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REPUBLIC OF AZERBAIJAN

PARLIAMENTARY ELECTIONS

6 November 2005

**OSCE/ODIHR Election Observation Mission
Final Report**



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I. EXECUTIVE SUMMARY

In response to an invitation by the Government of the Republic of Azerbaijan, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 5 September to observe the 6 November 2005 elections to the Milli Majlis, the Parliament of Azerbaijan. The parliamentary elections were assessed in terms of their compliance with domestic legislation, the 1990 OSCE Copenhagen Document and other international standards for democratic elections.

While there were improvements in some respects during the pre-election period, notably an inclusive candidate registration which provided for a competitive election in most constituencies and enhanced voter choice, interference from local executive authorities and media bias favoring incumbents resulted in a failure to ensure equitable conditions for all candidates. Voting was generally calm; however, the election day process deteriorated progressively during the count and, in particular, the tabulation of votes.

Two presidential decrees outlined concrete measures for improving the election process; however, such expressions of political will were devalued by the inability or unwillingness of State executive authorities to translate them into resolute action. Ultimately, local executive authorities were not held sufficiently accountable and failed to fully comply with the Presidential decrees and the underlying legislation. There were continued restrictions on the freedom of assembly, as well as harassment, intimidation and detentions of some candidates and their supporters. While the election administration took steps to improve the election process, further efforts are needed to improve the accuracy of the voter lists and implement military voting provisions in compliance with the law.

The complaints and appeals process did not provide adequate redress for shortcomings, either prior to or after election day. In particular, few effective sanctions were imposed on local executive authorities who interfered in the election process in violation of the law.

The following positive developments were noted during the pre-election period:

- An inclusive candidate registration which provided for a competitive election in most constituencies and enhanced voter choice;
- The Central Election Commission (CEC) met most deadlines with regard to technical preparations, and held regular and open meetings;
- The CEC undertook an extensive voter education campaign through the media;

¹ This report is available in Azeri language, but the English version remains the only official one.

- Following a long-standing recommendation, the CEC introduced the marking of voters' fingers with invisible ink as a public confidence building measure, although this decision was taken at a very late stage;
- A number of election commissions operated in a transparent and collegial manner, and a few issued warnings to candidates or officials for violating the law;
- Distribution of new national identification documents, not to be confused with voter cards, to most voters was a welcome development and could impact positively on voter registration for future elections;
- Candidates were able to hold numerous rallies and meetings with voters, although many opposition rallies and meetings were restricted or prevented by the authorities;
- Respect of legal provisions for free airtime on the State-funded media and televised debates generally permitted candidates to convey their messages to the electorate;
- A public service broadcaster was established prior to the elections, although this outlet demonstrated bias in its coverage of the campaign;
- The lifting of the ban prohibiting domestic NGOs which receive more than 30 per cent foreign State funding from observing elections was a welcome implementation of a longstanding recommendation, although too late for a meaningful implementation for these elections.

However, the election process revealed a number of important shortcomings including:

- Local executive authorities often interfered in the campaign, failed to act impartially and were regarded by many as serving only the interests of pro-government candidates, thereby diminishing confidence in the rule of law;
- Local executive authorities placed undue restrictions on the ability of opposition parties to conduct rallies and, on several occasions, police used disproportionate force to thwart unsanctioned rallies;
- The composition of election commissions favored pro-government candidates, undermining confidence in the impartial performance of the election administration;
- Restrictive interpretations of campaign provisions and pressure on an independent TV channel limited voters' access to diverse information;
- Over 30 per cent of constituencies deviated from legal norms regarding the number of registered voters per constituency;
- The participation of women in the election process remained limited.

Observers assessed voting negatively in a considerable 13 per cent of the polling stations visited, indicating systemic problems and/or irregularities. Attempts to influence voter choice, interference of unauthorized persons and cases of ballot box stuffing were observed. While there was a broad presence of candidate representatives and non-partisan domestic observers, there were cases of undue expulsion of candidate representatives and members of polling station election commissions (PECs) from polling stations.

A wide range of serious violations were observed during the vote count at the polling stations (in 41 per cent of counts observed) and during the tabulation of results at constituency election commissions (ConECs) (in 34 per cent of ConECs visited). Some PECs tampered with results protocols, or completed them with pencil rather than ink, and some ConECs accepted results protocols that had been tampered with. At times, unauthorized persons interfered in the count and the tabulation, and observers were intimidated. There were

frequent failures to display results protocols after the count in PEC premises, and on election night the CEC did not post polling station results on its website for public scrutiny.

The CEC failed to consider in a transparent and expeditious manner the more than 1,000 complaints filed on and after election day. On November 23, the CEC completed its final protocol without adjudicating all pending complaints. Observation of court hearings of post-election appeals and complaints indicated that procedural and evidential rules were widely disregarded. In 10 of the 125 constituencies, elections were cancelled by the CEC and the Constitutional Court. Repeat elections in these constituencies were called for 13 May 2006.

Overall, the 6 November parliamentary elections in Azerbaijan did not meet a number of OSCE commitments and other international standards for democratic elections. The authorities of Azerbaijan did not fully fulfill their obligations regarding the 1990 Copenhagen Document, in particular election-specific commitments 7.3, 7.4, 7.5, 7.6, and 7.8, and did not meet commitment 7.7. In addition, the related commitment 5.3 pertaining to the duties of public officials to act in compliance with the law was not fully fulfilled, and commitments 5.10 and 5.11 pertaining to the complaints and appeals process were not met.²

This report offers a number of recommendations for improving the conduct of elections in the Republic of Azerbaijan. The OSCE/ODIHR remains ready to support the efforts of the authorities and civil society of Azerbaijan to conduct elections in line with OSCE Commitments.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The OSCE/ODIHR EOM to Azerbaijan was established on 5 September 2005. The Mission was headed by Ambassador Geert-Hinrich Ahrens and was composed of an 18 member core team based in Baku, as well as 30 long-term observers based in 13 locations throughout the country.

Prior to deployment of the EOM, the OSCE/ODIHR undertook a Needs Assessment Mission and subsequently issued a report of its findings. During the course of its observation, the EOM issued three interim reports, and had the opportunity to discuss issues raised in the interim reports with the respective authorities.³

For observation of election day procedures on 6 November, the OSCE/ODIHR EOM was joined by 617 short-term observers, including 62 representatives from the OSCE Parliamentary assembly (OSCE PA). In addition, there were 51 representatives from the Parliamentary Assembly of the Council of Europe (PACE), 12 from the European Parliament and 11 from the NATO Parliamentary Assembly (NATO PA), who received their respective invitations from the authorities of Azerbaijan, and who participated in the joint efforts undertaken within the framework of the International Election Observation Mission (IEOM). In total, there were observers from 42 OSCE participating States. The IEOM reported from more than 2,600 polling stations out of a total of over 5,053 countrywide and covered all but

² OSCE Human Dimension Commitments, Volume 2, Page 67, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen 1990

³ All documents referenced may be found at www.osce.org/odihr-elections/15649.html

one constituency. The IEOM issued its Preliminary Statement of Findings and Conclusions on 7 November 2005.

Mr. Alcee Hastings, President of the OSCE PA and Head of the OSCE PA delegation, was appointed Special Co-ordinator by the OSCE Chairman-in-Office to lead the short-term observers. Mr. Leo Platvoet headed the PACE delegation, Mr. Michael Clapham headed the NATO PA delegation and Mrs. Marie Anna Isler-Beguín headed the delegation from the European Parliament.

In the post-election period, the EOM remained in Azerbaijan with a reduced number of experts to monitor the publication of election results and observe the resolution of complaints and appeals submitted on and after election day to the CEC and the courts.

The OSCE/ODIHR wishes to express its appreciation to the Ministry of Foreign Affairs and the Central Election Commission, as well as to other authorities, the OSCE Office in Baku, civil society organizations, international organizations, and the resident embassies of OSCE participating States, for their co-operation throughout the course of the mission.

III. POLITICAL BACKGROUND

Azerbaijan is a republic with a strong presidential system. Broad executive power is vested in the President, who appoints ministers and central and local executive authorities, all of whom are responsible to him. The Milli Majlis (Parliament) of Azerbaijan does not exercise oversight of the government's activities. According to the Constitution, the Parliament is elected every five years on the first Sunday in November.

The 6 November 2005 elections to the Milli Majlis of Azerbaijan were the third parliamentary elections held in Azerbaijan since independence in 1991, but the first conducted after the adoption of the 2002 constitutional amendments, which eliminated the proportional list component of parliamentary elections. All 125 members of Parliament are now elected in single seat constituencies, in a single round of voting.

The CEC registered 48 political parties and blocs for the 6 November elections. The New Azerbaijan Party (YAP), currently chaired by President Ilham Aliyev, has held a dominant position in government since 1993. On the opposition side there were two main blocs: "New Politics" (YeS), formed by the Movement for National Unity, the National Independence Party of Azerbaijan, the Civil Forum for the Sake of Azerbaijan, the Azerbaijan Social Democratic Party as well as other political parties and NGOs, and "Azadliq" ("Freedom"), which was formed by the parties Musavat, the Popular Front of Azerbaijan (APFP) and the Azerbaijan Democratic Party (ADP). Another party, which fielded candidates in over 60 constituencies, was the opposition Liberal Party of Azerbaijan.⁴

The elections took place in the context of the ongoing conflict with Armenia and the occupation of approximately 20 per cent of the territory of Azerbaijan. This situation has created a large number of internally displaced persons (IDPs) – approximately 800,000

⁴ According to the Election Code, political parties and blocs which register candidates in more than 60 constituencies are entitled to free time and space in the State-funded media.

according to the authorities of Azerbaijan – presenting an additional challenge for the election administration.

The OSCE/ODIHR has observed several previous elections in Azerbaijan, starting with the 1995 parliamentary elections and referendum, which were observed jointly with the United Nations. In 2000, the OSCE/ODIHR, jointly with the OSCE PA and the PACE, observed the parliamentary elections. The OSCE/ODIHR, in cooperation with other international institutions, also observed the 1998 and the 2003 presidential elections. While observers noted limited improvements in the course of past elections, observers were not in a position to report that elections in Azerbaijan were conducted in line with OSCE Commitments and other international standards for democratic elections.

IV. LEGISLATIVE FRAMEWORK

The legislative framework includes the 1995 Constitution as amended following the 2002 referendum, the unified Election Code, the Law on Freedom of Assembly, the Law on Radio and TV Broadcasting and other legislation.

The unified Election Code was adopted on 27 May 2003. It was assessed at the time by the OSCE/ODIHR and the Venice Commission of the Council of Europe as appearing to meet international standards in most respects but nevertheless requiring further amendments to meet substantial shortcomings.⁵

In June 2004 a further set of Joint Recommendations for improvement of the electoral process was issued, based on the OSCE/ODIHR Final Report on the 2003 presidential election and on the previous assessments of draft amendments to the Election Code.⁶ On 26 June 2005 the Election Code was amended, but for the most part the changes were technical and overall did not address the previous Joint Recommendations of the OSCE/ODIHR and Venice Commission.⁷

Positive aspects of the Election Code include:

- Improved provisions for candidate registration;
- Requirements for impartiality by all tiers of election commissions;
- Detailed rights and responsibilities of officials and other participants in the process;
- Enhanced transparency, particularly regarding the access of observers to the work of election commissions throughout the process.

⁵ Joint Final Assessment of the Electoral Code of the Republic of Azerbaijan, CDL 2003(54), September 2003 by the OSCE/ODIHR and the Venice Commission, at www.osce.org/odihr-elections/13447.html.

⁶ See the Joint Recommendations on the Electoral Law and the Electoral Administration in the Republic of Azerbaijan (CDL-AD(2004)016rev), 1 June 2004, by the Venice Commission and the OSCE/ODIHR at www.osce.org/odihr-elections/13447.html

⁷ See the Final Opinion on Amendments to the Election Code of the Republic of Azerbaijan, CDL-AD (2005) 029, 25 October 2005, by the Venice Commission and the OSCE/ODIHR, at www.osce.org/odihr-elections/13447.html.

However, there are a number of shortcomings in the legal framework, as identified in previous recommendations, which had an adverse effect on the conduct of the 6 November elections:

- The transitional method of composition of election commissions continued to be problematic, as it favored the incumbent authorities and undermined confidence in the independence of the election administration;
- Election Code provisions for the use of voter cards for the purposes of preventing multiple voting could only have been effective if there had been strict control and accountability in their distribution, which was lacking (see Election Administration, section V).
- The Election Code provisions regarding complaints are ambiguous, permitting procedural variations, as it is not specified where a complaint by candidates and political parties should first be initiated.
- The Law on Freedom of Assembly in practice provided local executive authorities with considerable discretion to restrict and ban election rallies and other campaign events. Despite the mandatory legal requirement of equality of conditions, independent and opposition candidates therefore remained at a significant disadvantage during the election campaign.

In addition to the election related legislation, the President issued two decrees regarding election practices.⁸ On 11 May 2005, the President issued a decree *On Improvement of Election Practices*, in which he acknowledged “mistakes and deficiencies in the sphere of elections,” and criticized unprofessional officials and members of election commissions and, in general, a “post-Soviet mentality.” In this document, the President also restated some principles for the conduct of democratic elections in eleven points, to be followed by all those involved.

On 25 October 2005 a further Presidential Decree *On Urgent Measures for the Preparation and Conduct of the Elections* acknowledged violations of the code, problems with distribution of voter cards and freedom of assembly, illegal interference by executive authorities in the election process and the misuse of administrative resources.

The 25 October decree proposed, *inter alia*, that Parliament lift the ban on NGOs which received more than 30 per cent of their funding from foreign State sources from observing elections; that the CEC provide for the use of invisible ink to mark voters’ fingers as a safeguard against possible multiple voting; that the CEC prepare guidelines on complaint procedures and deliver improved decisions on violations by candidates, including applying administrative and criminal sanctions, in cooperation with the Prosecutor General; and that the central and local executive authorities create equal conditions for freedom of assembly.

Overall, the implementation of some measures proposed in the 25 October decree, particularly at such a late stage, had only a limited impact on the pre-election process and the conduct of voting and tabulation on election day.

On 28 October Parliament passed the amendment to the Law on Public Unions and Foundations lifting the limitations on domestic observation. While too late for a meaningful

⁸ Presidential Decrees are statutory acts under the Constitution and are obligatory for all citizens.

impact on this election due to the fact that the deadline for accreditation of non-partisan domestic observers had passed and that domestic observers had been registered on an individual basis, this was a welcome implementation of a longstanding recommendation that could provide for increased transparency in future elections.

The Election Code does not provide for the possibility for citizens currently residing outside of Azerbaijan to vote in parliamentary elections.

V. ELECTION ADMINISTRATION

The election was administered by a three-tiered system of election commissions headed by the 15 member Central Election Commission. There are 125 constituency election commissions and 5137 polling station election commissions. All election commissions have a 2/3 requirement for quorum and for adopting decisions.

The transitional method of composition of election commissions continued to be problematic, as it favored the incumbent authorities and undermined confidence in the independence of the election administration. Election commissions are formed according to a complex formula, and in essence, pro-government parties have a majority in all election commissions sufficient to make all decisions. Moreover, the chairpersons of all election commissions were nominated by the parliamentary majority.

The CEC held regular meetings open to media and observers, and most decisions were published and available on its website. The CEC met most deadlines of the Election Code regarding technical preparations for the elections. An extensive voter education effort was conducted through the media.

A number of aspects of the CEC's performance were problematic, however, including processing of complaints and appeals, ensuring the uniform implementation of the Election Code by ConECs and PECs, and organization of military voting. Observers reported uncertainty and confusion on the interpretation and application of some legal and procedural issues by ConECs and PECs.

A number of election commissions operated in a transparent and collegial manner, and a few issued warnings to candidates or officials for violating the law. However, during the pre-election period, commission members nominated by opposition parties in some constituencies claimed that they were in a number of instances not informed of ConEC meetings, denied access to key documents and had little influence on the decision-making process.⁹ The OSCE/ODIHR EOM was able to verify some of these claims.¹⁰

Voter lists were prepared by local executive authorities. Voters were able to update their registration at the PEC up to 30 September, but few appeared to do so. Political parties have

⁹ EOM observers received allegations that opposition members of ConECs were not informed in a timely manner about commission sessions in constituencies 3, 5, 16, 41, 46, 59, 63, 64, 66, 76, 77, 78, 82, 89, 99, 107, and 108. EOM observers received allegations that opposition members of ConECs were denied access to commission documents in constituencies 8, 9, 12, 16, 21, 45, 63, 66, 67, 76, 82, 88, 89, 98, 101, 107 and 108.

¹⁰ E.g., ConECs 8, 9, 41, 45.

made a number of complaints to the CEC regarding inaccuracies in the voter lists. Voters could be included on the voter list through polling day, based on a court decision. Although there were no official figures available about the total number of voters added to voter lists on election day, the OSCE/ODIHR EOM received reports indicating a significant number of applications to local courts, indicating that the accuracy of voter lists remains an obstacle to voter participation.¹¹

The Election Code provides that voter cards are used as a document certifying a voter's inclusion in the voter list in a given polling station. Voter cards were also seen by the authorities as a safeguard against multiple voting. Although many PECs made a concerted effort to distribute voter cards to voters, the OSCE/ODIHR EOM observed a lack of accountability and uniformity in issuing voter cards. They were often left with third parties or in the post boxes of private residences. Cases of voter cards issued in the name of deceased persons also occurred, indicating that the required ID check did not take place in such cases. Voter cards may have contributed, however only to a certain degree, to improving the accuracy of the voter lists.

Following the 25 October presidential decree, the CEC adopted a decision, less than two weeks prior to election day, to introduce the marking of voters' fingers with invisible ink, as a safeguard against possible multiple voting. The use of ink had been a longstanding recommendation of the OSCE/ODIHR and the Council of Europe's Venice Commission, and earlier adoption of this procedure could have facilitated a smoother implementation.¹² However, the late introduction of inking, after the training of election officials had commenced, posed a challenge to the election administration in terms of training, voter education and implementation. After the decision to introduce finger inking, the CEC agreed informally not to enforce the legal requirement for voters to present a voter card in order to vote. This resulted in uncertainty on election day, with some PECs enforcing the voter card requirement while others did not.

Although the Ministry of Interior actively distributed new identification documents to all citizens, the process was clearly not finalized before election day. In response, the CEC reintroduced expired Soviet passports and "Form Number 9"¹³ as identification documents on election day in order to ensure that voters would not be disenfranchised.

The Election Code provides for a balanced distribution of voters per constituency, with up to 5 per cent variation for populated areas and up to 10 per cent for sparsely populated areas.¹⁴ Despite a number of recent changes to the boundaries of election constituencies following the yearly update of voter data, these changes did not appear to have the purpose to ensure equal suffrage. According to CEC data as of 4 November, 38 constituencies surpassed the 10 per cent limit for variations, and 14 of these were above 15 per cent.

The Election Code provides that military voting should take place in regular polling stations and should be conducted in special military polling stations set up only 5 days before election

¹¹ The American Bar Association's Central and Eastern Europe Initiative (ABA CEELI) monitored 45 of the 84 District and City Courts on election day and reported a total of 14,341 voters applying for inclusion into the voter lists at their current place of residence.

¹² Joint Final Assessment of the Electoral Code of the Republic of Azerbaijan CDL 2003(54) Sept. 2003.

¹³ Document previously used as a temporary substitute for an internal passport.

¹⁴ Article 29.3.1 of the Election Code

day only under exceptional circumstances.¹⁵ However, instead of being regarded as an exception, the creation of special military polling stations appeared to be the practice.¹⁶ The CEC delegated the responsibility for organization and conduct of military voting to the Ministry of Defense, resulting in a non-transparent process. The voting pattern in military polling stations differed significantly from that of ordinary polling stations with respect to turnout figures and the outcome of the vote.¹⁷

Nine members of parliament were to be elected from constituencies ‘in exile’ located in occupied territories. The CEC formed 487 PECs subordinated to nine ConECs that were relocated to areas where internally displaced persons (IDPs) from these territories moved following the 1991 hostilities. Some 283,000 voters were on the voter list in the IDP polling stations located either ‘in exile’ within other regions or in areas that are partially occupied.

The issue of voter registration and voting of IDPs represented a challenge to the election administration. The CEC made efforts to accommodate this group of voters, who are dispersed throughout the country. During the campaign period, the OSCE/ODIHR EOM received differing data from official institutions regarding both the number of IDPs resident in the country and the number of eligible voters among them. The issue of outdated voter lists for IDPs is partially explained by the relatively high mobility of this group and a cumbersome de-registration and re-registration system.

VI. CANDIDATE REGISTRATION

Registration of candidates was completed on 7 September. The process was inclusive and marked a significant improvement over previous parliamentary elections. Registration was granted to 2063 candidates, out of some 2148 applicants. The ruling YAP party, the opposition ALP, as well as the opposition Azadliq and YeS blocs registered candidates in more than 60 constituencies, thereby entitling them to free airtime and space in State-funded media.¹⁸

More than half the candidates were self-nominated and declared themselves ‘independent’ or ‘non-affiliated,’ although a large number of self-nominated candidates were in fact affiliated with a political party. Notably, 332 members of the YAP registered as self-nominated candidates, in addition to the 101 candidates officially registered by the party.

Refusals to register candidates appeared, in most instances, justified, but some cases raised concerns as to the protection of the freedom of belief. The Election Code prohibits clergymen

¹⁵ Article 35.5 of the Election Code.

¹⁶ According to information provided by the CEC after election day, there were 115 PECs that were dedicated to military voting, although these were not identified by the CEC.

¹⁷ Over 71,000 voters voted in the 110 PECs that the EOM was able to identify as dedicated to military voters. The average turnout in these PECs was approximately 88 per cent, as compared to the approximately 42 per cent turnout overall. In 34 of the military PECs, the winning candidate in that constituency obtained over 80 per cent of the vote. In 23 of the military PECs, there was both turnout higher than 95 per cent and more than 80 per cent of the vote for the winning candidate in that constituency.

¹⁸ YAP registered candidates in 101 constituencies, ALP in 70 constituencies, YeS in 71 constituencies and Azadliq in 61 constituencies.

engaged in professional religious activity from being candidates, based on a constitutional provision. In this context, the candidacy of the head of the Baku European Jewish Center, Mr. Zalmanovich, was rejected by ConEC 22 and the CEC, on the basis that he is a “professional clergyman”. Mr. Zalmanovich is not a rabbi, and the decision did not explain in what way he was engaged in “professional religious activity”.

In a positive step, the Constitutional Court overturned a CEC decision and a Court of Appeal ruling which had revoked the candidacy of Mr. Nuri, a candidate of the ‘For Azerbaijan’ election bloc, who was described in the bloc’s nomination papers as a representative of the unregistered Islamic Party. The court decided that the candidate’s rights had been infringed, and Mr. Nuri was reinstated to stand for the election.

Mr. Rasul Guliyev, the exiled former speaker of the Milli Majlis, was registered as a candidate. Immediately after his registration, the Prosecutor General ordered the police to execute an arrest warrant issued in 2000. The Prosecutor General issued a similar order in the case of the exiled former President Ayaz Mutalibov, following his registration as a candidate.

Mr. Guliyev is charged with embezzlement of public funds. In 2003, referring to the cases of Mr. Guliyev and Mr. Mutalibov who then stood as presidential candidates, the Legal and Human Rights Committee of the Parliamentary Assembly of the Council of Europe stated that threatening a ‘political exile’ with arrest for grave criminal charges was an unacceptable method of preventing the person from participating in a democratic election.

The number of registered candidates dropped by almost one quarter immediately before the elections. According to the CEC, as of 5 November, 476 candidates had withdrawn from the elections, 39 were de-registered by the Court of Appeal, two candidacies were cancelled by the CEC, and two candidates died.

In the run-up to the legal deadline for withdrawal, the EOM received allegations of illegal pressure exerted on candidates to withdraw in a number of constituencies.¹⁹ This pressure included threats of criminal prosecution, tax investigation and closures of businesses owned by candidates and their families.

In the same period, some 45 ConECs petitioned the Court of Appeal to revoke the registration of over 60 candidates, alleging that agents of the candidate had offered small sums of money to individual voters. It appeared that independent and non-affiliated candidates who had resisted pressure to withdraw were the main targets of such petitions. The courts de-registered over 40 candidates a few days before polling day.

In numerous respects, domestic procedural and legal norms and international best practice were violated in this process. Many de-registered candidates alleged that such petitions were politically motivated and that the last minute nature of the cases gave almost no time for defense. There were occasions when ConECs did not inform the accused candidate, preventing any response to the complaint at commission level.²⁰ The uncorroborated evidence

¹⁹ EOM observers reported such pressure on candidates from constituencies 18, 20, 25, 37, 53, 54, 58, 66, 72, 77, 99, 103, 104, and 107.

²⁰ ConEC 20, Candidate Ahmadov; ConEC 31, Candidate Nuriyev; ConEC 55, Candidate Ashrafov; and ConEC 68, Candidate Aliyev;

usually consisted of telegrams or short letters from voters. In some cases, voters retracted their evidence or denied having forwarded complaints about the candidate.²¹ At the Court of Appeal, candidates in some cases had only a few hours notice of the petition.

Despite the burden of proof, the courts in some cases de-registered candidates either in the absence of oral testimony from alleged voters or on the basis of flawed or unsupported evidence.²² In one case, the candidate's advocate was denied an opportunity to address the court by the presiding judge.²³ In another case, the ConEC chairman stated he wished to withdraw the case because the evidence had not been investigated, but the court revoked the candidacy nonetheless.²⁴ In still another case, the court refused to hear several witnesses for a candidate insisting that witnesses on both sides had to be numerically equal.²⁵ The Supreme Court allowed only one appeal from a de-registered candidate.

VII. CAMPAIGN

A. CAMPAIGN ENVIRONMENT

The election campaign began on 7 September. From the outset, all main political forces and a number of independent candidates undertook an active campaign based on posters, canvassing of neighborhoods and small meetings with voters, with local community issues dominating the agenda.

The campaign rhetoric was sometimes heated and negative, reflecting a polarized political atmosphere. The general campaign environment was characterized by the fact that the ruling YAP party dominated government and most district administrations, including the election commissions.

B. INTERFERENCE BY THE AUTHORITIES

The campaign was undermined by numerous cases of interference of local executive authorities in the election process, with widespread evidence that such interference either favored candidates associated with the incumbents or disadvantaged opposition candidates.²⁶ The OSCE/ODIHR EOM observed and received reports of detentions of opposition candidates,²⁷ their relatives²⁸ and party activists.²⁹ Further, many candidates and campaign

²¹ ConEC 118, Candidate Mammadov; and ConEC 58, Candidate Aliyev;

²² E.g. ConEC 20, Candidate Nuriyev

²³ ConEC 109, Candidate Gunduz;

²⁴ ConEC 124, Candidate Guliyev;

²⁵ ConEC 119, Candidate Bakhshaliyeva

²⁶ The OSCE/ODIHR EOM observed local executive authorities promoting candidates in Aghstafa, Aghsu, Nakhchivan, Baku, Bilasuvar, Dashkasa, Gadabey, Gakh, Gazakh, Guba, Hajiqabul, Khatai, Khudat, Kurdamir, Lankaran, Lerik, Massali, Salyan, Shamaki, Sumgayit, Tatar, Tovuz and Zagatala and received similar allegations from other areas.

²⁷ For example, Candidate Abdullayev, constituency 119, was detained for attempts to organize a protest against the closure of a radio station in Shaki; and Candidate Allahverdiyev, constituency 33, was detained on 16 October. Candidates enjoy immunity under article 151 of the Election Code and can only be detained or arrested if caught in an act of crime (art. 70.4).

²⁸ For example, relatives of candidates were detained in constituencies 36, 37, and 40, and in some instances put under pressure to persuade candidates to withdraw.

staff were harassed during the course of their campaign activities, for example, while meeting with voters, displaying posters or distributing leaflets.³⁰ Restrictions on freedom of movement were often imposed during the campaign period.³¹

Provisions of gifts and services to voters are prohibited.³² However, such illegal campaigning by candidates was widely observed and often appeared to be regarded as legitimate campaign activity. On 3 October, Lider TV showed the YAP National Executive Chairman (and candidate in constituency 19) distributing 20 TV sets to a home for elderly people. In other constituencies, candidates financed repairs of roads or residential buildings. Opponents often made formal complaints against such activities to authorities, who did not always take steps to ensure compliance with the law.³³

The OSCE/ODIHR EOM observed cases of abuse of administrative resources such as the use of offices, vehicles and employees for campaign purposes.³⁴ The EOM received a number of reports from citizens, particularly from the regions, regarding heads of schools, hospitals and State-owned companies who collected signatures that allegedly obliged staff to vote for selected candidates. The OSCE/ODIHR EOM also received reports of intimidation and coercion of school staff, students and parents to attend campaign events, predominantly in favor of YAP candidates.³⁵

The 11 May and 25 October presidential decrees acknowledged many such issues and provided instructions to state and local executive bodies, with a view to ensuring that the parliamentary elections be conducted in full compliance with the Election Code. While the decrees addressed some of the shortcomings observed by the OSCE/ODIHR EOM, the overall lack of meaningful implementation undermined their objectives.

C. FREEDOM OF ASSEMBLY

Despite the 11 May Presidential Decree instructing local executive authorities to ‘take necessary measures to ensure freedom of assembly,’ the opposition often faced

²⁹ Four ADP and APF representatives were detained in Ganja following their participation in an authorized opposition rally in Baku on 10 September. Detentions of opposition campaign staff or candidate proxies while displaying posters took place in Baku, Sumgayit, Ganja and Ismayilli (constituencies 10, 21, 24, 40 and 86).

³⁰ Candidate Mustafayev, constituency 21, was detained by police while canvassing; Candidate Mammadov, constituency 25, was detained during the 17 October non-authorized rally in Baku; and candidate Babali, constituency 87, was detained on 26 October during a rally in Aghsu.

³¹ Police harassment of opposition supporters and candidates on their way to attend rallies were reported from Balakan, Barda, Gadabey, Ganja, Guba, Lankaran, Nakhchivan, Salyan, Shamaki, Siyazan and Sumgayit.

³² Article 88.4.1, Election Code.

³³ For example, in constituency 24, a company linked to a candidate carried out residential renovations. The ConEC issued a warning to the candidate following repeated complaints from opponents. No further action was taken, although the renovation work continued.

³⁴ Candidates were observed misusing administrative resources for campaign purposes in constituencies 2, 6, 13, 16, 32, 105, and 113. All were official YAP candidates or independents who were YAP members,

³⁵ For example, on 28 October, school headmasters in the Lankaran area ordered teachers to interrupt classes and take students to attend a concert/YAP rally. Buses were provided. There were similar reports about headmasters interrupting classes and requesting participation of teachers in campaign in constituencies 2, 4, 34, 56, 61, 75, 85, 86, 108 and 112.

disproportionate restrictions from the authorities in its attempts to hold rallies in central Baku and central locations in regional cities.³⁶ Under the law on Freedom of Assembly, restrictions and bans on rallies must be ‘highly needed’ and ‘a measure of last resort’ to be justified. Although the opposition made complaints about restrictions on rallies to election commissions, it did not challenge them in the courts.

Dialogue between the opposition and the government on the issue of provision of an appropriate venue for opposition rallies became deadlocked early in the campaign. Requests made by the Azadliq bloc to organize rallies in the center of Baku were refused by the Mayor’s office. Subsequently, Azadliq organized unsanctioned rallies despite repeated announcements by law enforcement bodies that illegal meetings would be dispersed by police.

Attempts to hold rallies in Baku on 25 September, 1 October, 9 October and 23 October were broken up with violence by police in riot gear supported by numerous plain-clothed persons presumed to be policemen. On 9 October, the OSCE/ODIHR EOM observed several instances of disproportionate and unprovoked violence, including a police attack on a café where people were beaten with truncheons and dispersed. Numerous injuries were reported, while participants and candidates were arrested or detained for several hours.

On 23 October, Azadliq attempted to hold smaller rallies in the city center of Baku. Police arrested a number of passers-by on a main shopping thoroughfare on the grounds that they were “suspected” of being Azadliq supporters. The OSCE/ODIHR EOM observed at least 60 to 80 people temporarily detained in buses. Police officers at the scene told EOM observers that these people would be later taken to a police station or driven to the city outskirts to be abandoned there. However, Baku police later officially informed the EOM that only 15 persons had been arrested and denied that other detentions had taken place.

In the regions, Azadliq supporters met with voters, but often under close surveillance by the police. The OSCE/ODIHR EOM confirmed that even authorized Azadliq rallies and meetings with voters were in several instances obstructed (Gazakh, Aghstafa) or dispersed (Ganja). In one instance, the Azadliq rally was banned (Aghjabedi). The EOM observed roadblocks between Tovuz and Gadabey, and in the Balakan region, which had been established by local police apparently to control and prevent attendance at the Azadliq meeting. The 25 October Presidential Decree acknowledged such developments and charged the Ministry of Internal Affairs to create all necessary conditions for the pre-election campaign on the basis of the law.

In expectation of the announced return of its exiled leader and registered candidate, Mr. Rasul Guliyev, the ADP called on its supporters to meet him at the airport. The authorities mounted a security operation throughout Azerbaijan and announced that he would be arrested if he returned. A number of people were arrested or detained throughout the country, or arbitrarily prevented from traveling to Baku. Mr. Guliyev’s plane did not land in Azerbaijan but landed

³⁶ According to information released by the Ministry of Internal Affairs on 3 November, candidates conducted a total of 22,704 small ‘meetings with voters’, and authorities granted permission to 38 ‘mass meetings’ or rallies out of 74 requested during the campaign. According to this information, 16 requests came from candidates of ‘pro-government’ parties, 47 from candidates of ‘opposition’ parties, and 11 from ‘independent’ candidates.

in Ukraine instead. In the aftermath of these events, two ministers and other high-ranking officials were dismissed and arrested for alleged conspiracy in the planning of a coup d'état. The intimidation of those who responded to opposition calls to go and meet Mr. Guliyev in Baku continued following the event.

On 4 November, police searched the campaign headquarters of Mr. Ali Kerimli, candidate and leader of the opposition APFP, and briefly detained his campaign manager. On 5 November, a similar search was conducted of the campaign headquarters of Mr. Guliyev, and two campaign staff members were detained.

VIII. MEDIA

A. BACKGROUND

There are currently more than 700 media outlets in Azerbaijan. Of these, most are registered print media outlets, and there are 27 electronic media (including 9 radio, 18 national and regional TV companies). However, television is the main source of information for most of the population. Only the State-funded television network AzTV covers almost the entire territory of the country (95 per cent). Following joint recommendations from the Council of Europe and the OSCE Representative of the Freedom of Media, a public service broadcaster (Public TV or ITV) was established. It began broadcasting on 29 August 2005, although its coverage is less extensive than that of AzTV. The privately owned TV channels, Lider TV and Space TV, reach more than 60 per cent of the country. Other private channels include ANS and ATV.

Newspaper coverage is largely limited to urban areas, and most newspapers have a small circulation. The print media are pluralistic, if not objective and balanced, offering a range of views. Some newspapers offer relatively balanced coverage of political views.

A number of domestic interlocutors and international media organizations raised concerns prior to the election about freedom of the media in Azerbaijan. In their opinion, all the main TV channels favor Government policy positions, and often provide airtime only for limited viewpoints. The March 2005 assassination of a prominent journalist has remained unsolved, further affecting the media community.³⁷

B. LEGAL FRAMEWORK FOR THE MEDIA

Article 47 of the Constitution guarantees freedom of thought and speech, and article 50, as well as the law on mass media, provides for freedom to seek, receive, and disseminate information by mass media. The Election Code provides detailed regulations for the electronic and print media during the pre-election campaign, providing for, *inter alia*, allocation of free time and space on the State-funded media for political parties and blocs which registered candidates in more than 60 constituencies, rules for paid political advertising, regulations that the State-funded media cannot campaign for or against any

³⁷ On the March 2005 assassination of editor and journalist Elmar Huseynov, see the report of the OSCE representative of Freedom of Media on the assessment visit to Azerbaijan, 14 July 2005, available at www.osce.org/documents/rfm/2005/07/15783_en.pdf.

candidate, and provisions requiring equal access for candidates, political parties or blocs. To supplement the provisions in the Election Code, the CEC adopted a decision on 7 September to further regulate the campaign in the media.

As part of this decision, the CEC established a special working group on the media composed of CEC members and journalists from various media outlets to assist in overseeing compliance with the media related provisions of the Election Code. The working group reported to the OSCE/ODIHR EOM that it met for a total of four times during the election campaign and that its last meeting took place in late September 2005, more than one month before election day. The CEC also informed the EOM that it was undertaking its own media monitoring, but neither the methodology nor the results were published.

News coverage of the campaign suffered from a restrictive and inconsistent interpretation of legal provisions. The CEC's interpretation of the campaign provisions appeared to have led to some confusion between the media's role in providing information about candidates and actual campaigning on their behalf. The CEC maintained the position that if any candidate were to be interviewed during daily news coverage, then all candidates would have to be given airtime if the legal requirement for equal conditions were to be observed. This did not limit intensive coverage of work of state officials, most notably the President.

The regulatory body in charge of overseeing the broadcast media is the National TV and Radio Council, consisting of nine members appointed by the President.

C. MEDIA MONITORING

The OSCE/ODIHR EOM monitored six TV channels and five daily newspapers, using a well-established methodology of quantitative and qualitative analysis.³⁸ The monitoring exercise ran from 7 September through 5 November, the entire period of the campaign. The EOM sought to evaluate whether the media provided impartial and balanced coverage of political contestants and campaign issues.

The results of the OSCE/ODIHR EOM media monitoring demonstrate that the newscasts of State-funded television channels did not give equal or equitable coverage to the main political parties and blocs,³⁹ thereby failing to meet their obligation under the Election Code to provide equal access.⁴⁰ 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 the candidates and political parties.

The State-funded media monitored by the OSCE/ODIHR EOM distributed free airtime and space in accordance with legal requirements, which enabled the four eligible political parties and blocs to convey their messages. Regular televised debates, although somewhat limited by the format, gave the parties further opportunities to inform voters of their views. However, outside the free time, all monitored electronic media, through prime time news coverage, favored the authorities and pro-government candidates.

³⁸ Television: State-funded AzTV and Public TV (ITV), Private Lider TV, Space, ATV and ANS. Newspapers: (State) Azerbaijan, Respublika, Halq Gazeti; (Private) Yeni Musavat, Zerkalo.

³⁹ Media monitoring charts are available at www.osce.org/odihr-elections/15649.html

⁴⁰ Articles 69.1 and 77.1 Election Code

As recipients of public resources, State-funded media have an enhanced duty to ensure balanced and fair treatment of candidates. In its prime time news and current affairs programs, however, the State TV channel AzTV demonstrated clear bias. During the campaign, AzTV provided 97 per cent of its political and election prime time news coverage to the activities of the President, the presidential administration, the government and the YAP. This coverage was overwhelmingly positive in tone. In contrast, the news programs on AzTV largely ignored activities of opposition candidates.

Public TV (ITV) also devoted most of its prime time news coverage to the incumbent President, the presidential administration, the government and the YAP. This coverage was almost exclusively positive or neutral in tone. The opposition election bloc Azadliq received 20 per cent of prime time news coverage, 47 per cent of which was of a negative tone and 3 per cent was of a positive tone, with the remaining 50 percent being neutral. Public TV offered more information than AzTV through its political and analytical programs. On a positive note, both Public TV and AzTV devoted much more than the prescribed time to voter education programs.

Privately owned Lider TV, Space TV and ATV demonstrated a pattern very similar to the one of Public TV. The OSCE/ODIHR EOM monitoring showed that Lider TV devoted 78 per cent of its political and election prime time news coverage to the President, the presidential administration, the government and the YAP, of an overwhelmingly positive tone. During the same period, the opposition bloc Azadliq received 22 per cent of such airtime, which was overtly negative in tone. Lider TV also produced some prime time news items and programs discrediting opposition candidates.

The private broadcaster ANS generally provided more balanced coverage of the campaign; however, the channel's potential audience is far less than that of the other networks.

The print media provided a plurality of views but often supported specific political parties or blocs. As such, voters had access to diverse views if they read several publications. State-funded newspapers distributed free and paid advertising space to candidates equally but were openly biased in their political and election coverage in favor of the incumbent political forces. For example, "Azerbaijan" allocated 97 per cent of its political and election coverage to the President, the government and the YAP, of an overwhelmingly positive tone. The two other monitored State-funded newspapers adopted a similar pattern.

In sharp contrast, the newspapers presenting opposition viewpoints offered a platform to opposition candidates and criticized the ruling forces. *Yeni Musavat* allocated 83 per cent of its coverage to Azadliq with a heavily positive slant. In contrast, the YAP was given only three per cent of overwhelmingly negative coverage.

D. FREEDOM OF THE MEDIA

Physical attacks on journalists were fewer than during previous elections, although problems persisted. There were several cases of assaults on or detentions of journalists covering election related events. For instance, during the 9 October opposition rally, unidentified individuals physically attacked and injured a *Zerkalo* journalist, clearly identified by a blue Press jacket.

The possibility for opposition candidates to conduct their media campaigns was confined to free and paid political advertising. Political advertising was less expensive than in previous elections, which gave candidates increased opportunities to present their messages to the voters. However, on 17 October AzTV stopped live broadcasts by Azadliq candidates, alleging that some broadcasts had included incitements to change the government by force and requiring all broadcasts to be pre-recorded in order to be checked for content. Azadliq complained to the CEC that this violated equal campaign conditions since live broadcasts from other candidates were shown without restrictions. The CEC did not consider or adjudicate this complaint but referred the case to its media working group.⁴¹ AzTV lifted the ban on showing live campaign broadcasts by Azadliq after three days.

On 30 September, the National TV and Radio Council ordered ANS to shut down its local radio branch in Shaki, claiming a separate license was needed for transmission of a daily 30-minute program produced in Shaki.⁴² Although the Minister of Communications stated that the ANS programs were in conformity with law, ANS complied with the Council's order after the Council warned the channel that its national license might be revoked. The forced closure of a media outlet without a court decision during an election campaign is a development of concern.

The Council also sent a warning to ANS on 25 October, claiming that the total amount of paid broadcast time per week should not exceed 6 hours. In so doing, the Council appeared to have overstepped its authority, since the Election Code restricts the amount of paid broadcast time only for State-funded broadcasters.⁴³ Moreover, under the Law on Radio and TV Broadcasting, the CEC bears the responsibility of overseeing the allocation of free and paid broadcast time.

IX. COMPLAINTS AND APPEALS PRIOR TO ELECTION DAY

In its 2003 Final Report, OSCE/ODIHR recommended that the CEC enact clear regulations governing the consideration of complaints and appeals. Similarly, it was recommended that safeguards be instituted to ensure that local executive authorities do not interfere in the electoral process or direct the work of the election commissions. These recommendations were not implemented and this had a significant and detrimental effect on the election complaints process.

The Election Code envisages most complaints being filed with election commissions, but the law also allows complaints to be lodged with the superior election commission, with decisions in all cases to be made within a three-day deadline. In a large number of cases, candidates lodged complaints directly with the CEC, by-passing the respective ConEC even where the ConEC had not yet brought a decision on the respective complaint. This indicated a lack of confidence in the neutrality of the constituency commissions. The CEC formally registered all such complaints, but in the vast majority of cases merely returned them to the relevant ConEC for its decision, even where the ConEC had already made a prior decision.

⁴¹ The CEC media working group was not convoked on this occasion.

⁴² The program offered local news and debates among the candidates.

⁴³ See Article 78 Election Code.

The Code provides that ConECs should investigate complaints in a transparent manner, but the CEC did not provide lower level commissions with guidance on how to investigate and resolve serious complaints. The CEC adopted a complaints procedure only on 1 November and only after belatedly accepting a longstanding offer of assistance from the Venice Commission.

In many cases, ConECs did not decide complaints within the three-day deadline or issue an interim decision. Although some ConECs did try to adjudicate complaints in a transparent way, a number of ConECs addressed complaints belatedly and superficially.⁴⁴ There were cases in which ConECs claimed not to have received complaints, when it was clear they had done so,⁴⁵ did not sanction PEC officials who had discriminated against candidates,⁴⁶ failed to notify candidates or observers when complaints were discussed or simply ignored complaints.⁴⁷ The OSCE/ODIHR EOM is not aware of any case in which a ConEC prepared a protocol of administrative offences and other penalties.⁴⁸ In numerous cases, commission chairpersons were clearly biased in favor of YAP or pro-government candidates, and complaints from opposition or independent candidates in these constituencies did not receive impartial adjudication.⁴⁹

Overall, the failure of election commissions, and subsequently in some instances the prosecutors, to address or rectify serious violations by local executive authorities and candidates had a marked and negative impact on the election process. Although some ConECs did issue written warnings to candidates and local executive officials, most violations during the campaign were allowed to take place without effective sanction. This further reduced confidence of candidates in the fairness of the process.

Senior government officials confirmed to the OSCE/ODIHR EOM that local executive authorities continued to interfere with the election process, and this was recognized by the President in his 25 October decree. A quarter of the more than 550 complaints registered before polling day with the CEC concerned violations and interference by local executive authorities and other state bodies on candidates and election commissions.⁵⁰ The EOM observed that most ConECs were unable to resist pressure or undue influence.

Prior to election day, the CEC referred seven cases to the Prosecutor General in which allegations were made of interference by local executive authorities. However, the Prosecutor General's office claimed that the CEC had to first investigate and decide the complaints itself. The reluctance by either body to address these cases highlighted the impunity of local executive authorities who acted contrary to the law before polling day.

⁴⁴ E.g. ConEC 11, 21, 33, 43, 45, 52, 54, 55, 58, 56, 62.

⁴⁵ E.g. ConEC 29, 63, 71, 73, 76, 77

⁴⁶ E.g. ConEC 4

⁴⁷ E.g. ConEC 3, 43, 55, 20, 66, 63

⁴⁸ Article 116, Election Code.

⁴⁹ E.g. ConEC 1, 4, 21, 33, 66, 90.

⁵⁰ On 30 September, the chairperson of ConEC 86 resigned explaining that he had been under pressure from the local executive authorities. Subsequently, other members reported to the EOM that they were threatened or offered bribes to vote for the new chairperson.. On 20 October, several PEC chairpersons in one constituency reported to the EOM that they were under pressure by the ConEC chairperson and the deputy head of the rayon to provide a certain election result. On 1 November, the chairperson of another ConEC reported to the EOM that he was under considerable pressure from the local executive authorities to de-register a candidate.

X. PARTICIPATION OF WOMEN

Women are generally underrepresented in the political life of Azerbaijan. Women enjoy equal rights under the Constitution, but there are no specific measures to promote the participation of women in elections. The outgoing parliament had 14 women deputies. There are no women among the 18 cabinet ministers in government.

The abolition of the party list component of the electoral system and transition to a plurality electoral system could diminish chances of women candidates to be elected. Only 214 of the 2063 candidates initially registered were women. This number decreased to 167 as 45 women candidates withdrew before election day, some allegedly under pressure. More than half of female candidates ran as independents. Few women were nominated by opposition parties.

The level of women's participation in higher levels of the election administration is low. There are 2 women among the 15 members of the CEC. Women made up 13 per cent of ConEC members, and of the 125 ConEC chairpersons only three are women. Women are better represented at the PEC level, approximately 25 per cent, including 26 per cent in the position of chairperson.

Women's issues were rarely mentioned in the campaign, and the participation of women voters in campaign events was extremely low (estimated at five per cent on average). The media did not provide most women candidates with the possibility of presenting themselves and their agendas, as in total only 3 per cent of the coverage was dedicated to them (AzTV gave six per cent of the coverage to women candidates).

The practice of family voting, observed in 19 per cent of polling stations visited by the IEOM, undermines the right of women to cast their vote in secrecy.

According to preliminary election results, 15 women will be represented in the new parliament, marking only a marginal improvement in women's representation from the previous composition of Parliament.

XI. PARTICIPATION OF MINORITIES

Azerbaijan has several minority groups, including Lezgins, Russians, Armenians, Talysh, Avars and others. Minority issues did not appear to be a significant factor in the election process. Several candidates produced campaign materials in minority languages, notably in Russian and in Talysh, with a few candidates targeting the minority vote in constituencies in which members of a minority community were concentrated.

One Russian, one Talysh and one representative of the Jewish community in Guba were elected as members of the new parliament.

XII. DOMESTIC NON-PARTISAN OBSERVERS

The Law on Public Unions and Foundations was amended on 28 October to lift a ban on observing elections by domestic non-partisan NGOs that receive more than 30 per cent of their funding from foreign State sources. This was a welcome implementation of a longstanding recommendation of the Council of Europe's Venice Commission and the OSCE/ODIHR. Prior to 28 October, NGOs subject to this restriction could conduct observation only through a cumbersome process of supporting the accreditation process for individuals. Although the amendment came after most domestic observers had already registered, thus having little practical effect for this election, the amendment was nevertheless a step towards increasing confidence in the election process and will facilitate future domestic election observation efforts.

The Election Monitoring Center (EMC), a confederation of 10 NGOs conducting domestic non-partisan election observation, deployed a long-term domestic observation effort. Several NGOs, including EMC, For the Sake of Civil Society, and the Coordinating Advisory Council for Free and Fair Elections deployed large numbers of short-term domestic, non-partisan observers on election day. In a welcome development, IEOM observers found that domestic non-partisan observers were present in 97 per cent of polling stations visited. However, they were only present in 40 per cent of ConECs visited during the tabulation process.

In general, the registration process of domestic observers did not raise major concern. However, EMC reported three cases where staff were asked to appear before the police and were questioned on their activities or asked to provide police with lists of trainees. The EMC central office was visited by the police on 26 October and the next day, the Baku district coordinator was detained and released after questioning.

XIII. ELECTION DAY

A. VOTING

For the election on 6 November, 5,053 polling stations were established to serve voters across Azerbaijan. IEOM observers visited over 2,600 polling stations throughout the country. Voter turnout as reported by the CEC was 42.2 per cent,⁵¹ which is significantly lower than in previous general elections.⁵²

Most IEOM observer teams reported that polling stations generally opened without delay. However, serious deviations from correct opening procedures, including failure to establish and announce the total amount of ballots and invalidate de-registration cards, took place in a number of polling stations. The opening was assessed as 'bad' or 'very bad' in 14 per cent of polling stations visited.

Overall, IEOM observers assessed voting positively in 87 per cent of polling stations visited, while voting was assessed negatively in a considerable 13 per cent of polling stations visited,

⁵¹ Turnout was 46.6 per cent prior to the cancellation of results by the CEC and ConECs.

⁵² According to the CEC website, turnout was 71.23 per cent in the 2003 presidential election, 71.33 per cent in the 2000 parliamentary elections and 79.18 per cent in the 1998 presidential election.

indicating systemic problems and/or irregularities. Voting was conducted in a generally calm atmosphere, although tension was reported at 14 per cent of polling stations visited. Serious violations of procedures included the presence of unauthorized persons, mainly representatives of local executive authorities, in 9 per cent of polling stations visited. Some of these persons were observed interfering in the work of the election commission or attempting to influence voter choice. The IEOM observed intimidation and attempts to influence voter choices in 6 per cent of polling stations visited. Other serious problems included cases of ballot box stuffing⁵³ and inconsistent application of voter card rules, which was observed in one third of polling stations visited. Group or family voting remained an issue, as it was observed in 19 per cent of visits. Although relatively few people voted by mobile voting procedures, IEOM observers noted some cases in which more votes were cast than there were applications for ballots.

Inking procedures, in particular the checking of voters' fingers for ink, were not properly followed in 11 per cent of polling stations visited, with several PECs not applying the inking procedure at all. This indicated that the late introduction of inking was a significant challenge to the election administration in terms of training, voter education and implementation.

Candidate representatives and non-partisan domestic observers were present in nearly all polling stations visited (97 per cent). However, there were observations of candidate representatives and PEC members being expelled or dismissed from polling stations in some cases.⁵⁴ The IEOM observed local executive officials and observers of YAP candidates interfering in or directing the process, or otherwise attempting to influence voters.⁵⁵ The presence of video cameras filming in polling stations⁵⁶ and in some instances individuals, including exit pollsters, attempting to influence voter choices or identify voters with their votes,⁵⁷ appeared intimidating to voters.

⁵³ Ballot box stuffing or other fraudulent inflation of the vote was directly observed by the IEOM in ConEC 5, PEC 15; ConEC 11, PEC 3; ConEC 14, PECs 5, 12, 22; ConEC 46, PEC16; ConEC 60, PS 17; ConEC 62, PS 5; ConEC 75, PS 26; ConEC 88, PEC 18; and ConEC 123, PEC 45. IEOM observers reported indications that ballot box stuffing had taken place before their arrival from a further 28 polling stations visited.

⁵⁴ Candidate observers dismissed in ConEC 19, PEC 5; ConEC 33, PEC 19; ConEC 39, PEC 2 (Azadliq observer); and ConEC 75, PEC 32 (four candidate observers expelled by local executive official and police). PEC members dismissed in ConEC 39, PEC 6 (PEC member nominated by APFP); and ConEC 77, PEC 19 (PEC member nominated by Musavat).

⁵⁵ IEOM observers noted attempts to influence voter choice, by YAP candidate representatives, in ConEC 8, PEC 30; ConEC 10, PEC 16; ConEC 13, PEC 5; ConEC 34, PEC 13; ConEC 42, PECs 30 and 46; ConEC 57, PEC3; ConEC 62, PEC 7; ConEC 65, PEC 19; ConEC 75, PEC 2; ConEC 87, PECs 6, 9, 31, 48 and 49; ConEC 88, PECs 4, 5, 6 and 26; ConEC 100, PEC 40; ConEC 108, PEC 19; ConEC 113, PEC 16; and ConEC 116, PEC 1; by unauthorized local authority officials, in ConEC 55, PEC 24; ConEC 74, PECs 4 and 10; ConEC 75, PEC 14; ConEC 86, PEC 55; ConEC 100, PEC 29; ConEC 107, PEC 29; and ConEC 123, PECs 31, 33 and 36; by PEC members or Chairs, in ConEC15, PEC 15; ConEC24, PEC25; ConEC 47, PEC 29; ConEC 55, PEC 9, ConEC 65, PEC 15; ConEC 76, PEC 14; ConEC 77, PEC 3; ConEC 99, PEC 29; and ConEC 105, PEC 26.

⁵⁶ Intimidating filming of voters, at times even inside the ballot booths, by local executive officials were observed in ConEC 30, PEC 103; ConEC 33, PEC 29; ConEC 39, PECs 2 and 3, ConEC 46, PEC 29; ConEC 68, PEC 5; ConEC 70, PEC 6; ConEC 75, PECs 13 and 14; ConEC 76, PEC 22; ConEC 105, PEC 4; ConEC 106, PEC 16; ConEC 108, PEC 2; ConEC 113, PEC 16; and ConEC 125, PEC 26.

⁵⁷ Observed by IEOM in ConEC 77, PEC 5 and several polling stations in Constituency 34.

Inadequate voting premises (15 per cent) frequently resulted in overcrowded polling stations (14 per cent). Problems with inadequate premises were greater in polling stations designated for IDPs than in regular polling stations. Some 43 per cent of all polling stations were assessed as inaccessible for disabled persons.

B. COUNTING

IEOM observer teams were present at the count in 231 polling stations. The conduct of the election day process deteriorated sharply during the count. IEOM observers assessed the ballot counting process as bad or very bad in 41 per cent of counts observed.

IEOM observers noted a wide range of serious violations during the count, including tampering with results protocols (12 per cent), result protocols not completed with ink (14 per cent), intimidation of observers (16 per cent) and unauthorized persons directing the process (14 per cent). Key procedures were not followed by more than one third of PECs.⁵⁸ In some polling stations, the IEOM observed attempts by PEC members to inflate the vote for a selected candidate by swapping ballot papers from one stack to another.⁵⁹ Candidate representatives or opposition-nominated PEC members were expelled from the count in a number of cases.⁶⁰ In some cases, the count was interrupted and the process significantly delayed, in breach of the law.⁶¹ In several cases, protocols were not completed in the presence of observers, were left blank,⁶² or were not taken directly to the ConEC.⁶³ The results protocols were not posted as required by law in 55 per cent of the counts observed.

Observers reported that entitled persons received the signed and stamped copies of the protocol in only 83 per cent of the polling stations observed.

⁵⁸ One in four PECs observed did not count signatures on the voter lists; one in five did not count and cancel unused ballots; one in three did not stamp the reverse side of valid ballots; 29 per cent of PECs did not treat disputed ballots in a consistent manner; 66 per cent of PECs did not indicate the reason for invalidation on the reverse side of invalid ballots.

⁵⁹ Observed in ConEC 22, PEC 18; ConEC 30, PEC 1; ConEC 33, PEC 18; ConEC 85, PEC 12; and ConEC 107, PEC 5. The violations in most cases benefited candidates affiliated with YAP.

⁶⁰ ConEC 4, PEC 24 (PEC Secretary expelled by police on PEC Chair's request after protesting Chair's refusal to count and invalidate unused ballots)

⁶¹ ConEC 18, PEC 10; ConEC 30, PEC 1; ConEC 36, PEC 12; ConEC 40, PEC 7; ConEC 85, PEC 12 (pre-signed protocol completed after most PEC members had left), ConEC 107, PEC 24.

⁶² ConEC 8, PEC 3 (chair disappeared, no protocol signed); ConEC 9, PEC 20 (no protocol completed); ConEC 11, PEC 30 (PEC Chair left for ConEC with blank protocol); ConEC 13, PEC 23 (PEC Chair locked himself in adjacent room and did not allow observation of the completion of the protocol); ConEC 22, PEC 2 (PEC Chair disappeared with a blank copy of the protocol); ConEC 22, PEC 4 (Chair stopped by domestic observers when leaving the polling station with blank but signed protocol); ConEC 25, PEC 11 (final counting procedures and completion of protocol behind closed doors); ConEC 27, PEC 14 (PEC Chair and three members locked themselves in a room with the ballot box); ConEC 38, PEC 4 (PEC Chair disappeared). Blank protocols were further observed in ConEC 2, PEC 7; ConEC 33, PECs 17, 19, 26, 27 and 29; ConEC 65, PEC 14; ConEC 94, PEC 3; ConEC 100, PEC 11, ConEC 112, PEC 30.

⁶³ ConEC 14, PEC 12 (PEC Chair took the protocol and ballots to the building of the local executive authorities); ConEC 94, PEC 3 (PEC Chair disappeared on the way to the ConEC); ConEC 99, PEC 36 (protocols taken to the building of the executive committee). In ConEC 100, all PECs were first referred to the local executive authority where protocols were checked, corrected and then brought to the ConEC.

C. TABULATION OF RESULTS

The tabulation of results at constituency level was, overall, assessed as bad or very bad in 34 per cent of the 90 ConECs visited. Tabulation procedures were not followed consistently, and the organization of the work was assessed as poor or very poor in 21 per cent of cases observed. Several ConECs accepted empty or only partly completed protocols (including protocols completed with pencil) and did not take action against PEC chairs or members completing or changing protocols at the ConEC. In ConEC 85, IEOM observers reported that the chair and secretary of the ConEC together with PEC chairs actively took part in tampering with PEC protocols.

The presence of domestic non-partisan observers was noted in only 40 per cent of ConECs visited, and candidate representatives were present at two thirds of ConECs visited. Unauthorized persons were present at one in six ConECs visited.

XIV. ANNOUNCEMENTS OF RESULTS AND POST-ELECTION DEVELOPMENTS

Although constituency aggregate results were made available within the legal deadline, detailed results by polling station were only released on 10 November, four days after the election, despite the computer networking of all ConECs with the CEC. This made it difficult for candidates and observers to check that results had been reported accurately. Protocols from two constituencies, 9 and 42, were never posted publicly.

Under the Election Code, the CEC had 20 days to complete the review of results protocols and to pass them to the Constitutional Court for the final validation of the election results.⁶⁴ The CEC began reviewing results protocols at its November 7 session and held seven sessions before adopting its final protocol on the election outcome on 23 November by a vote of 11 to 4, although two of the four dissenters later signed the protocol. The CEC adopted the protocol before considering all pending complaints and appeals.

The CEC invalidated the results of four constituencies⁶⁵ under Article 170.2 of the Election Code, which states that if a ConEC or the CEC cancels more than 2/5 of PECs representing more than 1/4 of the total electorate in a constituency, then the entire constituency result is considered invalid. The CEC also cancelled 292 PEC results in 77 additional constituencies, but this did not trigger invalidation of an entire constituency result. Including the 37 PEC results that were cancelled by ConECs on election night, a total of 461 PEC results had been cancelled by 23 November. The CEC dismissed all members of six ConECs⁶⁶ and 108 PECs in 14 constituencies in connection with invalidation of election results.

On 1 December, the Constitutional Court cancelled an additional 164 PEC results, which required invalidation of the results in six more constituencies under Article 170.2.⁶⁷ In total, 625 PEC results or 12.2 per cent of the total number of PEC results were cancelled by

⁶⁴ Article 171.1, the Election Code.

⁶⁵ Constituencies 9, 38, 42 and 110

⁶⁶ ConEC 9, 38, 42, 110, 119, and 125.

⁶⁷ The Constitutional Court cancelled constituencies 31, 44, 69, 103, 106 and 119.

election commissions and courts, overall affecting 88 constituencies. Repeat elections for the 10 constituencies in which results were cancelled have been called for 13 May 2006.

At least three heads of local executive authorities⁶⁸ and two ConEC chairpersons⁶⁹ were dismissed after election day for involvement in electoral malfeasance. The two ConEC chairpersons were arrested and charged with forging election documents. Another 6 ConECs were dismissed in their entirety, and 108 PECs were dismissed. The CEC forwarded materials on possible criminal violations to the Prosecutor General's Office regarding 29 PECs. While this indicates a recognition on the part of the authorities on the need to address electoral violations, further steps would be necessary to address the issue comprehensively.

On 9, 13 and 19 November Azadliq organized and received permission to hold rallies at the Galaba Square to protest election irregularities. No serious incidents were reported. However, the EOM received reports that supporters from some regions were prevented from traveling to attend these rallies. On 10 November, the YAP organized a celebration of its election victory at the Galaba Square.

The Azadliq and other opposition parties organized another protest meeting on November 26 at the Galaba Square. This meeting took place after the departure of the EOM from Azerbaijan. Police dispersed the participants, using considerable force, immediately after expiration of the allotted time for the meeting.

XV. COMPLAINTS AND APPEALS AFTER ELECTION DAY

A. ADJUDICATION OF COMPLAINTS BY THE CEC

On and after election day, the CEC received and registered more than 1,000 complaints but did not address most of these complaints.⁷⁰ Complaints that did receive attention were not considered transparently or in accordance with the law.

Although the law requires the CEC to decide on all complaints⁷¹, the CEC failed to fully meet this legal obligation. In those cases in which it did, the responses did not have the form of an official CEC decision, as there was no voting on complaints at the CEC sessions. The CEC often responded to complainants in the form of a letter from an individual CEC member or staff member. CEC responses to complaints were not published on its website along with its formal decisions, indicating that the CEC itself did not consider such responses as having the status of decisions.

The CEC did not inform complainants on consideration of their complaints at the CEC session, and complainants were not granted the right to give explanations or present new evidence. Moreover, the CEC did not conduct a formal investigation or review of complaints at its sessions. Instead an individual commission member, as a rule a member representing the

⁶⁸ Zakatala, Surakhany and Sabirabad regions.

⁶⁹ ConECs 9 and 42.

⁷⁰ The CEC registered 538 complaints within the three-day period for filing complaints about election day violations, 65 of which were filed on 6 November. The CEC registered 459 additional complaints from 9 to 17 November.

⁷¹ Articles 25.2.2 and 112.4, Election Code.

voting majority, investigated the complaint and reported on his or her findings. These reports did not give other CEC members complete information on the complaint. Notwithstanding the large number of complaints, the CEC met infrequently and completed its final protocol without considering all pending complaints.

The process of invalidation of aggregated results in four constituencies by the CEC did not have sufficient legal grounds or an evidentiary basis, nor was the process transparent. The CEC decisions on the invalidation of the election results in the four constituencies concluded that there were “unacceptable modifications performed on the protocols and law infringements which made it impossible to determine the will of the voters” but did not provide any factual basis to support this conclusion. In public statements and during meetings with the OSCE/ODIHR EOM, the CEC chairperson stated that the existence of any discrepancy between a PEC protocol submitted to the ConEC/CEC and one issued to a candidate would automatically cause invalidation of the voting results in the relevant polling station. However, this basis for invalidation was not applied by the CEC consistently and is not stated in the Election Code as a basis for invalidation.

Furthermore, when it invalidated results, the CEC did not make the required initial factual inquiry,⁷² and ignored Article 108.4 of the Election Code, which authorizes the CEC to order a recount of votes in a constituency if the protocols and documents submitted by the ConEC reveal “mistakes, inadmissible corrections and inconsistencies.” Protocols of ConECs and PECs were not examined or reviewed at CEC sessions. Invalidation of results in a polling station was premised solely on the conclusion of an individual CEC member as to whether a protocol should be invalidated. The judgment of a single CEC member that there were deficiencies in the protocol was accepted as established fact without any explanation of the alleged defect or identification of the number of votes involved. Accordingly, there was no factual basis presented publicly for invalidating results in any of the four constituencies, which is particularly troubling since the CEC registered few complaints that alleged violations in these constituencies.⁷³

B. ADJUDICATION OF APPEALS BY THE COURT OF APPEAL AND THE SUPREME COURT

The adjudication of post-election disputes in the courts largely disregarded the legal framework, and fell short of internationally accepted norms. In total, the Court of Appeal received 71 appeals and complaints in the post-election period. The Supreme Court received nine appeals during the post-election period until 23 November. The OSCE/ODIHR EOM observed eight hearings in the Court of Appeal and seven hearings in the Supreme Court. In most cases, complaints and appeals were either dismissed without consideration of the merits or rejected as groundless by both the Court of Appeal and the Supreme Court.

Opposition candidates appealed the CEC’s invalidation of results in constituencies 9, 42 and 110. The Court of Appeal upheld the three CEC decisions without any investigation or review

⁷² Article 170.2, Election Code.

⁷³ The EOM is aware of six complaints, which were registered between 6 and 9 November, alleging violations in Constituency 9. However, as of the date of invalidation (7 November), there were only two complaints and these two were not even considered by the CEC. In Constituency 38, five complaints were registered between 6 and 9 November, but they were given little consideration in the CEC session. There were three complaints in Constituency 42 and two in Constituency 110.

of the primary documents and evidence, such as the PEC protocols.⁷⁴ In constituency 9, the appellant petitioned the Court of Appeal to examine the protocols, which had been forwarded to the Prosecutor General's office by the CEC. This petition was denied. In constituency 42, the appellant made an identical request and the court again denied the petition, ruling that it was impossible to obtain the protocols from the Prosecutor General within the legal deadline. The CEC was not able to explain or give any information as to any specific defect in an invalidated protocol or offer any explanation as to what change to a protocol was sufficient for invalidation.

The proceedings in the Court of Appeal did improve when it considered invalidation in constituency 11, also challenged by an opposition candidate. In this case, the court examined in detail the protocols and considered expert evidence. However, although the legal burden of proof was on the CEC to sustain the invalidation decision, the CEC did not produce, and was not asked to submit, supporting or documentary evidence at the court hearing to justify its actions and decisions.⁷⁵ Thus, the proceedings did not completely satisfy the requirements of the legal framework.

Proceedings in the Supreme Court did not correct the shortcomings noted above. The Supreme Court upheld each CEC decision.

XVI. RECOMMENDATIONS

The OSCE/ODIHR offers the following recommendations for consideration by the authorities of the Republic of Azerbaijan. These recommendations do not repeat all recommendations made in previous OSCE/ODIHR Final Reports, and in Joint Assessments and Opinions provided by the OSCE/ODIHR and the Venice Commission. A number of the previous recommendations have not yet been implemented and remain valid.

A. EXECUTIVE AUTHORITIES

1. Given the extensive and continuing interference of local executive authorities in the work of election commissions and in the election campaign, in violation of the legislation and of the two decrees issued by the President, and given the limited response of election commissions, courts and higher executive authorities, further political will from the State authorities to curtail such interference is necessary as a condition for ensuring that elections are held in compliance with OSCE commitments and other international standards.

The Presidential Administration and the Parliament should undertake a review to determine the manner and extent to which the local executive authorities could be reformed so as to ensure that the actions of these bodies are limited to those provided for by law.

⁷⁴ Under Article 217.4 of Civil Procedure Code, the court shall base its decisions only upon evidence examined in court session.

⁷⁵ Under Article 287 of the Civil Procedure Code, "the burden of proof of circumstances... shall be on the body adopting the act or decision".

B. LEGAL FRAMEWORK

2. The Election Code should be amended to reconfigure the composition of the Central Election Commission and lower level commissions, including the appointment of the Chairpersons, Deputy Chairpersons and Secretaries, in a manner that will ensure that election commissions enjoy public confidence, and in particular the confidence of those running for office.
3. The Law on the Freedom of Assembly and the Election Code should be amended to curtail the unlimited powers given to the local executive authorities to restrict political gatherings, and to ensure that genuine freedom of assembly is respected during election periods.
4. The Election Code should be amended to provide for the inking of voters' fingers and to eliminate the requirement for presentation of a voter card in order to vote.
5. Article 112 of the Election Code, concerning the procedures for lodging complaints and appeals, should be amended together with the CEC instruction on complaints procedures. The Election Code should provide greater details on what evidence must be considered by election commissions and should establish separate procedures to be followed by the CEC and constituency election commissions.
6. The Election Code should specify where a complaint must be lodged in the first instance and in what circumstances a complaint may be submitted directly to superior election commissions.
7. The Election Code should be amended for ensuring collegiality in consideration of complaints by election commissions, voting on each complaint and documenting the election commission's decisions on complaints. Complaints filed with the CEC should be adjudicated by the CEC rather than by individual CEC members or staff.
8. The Election Code should oblige all election commissions to (i) establish clear findings of fact on every complaint; (ii) briefly state what steps and actions have been undertaken to investigate the complaint; and (iii) state their reasons in the decision for accepting or rejecting the complaint (in full or in part) and for making other findings and recommendations.
9. Articles 108.4, 170.2.1, and 170.6 of Election Code should be amended to establish a procedure for invalidation of election results that is fair and can be applied consistently and objectively. A fully transparent and immediate recount of votes should be required first, and the circumstances under which a recount must be ordered should be specified. Invalidation should remain a measure of last resort.
10. The Civil Procedure Code and the Code of Administrative Violations should be amended to adopt the internationally accepted principle that contested evidence from witnesses should normally be admissible only if the witness gives oral testimony in the court hearing.

11. The Election Code provisions for de-registration of candidates under Art. 113 should be amended. De-registration should be limited to the situation where the candidate does not possess the legal requirements for candidacy. The Civil Procedure Code should be strengthened to ensure that a candidate enjoys adequate opportunities to defend an attempt to de-register the candidate.

C. ELECTION ADMINISTRATION

12. The voter list should take into account the information contained in the new identification documents in order to further improve the accuracy of the lists.
13. The authorities should respect the legal provisions for military voting. Only in the exceptional cases, and when the location of the unit is at a substantial distance from populated areas, should the CEC grant permission to establish a polling station in a military unit. The election administration should retain responsibility for the organization and conduct of military voting.
14. Where PECs are formed in military units in the exceptional case, members should not be military personnel, conscripts or members of their family. PEC members should be appointed by the same procedure as all other PECs.
15. Modification of constituency boundaries should be avoided in the period immediately before parliamentary elections. It would be advisable that redistricting not take place within the twelve months preceding a parliamentary election.
16. The deadline for candidate withdrawal should expire before the printing of election ballots to avoid amending the text on the ballots after they are printed.
17. It should be incumbent on the CEC to provide the necessary training to lower level commissions to ensure uniform implementation of election regulations and procedures. Training should especially focus on areas identified as problematic by the IEOM and by domestic observation groups, such as the vote count and tabulation.
18. The CEC should review its rules of procedure governing its internal functioning, including distribution of work within its administration.
19. The CEC agenda should contain detailed information about each item for discussion, including complaints, with copies of relevant documents attached. Agendas and draft decisions should be distributed to members of election commissions and party/candidate representatives before a commission meeting in a timely manner. Provisions should be made for observers and media representatives to receive copies of the agenda. The transparency of commission sessions could be further enhanced if draft resolutions were read aloud before being put to a vote.
20. PEC results protocols should be given to all observers and party representatives and should be posted for public display. The CEC should publish results protocols by polling station on its website on election night, as soon as they become available.

21. The CEC should improve measures for safeguarding the integrity of PEC results protocols. Evidence of the breaking of a seal on an envelope containing protocols prior to its receipt by a ConEC should result in an automatic recount.

D. CAMPAIGN

22. Procedures of law enforcement bodies for dealing with peaceful demonstrations should be improved. Law enforcement bodies should not be used to interfere with the campaign.
23. Preventive detentions of campaign staff or supporters before and during campaign meetings, as well as restrictions on freedom of movement, should cease.

E. MEDIA

24. The independence of public TV should be further strengthened, including the development of impartial editorial practices to provide the public with balanced coverage of political opinions during an election period. Consideration should be given to transforming AzTV into an independent public service media.
25. The CEC, possibly in cooperation with the National Council for Radio and TV, should ensure respect for media related provisions of the Election Code during the campaign, including the equitable news coverage of political parties and candidates, and take prompt and effective action against violations. Establishing systematic monitoring of the media during an election campaign period would assist the CEC in this task.
26. In order to help ensure impartiality in the regulation of broadcasting, members of the National Council for TV and Radio should not all be appointed by the President. The membership of the council should be diverse, with a composition that can ensure broad confidence, including media professionals, civil society, judicial bodies, government and political parties. The council should have an impartial and transparent mechanism for the allocation of new licenses to private TV stations to expand the diversity of media ownership.
27. The editorial line of media outlets should be determined free from interference or pressure by the authorities. The authorities should investigate all incidents of violence against journalists and hold those responsible accountable.

F. PARTICIPATION OF WOMEN

28. The authorities should engage in discussions with civil society and political parties regarding methods of increasing the participation of women in the election process.
29. The number of women appointed to election commissions at all levels should be increased, including to the position of Chairperson.
30. Training of election commissions and targeted voter information should be conducted in order to limit the practice of family voting.

ANNEX 1: SUMMARY OF OFFICIAL RESULTS

According to the published CEC protocol, the turnout figure was 42.2 per cent.⁷⁶ The CEC declared winners in 115 constituencies and published the protocols for these constituencies on its website. The political affiliation of elected candidates according to official CEC data is given below.

Affiliation ⁷⁷	Number of Elected Candidates
YAP	56
Independent	40
Musavat	5
No party affiliation	3
Ana Vatan	2
Civil Solidarity Party	2
Ümid Party	1
Social Prosperity Party	1
Popular Front of Azerbaijan (PFPA)	1
Azerbaijan Democratic Reforms Party	1
Whole Azerbaijan Popular Front	1
Great Creation Party	1
Civic Unit Party	1
Total	115

⁷⁶ See the CEC protocol at www.cec.gov.az/en/4millimajlis2005/protocol/CEC_protocol.doc. The published CEC protocol is marked “draft” and lack signatures and date of signing.

⁷⁷ Candidate affiliation as provided by the CEC.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihhr).