

**INTERIM REPORT No. 1  
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**20 October 2010**

**I. EXECUTIVE SUMMARY**

- On 3 September 2010 the President of the Republic of Azerbaijan announced parliamentary elections for 7 November. Voters will elect 125 members of parliament for a five-year term, under a majoritarian election system with one round of voting.
- The Election Code was recently amended, in June 2010. Several recommendations previously offered by the OSCE/ODIHR remain unaddressed.
- The elections will be administered by the Central Election Commission (CEC), 125 Constituency Election Commissions (ConECs) and some 5,175 Precinct Election Commissions (PECs). The current formula for the composition of election commissions remains contentious. The CEC is very active in making preparations for these elections. It has launched an extensive voter education campaign and has conducted training for lower-level commissions. CEC sessions are open to the media and observers. However, CEC members are often not provided with all draft decisions and necessary documents before a session.
- The number of registered voters is approximately 4.8 million. Requests to be added to the voter list can be made to PECs, including on election day.
- All main political parties are participating in these elections. Some 1,400 prospective candidates were nominated. Of these, around 1,100 submitted the documentation required for registration. The ConECs reviewed all applications and registered 704 candidates by the legal deadline of 14 October. There is a marked discrepancy between the number of candidates who were registered from the ruling party, opposition and independent nominations. The OSCE/ODIHR Election Observation Mission received several reports alleging pressure on and intimidation of candidates, their representatives, and voters.
- The official campaign period began on 15 October. The recent amendments to the Election Code have further shortened the campaign period. There were no visible activities of political parties during the pre-campaign period, mainly due to a very restrictive interpretation of the Election Code by executive and electoral authorities.
- While there are several television stations with nationwide coverage, citizens have very limited access to diverse political views in the broadcast media. The CEC adopted a decision according to which each candidate will receive four minutes of free airtime in the framework of regular daily roundtable discussions on public TV and also free space in state-funded newspapers. Only two national TV channels announced that they will offer airtime for paid political spots.
- The CEC and ConECs have received a number of formal complaints. Expert groups at CEC and ConEC level can and frequently do request an extension of the three-day review period for complaints.

- According to the CEC, over 7,000 domestic election observers have thus far been registered. Several domestic organizations plan to deploy significant numbers of observers on election day.
- The OSCE/ODIHR EOM opened in Baku on 28 September, with a 16-member core team and 22 long-term observers who are deployed to ten locations throughout the country.

## II. INTRODUCTION

The President of the Republic of Azerbaijan, Ilham Aliyev, on 3 September 2010 announced parliamentary elections for 7 November, in line with the Constitution. Following an invitation from the Permanent Mission of the Republic of Azerbaijan to the OSCE and based on the recommendation of a Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 28 September. The EOM, led by Ambassador Audrey Glover, consists of a 16-member core team based in Baku and 22 long-term observers who deployed on 2 October to 10 locations around the country. The OSCE/ODIHR EOM is drawn from 22 OSCE participating States. Participating States have been requested to second 450 short-term observers to observe voting, counting, and tabulation of results.

## III. BACKGROUND

The upcoming elections are taking place in a political environment characterized by a lack of dialogue between the ruling party and the main opposition parties despite efforts made by the OSCE Office in Baku to promote such a dialogue. The results of the 2005 parliamentary elections were not accepted by some opposition parties, which in protest subsequently boycotted the partial repeat parliamentary elections in May 2006 and the October 2008 presidential election. This time, all main opposition parties have decided to participate in these elections. Freedom of assembly remains very limited in practice: despite the adoption of the Law on Freedom of Assembly in 2008, the Baku executive authorities routinely deny requests to hold political rallies and meetings in central locations.<sup>1</sup>

The outgoing parliament (*Milli Majlis*) is dominated by the ruling New Azerbaijan Party (YAP), which holds 63 seats; the strongest opposition party, Musavat, has four deputies. Forty-five seats are held by deputies elected as ‘independent’ candidates, who usually support the ruling party. Some opposition parties refused to take up their seats in parliament.

## IV. LEGAL FRAMEWORK AND ELECTION SYSTEM

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

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<sup>1</sup> While the law states that the relevant executive bodies shall provide special venues for conducting rallies and shall issue a list of “proposed places” from which the organizers of such rallies “can choose”, the Baku city authorities usually interpret it as an exhaustive list. The right to public assembly can only be restricted in cases prescribed by law and if such restrictions are necessary “in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others” (Law on Freedom of Assembly, Article 7.I).

The Election Code regulates the conduct of all types of elections and has been amended several times since its adoption. Previous amendments have addressed some recommendations of the OSCE/ODIHR and the Venice Commission of the Council of Europe;<sup>2</sup> however, certain issues such as the composition of election commissions, provisions on the resolution of electoral disputes, and rules for recounts and for the invalidation of results remain unaddressed. The latest amendments were introduced hastily in June 2010, with little public debate. The amended law reduced the election period from 75 to 60 days, including further reducing the campaign period by setting its commencement to 23 days before election day. The shortening of the campaign period is a cause for concern as the provisions aimed at creating a level playing field for all candidates are applicable only for a short period before election day. Furthermore, the amendments eliminated the provisions under which candidates received limited state funding for their campaigns. Other areas of concern include provisions on eligibility of candidates, which are ambiguous.

In a positive development, amendments to the Code of Civil Procedures enacted after the 2008 presidential election eliminated the conflict with the Election Code with regards to the jurisdiction of courts in election-related disputes, and the relevant provisions were streamlined.

Elections are conducted under a majoritarian system. Deputies to the parliament will be elected in 125 single-mandate constituencies, for a five-year term. The candidate who obtains the highest number of votes is considered elected. If no candidate or only one candidate is registered in a constituency, then elections in that constituency are postponed and the process is repeated.

Articles 4 and 29 of the Election Code stipulate that the number of voters registered in each constituency should not deviate more than 10 per cent from the average number of voters per constituency. While the CEC made some minor adjustments to constituency boundaries, the number of registered voters in some 35 constituencies deviates more than 10 per cent from the average, and in some cases significantly, which challenges the equality of the vote.

## V. ELECTION ADMINISTRATION

The upcoming elections will be administered by a three-tier structure consisting of the CEC, 125 Constituency Election Commissions (ConECs, one for each constituency) and some 5,175 Precinct Election Commissions (PECs). All commissions are permanent bodies appointed for a five-year term. Members of the CEC are elected by parliament, ConECs are appointed by the CEC, and PECs by the relevant ConECs. According to legal provisions, three equal quotas are reserved in each commission for members nominated by the parliamentary majority (i.e. YAP); parliamentarians elected as ‘independent’ candidates; and the parliamentary minority (the remaining political parties represented in the parliament). By law, all commission chairpersons are members proposed by the parliamentary majority.

Election commissions in their current composition were appointed in 2006. The formula for composition of election commissions remains a contentious issue among political parties. The OSCE/ODIHR and the Venice Commission have previously recommended that the formula be revised in a manner which would ensure that the election commissions are not dominated by pro-government forces and enjoy public confidence, in particular the confidence of political parties contesting the elections.<sup>3</sup> This recommendation has not been addressed.

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<sup>2</sup> See the 2008 Joint Opinion of the OSCE/ODIHR and the Venice Commission on the Draft Law on Amendments and Changes to the Electoral Code of the Republic of Azerbaijan, available at: [http://www.osce.org/documents/odih/2008/07/31992\\_en.pdf](http://www.osce.org/documents/odih/2008/07/31992_en.pdf).

<sup>3</sup> IBID p. 2.

On 8 October, the parliament appointed three new CEC members to fill vacant seats from the quotas of the minority and independent parliamentarians. As the result, the CEC is now constituted in its full composition of 18 members.

Political parties and blocs of political parties which have more than 60 registered candidates may delegate one member to each commission. This member participates in sessions but does not have voting rights. Each registered candidate may also appoint consultative members to the respective ConECs and PECs.

The CEC has been very active in making preparations for these elections. The CEC has elaborated numerous rules and regulations and launched an extensive voter information and education campaign, including in the media. Initial training for lower-level commissions was conducted in July and a second series devoted to election-day procedures started at the beginning of October. CEC sessions are open to the media and observers. An agenda is available at the start of sessions, and decisions are made public through the state-funded media and the CEC's website. However, CEC members are often not provided with draft decisions and all documents necessary for discussion before a session.

## VI. VOTER REGISTRATION

The CEC is responsible for the maintenance of the centralized voter register. After the regular annual update, which was completed at the end of May, the number of registered voters was 4,845,378.

Voter lists of all polling stations are available on the CEC website. PECs have posted printed copies for public familiarization. Only PECs are entitled to add voters to the voter list after 23 September. Additions can also be made on election day, when supplementary lists will be used. Citizens who will be away from the place where they are registered to vote can apply for a deregistration voting card, which enables them to vote in any polling station within the constituency where they are registered.

## VII. CANDIDATE NOMINATION AND REGISTRATION

The process of candidate nomination and registration is handled by the ConECs. A candidate may be nominated through self-nomination, by a group of voters, by a political party or by a bloc of political parties. A political party may nominate persons who are not members of that party. Candidates are nominated by providing written notification to the relevant ConECs. The ConEC has to examine the submitted documents within a five-day period and to certify the nomination or notify the nominating person about mistakes to be corrected.

Some 1,400 persons submitted their paperwork for nomination as candidates. Of these, around 450 were nominated by five registered electoral blocs comprising 13 political parties, around 350 were nominated by 11 political parties, and some 600 were self-nominated or nominated by initiative voter groups.

In order to register a candidate, a ConEC should receive, *inter alia*, not less than 450 valid voters' signatures in support of the candidacy. The possibility to submit a financial deposit *in lieu* of signatures was removed from the Election Code in 2008. Within seven days, the ConEC must check all the submitted documents and the collected signatures and pass a decision on registration of the candidate or on refusal of registration.

A total of 1,115 prospective candidates submitted their registration documents to the ConECs before the deadline of 8 October. A significant number of nominees did not submit the documents and signature sheets required for their registration. As of 14 October, 704 candidates had been registered, or 63 per cent of those who had submitted signature sheets. Of these, 332 had been nominated by political parties or electoral blocs, while 372 will stand as independent candidates. According to information received from the CEC, as of 14 October, a total of 340 registration requests had been rejected by ConECs. The OSCE/ODIHR EOM is looking into the main reasons for candidates' rejection. There is a marked discrepancy between the number of candidates who were registered from the ruling party, opposition and independent nominations. While all 111 YAP candidates who submitted registration documents were registered, only 33 of 79 APFP–Musavat bloc candidates, 30 of 67 “Karabakh” bloc candidates, and 19 of 50 “For Human” candidates were registered. Of the candidates running as independents, 68 per cent of those who submitted documents were registered.

The OSCE/ODIHR EOM has received several reports about alleged intimidation of opposition and independent candidates and their authorized representatives by employees of the local executive authorities. It also received reports of cases where voters who signed candidates' signature sheets asked to recall their signatures, allegedly after being told to do so by local executive authorities.

## VIII. POLITICAL ENVIRONMENT AND CONTESTANTS

All main political parties are taking part in the upcoming elections. The YAP, chaired by President Ilham Aliyev, has been in power since the 1995 parliamentary elections. The YAP has nominated the highest number of candidates (115) for these elections. The main opposition parties, who were united in the “Azadliq” bloc during the last parliamentary elections, formed three separate electoral blocs in the run-up to these elections. The most significant opposition bloc is composed of Musavat and the APFP. The other two are “Karabakh” and “For Human”. Two more blocs, “Democracy” and “Reform”, comprise parties seen as loyal to the government. In addition, three other parties nominated significant numbers of candidates.<sup>4</sup> Independent candidates represent more than one third of all nominated candidates.

The fact that the election campaign period was significantly reduced in comparison to previous parliamentary elections was criticized by most opposition parties. Many candidates expressed their concerns regarding the lack of time to conduct a proper election campaign in their constituencies.

The period prior to the start of the official election campaign was characterized by a lack of visible activities of political parties. This was partly due to the limited financial resources of opposition parties. The main reason given, however, was a very restrictive interpretation of the Election Code by executive and electoral authorities with regard to possible meetings by political parties and candidates before the official start of the campaign. A rally planned by the APFP–Musavat bloc for 10 October in Baku was cancelled after the Baku executive authorities wrote to the organizers that the “planned rally is not considered reasonable”<sup>5</sup> and the CEC chairperson warned the organizers about possible negative consequences. In addition, there are cases where ConECs issued warnings to prospective candidates who were distributing information about themselves during the nomination period.

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<sup>4</sup> The Classic Popular Front of Azerbaijan, the Azerbaijan National Independence Party and the Democratic Azerbaijan World Party.

<sup>5</sup> The Baku executive authority in a letter to the organizers, dated 7 October, wrote that the organizers' letter did not contain all information on the planned rally, as required by Article 5 of the Law on Freedom of Assembly. It further stated that some of the proposed slogans “are related to elections” and informed the organizers that the official campaign period starts on 15 October.

## IX. THE MEDIA

While there are several television stations with national coverage in Azerbaijan, citizens have very limited access to diverse political views in the broadcast media. This is most importantly due to a *de facto* government monopoly on television, with all national TV channels – including the state broadcaster AzTV and the public broadcaster ITV – presenting mainly the activities of the authorities and rarely showing opposition leaders and their views. The print media is more diverse, with some opposition-oriented or independent newspapers. However, these have low circulation figures and are not widely available in the regions.

The media situation is further exacerbated by detentions, defamation lawsuits and other forms of pressure on journalists which affect freedom of expression. A newspaper editor, Eynulla Fatullayev, and two internet bloggers, Emin Abdullayev and Adnan Hajjzade, remain in prison despite numerous calls by domestic and international organizations for their release. In the case of Mr. Fatullayev, the European Court of Human Rights issued a judgment that he should be released immediately.<sup>6</sup> Azerbaijan appealed the judgment. On 4 October, a panel of the Grand Chamber rejected to refer the case to the Grand Chamber, at which point the ruling became final. On 6 July, a district court in Baku sentenced Fatullayev to an additional two-and-a-half years on drug-possession charges. The OSCE Representative on Freedom of the Media stated that this new sentence “shows that Azerbaijan is unwilling to fulfill its OSCE media-freedom commitments” and that her office “will continue to insist that this journalist, as well as the two video bloggers, be set free.”<sup>7</sup>

On 22 July, the president spoke publicly about a need to tackle several media-related problems in Azerbaijan, including what he described as “racketeering in journalism”, the need to depoliticize the media, and also about the need to decriminalize defamation.<sup>8</sup> The OSCE/ODIHR EOM was informed that defamation may be decriminalized during the next legislature.

The Election Code stipulates that parties and electoral blocs which have registered candidates in more than 60 constituencies are eligible for free airtime on public TV and free space in state-owned newspapers. The only contestant to have more than 60 registered candidates is YAP.<sup>9</sup> While not legally obliged to do so, the CEC adopted a decision according to which each candidate will receive four minutes of free airtime in the framework of regular daily roundtable discussions.<sup>10</sup> In addition, candidates will be able to utilize free space in two state-owned newspapers.

The Election Code also provides for paid political advertising – only two national TV channels, however, announced their readiness to offer airtime for paid political spots. To supplement the media-related provisions in the Election Code, the CEC adopted a decision in July which further regulates the campaign in the media. While the CEC reviews the election-related programming, it does not intend to conduct systematic media monitoring.

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<sup>6</sup> European Courts of Human Rights, *Case of Fatullayev v. Azerbaijan*, Judgement, 22 April 2010, para 175, at <http://www.echr.coe.int/ECHR/EN/Header/Case-Law/Hudoc/Hudoc+database/>.

<sup>7</sup> See the regular report by the OSCE Representative on Freedom of the Media to the OSCE Permanent Council of 29 July 2010, at [http://www.osce.org/documents/pr/2010/07/45552\\_en.pdf](http://www.osce.org/documents/pr/2010/07/45552_en.pdf).

<sup>8</sup> See the speech of President Ilham Aliyev at <http://www.president.az/articles/495?locale=en>.

<sup>9</sup> As of 12 October, only YAP had more than 60 registered candidate. YAP executive secretary Ali Ahmadov on 13 October said that if no other party or bloc qualifies for free airtime, his party would not use its free airtime.

<sup>10</sup> The roundtable discussions will be organized by public TV (for candidates running in 118 constituencies) and state-funded television in Nakhchivan (for those running in the seven constituencies in Nakhchivan).

The OSCE/ODIHR EOM's media monitoring will cover two periods, 1–14 October (prior to the start of the official campaign) and 15 October–6 November (the official campaign period and the campaign-silence period) and will focus on seven TV stations<sup>11</sup> and four daily newspapers.<sup>12</sup>

## **X. COMPLAINTS AND APPEALS**

Complaints and appeals can be filed by voters, candidates, political parties and blocs and their representatives, observers and election commissions. Actions and decisions of election commissions that violate electoral rights can be challenged at the higher election commission. Decisions of election commissions on complaints, as well as decisions and actions of the CEC, can be appealed to the Court of Appeals. Decisions of the Court of Appeals can be further challenged to the Supreme Court. The timeframe for submitting a complaint or appeal is three days from the day a violation occurred or a decision was adopted. Complaints and appeals lodged before election day should be reviewed and decided upon within three days; those submitted on or after election day should be reviewed and decided upon immediately.

The Election Code foresees the creation of expert groups at CEC and ConEC levels for the adjudication of electoral disputes, consisting of nine and three members, respectively; it does not, however, provide any criteria for the appointment of these experts. It only states that commissioners with legal background may be members of these groups. The relevant CEC instruction sets as criteria professionalism, ability to conduct factual and legal analysis, experience in the field of elections and existence of high public confidence in their professional activity. In practice, expert groups comprise commissioners and in some cases administrative staff. The CEC claimed that they did not opt for external lawyers as it would be difficult to assess whether they enjoy public confidence. The CEC member representing the Umid party has claimed that no CEC member except the chairperson, the deputy chairperson and the experts are given access to copies of complaints and appeals lodged with the CEC before a review session; nor are other CEC members provided with copies of the draft decisions and the legal opinions of the experts during the session.

The Election Code allows for extension of the three-day review period upon the request of the expert group but does not provide a time limit for the extension. The purpose of this provision is to allow sufficient time for investigation. The CEC has thus far used this option extensively, in over 20 appeals against ConEC decisions denying registration to nominated candidates.

The CEC and ConECs have received several formal complaints alleging interference of executive authorities in the election process, intimidation of and pressure against candidates and their supporters, and campaign activities before the official start of the election campaign. The OSCE/ODIHR EOM has been unable to undertake a systematic and comprehensive analysis of election disputes, due to the fact that despite repeated requests the CEC has thus far not provided copies of complaints and appeals.

## **XI. PARTICIPATION OF WOMEN**

Women are under-represented in the political life of Azerbaijan. While there are a few prominent women in politics, none are chairing a political party. In these elections, 13 per cent of the nominated candidates are women, as are 13 per cent of the registered candidates. The ruling party increased the number of women among its candidates significantly in comparison to 2005, from 13 to 19 (17 per cent of registered YAP candidates). However, the number of women among opposition parties' candidates remains very low. The APFP–Musavat bloc has only five women

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<sup>11</sup> AzTV (state TV), ITV (public TV), ATV, ANS TV, Lider TV, Space and Khazar TV.

<sup>12</sup> Azerbaijan, *Respublika*, *Yeni Musavat* and *Zerkalo*.

among its 91 nominated candidates. Women are also under-represented within the election administration. Four of the 18 CEC members are women, while only two of the 125 ConECs are chaired by women.

## **XII. PARTICIPATION OF NATIONAL MINORITIES**

National minorities account for roughly ten per cent of the population of Azerbaijan. There were three representatives of national minorities in the outgoing parliament. Minority-related issues do not appear to be a significant factor in the upcoming elections. Members of national minorities are represented among the candidates across all main political parties. There are no political parties participating in the elections which represent the interest of a particular national minority.

## **XIII. DOMESTIC OBSERVERS**

The Election Code provides for international and domestic election observation. Domestic observers are registered as individuals or as representatives of a registered candidate, party or NGO active in the field of elections. The CEC registers observers wishing to observe in the whole country, while ConECs are in charge of accrediting observers who will observe in their specific constituency. Thus far, the registration process of domestic observers was not raised as a concern by any interlocutors. According to the CEC, 1,291 domestic observers were registered by the CEC, and 7,443 by ConECs. Of these, 4,570 were nominated by political parties.

One of the largest domestic observer organizations, the Election Monitoring Center (EMC), was deregistered as an NGO on 14 May 2008 by a district court at the request of the Ministry of Justice. EMC's appeal in this case is currently pending in the European Court of Human Rights. The Election Monitoring and Democracy Studies Center (EMDS) was created as the successor of EMC, but its registration was suspended by Ministry of Justice. This case is currently pending in the Court of Appeals. Nevertheless, the organization is observing these elections with observers registered as individuals, including 76 long-term observers to follow the entire election process and more than 1,000 short term observers to follow activities on election day. On 14 September, 7 NGOs united in the "Parliament – 2010" election monitoring coalition. The coalition intends to observe the activities of 80 ConECs and plans to deploy around 3,000 short-term observers in most regions.

## **XIV. OSCE/ODIHR EOM ACTIVITIES**

The OSCE/ODIHR EOM formally opened in Baku with a press conference on 28 September 2010. An advance team was deployed from 19 September to follow candidate nomination and registration. The Head of Mission has met the chairperson of the CEC, the Minister of Internal Affairs, the Deputy Minister of Foreign Affairs, leaders of political parties, representatives of civil society and the media, the ambassador of Kazakhstan as the representative of the OSCE Chairperson-in-Office, ambassadors of other OSCE participating States, the head of the OSCE Office in Baku, and representatives of other international organizations. The OSCE/ODIHR EOM also met representatives of governmental institutions involved in the election process and has established regular contacts with the CEC, political parties, civil society, and the media. A first briefing for representatives of the diplomatic community was held on 15 October.

The OSCE Parliamentary Assembly (PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) will deploy observer delegations for election-day observation. The OSCE Chairperson-in-Office has appointed Mr. Wolfgang Grossruck as Special Co-ordinator to lead the OSCE short-term observer mission for these elections. Mr. Grossruck undertook a pre-election mission in Baku from 14 to 18 October.