



Office for Democratic Institutions and Human Rights

REPUBLIC OF AZERBAIJAN

PARTIAL REPEAT PARLIAMENTARY ELECTIONS 13 May 2006

OSCE/ODIHR Limited Election Observation Mission

ANNEX TO THE FINAL REPORT ON THE 6 NOVEMBER 2005 PARLIAMENTARY ELECTIONS



Warsaw
23 June 2006

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I. EXECUTIVE SUMMARY

In response to an invitation by the Government of the Republic of Azerbaijan,² the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Limited Election Observation Mission (LEOM) to observe the 13 May 2006 partial repeat elections to the Milli Majlis, the Parliament of Azerbaijan. Out of a total number of 125 constituencies, repeat elections were held in 10 constituencies in which the results of the 6 November 2005 elections had been cancelled by the Central Election Commission and the Constitutional Court.

The overall OSCE/ODIHR assessment of the parliamentary elections is contained in its Final Report issued on 1 February 2006, to which this report is annexed. As stated in the Final Report, the process through which the election results were invalidated in ten constituencies was not transparent. While the partial repeat parliamentary elections reflected some improvements, such as an inclusive candidate registration, a largely unimpeded campaign, and increased opportunities for participation of domestic observers, the overall conduct of the process underscores the continuing need for electoral reform. There were several issues of continued concern, including the composition of election commissions, instances of interference by local authorities in the election process, de-registration of candidates, and the handling of complaints and appeals by election commissions and courts. While the OSCE/ODIHR LEOM did not observe the election day process systematically, it noted that voting was generally calm; however, the mission also noted irregularities especially during the conduct of the counting and tabulation. In a welcome development that increased transparency, the Central Election Commission posted preliminary results broken down by polling station on its website on the morning after election day.

The OSCE/ODIHR remains ready to support the efforts of the authorities and civil society of the Republic of Azerbaijan to conduct elections in line with OSCE commitments, especially with regard to previous recommendations which remain to be addressed.

¹ See the Final Report on the 6 November 2005 parliamentary elections in the Republic of Azerbaijan, issued on 1 February 2006, at www.osce.org/odihr-elections/15649.html

² The Government of the Republic of Azerbaijan had invited OSCE/ODIHR to observe the parliamentary elections held on 6 November 2005. On 2 February 2006, the Permanent Delegation of the Republic of Azerbaijan to the OSCE informed the OSCE/ODIHR that the invitation to observe applied also to the 13 May 2006 partial repeat elections.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following the comprehensive OSCE/ODIHR Election Observation Mission for the 6 November 2005 parliamentary elections, the OSCE/ODIHR established a Limited Election Observation Mission for the 13 May partial repeat elections on 24 April 2006. The mission was headed by Ambassador Geert-Hinrich Ahrens and was composed of a six-member core team based in Baku, as well as seven long-term observers based in Ganja and Baku. In total, the LEOM consisted of 13 members from 13 OSCE participating States.

The LEOM focused on observation of the campaign environment, the performance of the election administration, and the complaints and appeals procedure. On election day, the LEOM did not deploy additional short-term observers. The mission was present for voting and the counting of the votes in a limited number of polling stations, as well as the tabulation of results in six constituencies.

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 the co-operation throughout the course of the mission.

III. POLITICAL BACKGROUND

All members of the Milli Majlis, the parliament of the Republic of Azerbaijan, are elected in single mandate constituencies, in a single round of voting. The 6 November 2005 elections resulted in the determination of 115 of the 125 members of parliament. The results of the elections were cancelled in 10 constituencies by decisions of the Central Election Commission and the Constitutional Court.³ On 9 December 2005, the President decreed repeat elections for these 10 constituencies (constituencies 9, 31, 38, 42, 44, 69, 103, 106, 110, and 119⁴).

In the aftermath of the 6 November 2005 parliamentary elections, the opposition 'Azadliq' bloc split. While the Popular Front of Azerbaijan and the Azerbaijan Democratic Party decided not to participate in the new parliament or in the repeat elections in protest over the conduct of the elections, the Musavat party, which had won five parliamentary seats, decided to participate in the repeat elections. In January 2006, the leader of the Liberal Party of Azerbaijan, Ms. Lola Shovkat, who in November had won the election in constituency number 17 running on the Azadliq bloc list, gave up her parliamentary seat, and the party she chairs joined the Azadliq bloc in its decision not to participate in the 13 May repeat elections.⁵

³ See the OSCE/ODIHR Final Report on the 6 November 2005 Parliamentary Elections in the Republic of Azerbaijan, available at www.osce.org/documents/odihr/2006/02/17923_en.pdf

⁴ Constituency 119, Aghdam, is partially occupied, and many of its voters are internally displaced persons (IDPs) who voted at polling stations in their areas of displacement.

⁵ The mandate of Ms Shovkat was terminated by the CEC on 19 January 2006 at her request. At the time of writing this annex to the Final Report, the date for the repeat election in constituency 17 had not yet been set.

IV. LEGISLATIVE FRAMEWORK

None of the recommendations for further improvement of the legal framework for elections made in the OSCE/ODIHR Final Report on the 6 November 2005 parliamentary elections in the Republic of Azerbaijan were implemented prior to the conduct of the partial repeat elections.

The legal framework for the partial repeat parliamentary elections remained largely the same as for the 6 November 2005 elections, with the exception of the provisions for the composition of election commissions. As provided by the Law on Entry into Force of the Election Code (27 May 2003), the provisions of the Code on composition of election commissions entered into force with the first meeting of the Milli Majlis elected in 2005.⁶ The provisions of the Code increased the size of the Central Election Commission (CEC) from 15 to 18 members and made technical alterations in the method of composition of election commissions at all levels.⁷ These provisions have been controversial since the adoption of the Election Code in 2003, as they continue to favor the incumbent authorities and undermine confidence in the independence of the election administration (see section V, Election Administration, below).⁸

The Election Code was not amended to provide for the inking of voters' finger and to eliminate the legal requirement for presentation of a voter card in order to vote. For the partial repeat elections, the legal basis for these procedures remained the presidential executive order of 25 October 2005 and a CEC instruction, respectively.

V. ELECTION ADMINISTRATION

As provided by the Election Code, all election commissions, including the CEC, were appointed anew after the 6 November parliamentary elections. On 7 February 2006, the Milli Majlis elected only 13 of the 18 CEC members foreseen by the Code. Only two of the six seats allocated to the parliamentary 'minority' and five of the six seats allocated to independents in accordance with Article 24 of the Election Code were filled. The remaining five seats were left open, since some political forces, including Musavat, decided not to take part in the appointment process.⁹ The authorities expect the remaining members to be elected when the Parliament convenes after the completion of the partial repeat elections. The formula for the

⁶ Articles 24, 30.3, 36.1 and 36.2 of the Election Code entered into force on 2 December 2005, the day of the first session of the parliament elected on 6 November 2005.

⁷ The newly elected Parliament passed an amendment to the Constitution stipulating that all members of the Central Election Commission are appointed by the Parliament. The President signed the Constitutional Law "On Amending Article 95.1 of the Constitution of the Republic of Azerbaijan" on 13 December 2005.

⁸ See the 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

⁹ An opposition MP told the LEOM that the opposition was only offered two of the six seats allocated to the parliamentary 'minority', while independent candidates were invited to fill in only five out of six seats.

composition of the CEC effectively provides pro-government forces with a decisive majority on the CEC, a majority that was accentuated by the incomplete process of forming the CEC.¹⁰

After its formation, the CEC voted to elect the Chairperson, the Deputy Chairperson, and one of the two Secretary positions (the other was left vacant).

Subsequently, the CEC partially appointed the ten constituency election commissions (ConECs) in which elections were held, filling in only seven out of nine seats on each, giving YAP and other pro-government forces a voting majority in the ConECs. The ConECs in turn appointed a total of 343 Precinct Election Commissions (PECs), which were staffed by only five out of the six members envisaged by the law. In addition, in accordance with Article 19.3 of the Election Code, which states that the chairpersons of election commissions shall represent the majority political party in parliament, the chairpersons in all election commissions were appointed by YAP.

Nine complaints were filed regarding the composition of election commissions, including two regarding the composition of ConECs. None of the complaints were upheld by the CEC, and only one complaint was the subject of a formal CEC decision.

The CEC held ten sessions during the presence of the LEOM, dealing almost exclusively with complaints. In conjunction with IFES, the CEC conducted a series of trainings for PEC members, focusing primarily on election day procedures.¹¹ This was a welcome step, although lower level commissions needed more guidance on dealing with complaints and appeals. During the pre-election period, CEC members appeared in turn on Public TV twice a week with general voter information.

There were eight polling stations established in military units. Although the Election Code states that military personnel should generally vote in civilian polling stations (Article 35.5), it contains several exceptional provisions that in practice allow this objective to be circumvented. While the establishment of military polling stations “in the zone of military conflicts” may constitute a reasonable exception to the rule, it was unclear why such a polling station would be required near Baku, where military personnel could have easily voted at nearby civilian polling stations.¹² Moreover, the practice of having military personnel as PEC members at the special polling stations appears not to be in accordance with the Election Code.

VI. CANDIDATE REGISTRATION

Registration of candidates was completed on 13 March. Registration was granted to 158 candidates, out of some 198 applicants. The candidate registration process appeared to have been inclusive, resulting only in a limited number of complaints. None of the 10 complaints

¹⁰ The voting majority on the CEC in its current composition is seven members (out of 13). As the parliamentary majority party, the ruling YAP directly nominated six members and further participated in the appointment of one member representing ‘independents’, whose appointment according to the law had to be agreed with the majority party in parliament.

¹¹ IFES is an international non-profit organization that supports the building of democratic societies.

¹² Constituency 31, PEC 28. The military base has civilian residents, who were reportedly registered to vote at nearby civilian polling stations.

regarding non-registration of candidacy were upheld by the CEC. Only one such complaint was appealed beyond the CEC.¹³

The inclusive candidate registration process was undermined to some extent by the de-registration of candidates during the campaign. ConECs 9 and 31 petitioned the Court of Appeal to revoke the registration of nine candidates, alleging that these candidates had offered small sums of money to individual voters. The Court of Appeal de-registered six of these nine candidates in a process that was marked by some of the same inconsistencies as noted during the 6 November elections.¹⁴

In one case, the CEC re-registered a candidate that allegedly had withdrawn under pressure. On 18 April, before the arrival of the OSCE/ODIHR LEOM, the CEC reinstated the candidacy of Mr. Hikmet Atayev, a nominee of YAP in Zagatala (constituency 110) and head of the local municipality, following written testimony from a local YAP official that he had coerced his fellow party member to resign.¹⁵ The CEC decision to re-register Mr. Atayev was appealed by an opponent, who questioned the legal basis for the CEC decision. Both the Court of Appeal and the Supreme Court upheld the CEC decision to re-register Mr. Atayev without further explanation. Mr. Atayev subsequently won the election in constituency 110.

In addition to the six de-registered candidates, 28 candidates withdrew voluntarily. On election day, 124 candidates were left on the ballot. The number of candidates per constituency varied from seven to 18. The YAP had candidates either nominated by the party or affiliated with the party in all ten constituencies. Opposition candidates ran in all ten constituencies, with Musavat-nominated or affiliated candidates running in nine constituencies.¹⁶ The decision by some opposition parties not to participate in the partial repeat elections appeared to reduce the level of competition in some constituencies.

VII. CAMPAIGN

A. CAMPAIGN ENVIRONMENT

Overall, the campaign was low-key, and the campaign environment was notably calmer than in the lead-up to the 6 November elections. This was due largely to the decision of some opposition political forces not to participate in the repeat elections. Candidates organized small-scale meetings with voters and actively canvassed voters. Executive and municipal authorities appeared to have allocated sites for the visual campaign. Candidates also posted their posters in shop windows, and shopkeepers usually allowed candidates to display their posters without discrimination.

¹³ ConEC 44 denied registration of Mr. Dunyamin Ahmadli, a leading member of the opposition Azerbaijan National Independence Party (ANIP), after invalidating more than 400 signatures collected in his support. Mr. Ahmadli appealed the ConEC decision to the CEC, which upheld the ConEC decision. Subsequently, the complainant exhausted all national appeal institutions.

¹⁴ One petition was dismissed, and two were not considered, since the two candidates in question withdrew their candidacies before the beginning of the court hearing.

¹⁵ The CEC has informed the Prosecutor General's Office of the coercion.

¹⁶ Only nine candidates were directly nominated by political parties, although 47 candidates were in fact affiliated with a political party.

Police generally did not interfere in campaign events, although there were no large public rallies organized during the campaign. However, three rallies of a candidate in constituency 110 were prohibited, with a letter from the Zagatala police citing expected unrest as the motivation for the ban. In the same constituency, authorities in Chobanol village dispersed a rally on 10 May on the grounds that that the venue had not been approved for campaign purposes. In both cases, the restrictions appear contrary to the law on Freedom of Assembly, under which restrictions and bans on rallies must be ‘highly needed’ and ‘a measure of last resort’ to be justified.

The OSCE/ODIHR LEOM observed some evidence of abuse of administrative resources during the campaign. In constituency 67, several candidates expressed concerns to the LEOM about a pyramid canvassing scheme, known locally as ‘yuzbashi-onbashi,’¹⁷ that local authorities were alleged to employ to increase voter turnout. Documents listed the head of the municipality of Jalilabad as being in charge of receiving reports from groups of canvassers that included schoolteachers.¹⁸ The LEOM saw documents indicating a similar effort in constituency 31. In both constituencies, the canvassing lists appeared to be compiled using sensitive data on voters that is not publicly available.¹⁹

One candidate filed a formal complaint with the ConEC 67, alleging that the canvassing scheme was being used to campaign illegally on behalf of an opponent. While the Chairman of ConEC 67 acknowledged the authenticity of the documents, he told the OSCE/ODIHR LEOM that the lists were used by YAP rather than by local authorities and that such campaigning schemes were not in breach of the law. The ConEC rejected the complaint on this basis.

The use of voter data to which access is restricted and engagement of workers paid from public funds is an inappropriate use of administrative resources, particularly if employed by a political party for campaign purposes.

The OSCE/ODIHR LEOM heard several allegations that certain candidates provided services to voters or neighborhoods free of charge, although it was not able to verify these claims. In one case, the CEC considered a complaint against non-affiliated candidate Mr. Baba Taghiyev in constituency 44 (Sumgayit-Absheron), who was accused of asphaltting roads and renovating community centers as part of his campaign. Photographs of road surfacing machines with the candidates posters were submitted as evidence. The CEC dismissed the complaint as unjustified following a letter from the Sumgayit municipality stating that the work was paid for and carried out by the municipality and not by the candidate. Despite requests to the CEC, the LEOM was not able to see the evidence on which the decision to reject the complaint was based. The local executive authority told the LEOM that the vehicles for repair work were rented and that the municipal authorities were not responsible for what was displayed on them.

¹⁷ Literally: ‘head of 100, head of 10.’

¹⁸ In constituency 31, a similar canvassing list almost exclusively named schoolteachers as persons in charge of groups of 15 to 20 voters.

¹⁹ Some canvassing lists from constituency 67 appear to be derived from electronic copies of the 2003 voter list, while the lists from constituency 31 contain passport numbers of voters and resemble lists kept by housing committees or local departments of the Ministry of Interior.

B. MEDIA ENVIRONMENT

The OSCE/ODIHR LEOM did not conduct a quantitative and qualitative monitoring of the media for the partial repeat elections. The Election Code provides for the allocation of free airtime on TV and Radio to candidates from parties that field candidates in 60 or more constituencies. Therefore, free airtime was not provided in these repeat elections, which were limited to 10 constituencies. Airtime was available on a commercial basis on the nation-wide Public TV (ITV), as well as on a range of local TV stations. This provided candidates with a possibility to present their political programs to voters through the electronic media, although prices for airtime differed significantly. The CEC and its media working-group did not receive any media related complaints.

On 5 May, TV station Aygun in constituency 110 went off the air. The official explanation indicated technical problems, but the opposition newspaper Yeni Musavat alleged that the local office of the executive authorities had ordered the TV station closed for political reasons. The station had broadcast debates between candidates and aired paid presentation programs by candidates, including one by the Musavat candidate Mr. Arif Hacili that triggered several formal complaints alleging inflammatory content and demanding the revocation of Mr. Hacili's candidacy. On May 10, the TV station was back on air and resumed broadcasting paid advertisements of candidates. However, the broadcast of the announced second debate among candidates did not materialize.

VIII. COMPLAINTS AND APPEALS

A. COMPLAINTS AND APPEALS PRIOR TO ELECTION DAY

Shortcomings identified in previous elections and repeatedly addressed in recommendations continued to hamper the election complaints process. Significant improvement is needed in order to ensure an efficient and transparent redress of election complaints and to restore confidence in a fair and independent consideration of complaints and appeals.

According to available information, ConECs received some 117 complaints, and the CEC received some 103 complaints alleging election violations. The majority of complaints dealt with allegations of interference by authorities in the election campaign and illegal campaigning by authorities or requests to revoke candidacies of candidates for giving bribes to voters or providing services or goods free of charge. A limited number of complaints concerned the composition of the new election commissions.

ConECs lacked guidance from the CEC on how to deal with complaints. In many cases, ConECs considered complaints belatedly and superficially, failed to take a formal decision on the substance of the complaint, or took a decision without notifying all parties to the complaint. Therefore, candidates often circumvented the ConEC or filed a complaint simultaneously to other instances, such as the CEC, the Prosecutor's Office, the local executive authorities or even the office of the President. This caused significant confusion as to who was actually dealing with the complaint and contributed to delays in the process.

The CEC considered complaints at its sessions but rarely touched upon the substance of the complaints. Complaints were often found not to meet formal requirements or were returned to the ConEC or sent to the Prosecutor's Office for redress. In some cases, the consideration of complaints by the CEC resulted in an informal 'reply' or 'reference letter', the legal status of which is questionable since it is not supported by a formal CEC decision and therefore also disables the complainant from exhausting possible further legal remedies. The individual case file with the complaints and attached documents was not copied to all CEC members, but kept by the CEC member to whom it had been assigned.

The CEC decisions on complaints often failed to meet the minimum formal requirements. The substance of the complaint was not summarized and the basis for the decision was not outlined or motivated. However, it must be noted that the complaints themselves often left much to be desired in terms of supporting evidence and clear demands of the complainants for redress. Some complaints were submitted anonymously.

The Court of Appeal received 13 appeals related to the partial repeat elections, of which 10 were considered on the merits. Nine cases considered related to revocation of candidacy under charges for vote buying. In six cases, the court decided in favor of de-registration; only in one case the court denied satisfaction of the appeal. Two appeals were left unconsidered since the candidates in question withdrew their candidacies prior to the court hearing. In one case observed by the LEOM, the court heard a case of revocation of candidacy in the absence of the candidate or his designated proxy.²⁰

The Supreme Court considered and upheld six appeals against decisions of the Court of Appeal, all dealing with candidate registration.

B. COMPLAINTS AND APPEALS ON AND AFTER ELECTION DAY

On election day, the CEC received a number of complaints,²¹ of which 15 were considered at the three sessions held by the CEC in the course of 13 May. In the days after election day the CEC informed that it had received a further eight complaints relating to the period after the closing of the poll. The nature of the election day violations ranged from minor violations of voting procedures and the secrecy of vote, illegal campaigning, bussing of voters documented by photos, to an alleged case of theft of 27 ballot papers (constituency 31 polling station 15). The CEC, however, dealt mainly with the formal aspects of the complaints. Most complaints were referred back to the respective ConECs or, in one case to the Prosecutor General, without further consideration of their content.

²⁰ On 28 April, the Court of Appeal revoked the candidacy of Mr. Elshad Abdullayev, a YAP candidate in constituency 9, under Article 88.4.1 of the Election Code ('bribing voters'). Mr. Abdullayev claimed that he only learned about the court hearing and its decision when subsequently contacted by the LEOM.

²¹ At the third CEC session on election day, the CEC Chairman announced that in addition to the complaints already assigned to CEC members for consideration, the CEC had received a number of further complaints about election day violations filed through the central office of the deputy chair of the YAP. Their number was not disclosed.

The majority of ConECs informed the LEOM that they did not receive any complaints on election day or after. The LEOM, however, was told by a candidate in constituency 110 that the ConEC chairperson refused to accept and register complaints.

According to preliminary information obtained from courts, on election day more than 500 voters applied to be included in voter lists at their current place of residence. The courts satisfied all applications.

C. CRIMINAL CHARGES FOLLOWING THE 6 NOVEMBER ELECTIONS

In March 2005, two PEC chairpersons and a PEC member were convicted for committing electoral fraud in the 6 November elections. Criminal charges of a similar nature were brought against the former chairperson of ConEC 9 and another PEC chair. These cases were pending at the time of the close of the mission. No charges have been brought in any of the remaining instances in which polling station results were annulled.²²

On 2 May, the OSCE/ODIHR LEOM learned that the Baku Court of Serious Crimes had sentenced Mr. Hadir Musayev, a former PEC member in ConEC 66, PEC 14 representing the opposition Azerbaijan Democratic Party, to seven years of imprisonment for distribution of narcotics. Human rights groups alleged to the LEOM that drugs had been placed on Mr. Musayev during his arrest and that the real reason for his imprisonment was his refusal to sign fraudulent PEC protocols in several past elections. The LEOM requested clarification from the Foreign Ministry regarding this case. The ministry provided information from the Prosecutor's Office which stated the findings of the court and noted that the defendant had not appealed the decision.

In addition, three former members of ConEC 69 face criminal charges for disrupting the election process by refusing to sign the ConEC result protocol.

IX. DOMESTIC NON-PARTISAN OBSERVERS

At least three non-partisan domestic observer organizations deployed observers on election day, including the Election Monitoring Centre (EMC), the Coordination Advisory Council "For free and fair elections," and the Election Initiative Center. The EMC undertook a long-term observation mission and issued several pre-election and election day reports, as well as a statement of preliminary findings.

The 6 November 2005 parliamentary elections and the 13 May 2006 partial repeat elections were the first to take place after the welcome removal of the ban on observing elections by domestic non-partisan observer organizations that receive more than 30 per cent of their funding from foreign State sources. The lift of the ban increased the legal opportunities for participation of domestic observers. However, the EMC, a coalition of NGOs, claimed that it

²² The total number of PECs annulled after the 6 November 2005 elections is unknown, as the Constitutional Court did not indicate which PEC results it had cancelled in its decision of 1 December 2005. Prior to the Constitutional Court decision, the CEC and ConECs had annulled results in 106 PECs.

has been unable to obtain official registration from the Ministry of Justice since its formation in 2001 and that therefore its component organizations still have to register observers on an individual basis. The Coordination Advisory Council appears to be in a similar situation. The practical effect is that obtaining accreditation for domestic non-partisan observers on a countrywide basis remains a cumbersome process. Despite this, domestic non-partisan observers were able to obtain accreditation and did so in large numbers.²³

X. ELECTION DAY

A. VOTING

On election day, the OSCE/ODIHR LEOM did not deploy short-term observers and therefore did not observe election day proceedings systematically. The mission was present for the voting process in a limited number of polling stations in six constituencies.²⁴

In polling stations visited by the OSCE/ODIHR LEOM, voting proceeded in a mostly orderly fashion, although inadequate premises at times contributed to a tense atmosphere in some polling stations. In polling stations visited by the LEOM, PECs generally followed procedures but did not always perform the check for traces of ink on voters' fingers.²⁵

There was a welcome presence of domestic observers in all polling stations visited. However, observers were not always provided with a full view of the polling process. In a few instances, partisan observers, mainly representing Musavat, were temporarily expelled from polling stations by police at the order of PEC chairs for disturbing the order in the polling stations.²⁶ In some cases, the expulsions did not appear justified.

In other cases, persons associated with the local authorities were accredited as domestic observers or as candidate proxies in polling stations, undermining the independence of PECs.²⁷ The OSCE/ODIHR LEOM saw cases in which such persons interfered in the work of the PECs or intimidated or attempted to influence voters.²⁸

Unauthorized persons lacking due accreditation were video filming for several hours inside some polling stations.²⁹ These persons stated that they were acting on the instructions by local authorities and apparently had the permission of the PEC chairpersons. Keeping a videotaped record of voters who take part in the election has the potential of being intimidating to voters. Another instance of pressure witnessed by the LEOM was the presence of persons apparently

²³ The CEC announced that it had accredited 4,423 domestic observers (partisan and non-partisan).

²⁴ LEOM was present in constituencies 9, 31, 42, 44, 103 and 106.

²⁵ No ink checks were performed in ConEC 42, PEC 25. Checking for ink was done inconsistently in some polling stations in constituency 31.

²⁶ ConEC 31 PEC 11; ConEC 42, PEC 1, 7 and 27; and ConEC 110, PEC 25

²⁷ In constituency 110, heads of village and town municipalities, who had been accredited as independent observers, were present in all polling stations visited by LEOM observers

²⁸ ConEC 42, PECs 21 and 29; ConEC44, PEC 21; and ConEC 103, PEC 26

²⁹ ConEC 31 PEC 8; ConEC 110, PECs 11, 24 and 25; and ConEC 103, PEC 26

hired by a local chemical plant in constituency 44 to stand outside polling stations and keep a tally of employees who took part in the vote.³⁰

B. COUNTING AND TABULATION

The OSCE/ODIHR LEOM was present at the counting process in five polling stations.³¹ Some of the important transparency measures envisaged by the Election Code, such as the invalidation of unused ballots, the processing of invalid ballots, and accounting checks, were not followed. In addition, domestic observers at times were kept at such a distance from the counting table that they were unable to observe effectively.³² While domestic observers were given certified copies of the result protocols in the polling stations visited, in some cases, this was done prior to the filling in of the final result protocol itself, in violation of the Election Code.³³ As a result, domestic observers left before the final result protocol was completed.

In Constituency 31, it appeared that PECs were being instructed by the ConEC to wait before filling in the legally binding result protocol. The OSCE/ODIHR LEOM noted in one polling station that after the completion of the count and after all domestic observers had left the polling station with a stamped and certified copy of the protocol, the PEC chairperson waited for two hours before finally receiving authorization from the ConEC to complete the results protocol. The purpose of the delay was unclear, but the practice is in breach of the Election Code (Article 106.6 and 106.7) and seriously undermines the integrity of the count and tabulation process as well as confidence in the accuracy of the reported result.

Only in two out of the five polling stations where the OSCE/ODIHR LEOM was present for the count did the PEC display the third copy of the results protocol for public inspection immediately after the completion of the count, as envisaged by law. In the immediate post-election period, the LEOM saw the third copy of the protocol posted in only eight out of 24 polling stations visited.

The OSCE/ODIHR LEOM observed tabulation of voting results in six ConECs. The quality of the process varied significantly from ConEC to ConEC, but in general the conduct of the tabulation reflected the assessment of the tabulation process contained in the 2005 Final Report. In ConEC 9, the OSCE/ODIHR LEOM noted significant irregularities such as protocols being completed or modified in the premises of the ConEC³⁴ or signed protocols which had been completed in pencil.³⁵ Similar patterns were encountered in the premises of ConEC 42, where PEC chairpersons came throughout election night to ask for instructions on how to complete the protocol. By contrast, the tabulation process in ConEC 31 was conducted in an orderly and transparent manner, despite the interference in the reporting of PEC results

³⁰ Observed in ConEC 44, PECs 11 and 12. A candidate in constituency 44 was the former minister in charge of the chemistry industry.

³¹ Constituency 9, PEC 7; constituency 31, PEC 8; constituency 44, PEC 9; constituency 110, PEC 25; and constituency 103 PEC 26.

³² This was observed in ConEC 44, PEC 9 and ConEC 110, PEC 25.

³³ This was observed in ConEC 31, PEC 8, and similar reports were heard from domestic observers in other polling stations in constituency 31. In constituencies 9 and 42, protocols were filled out anew at the ConEC level.

³⁴ ConEC 9, PECs 3, 6, 13 and 27

³⁵ ConEC 9, PECs 2, 13, 27

noted above. Relatively few domestic observers were present at the ConEC level during the tabulation of results.

XI. ANNOUNCEMENT OF THE RESULTS

The CEC posted information from result protocols by polling station on its website on the morning after the elections.³⁶ The implementation of this longstanding OSCE/ODIHR recommendation is a welcome development towards increased transparency.

According to the results provided by the CEC, YAP candidates received 5 seats, independent candidates received 3 seats, and candidates of the Civil Solidarity Party and the Adalat (Justice) Party received one seat each. None of the newly elected MPs were women. Turnout figures varied by constituency, ranging from 19.1 per cent in constituency 9 to 59.3 per cent in constituency 110. The average turnout was 36.5 per cent. Votes cast by mobile voting procedure accounted for 3.1 per cent of the votes cast.

Of note, while 3.4 per cent of the ballots were deemed invalid overall, four polling stations had an unusually high proportion of invalid votes.³⁷

On 27 May, the CEC annulled four polling station results in three constituencies where protocols reportedly had been compiled in breach of the law.³⁸ On 5 June, the Constitutional Court approved the CEC final result protocols of the 13 May partial repeat elections to the Milli Majlis.

XII. FOLLOW UP

There are a number of recommendations from previous OSCE/ODIHR election observation reports, including the Final Report from the 6 November 2005 parliamentary elections to which the present report is annexed, which remain to be addressed. In addition, there are standing recommendations from previous assessments of the Election Code of the Republic of Azerbaijan published together with the Venice Commission of the Council of Europe. The OSCE/ODIHR is ready to continue dialogue with the authorities, political parties, and civil society on implementation of these recommendations.

³⁶ www.cec.gov.az/en/main_en.htm

³⁷ Constituency 119, PEC 39 (36 per cent invalid votes), constituency 103, PEC 4 (14.2 per cent), constituency 31, PEC 1 (10.6 per cent) and constituency 106 PEC, 19 (9.2 per cent)

³⁸ See CEC website. Constituency 103, PEC 3; constituency 110, PEC 14, constituency 119, PECs 10 and 37.