



Office for Democratic Institutions and Human Rights

REPUBLIC OF AZERBAIJAN

PARLIAMENTARY ELECTIONS
5 November 2000 & 7 January 2001

FINAL REPORT



Warsaw
15 January 2001

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	1
II.	INTRODUCTION AND ACKNOWLEDGEMENTS.....	3
III.	BACKGROUND.....	3
IV.	LEGAL FRAMEWORK	4
A.	GENERAL OUTLINE.....	4
B.	ELECTION SYSTEM	4
V.	PRE-ELECTION PHASE	5
A.	ELECTION ADMINISTRATION	5
B.	CANDIDATES AND PARTIES	6
1.	<i>Registration of Parties and Coalitions.....</i>	6
2.	<i>Registration of Candidates in Single-Mandate Constituencies.....</i>	6
C.	COMPLAINTS AND APPEALS	7
D.	VOTER REGISTRATION.....	8
1.	Voter Registers.....	8
2.	Internally Displaced Voters	8
E.	MEDIA	8
1.	The Environment.....	8
2.	Media Monitoring	9
F.	THE ELECTION CAMPAIGN	10
G.	CAMPAIGN FINANCE.....	11
H.	DOMESTIC OBSERVATION.....	11
VI.	ELECTION DAY	11
A.	GENERAL ASSESSMENT	11
B.	TURNOUT	12
C.	VOTING	12
D.	VOTE COUNT.....	14
E.	TABULATION OF RESULTS	14
F.	CO-OPERATION WITH OBSERVERS.....	15
VII.	THE PARTIAL REPEAT PARLIAMENTARY ELECTIONS.....	15
A.	DEVELOPMENTS FOLLOWING 5 NOVEMBER	15
B.	ELECTION COMPLAINTS AND APPEALS.....	16
1.	<i>Post 5 November Complaints.....</i>	16
2.	<i>Pre-7 January Complaints.....</i>	18
C.	REGISTRATION OF CANDIDATES	19
D.	REPEAT ELECTION DAY	19
1.	Polling.....	19
2.	Counting	20
3.	Tabulation of Results	20
VIII.	RECOMMENDATIONS.....	21
ANNEX 1	REGISTRATION OF CANDIDATES.....	24
ANNEX 2	VOTER TURNOUT.....	25
ANNEX 3	SUPPLEMENTARY VOTER LISTS.....	26
ANNEX 4	RESULTS OF THE 5 NOVEMBER VOTE	27
ANNEX 5	COMPOSITION OF THE NEW PARLIAMENT	28

REPUBLIC OF AZERBAIJAN
PARLIAMENTARY ELECTIONS
5 November 2000 & 7 January 2001

OSCE/ODIHR Final Report¹

I. EXECUTIVE SUMMARY

The 5 November 2000 elections to the *Milli Majlis* (Parliament) of the Republic of Azerbaijan took place in a political context marked by the country's accession to the Council of Europe and questions about its future course. The elections marked some progress over previous occasions, in particular in the preparatory phase and enhanced political pluralism, although the overall process fell short of international standards for democratic elections. Regrettably, this progress was overshadowed on election day – polling was marred by numerous violations and the vote count was completely flawed.

As a result, the election outcome was annulled in 11 single-mandate constituencies and partial repeat elections ordered for 7 January 2001. The repeat elections marked some improvement over the 5 November ballot, despite the resurgence of some problems already observed previously.

The 5 November elections took place within an improved legislative framework that incorporated a number of recommendations proposed by the international community. However, deficiencies remain and legal provisions were applied in a partisan manner.

Two aspects of the election process indicate improvement over previous elections: (1) the Law on the Central Election Commission (CEC) provided multi-party election commissions at all levels; and (2) although initially obstructed, a number of opposition parties were registered for the nation-wide contest. However, these improvements were tempered by interference and pressure from the authorities in the election process.

Generally, the election dispute resolution and appeals process was flawed both in the pre-election period and during the post-election phase. In most cases, the Central Election Commission (CEC) and the judiciary failed to address complaints effectively, refusing to hear witnesses or examine evidence presented by plaintiffs. Contrary to the provisions of the law, the CEC referred almost all complaints to the courts instead of deciding itself.

Overall, opposition parties were able to campaign more effectively than in previous elections. Despite the late registration of some political parties, which unsettled their election preparations and affected their ability to conduct a full campaign. In the run up to election day, they experienced bureaucratic obstruction and harassment of party activists.

In contrast with past elections, the media provided for a diversity of political views and the legal provisions for distributing free airtime were respected. Political parties were able to present their platforms and freely express their opinions. Nevertheless, a strong bias in favour of the incumbents could be noted outside the free airtime in the State-owned media.

¹ This report is also available in Azeri. However, the English version remains the only official document.

New legal provisions regulating the accreditation of domestic non-partisan observers were less liberal and represented a step back from previous experience.

On election day, voting was conducted in a generally calm atmosphere. Observers reported ballot box stuffing, manipulated turnout results and pre-marked ballots. Additionally, party proxies frequently suffered intimidation, harassment and even arrest. Unauthorised local officials often controlled the process and sought to influence voters. In several instances, international observers were denied access to polling stations and some were expelled from election commission premises. The vote counting and aggregation of results processes were completely flawed and manipulated.

Following this and as a step in the right direction, the CEC and the Constitutional Court cancelled the results in 11 constituencies where serious violations were found, and ordered repeat elections only for the single-mandate contests. While the decision to cancel these results was prompt, some officials responsible for the violations were dismissed, and a few prosecuted under the criminal code, the majority of complaints arising from the 5 November ballot were not addressed transparently and in accordance with the rule of law. In addition, as the partial repeat elections were limited to the single-mandate contests, some 16% of the electorate were disenfranchised so far as the nation-wide proportional ballot was concerned.

The measures undertaken for the repeat elections were insufficient to restore full confidence in the process and to convince most of the main opposition parties to participate in the repeat elections. As a result, only one major opposition party took part in the repeat balloting with four candidates.

In a marked improvement, the CEC addressed complaints on candidate registration for the repeat elections more efficiently than during the run-up to the 5 November ballot, reinstating 10 candidates whose registration had been denied. Local authorities again interfered in the election process, instructing and exerting pressure on election commissions.

On 7 January, polling took place in a calm and orderly manner, and in contrast to 5 November, observers were generally able to conduct their work unhindered. However, observers again noted a number of irregularities, including some cases of ballot stuffing and a flawed counting and tabulation process.

The OSCE/ODIHR stands ready to continue the dialogue with the authorities and civil society of Azerbaijan in an attempt to address the concerns and recommendations arising from these elections, in particular:

- Resolute measures must be undertaken to discourage the executive authorities from interfering illegally in the work of election administration bodies. Those responsible must be prosecuted in accordance with the rule of law and penalised appropriately.
- The results of all elections must be published promptly, in all relevant details, and at all levels, in order to provide an opportunity to all interested parties to audit the outcome from any polling station, through all intermediate levels, up to the CEC level.
- A consolidated election code should be developed for all types of elections and include the Law on the Central Election Commission. This would provide the opportunity to review and remedy remaining weaknesses in code.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Ministry of Foreign Affairs of the Republic of Azerbaijan, the Organization for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission on 4 October 2000.² Mr. Nikolai Vulchanov, OSCE/ODIHR Election Advisor, was appointed as Head of the Election Observation Mission. Ms. Paula Kokkonen of the OSCE Parliamentary Assembly (OSCE PA) was appointed by the OSCE Chairperson-in-Office as her Special Representative to lead the OSCE observation mission.

This report consolidates the findings of 17 international experts and long-term observers deployed to the 99 election constituencies in Azerbaijan and over 200 short-term observers from 30 OSCE participating States, including 21 parliamentarians and staff from the OSCE Parliamentary Assembly. In addition, polling was observed by a delegation of 18 parliamentarians from the Parliamentary Assembly of the Council of Europe (PACE) under the leadership of Mr. Andreas Gross. On election day, observers visited some 900 polling stations, covering most constituencies in Azerbaijan. On 6 November 2000, the OSCE/ODIHR, the OSCE PA and the PACE delegation constituted as an International Election Observation Mission, issued a joint statement of preliminary findings and conclusions.

For the 7 January 2001 repeat elections, an OSCE/ODIHR Election Observation Mission was established on 18 December with 12 international experts and long-term observers, covering all 11 single-seat constituencies where election results were canceled. On repeat election day, the International Election Observation Mission deployed more than 100 short-term observers, including five parliamentarians from the OSCE Parliamentary Assembly and 13 from the Parliamentary Assembly of the Council of Europe. Observers reported from over 400 polling stations out of the 544 in the 11 constituencies, and from 11 Territorial Election Commissions.

The OSCE/ODIHR wishes to express appreciation to the Presidential Administration, the Ministry of Foreign Affairs and the Central Election Commission of Azerbaijan for their assistance and co-operation during the course of the observation.

III. BACKGROUND

On 6 July, President Heydar Aliyev called for elections to the *Milli Majlis* to be held on 5 November. The elections were only the second multi-party parliamentary elections to be held in Azerbaijan since independence was gained in 1991. The first was held on 12 November 1995.

Political parties in Azerbaijan contesting the 2000 elections can be grouped into three main categories: governmental and pro-governmental parties, opposition parties and a group of small parties formed around prominent individuals. The ruling New (*Yeni*) Azerbaijan Party (NAP) with Ilham Aliyev, the President's son, heading the party list. The opposition included the Musavat Party, Azerbaijan National Independence Party (ANIP), Azerbaijan Democratic Party (ADP), Azerbaijan Popular Front Party (APFP), and the Azerbaijan Liberal Party (ALP).³ As a

² In addition, an OSCE/ODIHR election expert monitored the working sessions of the Central Election Commission from early July 2000.

³ The party leaders are Isa Gambar (Musavat); Etibar Mamedov (ANIP); co-chairmen Rasul Guliyev (currently in exile in the USA and facing charges of corruption and an alleged coup attempt) and Elyas Ismailov (ADP); Ali Kerimov (the "reformers" wing of APFP); Mirmakhud Fattayev (the "classics" wing of APFP); and Lala Shovket Gadjeva (ALP).

consequence of a split in the APFP into two wings following the death of Abulfaz Elchibey in August, the Democratic Congress, an umbrella organisation for opposition political parties, also split along similar lines.

The overall political atmosphere was marked by concerns over the future of the country and a certain level of discontent among the population. Also, the accession of Azerbaijan to the Council of Europe formed the backdrop of these parliamentary elections. On 28 June, the Parliamentary Assembly of the Council of Europe recommended to the Committee of Ministers to admit Azerbaijan as full member. However, the Committee postponed the admission to after the conduct of the *Milli Majlis* elections. On 9 November, the Council of Europe invited Armenia and Azerbaijan to become full members. However, the Council of Ministers asked the authorities of Azerbaijan to present within a month a report responding to the criticisms made by the International Election Observation Mission and to correct the reported fraud.

IV. LEGAL FRAMEWORK

A. GENERAL OUTLINE

The Constitution of Azerbaijan, adopted by referendum in November 1995, establishes a unicameral parliament, the *Milli Majlis*. Members of the *Milli Majlis* are elected for a five-year term by secret ballot in direct elections.

In addition to the Constitution, parliamentary elections are primarily regulated by: (1) the Law on Elections to the *Milli Majlis* (2000) (hereinafter the Election Law); and (2) the Law on the Central Election Commission (1998, amended 2000) (hereinafter the CEC Law). Other relevant acts include the Criminal Code (2000); the Law on Political Parties (1992); the Law on the Freedom of Assembly (1998); the Law on Mass Media (1995); and the Law on Non-Governmental Organisations (2000). Numerous Presidential Decrees are also relevant, as are the instructions, regulations and decisions of the CEC and decisions of the judiciary.

The OSCE/ODIHR has been engaged in the Republic of Azerbaijan in an attempt to restore confidence in the election process since the 1998 presidential election. In particular, the OSCE/ODIHR endeavoured to facilitate the adoption of the CEC Law, enjoying the confidence of the main political interests. In addition, the OSCE/ODIHR submitted extensive comments on the Election Law.

Although serious deficiencies were noted in regard to the implementation of the election legislation, the current legislation establishes an adequate framework for the conduct of pluralist elections provided that the law is supplemented by decisions of the CEC and implemented appropriately, in a consistent and transparent manner.

B. ELECTION SYSTEM

Azerbaijan has a mixed election system. Twenty-five mandates in the *Milli Majlis* are allocated proportionally from national party lists in a nation-wide constituency (“the proportional ballot”) and 100 mandates are allocated to candidates in single-mandate constituencies.⁴

⁴ Elections were held in only 99 constituencies on 5 November, excluding Khankandi in Nagorno-Karabakh.

In the proportional ballot, only political parties and party blocs gaining more than 6 percent of the valid votes are eligible to participate in the distribution of the 25 mandates. To secure victory in single-mandate constituencies, candidates need only to gain a simple majority of valid votes, provided that over 25 percent of the registered voters participate. Each single-mandate constituency includes an average electorate of 43,000. Not more than 1,500 electors are registered per polling station.

V. PRE-ELECTION PHASE

A. ELECTION ADMINISTRATION

The Election Law provides for a three-tier administrative structure, including the Central Election Commission (CEC), 100 Territorial (or Constituency) Election Commissions (TECs) and some 5,000 Precinct Election Commissions (PECs). The CEC Law which, *inter alia* regulates the composition of the CEC, was adopted on 15 May 1998 and amended twice, on 9 July and 21 July 2000.

Election commissions include “full” members and an “extended” composition with “consultative voting status” representing parties (at CEC level) or candidates contesting the elections (at TEC and PEC level). The CEC is a permanent body with 18 “full” members. Six are nominated by the party of the parliamentary majority (based on the proportional ballot in the preceding elections), a further six are nominated by the parliamentary minority parties, with the remaining six made of independent lawyers nominated by parliamentary deputies who are not members of political parties. Members are appointed for a six-year term of office with one-third changed every two years. TECs have nine members, but otherwise their composition is similar to the CEC.

The commissions have a Chairperson and a Deputy, and two Secretaries. The chairpersons represent the majority party, whilst the non-partisan deputies and the minority parties each nominate one of the two secretaries. The chairperson and the two secretaries must sign all commission decisions. Two-thirds of commission members must be present for quorum and a two-thirds majority is required for decisions.

On 18 July, 17 members of the CEC were appointed. The opposition objected to the one member appointed by the “independent” political interest, for whom their approval was required in accordance with the CEC Law as adopted originally. The opposition also boycotted the early sessions of the CEC, insisting that the Parliament should amend certain provisions of the Election Law. This left the CEC without the required two-thirds quorum. To remedy the impasse, the Parliament amended the CEC Law on 21 July so that the agreement of the opposition was no longer required to appoint the 18th member of the CEC. Thus the opposition lost its decisive role in the CEC.

The multi-party nature of election commissions was a notable improvement over previous elections. However, NAP and “independent” members at all levels of election administration consistently voted on issues in unison, thus marginalizing opposition members. Opposition members’ attempts to introduce items to the agenda of commission meetings were often blocked by the NAP and “independents”. At times, actions were undertaken without a decision of the CEC. On other occasions, the CEC took decisions outside its powers and outside legal deadlines.

Thus, the CEC and TEC activities at times lacked transparency and accountability. For example, the CEC allowed neither the EOM nor opposition representatives to observe the printing of ballots in contravention of Article 68.9 of the Election Law. On occasion, TECs refused to provide requested information and documents, and prevented meetings of international observers with representatives of the opposition.

B. CANDIDATES AND PARTIES

1. Registration of Parties and Coalitions

Political parties registered by the Ministry of Justice at least six months prior to an election may nominate candidates for the nation-wide constituency.⁵ To register a candidate list, political parties or coalitions are required to collect 50,000 valid signatures of electors from at least 75 constituencies. Controversially, the CEC decided that parties must present a minimum of 250 signatures from each of the 75 constituencies, a requirement not based on the Election Law.

Initially, the CEC accepted applications from five parties to contest the proportional ballot.⁶ The CEC rejected the applications of eight parties and coalitions on suspicion that some signatures on nomination papers were falsified.⁷ As signatures were invalidated, the number of valid signatures fell below the 50,000 required for registration. Four of the rejected parties appealed to the Court of Appeals. During the Musavat Party's appeal, the Court refused to consider evidence and witnesses testifying that their signatures were indeed valid, and upheld the CEC decision.

On 6 October, President Aliyev appealed to the CEC to "to reconsider [its] decision". On 8 October, the CEC reversed its earlier decision and registered the parties based on the President's request and unspecified Constitutional provisions. The opposition parties generally welcomed this decision, but some questioned the independence of the CEC.

2. Registration of Candidates in Single-Mandate Constituencies

Many candidates nominated by opposition parties and initiative groups were rejected by the TECs, mainly for alleged irregularities concerning the 2,000 signatures required for registration. The signature verification procedures were subject to abuse, manipulation and arbitrary decisions. The CEC failed to establish a credible and transparent procedure to verify these signatures. The limited number of candidates from opposition parties registered for the constituency contests reduced the choice available to voters. In Baku, not a single candidate from Musavat was registered.

The EOM received many reports of interference from local executive authorities during the process of examining signatures. State authorities pressed citizens to withdraw their signatures

⁵ According to a decision of the Constitutional Court dated 28 August 2000, this provision does not have retroactive force. Consequently, ADP was allowed to participate in the elections.

⁶ NAP, APFP, ANIP, and the Civil Solidarity Party. The fifth, the Communist Party was initially rejected for failing to provide a financial certificate. However, the Court of Appeals overturned this decision, ordering that the party should be registered.

⁷ Musavat, ADP, ALP, Popular Democratic Party, National Congress Party, the Party of Alliance for the Sake of Azerbaijan, Democratic World of Azerbaijan Party, and the coalition Democratic Azerbaijan.

from nominating petitions.⁸ The role of the local executive was of particular concern as some 30 senior figures in local government, overwhelmingly representing the NAP, were candidates.

The main reason for TEC denial of registration was allegedly forged signatures. TECs lacked the resources and expertise necessary to examine signatures and referred the matter to “experts”. However, in one Baku constituency, the experts recommended the registration of all but one of the six nominated candidates. Nonetheless, the TEC disregarded their opinion and registered only two. Generally, signature verification procedures were inconsistent and candidates were rejected based on subjective factors rather than facts. Candidates were not given the opportunity to correct these minor errors or omissions and were at times excluded from the process of signature verification in contravention of article 43.4 of the Election Law. Some were also not provided with the documentation required to appeal to court.

In the end, TECs rejected 408 candidates and registered only 409. A table detailing candidate registration and rejection can be found at Annex 1.

C. COMPLAINTS AND APPEALS

According to the Election Law, election commissions or courts may address election disputes. They must review these complaints within five days from filing, extendable to 10 days if an investigation is required. The deadline for filing complaints is seven days “after the submission or publication of the decision that violates the right to vote”.

Many of the TEC decisions rejecting candidate nominations were appealed to the CEC and, in some cases, directly to local courts. The EOM received 128 complaints and appeals by parties and candidates, the overwhelming majority of which were for rejection due to allegedly invalid signatures.⁹

The CEC failed to handle these complaints in accordance with the Election Law. The CEC received about 250 complaints alleging arbitrary rejection of candidate registration. The CEC decided only 25 of these cases, of which 19 were rejected. The CEC refused to consider the remaining complaints, arguing that they require “judicial handling” and thus fall under the jurisdiction of courts. In these cases, the CEC wrote to the complainants and referred them to the courts. However, the Election Law includes no such provision.

Complaints and appeals filed with the courts mostly related to decisions of TECs on candidate registration, but also included appeals on CEC decisions.¹⁰ In general, the judiciary failed to provide complainants effective remedies. In particular, courts accepted the findings of “signature experts” as “a given”, notwithstanding evidence to the contrary.

⁸ For example, in TECs 3, 39, 52 and 100. In constituencies 43, 61 and 81, police or members of executive bodies asked citizens to withdraw their signatures. In Constituency 61, Musavat supporters were threatened with the loss of employment and shopkeepers were informed that the tax authorities would visit them unless they withdrew their signatures.

⁹ Out of 68 complaints filed with the CEC, 61 were for invalid signatures; out of 30 complaints filed with the courts, 29 were for invalid signatures; and out of 30 complaints received by the EOM, 24 concerned invalid signatures.

¹⁰ According to data submitted to the EOM by the Judicial Board, by 3 November, District Courts had received 95 complaints, mostly concerning candidate registration. Of these, 53 were rejected, 9 were satisfied, 9 were not accepted for procedural reasons, 18 were still pending and 6 candidates withdrew their complaints before adjudication. The Court of Appeals heard 46 cases, of which 36 were rejected, 7 were satisfied, 3 partly satisfied, and 1 was withdrawn. The Supreme Court received 14 appeals, of which 13 were rejected.

D. VOTER REGISTRATION

1. Voter Registers

Throughout the year, the authorities worked on a nation-wide computerized voter register from which polling station voter lists would be extracted. While this development was a step forward, the project implementation lacked transparency and specific legislation.

The preliminary total number of registered voters stood at 4,337,534. This figure was in marked contrast to the 4,767,440 total number of registered voters for the 1999 municipal elections.

In general, voter registers were not posted for public scrutiny in accordance with legal deadlines at the precincts, reducing transparency and denying voters the opportunity to remedy errors.

2. Internally Displaced Voters

As a result of the armed conflict over Nagorno-Karabakh, Azerbaijan has a large number of internally displaced persons (IDPs) of whom some 250,000 are registered to vote. They are entitled to vote in both the proportional ballot and the single-mandate constituency contests. Nine constituencies are partly or wholly in occupied territory.¹¹

In the case of districts wholly in occupied territories, constituency commissions “in exile” were established. IDP voter lists were created on the basis of information supplied by the Ministry for Refugees and Displaced Persons and the local executive authorities “in exile”. The IDPs are dispersed throughout Azerbaijan, with some concentration in Baku. They voted in their places of temporary residence, but their votes were accounted for in their original constituencies.

While IDPs in Azerbaijan have equal rights, freedoms and duties with other citizens, the CECs failure to issue specific instructions for IDP voting reduced the transparency of the process, led to an ad-hoc administration of the process, and prevented observers from following the registration and voting in IDP constituencies.

E. MEDIA

1. The Environment

Following the last parliamentary elections, in August 1998, a Presidential Decree abolished the Department for Protection of State Secrets in the Press and Other Media, in effect abolishing censorship in Azerbaijan. This was a significant step forward. However, the media remained under pressure from the authorities and subject to non-transparent procedures when seeking broadcast licenses, arbitrary tax inspections and closures. Under such threats, many media were forced to exercise self-censorship.

The Law on Mass Media, the media-related provisions of the Criminal Code, the Election Law, and a CEC instruction on the election campaign regulate the activities of the media. The Criminal Code provides for a prison term of up to six years for insulting or commenting

¹¹ These are constituencies 41, 42, 45, 47, 48, 71, 86, 90 and 95.

critically on the President. The Election Law grants candidates and parties the right to campaign on State-owned media under equal conditions and prohibits the media from campaigning itself.

2. Media Monitoring

The EOM monitored the media between 2 October and 3 November. Two television stations, the State-owned AZTV 1 and the privately owned ANS, were monitored between 17:00 and 01:00 daily. Additionally, five daily newspapers were monitored: *Azadliq* (formerly owned by the APFP); *Azerbaijan* (State-owned); *Yeni Musavat* (run by the party); *Zerkalo* (independent); and *525-ci Gazet* (independent).

In the framework of the proportional ballot, legal provisions for the use of free airtime on the State media were respected, allowing all political party representatives to present their platforms to the electorate and freely express their opinions, including those critical of the incumbent administration. This was denied previously and was an important improvement. However, challenges remained.

Observers reported power supply interruptions in outlying regions during the broadcast of certain opposition parties. Rauf Arifoglu, Editor-in-Chief of “Yeni Musavat” newspaper and candidate on the proportional list of the Musavat Party was arrested on 22 August 2000 in connection with a hijacking of an aircraft in flight between Nakhchivan and Baku. He was released from pre-trial detention on 5 October, although the charges against him remained in force. Later, he was given permission to conduct his election campaign in areas outside Baku, provided that he informed the State investigative department of his movements. The privately owned TV station ABA suspended its broadcasts during the period of the election observation ostensibly because of a dispute with the Ministry of Finance concerning unpaid debts. The station resumed broadcasts after a break of approximately one week.

Outside the free airtime, AZTV 1, the only channel covering the whole territory of the country, showed strong bias in favour of the party in government, offering them some 90 percent of the election program coverage, 70 percent of which was favourable. Airtime granted to the opposition was extremely marginal (about 1 percent of political broadcast time) and was overwhelmingly negative. Outside the free airtime, none of the main opposition leaders were given the opportunity for “direct speech”. AZTV 1 consistently failed to comply with the spirit of Article 52.1 of the Election Law, which prohibits State media from campaigning for or against election contestants.

Some private broadcast media provided more balanced coverage of the election campaign. The private TV station ANS generally presented a plurality of political views to the electorate in a generally balanced manner. Although ANS extended its broadcast range during the campaign period, only a minority of the electorate was able to view its broadcasts.

Though the print media collectively presented a broad range of views, they could not compete with television in the dissemination of campaign information.¹² The State-owned Azerbaijan newspaper provided 77 percent of all printed space to the incumbent administration. The small quantity of coverage granted to opposition parties was overwhelmingly negative.

¹² *Azadliq* and *Yeni Musavat* favoured the APF and Musavat parties respectively, and *Zerkalo* maintained a mainly neutral tone. *525-ci Gazet* gave some advantage to NAP, both in terms of total coverage and positive tone. However overall, little “negative coverage” for any political party was reported in this newspaper.

F. THE ELECTION CAMPAIGN

The Election Law, the Law on the Freedom of Assembly, the Law on Advertisement, and Municipal Administrative Decrees regulate the campaign outside of the media. Although the Election Law includes many positive aspects, it does not provide sufficient detail on the enforcement powers of the CEC or provide any information on penalties applicable for breaches of the provisions.

During the campaign, fundamental freedoms were generally respected, with candidates in general enjoying freedom of movement, expression, association and assembly. Parties and candidates were able to hold meetings with voters, express their views, and distribute and display campaign material, albeit under unequal conditions. However, a few violent incidents against candidates were noted and opposition parties and the media reported some intimidation of supporters by some branches of State structures, including the police. In Guba-Davachi, candidate Guloga Agayev, registered as NAP, was beaten and hospitalised allegedly by members of the local executive said to support Vagif Arzumanli, also registered as a NAP candidate in the same constituency. In Nakhchivan, masked assailants assaulted Musavat's sole candidate in the Autonomous Republic requiring him to seek medical treatment.

Generally, the campaign was low-key until late October. Platforms focussed on political and economic issues as well as the need to resolve the Nagorno-Karabakh issue. However, on a few occasions the tone of the campaign went beyond acceptable limits.

Parties experienced different treatment from the authorities in arranging public rallies and meetings. Some opposition activists suffered intimidation with a few detained by police. Supporters of the ADP in Surakhany and Nakhchivan were detained by police for displaying pictures of Rasul Guliyev, leader of the ADP. Musavat supporters were detained in Sebail-Baku and Lenkoran for displaying posters. During the latter period of the campaign, opposition parties faced increasing interference from State bodies and bureaucratic obstacles in arranging meetings with voters. For instance, dates and locations of political rallies were changed by the executive authorities with little prior notice.

The separation between the State and the ruling party became blurred as State assets were used for campaign purposes and the NAP was granted favourable treatment by local authorities despite a prohibition in the Election Law.¹³ For example, on 27 October, every effort was made to generate an audience for a NAP rally in Ganga, including declaring a "local public" holiday and providing free transport to public employees and school children to attend. Opposition parties reported that they were unable to secure venues previously used by the NAP in clear contravention of the election law.

Parties were granted an unlimited right to place advertisements, with only the spending ceilings restricting their right. However, some printing houses and advertising agencies were pressured to restrict opposition access to their services and to obtain authorisation from local executive branches before selling advertising space to opposition parties. Furthermore, some newspapers reported tax investigations in early October. ANIP representatives in Baku reported that printing houses were forced to delay printing of all material, but NAP and the ADP reported that

¹³ Articles 49.3.1 and 49.3.2.

printing houses refused to take their orders under pressure from the Tax Inspectorate. “SIM”, a private company, took the ADP order but with higher prices than elsewhere.

Posters of the ruling party were much more visible than those of opposition whose posters were routinely torn down at night. Official spaces for the display of campaign material were distributed unevenly. The NAP had access to numerous sites, but few were allocated to opposition parties.¹⁴ Observers reported that in some constituencies voters were receiving NAP campaign material distributed with their “invitations to vote”. Also, some TECs displayed in their premises and distributed NAP campaign material in clear contravention of the legal provisions.¹⁵

G. CAMPAIGN FINANCE

Legal provisions establishing a State-financed election fund for political parties and candidates are a welcome improvement. However, the procedures for distributing the funds were unclear and the amounts involved modest. Parties and candidates reported delays in receiving funds. Beyond State-provided funds, the limit on campaign spending of approximately US\$ 250,000 was sufficient for parties to mount a national campaign. Nevertheless, it will be important for the State authorities to verify that the sums spent by parties do not exceed the established limits.

H. DOMESTIC OBSERVATION

Following the adoption of a CEC instruction, domestic public associations and organisations financed by foreign sources may not observe the elections. Moreover, they may not be financed by legal entities which have over 30 percent of their capital provided by foreign countries, foreign legal entities, and persons who do not have Azerbaijan citizenship. This instruction was based on the NGO Law. Its effect was to prevent many domestic NGOs from observing the elections as most organisations interested in so-doing received financial and technical assistance from international NGOs. This was a serious limitation, a step back from previous practice and is contrary to the spirit of the Copenhagen Document.¹⁶

VI. ELECTION DAY

A. GENERAL ASSESSMENT

Observers filed 95 report forms from the opening and setting up of polling stations, 829 report forms on voting during the day, and 88 reports on the counting of ballots. In addition to these report forms, observers followed the transfer of polling material and results protocols to the TEC level and filed narrative reports detailing specific violations and irregularities that occurred during the day. Observers were asked to give an overall assessment of the voting and counting procedures. These figures are as follows:

¹⁴ The AMA Advertisement Company refused to allocate billboards to Musavat despite a signed contract. The ADP rented four large billboards for a month, but they were destroyed and the posters replaced by ones for the NAP.

¹⁵ Articles 49.3.5 and 56.8.

¹⁶ The NGO “For the Sake of Civil Society” had intended to conduct an election observation including a partial parallel count of the results. As it received funding from the US-based National Democratic Institute, its application to observe was rejected by the CEC.

	Very good	Good	Bad	Very Bad	No Comment
Voting	17%	57%	17%	7%	2%
Counting	13%	35%	20%	32%	-

In many polling stations PECs endeavoured and many succeeded in fulfilling their tasks according to the provisions of the Election Law. However, in the 24 percent of cases in which a negative assessment was given, a series of major violations were observed.

The assessment of the vote count was dramatically worse with a majority (52 percent) reporting negatively. It was during the count that the widespread incidence of ballot box stuffing and fraud became apparent. The hard work of many PECs was undone at the TEC level by the manipulation of results, including the inflated voter turnout figures.

B. TURNOUT

The CEC reported turnout figures at various points during the day up to the close of polling at 19.00 using a computerised information program developed with funds from UNDP. This data indicated an average turnout of 9.35 percent at 11.00, with a wide variation in the reported turnout: Tovuzkend – Gadabay (Constituency 88) reporting only 2.4 percent, and Tartar-Kalbajar (Constituency 45) reporting 34 percent.

According to the CEC website, 41.6 percent had voted by 13.00, indeed a dramatic increase from 11:00. EOM Observers reported much lower turnouts figure for the period 12:00 to 14:00, showing 27 percent. A number of observers counted voter signatures from the voter lists, indicating the number of voters who had received ballots. Some found that this figure was considerably lower than that reported by the PEC Chairperson.

In some constituencies, the EOM received copies of turnout figures for individual polling stations. In Yasamal (7), the TEC printed copies of the turnout at each polling station at the close of polling. In the four cases where observers recorded the data from the PECs after the close of polling, marked differences appeared:

PEC number (No of registered voters)	9 (1220)		19 (663)		20 (1028)		25 (1079)	
	No.	%	No.	%	No.	%	No.	%
Turnout reported by TEC at 19:00	752	61.6%	468	70.5%	695	67.6%	642	59.7%
Valid Votes (original results protocol)	300	24.6%	198	29.9%	317	30.8%	359	33.3%
Difference	452	37.0%	270	40.6%	378	36.6%	281	26.4%

Official data indicates that 68.8 percent of registered voters participated by 19:00. However, the range of turnout varied greatly between 35.3 percent in Sumgait (40) and 91.3 percent in Serur-Sadarak (1). Based on information supplied by PEC Chairpersons to EOM observers, between 18:00-19:00, some 48 percent of voters participated, approximately 20 percent below the official figure.

A table detailing turnout data at various stages during the day can be found in Annex 2.

C. VOTING

Polling was conducted in a generally calm atmosphere, although unrest and isolated violence were reported. A large number of polling stations displayed campaign material at or near the

entrance, and many displayed such material inside. Campaign material was overwhelmingly that of the NAP.

Observers and political parties reported a number of cases where party proxies and PEC members from the opposition parties suffered intimidation, harassment, police interrogation and sometimes even arrest whilst carrying out their legitimate activities. Some PEC members were ejected from polling stations after complaining against or attempting to prevent fraud. Observers often reported instances of senior local officials controlling the process and seeking to influence voters.

Observers reported numerous instances of voting outside the voting booth and at times PEC members and other persons intruded on voter's privacy or otherwise attempted to see how voters had voted. A remarkably high number of report forms (12.3 percent) indicated that some voters were showing pre-marked ballots to persons before depositing them in the ballot box. Men were frequently voting on behalf of their spouses and sometimes for the entire family. On other occasions, voters presented multiple passports and received multiple ballots.

The verification of voter identity was usually done properly. However, observers reported that entries on the supplementary voter lists often lacked signatures. Similarly, in some instances the ordinary lists lacked voter signatures and particularly a record of voter identity document. According to observer report forms, approximately 10 percent of voters were added to supplementary voter lists. As there is no mechanism to ensure that voters whose names are added to supplementary lists are not registered elsewhere, combined with many instances of identical signatures on voter lists, multiple voting was a serious concern.

Statistics on the number of voters entered on supplementary lists can be found in Annex 3.

Voting by the military lacked transparency and that EOM observers faced difficulties accessing military voting. In total, 109 precincts for the military were established contributing to increases in the numbers of voters registered in some constituencies by as much as 10 percent. In the three constituencies located in Ganga, a total of seven PECs with some 10,500 voters from the military were established only a few days before election. Military precincts were, sometimes established in urban areas, contrary to CEC instructions. In Yasamal, all three military polling stations had a 100 percent voter turnout (two of the three by 16:00 hrs) and displayed remarkable uniformity in their political choice. In one of the three polling stations, 838 ballots out of 852 were cast in favour of the NAP.

The EOM received numerous reports of fraud on election day, including instances of stuffing large numbers of ballots into the ballot box, and pre-marked ballots in favour of the NAP. In Sumgait (No. 38) early on election day an observer encountered such pre-marked ballots held in a PEC safe. In Nakhchivan, the EOM received samples of pre-marked ballots even before election day.

EOM Observers reported eighteen cases of directly witnessing ballot box stuffing and received over 50 reports from PEC members or party proxies of such activity. The EOM also received a number of reports alleging that some ballot boxes were full even before voting commenced.¹⁷ Other reports point to stuffing of mobile ballot boxes.

¹⁷ For instance in a polling station in Aghdam City (Constituency 47).

D. VOTE COUNT

The vote count process was exceptionally poor. Observers reported that counting was frequently conducted in a chaotic and agitated atmosphere. PEC members and party representatives were often intimidated, polling stations were frequently overcrowded and a high incidence of unauthorised persons were present, often interfering in the process.

In the minority of cases where observers reported that the count was well conducted, the election results between Musavat and NAP were often close with the AMIP, ALP, ADP and APFP also polling well. The turnout in these polling stations was normally around 30 percent.

A majority of observers reported that the counting procedures were frequently ignored. The number of ballots received and the number of unused ballots were often not recorded in the protocols and unused ballots were not frequently invalidated as the Election Law requires. Invalid ballots were not necessarily packed and sealed. In many cases, the PECs did not count either the number of persons registered to vote according to the voter lists or the number actually voting. Almost 40 percent of observers reported that stacks of ballots were seen in the ballot box, indicating ballot stuffing and multiple voting. Some observers reported that the lights were turned out during the count. In some cases, the number of ballots in the box was greater than the number of voters having signed the voter lists.

A number of PECs did not complete the result protocols in the polling stations. Some prepared drafts to take to the TEC for approval, whilst others completed a protocol at some point after closing the polling station. Many PEC protocols lacked signatures from at least some PEC members, and almost half of the observers reported that entitled persons were not given copies of protocols.

E. TABULATION OF RESULTS

The aggregation procedures at the TEC level lacked transparency and raised serious concerns. Members of TECs and PECs from opposition parties were rarely seen at TECs, nor were the commissions often in session. Most observers who followed the process at the TEC level noted an undue delay in the arrival of PEC protocols at TECs. For instance, at PEC 8 in constituency 94, the count was completed at 21:05 but the protocol arrived at the TEC at 01:00 despite the fact that the TEC is only a five-minute drive from the TEC. Some PEC protocols were first delivered to the local executive instead of the TEC, e.g. in Constituency 56 (Barda).

Observers reported election violations and fraud, including the changing protocols with false results, inflating the turnout, and increasing the vote for the NAP and reducing the figures for Musavat and AMIP. Observers reported such violations in constituency 3 (Nakhchivan), 53 (Astara) and 61 (Qaballa). In Astara, a PEC chairman entered the results correctly in the protocol. However, a short time later, the PEC Chairman with the TEC staff erased these and entered completely different numbers. In constituency 10 (Khatai), observers obtained two different copies of the result protocols for PEC 32, showing different results for the same precinct. Observers uncovered similar cases of falsified protocols in other constituencies.

Early during the preparations for the elections, the CEC informed the EOM that an automated system would be set up to inform the electorate on the turnout throughout election day and for the tabulation of the vote results at the TEC and CEC levels. On election night, observers and party proxies were in general prevented from monitoring the data entry process.

The results of the 5 November vote can be found in Annex 4.

F. CO-OPERATION WITH OBSERVERS

In several instances, international observers were denied access to polling stations or expelled from polling stations. During the count, a few observer teams reported that police refused them entry and barred them from carrying out their tasks.¹⁸ In one case, in Constituency 94, where ballot box stuffing and a heated exchange between PEC members had occurred, observers were advised not to return for the count. Of great concern were a few reports that EOM interpreters suffered intimidation from State officials. Many observers were prevented from carrying out their tasks at the TEC level. Very few TEC chairpersons permitted observers to see the results being entered in the computerized system.

VII. THE PARTIAL REPEAT PARLIAMENTARY ELECTIONS

A. DEVELOPMENTS FOLLOWING 5 NOVEMBER

On 15 November, the CEC announced the election results for the proportional ballot, confirmed the list of deputies elected in single-mandate constituencies and submitted them to the Constitutional Court for approval. At the same time, the CEC annulled the election results in four constituencies where gross violations were found: Khatai 2 (#10), Sumgait 1 (#38), Agsu Kurdemir (#51) and Imishli (#68). On 22 November, the Constitutional Court annulled the results in seven additional constituencies: Khatai 1 (#9), Yasamal 2 (#7), Astara (#53), Barda (#56), Gusar (#65), Hadjigabul-Salyan (#94) and Shemkir (#99). Otherwise, the Constitutional Court approved the results.

The reaction to the official results was swift: opposition parties pointed to widespread election fraud in many constituencies. Public confidence in the election process was further diminished. The number of parties that overcame the six percent threshold required for participation in Parliament through the proportional contest was greeted with suspicion. Six members of the CEC representing opposition parties voted against the results and did not sign the final protocol.

Thus, the opposition gained only 10 seats – considerably fewer than expected. On 14 November, six main opposition parties, including Musavat, ANIP, the Popular Front, the Civil Solidarity Party, ADP and the Liberal Party, signed an agreement to boycott the newly elected Parliament and demanded new elections.

Following this, opposition parties held a well attended demonstration in Baku on 18 November. No incidents were reported despite a heavy police presence. Similar protests were organised in several provinces of Azerbaijan (Ganja, Jalilabad, Quba, Sabirabad and others) during which a number of political activists from opposition political parties were arrested. In Sheki, where clashes between police and demonstrators broke out, many activists were arrested and 23 were still in detention as of this writing.

On 9 November, the Committee of Ministers of the Council of Europe invited simultaneously and conditionally the Republic of Azerbaijan and the Republic of Armenia to become full

¹⁸ The Election Law does not provide for police to be present in polling stations unless there had been a disturbance.

members of the Organisation. The Ministers “asked the Government [of Azerbaijan] to present within one month a report responding to the criticisms made by the International Election Observation Mission and to correct the reported frauds.” On 17 January, the Committee of Ministers of the Council of Europe will re-examine the date of Azerbaijan’s accession.

On 27 November, President Aliyev issued a Decree dismissing the Heads of local executive powers (Governors) in the Yasamal, Hajigabul and Imishli regions for having interfered in the electoral process, for having exerted pressure on election commission members, and for having hampered the free expression of voters’ will. In addition, the CEC dismissed all Chairpersons and some members of the 11 Territorial Election Commissions (TECs) where the election results were annulled.

On 18 December, a Presidential Decree set 7 January 2001 as the date for repeat elections in 11 constituencies where election results for the single-mandate contests were cancelled. The Presidential Decree ordered repeat elections only for the single-mandate contests in the 11 constituencies, but not for the nation-wide proportional ballot. Consequently, the votes from only 88 of the 99 constituencies were taken into consideration for the allocation of the 25 seats in Parliament reserved for the proportional ballot. Thus, 480,000 voters in the 11 constituencies where results were annulled, representing at least 16 percent of those who cast ballots on 5 November, were disenfranchised as far as the proportional ballot was concerned.

The opposition split over the issue of participation in the repeat elections. While the Popular Front and Civil Solidarity Party decided to take part in the re-runs, Musavat, the Democratic Party, and the Liberal Party boycotted the 7 January elections. At the very last moment, the National Independence Party (ANIP) decided to withdraw all its candidates from the contest.

B. ELECTION COMPLAINTS AND APPEALS

1. Post 5 November Complaints

Contradictory deadlines for filing complaints and appeals

The deadlines for processing complaints and appeals through all stages specified in the legislation exceeds by far the deadline for certifying the election results. Voters, candidates, political parties, and others have the right to file a complaint on the decisions of the election commissions within seven days after publication of a decision. The CEC has a maximum of 10 days after receipt of a complaint to decide. CEC decisions can be appealed to the Court of Appeals within seven days after publication. The Court of Appeals, in turn, must decide within five days. However, the CEC and the Constitutional Court have a maximum of 20 days after election day to certify the results. Thus, the Election Law is inconsistent on this issue.

The role of the CEC in post-election complaints

On 6 November, the CEC declared the result of the elections in constituency #10 (Khatai) void because of falsifications. By 15 November, the CEC annulled the results in three additional constituencies. These prompt decisions were taken after having examined the protocols received from the relevant TECs. However, other complaints were not addressed as efficiently.

The CEC received 327 complaints, but classified these into groups of complaints in 74 different constituencies. Registered candidates and their agents, various political parties, members of

election commissions, and domestic observers filed complaints that contested the result of the elections, alleging a wide range of violations of the Election Law.

The CEC did not adjudicate these complaints, arguing that the review of these complaints would demand comprehensive examination of documents and the CEC had neither the mandate nor the resources to do so. Since plaintiffs only could present photocopies of the allegedly falsified documents, the CEC would not be in a position to establish their legitimacy. ANIP was in possession of the originals of 19 allegedly falsified protocols, but refused to submit them to the CEC for fear of losing the evidence.

On 25 December, ANIP and Musavat received a letter from the CEC Chairman, summarising the handling of their complaints. However, most plaintiffs, by the time of the repeat elections, still had no information about the outcome of their complaints, which prevented any appeals.

The CEC returned 26 complaints to the respective TECs. It was unclear whether the TECs were still working, but according to the Election Law they were obliged to remain in operation as long as complaints were pending. The CEC promised to the EOM copies of letters from the relevant TECs regarding the disposition of these complaints. Only two were produced, both rejecting the complaints. Plaintiffs from other constituencies reported that they had not received any decision on their complaint.

As late as 6 January, the CEC adjudicated three complaints alleging falsifications on election day. The cases had been on the same day 6 January, well after the deadline for filing such complaints. The CEC adjudicated these cases in substance after the final election result had been certified by the Constitutional Court. The CEC did not accept the evidence presented, and rejected the complaints.

The General Prosecutor's handling of the complaints

Out of the 327 cases file with the CEC, 278 (from 59 constituencies) were transferred to the General Prosecutor, who has authority to prosecute only criminal offences. The General Prosecutor, as the CEC, argued that copies of protocols could not serve as evidence.

The General Prosecutor found grounds for opening criminal investigations in only three constituencies, all where the election results had already been annulled by the CEC: Sumgait, Agsu Kurdamir, and Imishli. The remaining cases were dismissed. As of this writing, the EOM did not have information on criminal proceedings initiated against any individuals involved in these cases.

The Prosecutor also investigated the cases of the three Heads of Local Executive Powers (Governors) in Imishli, Yasamal, and Hadrigabul, dismissed for violations of the Election Law. However, criminal investigation was opened only against the Governor of Imishli.

The Judiciary

Out of 27 complaints filed in the District Courts, none was satisfied. Only eight of the cases were considered in substance, 17 were returned for non-observance of requirements of the civil procedure, one was set aside without consideration, and in one case the plaintiff withdrew the complaint.

The Court of Appeals received three appeals, from the Azerbaijan National Independence Party, Azerbaijan Liberal Party and Musavat Party. All the complaints concerned the CEC decision on determination of the results in the proportional election, and the lack of action regarding determination of the results for single mandate constituencies. The case of the Azerbaijan National Independence Party was adjudicated and rejected because of lack of evidence on 20 November.

On 21 November, the Court of Appeals adjudicated the cases of the Musavat Party and the Azerbaijan Liberal Party. This time, the cases were rejected on the basis that they should be adjudicated by the relevant District Courts. This ruling contradicted the decision taken in the ANIP case.

As the Constitutional Court certification of the results is final and cannot be challenged, all cases still pending in the courts at any level, including appeals on first-instance decisions, were dismissed after 22 November.

The Supreme Court ruled on five cases where the CEC decision on election results was challenged. Two of the cases were adjudicated before 22 November, and both were rejected. Three cases were adjudicated after this date, and the Judicial Board for Civil Cases ruled that the court could no longer decide on these cases.

Thus, the election commissions and the courts failed to address post-electoral complaints and appeals in a credible and transparent manner.

2. Pre-7 January Complaints

During the period leading up to 7 January, the CEC registered 23 complaints concerning the repeat elections. Nineteen of these concerned candidate registrations. In contrast to the 5 November process, the CEC followed the provisions in the Election Law and addressed the complaints. However, the decisions seemed to be founded more on subjective grounds than legal ones, and the CEC still failed to establish clear criteria for checking the validity of the signatures in support of a candidate.

Five candidates were registered by the CEC after complaints, while seven cases were sent back to the relevant TECs for decision, allegedly because the TEC had yet to make a formal decision. Of these seven cases, five were registered by the TEC. Several of the cases raised serious concerns.

In Sumgait (constituency 38), the chairman of PEC #17 claimed he was offered a substantial bribe by the chairman of the TEC in order to “help a certain candidate” win the election. He was told that all other PEC chairmen had accepted a similar payment. The PEC chairman refused. On 31 December, he was the only member of the commission not to receive his salary. The TEC chairman informed him that he was discharged because he refused to support the candidate and that “someone from above” had already determined who should win the election. The discharged chairman feared further intimidation and pressure from the police and local officials, and turned to the EOM for assistance.

In Astara (constituency 53), a candidate claimed that the TEC chairman told him that it would be better if he did not register, because orders were already received from Baku on the winner of the elections. The order had been passed to the chairman from the Head of Executive Powers in

Astara. The conversation was recorded and the EOM has the tape. Later, pressure was exerted on the candidate's father so that he convinced his son to withdraw. Eventually, the candidate was registered.

A candidate from Shemkir (constituency 99), was not provided blank signature petitions. According to the candidate's account, the TEC Chairman said he would make sure that he would never be registered. The candidate turned to the CEC, and received the registration forms there, two days before the deadline for submitting the documents. The candidate claimed to have collected the 2,000 required signatures in a single day, and returned to the TEC shortly before closing time for the registration deadline. The candidate alleged that he found the TEC closed, and therefore could not deliver his registration documents within the deadline. The TEC claimed they were in session at the time. The candidate appealed to the CEC, which declined to review the case since the TEC had taken no decision to reject him.

The OSCE/ODIHR has brought these cases to the attention of the authorities at the highest levels and has called for urgent investigation into these allegations.

C. REGISTRATION OF CANDIDATES

On the eve of the re-runs, 76 candidates out of 147 who applied for the single mandate constituencies were registered. The CEC had urged TECs to be more flexible on the verification requirements for signatures so as to ease the registration procedures. In the end, the New Azerbaijan Party (NAP) had 22 candidates registered, while opposition parties registered 10 – including four for the Popular Front. In addition, 38 “independent” candidates were registered. On 2 January, the National Independence Party withdrew its eight candidates from the ballot, reducing further the political choice.

Given that voters are allowed to sign in support of only one candidate, it is doubtful that the number of signatures available in the constituency of Khatai (#9) -- with approximately 45,000 voters -- was enough to support 16 candidates. In many cases, the 2,000 required signatures were collected in a single day, raising serious questions about the credibility of the process. Additionally, candidates were not treated evenly during the verification procedures. Some petitions were thoroughly checked while others only superficially reviewed. Again, the verification procedures generally showed a lack of consistency and transparency.

D. REPEAT ELECTION DAY

1. Polling

On repeat election day, polling took place in a peaceful and orderly manner. Observers reported that polling station members performed rather well during opening and voting. They generally followed established procedures and seemed to have a good understanding of the process. However, a number of serious irregularities continued to mar the process. Ballot stuffing was directly observed on at least nine occasions. When reviewing the voter lists, observers often noted what appeared to be groups of identical signatures, which went beyond family voting. Even though some observers were prevented from examining the voter lists, observers could still notice many cases of multiple voting.

For the first time, electronic voting was implemented on an experimental basis in 13 polling stations, with at least one machine per constituency. The process was implemented smoothly

and, despite a lack of training, did not create confusion. The new process thus marked a step toward improving the efficiency of the electoral process.

2. Counting

In a majority of polling stations, counting procedures were not followed. Signatures from the voter registers were often not counted, but instead reported in protocols so as to match the number of ballots found in the box. In several instances, there were more ballots than voters who signed the registers. At nearly one-third of the counts observed, monitors reported stacks of ballots inside the ballot box – a certain indication of ballot stuffing. Turnout figures were also artificially inflated at a number of polling stations in order to reach the threshold level of 25 percent participation.¹⁹ The voter turnout of 80 percent reported in Astara was highly questionable. Likewise, the results in Sumgait (#38), Astara (#53) and Shemkir (#99) – all featuring candidates elected with over 80 percent of the votes -- raise doubts as to the credibility of the results in these constituencies. In the majority of the cases, protocols were not properly completed and in other instances, signed and stamped protocols were left blank. At most polling stations, PEC officials did not display protocols as required by the Law.

Supplementary lists were misused again in an attempt to inflate the number of voters who had voted. More importantly, the authorities failed to strengthen the security of sensitive election material such as ballot papers and protocols that were abused during the previous elections. This time observers again reported that multiple copies of blank protocols were easily accessible within TECs and ballot papers were not treated with due care.

Despite the presence of unauthorised personnel in a great number of polling stations, interference in the electoral process was significantly less and intimidation of voters was diminished. Compared to the 5 November balloting, domestic observers could perform their work better and with fewer obstructions, although on several occasions they were subjected to intimidation during the counting. Despite ejection of some election officials and domestic observers from polling stations, no arrests were reported. Moreover, commission members appeared more co-operative with international observers than during the previous elections. In marked contrast to 5 November, observers had full access to all 11 TECs, including the computer rooms and other areas where the tabulations took place.

3. Tabulation of Results

The atmosphere in TECs was generally agitated and most of the time overcrowded. The presence of police and unauthorised personnel in most TECs had an intimidating effect. In contrast to the 5 November ballot, however, most TECs did not falsify protocols, but still made minor adjustments so that figures could balance. However, in constituencies #56, #68, and #94, observers noted significant manipulation of figures and alteration of PEC protocols.

The CEC refused to publish detailed and aggregated results of the 5 November elections, further undermining transparency and confidence in that electoral process. For the 7 January repeat elections, the authorities and the CEC assured the OSCE and the Council of Europe that results

¹⁹ In Polling station 26 (Khatai 9), turnout figures rose from 287 votes to 392 in only half an hour. In polling station 4 (Barda 56), 270 voters cast their ballot between 17:00 and 18:00 – a virtual impossibility. Stacks of ballots already marked for the favorite candidate were also observed in this particular polling station. At polling station 24 (Shemkir 99), observers counted 360 ballots, whereas the protocol reported 850.

would be displayed immediately at all commission levels. However, this was done in only four of the 11 constituencies.

The final outcome of these parliamentary elections is published in Annex 5.

VIII. RECOMMENDATIONS

The following recommendations are offered for consideration. In addition, recommendations included in OSCE/ODIHR reviews of the Election Law (25 May and 22 August 2000) should be considered.²⁰

General

Resolute measures must be undertaken to discourage the executive authorities from interfering illegally in the work of election administration bodies. Those responsible must be prosecuted in accordance with the rule of law and penalised appropriately.

The results of all elections must be published promptly, in all relevant details, and at all levels, in order to provide an opportunity to all interested parties to audit the outcome from any polling station, through all intermediate levels, up to the CEC level.

Remaining weaknesses in the election laws as detailed below must be amended and a consolidated election code developed for all types of elections and including the Law on the Central Election Commission.

The Legal Framework

To improve the legal framework, the various election laws and procedures should be integrated into a single Election Code. This should ensure that administrative and technical arrangements will be the same for all types of elections.

Standardized training should be arranged and conducted for election officials at all levels – giving special emphasis to counting procedures at the polling station level – well in advance of polling day.

The CEC should establish suitable procedures to ensure that the verification of lists of signatures supporting candidates is carried out in a consistent and fully transparent manner.

Penalties should be proportional to violations committed so that the fundamental right to stand for election is not compromised by relatively minor technical failings.

The procedures whereby citizens nominate themselves as candidates need to be clearly detailed in law. Only one candidate per party and per constituency should be registered to avoid confusion. Candidates claiming to represent a particular party must have the legal endorsement of the party concerned.

²⁰ Available on the OSCE/ODIHR web page at [<http://www.osce.org/odihr/election/azer00-1-review.htm>].

Election Administration

Certain key principles should guide the actions of electoral commissions. These include impartiality, strict independence from all State structures, transparency and accountability. These principles should be clearly enshrined in the law.

Complaints and Appeals²¹

The procedures for handling election complaints and appeals by the CEC and at every court level should be urgently reviewed, with a view to improving the entire process and ensuring that the handling of all cases strictly conforms to the election laws and meets international standards.

Deadlines for the CEC and the Constitutional Court to certify final election results should be reviewed and made strictly consistent, allowing sufficient time for the handling of complaints and appeals.

Voter Registers

Voter registration should be based on a separate Law. All voters should be registered in advance of the election and data for voter lists extracted from a permanent and centralised civil register, capable of detecting multiple entries. The Law is vague on the use of supplementary voter lists and requires additional provisions.

Campaign

The legal provisions concerning the fairness of the campaign should be strengthened. Parties and candidates should be entitled to receive prompt legal redress. Further separation of State structures from political parties is required thereby ensuring election contestants do not suffer discrimination by incumbent executive authorities or other State bodies.

The Media

Steps should be taken to reform the State media as a public service broadcaster. During an election campaign all parties should receive impartial and balanced coverage in news and political discussion programs.

Domestic Observation

The prohibition against foreign donations to domestic NGO election observers should be removed.

Voting and Counting Procedures

The integrity and secrecy of the ballot should be improved significantly, especially regarding the electronic voting. Transparent ballot boxes should be used. Each marked ballot should be placed in an envelope before depositing in the ballot box.

²¹ Also see, the OSCE/ODIHR “Generic Guidelines for Election Disputes Resolutions”.

Provisions to enhance the transparency of the registration and voting by military personnel should be introduced.

The security features for and handling of election materials should be improved significantly, particularly ballot papers and protocols of election results. PECs should always complete protocols in the polling stations. The protocol should be redesigned as a “book of protocols” containing different coloured, carbonised copies. Each protocol should have a unique serial number. PECs and TECs should receive only one “book of protocols”. The law should require PECs to bring the material directly to the TEC, where the TEC should be “in session”. Only those protocols, which have the correct serial number, should be accepted by the TEC and CEC; others should be considered invalid. PEC results should be read aloud to all TEC members before entering the data into the computer. Polling material, ballots (used and unused) and voter lists should be subject to scrutiny when adjudicating complaints by the TECs, acting in their full composition in the presence of the full PEC.

The State Information System

Despite abuse of the computerised information system through incorrect reports on voter turnout, such a system can enhance the transparency of the process if used correctly. Therefore, all TEC members should have free access to all data contained in the system including the entry of PEC results and turnout figures for polling stations as reported at various times during election day.

ANNEX 1 REGISTRATION OF CANDIDATES

Political parties	Number of registered candidates	Number of rejected candidates*	Political parties	Number of registered candidates	Number of rejected candidates*
Independent	147	316	Democratic Azerbaijan	2	0
NAP	140	87	National Congress	2	3
Popular Front	39	40	Civil Solidarity	1	14
ANIP	28	22	United Communist Party	1	0
Musavat	22	63	Yurdash	1	0
Social Prosperity	4	6	Independent Azerbaijan	1	2
Ana Vatan	4	7	Alliance in the name of Azerbaijan	1	0
Democratic Party	4	30	National Statehood	1	0
Vahdat	3	5	Communist Party	1	7
Democratic Entrepreneurs	3	1	Other Parties ²²	0	19
Liberal Party	3	5	Others where party lacks registration with the Ministry of Justice ²³	0	8

* The EOM requested the CEC to provide information on the number of rejected candidates by party. However, the CEC informed that it was unable to provide such data. Instead, it provided data merging the information for those prospective candidates who did not return the signature sheets with those who were rejected. Musavat informed that, of the 63 referenced above, 57 were rejected.

²² These parties are as follows: People's Party (4); Liberal Democratic Party (4); Republicans Party (3); Revival and Progress Party (2); Social Justice Party (2); National Movement Party (2); National Unity Party (1); National Democratic Intellectuals Party (1).

²³ Democratic Way Party (5); Islamic Party (1); Conscience Party (1); Economic Building Party (1).

ANNEX 2 VOTER TURNOUT

The following table highlights some of the remarkable rises in reported turnout between 11:00 and 13:00.

Constituency	Voters	Turnout at (hr) indicating percentage of voters having cast ballots			
		11:00	13:00	17:00	19:00
Sarur – Sadarak (1)	41,599	13.0%	71.2%	75.3%	91.3%
Yasamal (7)	39,302	7.9%	48.6%	59.5%	64.4%
Sabuncu (15)	41,269	2.8%	58.5%	63.6%	69.1%
Sabuncu – Suraxmi (16)	42,965	9.2%	48.1%	60.0%	68.8%
Azizbayov (18)	45,177	2.6%	40.1%	64.2%	72.2%
Suraxani-birinci (19)	39,511	3.6%	41.8%	67.9%	83.3%
Ali Bayramli (29)	39,996	5.7%	48.0%	53.6%	60.8%
Yevlax Sheari (30)	45,710	7.0%	53.0%	79.3%	80.9%
Kapaz (31)	47,652	11.5%	52.4%	74.7%	81.3%
Nizami (32)	41,124	6.2%	44.9%	66.0%	69.3%
Kapaz-Nizami (33)	41,107	6.2%	42.7%	65.8%	75.2%
Tartar-Yevlax (34)	44,883	6.4%	57.0%	75.5%	79.0%
Sumgait ikinci (39)	44,636	5.7%	39.3%	54.9%	58.5%
Agadas (49)	40,664	6.3%	50.2%	64.0%	68.0%
Agshu-Kurdamir (51)	40,390	8.2%	53.9%	62.8%	67.1%
Quba –Deveci (64)	42,566	9.3%	40.1%	45.7%	56.9%
Goranboy – Naftalan (74)	51,761	8.9%	54.5%	75.5%	82.6%
Sabirabad – Saatli (83)	41,141	7.3%	45.9%	69.0%	79.8%
XaChmaz-Davachi (93)	42,946	4.4%	40.2%	57.7%	69.8%

Source: State Automated System funded by UNDP

ANNEX 3 SUPPLEMENTARY VOTER LISTS

Polling Stations with high numbers of voters registering on “Supplementary Lists”. Information taken from observer vote count reports.

Polling stations where stacks of unfolded ballots were reported appear in italics.

Constituency and PEC No	Registered voters according to the original voters list	Number of voters having voted	Turnout	Number of voters registered on the supplementary list	Percentage of voters registering by supplementary voters list
7/19	709	217	31%	46	21%
8/27	1277	522	41%	44	8%
9/1	1122	245	22%	34	14%
11/11	1378	300	22%	68	23%
11/18	764	120	16%	21	18%
11/6	909	236	26%	67	28%
12/1	1095	210	19%	29	14%
17/21	1498	919	61%	97	11%
22/1 ²⁴	1204	288	24%	33	11%
25/11	1188	524	44%	61	12%
35/2	1442	271	19%	47	17%
37/20	1045	333	32%	45	14%
39/2	1117	286	26%	65	23%
46/8	1085	239	22%	56	23%
58/6	505	313	62%	68	22%
59/8	1112	330	30%	82	25%
60/4	1327	572	43%	45	8%
62/16	1349	864	64%	58	7%
66/8	1035	268	26%	49	18%
68/9	904	376	42%	26	7%
68/14	1357	623	46%	47	8%
75/2	928	595	64%	51	9%
93/28	662	459	69%	91	20%
93/33	757	501	66%	93	19%
96/5	1307	151	12%	39	26%
98/9	1410	532	38%	193	36%

²⁴ At this PEC, observers reported that according to the count, Musavat received 73 votes however the protocol indicated they received 57.

ANNEX 4 RESULTS OF THE 5 NOVEMBER VOTE

Political Party	Percent Proportional ballot	Proportional ballot	Single mandate Constituencies	Total seats
New Azerbaijan Party	62.31%	16 seats	56 seats	72
Azerbaijan Popular Front Party	10.95%	4 seats	1 seat	5
Civil Solidarity Party	6.43%	3 seats	-	3
Azerbaijan Communist Party	6.33%	2 seats	-	2
Musavat Party	4.85%	-	2 seats	2
Azerbaijan National Independence Party	3.89%	-	1 seat	1
Azerbaijan Liberal Party	1.29%	-	-	-
Azerbaijan Democratic Party	1.06%	-	-	-
Alliance for the Sake of Azerbaijan	0.95%	-	-	-
National Congress Party	0.51%	-	-	-
Democratic Azerbaijan Bloc	0.40%	-	-	-
Azerbaijan Peoples Democratic Party	0.28%	-	-	-
Democratic World of Azerbaijan	0.26%	-	-	-
Social Prosperity Party	-	-	1 seat	1
Motherland Party	-	-	1 seat	1
Independent candidates	-	-	26 seats	26
Against All	0.49%	-	-	-
Total	100%	25 seats	88 seats	113

For the proportional ballot, the results announced by the CEC differed from those announced by the Constitutional Court. The CEC had cancelled the results in four constituencies and the Constitutional Court in seven. Thus, seats were allocated according to the results in 88 constituencies only.

ANNEX 5 COMPOSITION OF THE NEW PARLIAMENT

Name of the Party	Number of Seats Proportional	Number of Seats in SMC ²⁵ First Election	Number of Seats in SMC Second Election	Total for SMC	Total
YAP	16	56	3	59	75
Civic Solidarity	3				3
ANIP ²⁶		1	1	2	2
Popular Front	4	1	1	2	6
Yurddash Party			1	1	1
Communist Party	2				2
Motherland			1	1	1
Alliance for the Sake of Azerbaijan			1	1	1
Musavat ²⁷		2		2	2
Social Prosperity		1		1	1
Ana Vatan		1		1	1
Independent		26	3	29	29
TOTAL	25	88	11	99	124

²⁵ Refers to Single Mandate Constituency (SMC).

²⁶ The two ANIP candidates are not recognised by the Party, both were expelled recently.

²⁷ Although the party decided to boycott the work of the Parliament, one party member, Vagif Samed Oglu, refused to follow this decision.