rights of the Council of Europe, Dunja Mijatovic, [Report](#) following her Visit to Azerbaijan from 8 to 12 July 2019.

observers, were accredited by the CEC and ConECs.⁵¹ A total of 32,106 representatives of candidates and of 19 political parties were accredited.

While accredited observers have the right to observe the implementation of all elections related activities, including sessions of election commissions, prior to and on election day, citizen observers can observe commissions' sessions only if they seek permission from the CEC.⁵² As of 24 January the CEC reported that no citizen observers have submitted a request, and stated it would allow all interested subjects observe work of election commissions.

Several civil society organizations are engaged in election observation and conduct exit polls. Some ODIHR EOM interlocutors stated that legal provisions related to foreign funding limit the possibility of civil-society organizations to function, train and deploy observers. The Election Monitoring and Democracy Studies Center (EMDS) with significant experience in conducting election observation remains unregistered and thus without legal status. Its observers plan to be accredited individually. Some civil society organizations, besides fielding long-term and short-term observers, also offer free legal aid during the electoral process.

XIII. ODIHR EOM ACTIVITIES

The ODIHR EOM commenced its work in Azerbaijan on 6 January. The Mission has met with the representatives of the Ministry of Foreign Affairs, the CEC, candidates and representatives of political parties, media, civil society, international organisations and some resident diplomatic missions. The OSCE Parliamentary Assembly intends to deploy a delegation for election day observation. The OSCE Chairperson-in-Office has appointed Artur Gerasymov, as Special Co-ordinator and leader of the short-term OSCE observer mission for these elections.

***The English version of this report is the only official document.
An unofficial translation is available in Azerbaijani.***

⁵¹ By law, the CEC accredits all international observers as well as citizen observers who may observe in any polling station throughout the country. In addition, ConECs accredit citizens who may observe in any polling station within the respective constituency. The deadline for accreditation by the CEC is 10 days before election day, and by the ConECs – 5 days.

⁵² The Election Code stipulates that while the CEC decides by drawing lots which observers shall have the right to be present at election commission sessions, each category of observers shall have one observer with such right per commission, with up to a maximum of ten observers per commission.