



## **INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Azerbaijan-Early Parliamentary Elections, 9 February 2020**

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### **STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS**

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#### **PRELIMINARY CONCLUSIONS**

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The restrictive legislation and political environment prevented genuine competition in the 9 February 2020 early parliamentary elections in Azerbaijan, despite a high number of candidates. Some prospective candidates were denied the right to stand, but candidate registration process was otherwise inclusive. Voters were not provided with a meaningful choice due to a lack of real political discussion. Many candidates used social media to reach out to the voters, but this did not compensate the absence of campaign coverage in traditional media. Instances of pressure on voters, candidates and their representatives were observed. The election administration was well resourced and met legal deadlines, and the Central Election Commission made concerted efforts to act transparently and was welcoming towards international observers. However, significant procedural violations during counting and the tabulation raised concerns whether the results were established honestly.

On 5 December following an appeal of the parliament, and with the consent of the Constitutional Court, the president announced early parliamentary elections to be held on 9 February 2020, nine months before the regular term for elections. In its appeal to the president, parliament justified the call for early elections by the need to harmonize legislative work with the pace of economic, judicial and social reforms set by the president.

Parliamentary elections are primarily regulated by the Constitution and the Election Code. Constitution provides for freedoms of expression, assembly, association, movement, access to information, and the right to take part in political life, but the primary legislation significantly restricts these freedoms. Many long-standing recommendations on election-related legislation by ODIHR and the Council of Europe Commission for Democracy through Law (Venice Commission), including those related to fundamental freedoms, the media environment, and candidate registration, have yet to be addressed. The European Court of Human Rights (ECtHR) has ruled on 23 cases of violations of the right to free elections. None of the rulings has been executed, including with regard to the case of Ilgar Mammadov and others, preventing some candidates from running.

The 125 members of parliament are elected from single-mandate constituencies for a five year term. The number of registered voters in over half of the constituencies deviates from the average by more than what the law allows, effectively undermining the equality of the vote prescribed by OSCE commitments, Council of Europe and other international standards.

Given that there is no genuine political differentiation between the three groups in the parliament that nominate the commissioners, the formula for nominating members of election commissions at all levels does not in practice safeguard an impartial and independent election administration. Overall, the election administration at all levels was well resourced and demonstrated preparedness by meeting the legal deadlines despite the short timeframe. The sessions of the Central Election Commission (CEC) were open to accredited observers and the media. Decisions were in general adopted unanimously and posted on the CEC website in a timely manner enhancing transparency.

According to the authorities, elections could not be organized in the 10 constituencies (out of 125) in the territories that are not or only partially under government control due to the ongoing conflict with Armenia. This conflict has resulted in a high number of internally displaced persons (IDPs). The CEC undertook considerable measures to ensure that IDPs were able to exercise their voting rights.

Some 5.2 million voters were registered to vote, including 340,689 IDPs. Voters were given ample opportunity to verify and request corrections of their own data and query the data of other voters. The law allows for voter registration on election day by the Precinct Election Commissions, which is contrary to Council of Europe standards. A difference persists between the number of registered voters as per CEC data and the number of citizens of voting age according to the State Statistics Committee, which is approximately 2 million higher. The lack of public information to explain this difference creates mistrust in the accuracy of the voter register. Persons recognized by a court as incapacitated on grounds of intellectual or psychosocial disability do not have right to vote, contrary to international obligations and standards.

The candidate registration process was overall inclusive, and a total of 1,314 candidates contested the elections. A total of 80 outgoing members of parliament sought re-election. The two-step registration process was primarily handled by the 125 constituency election commissions (ConECs) who first approved nominations of 97 per cent of applicants (2,358 of 2,431). A total of 1,637 prospective candidates were then registered of whom some 83 per cent were self-nominated. Nineteen political parties fielded a total of 272 candidates. Some 19 per cent of candidates withdrew within the legal deadline citing, among other reasons, agreements among parties and pressure which, according to some IEOM interlocutors, was not centrally organized but rather exercised by some authorities at the local level. Over half of withdrawals came from self-nominated candidates working in the public sector.

Despite a high number of candidates, the campaign was largely indiscernible as a result of a politically controlled environment. Most candidates did not present programmes or views alternative to the ruling party's policies. Overall the campaign was devoid of political engagement that is essential to a competitive campaign environment in which voters have a genuine choice. Activities of electoral contestants increased in the last week but the campaign remained low key and failed to attract public attention.

Women are underrepresented in public and political life, holding 20 seats in the outgoing parliament (16 per cent), 2 out of 15 posts of a chairperson of state committees, and no ministerial posts. Out of 55 registered political parties none is headed by a woman. Of the candidates who contested the elections, 21 percent were women. There are no legal requirements to promote women candidates.

The legal framework for campaign finance is generally in place but many key provisions including on donations, oversight and sanctions were not implemented, thereby limiting transparency and the effectiveness of the campaign finance system. Reports submitted by candidates were for the most part posted on the boards of ConECs but in most instances information on donations and expenditures was not provided. As of 9 February, the IEOM was not aware of any campaign finance information presented in the media, contrary to legal requirements. Many previous recommendations from international organizations have not been implemented.

In spite of constitutional guarantees of freedom of expression and the right of access to information, these are severely curtailed by primary legislation. Traditional media failed to impart voters with information on contestants and their platforms and campaign events were not covered by the broadcasters, while the president received extensive coverage. Election-related news coverage was reduced to reports about the activities of the CEC. In contrast, social media platforms provided alternative political information. Still, the public was deprived of a genuine political debate and was

not provided with sufficient information to make an informed choice, contrary to international and regional standards.

The dispute adjudication system is comprehensive. Rules of procedure were overall respected as were adjudication deadlines. The CEC considered 36 complaints on candidate registration. In 15 cases, the appeals process was still ongoing at the start of the campaign due to the overlapping timelines between the adjudication of registration related complaints and the start of the campaign, undermining the principle of effective and timely remedy required by OSCE commitments and the European Convention on Human Rights. Furthermore, decisions did not indicate the further remedy available, challenging OSCE commitments. Throughout the campaign period ConECs and the CEC issued decisions on 43 and 18 complaints, respectively.

More than 89,000 domestic observers were accredited by the CEC and ConECs. Over 62 per cent were representatives of contestants, 34 per cent individual observers and only 4 per cent were nominated by non-governmental organizations. Some IEOM interlocutors reiterated that legal provisions related to foreign funding limit the possibility of civil society organizations to function, train and deploy observers. A considerable number of IEOM interlocutors raised concerns about the political affiliation or lack of independence of some citizen observer groups. A total of 883 international observers were accredited by the CEC.

On election day, voting was assessed negatively in 7 per cent of polling stations observed, a statistically high figure which is indicative of serious procedural shortcomings. Mandatory inking of voters was often omitted and observers reported cases of ballot box stuffing and group voting. The vote count was assessed negatively in more than half of the reports, mostly due to a blatant disregard of important reconciliation procedures and limited transparency. PECs often did not conduct numerical cross checks, did not count the signatures on the voter lists and did not record figures prior to the opening of ballot boxes. Tabulation was assessed negatively in 22 of 109 ConECs observed, mainly due to the poor organization of the process and lack of understanding of the procedures by ConEC members. Candidate and party observers as well as citizen observers were present at polling stations throughout the day in significant numbers, but often faced impediments.

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## **PRELIMINARY FINDINGS**

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### **Background**

On 5 December 2019, following the appeal of the parliament, and with the consent of the Constitutional Court, the president dissolved the parliament and set early parliamentary elections to be held on 9 February 2020.<sup>1</sup> In its appeal to the president, parliament justified the call for early elections by the need to harmonize legislative work with the pace of economic, judicial and social reforms set by the president. The elections took place within a political environment dominated by the ruling New Azerbaijan Party (YAP), which holds a majority of 65 seats in the outgoing parliament. Parties that formally constituted the parliamentary opposition but largely supported YAP hold 12 seats, while 38 seats are held by members elected as independent candidates, who typically

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<sup>1</sup> The regular term for parliamentary elections was 1 November 2020.

have also voted in line with the ruling party.<sup>2</sup> All 12 parties represented in the outgoing parliament contested these elections in addition to a further 7 parties.<sup>3</sup>

The authorities positioned these elections as a chance for new people to enter the political arena, but some political parties maintained that the mandates would just be reallocated among current ruling elites.<sup>4</sup> Over the course of the past few years and most recently, several long-standing senior executives within the presidential administration and the cabinet of ministers have been replaced or moved to different positions.

While the authorities stated to the IEOM that there is a political will to organize elections in a free and fair atmosphere, many IEOM interlocutors have expressed serious concerns regarding respect of fundamental rights and freedoms in Azerbaijan.<sup>5</sup> Reports of systematic harassment and criminal prosecution of some of those who express views that are critical of the government raised serious concerns.<sup>6</sup> Some opposition parties, including those gathered around the National Council of Democratic Forces (NCDF), boycotted the elections due to the restrictive environment, in particular related to access to media, and restrictions on freedom of assembly during the campaign. The last authorized political rally was held in Baku in January 2019. On the event of the unauthorized rally of the opposition on 19 October 2019 in Baku, authorities used physical force to disperse it, arresting many activists and opposition leaders.<sup>7</sup>

With few exceptions, women are underrepresented in public and political life, holding 20 seats in the outgoing parliament (16 per cent), 2 out of 15 posts of a chairperson of state committees, and no ministerial posts. Out of 55 registered political parties none is headed by a woman. Concerns about women's political participation have been raised by the UN Committee on the Elimination of Discrimination against Women (CEDAW).<sup>8</sup>

Elections could not be organized in 10 out of 125 constituencies that are not under government control or only partially under government control due to the ongoing conflict with Armenia, which, according to the authorities, has resulted in a high number of internally displaced persons (IDPs). The CEC undertook considerable measures to ensure that IDPs were able to exercise their voting rights.

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

<sup>3</sup> The chairman of one of the parties ran as a self-nominated candidate affiliated to the party.

<sup>4</sup> Close to 70 per cent of outgoing MPs contested the elections (80 MPs).

<sup>5</sup> See the [UN Human Rights Committee “Concluding observations on the fourth periodic report of Azerbaijan” \(16 November 2016\)](#), CCPR/C/AZE/CO/4, paragraphs 38, 40 and 42. See also the Resolution of the Parliamentary Assembly of Council of Europe “[The functioning of democratic institutions in Azerbaijan](#)” (11 October 2017), paragraphs 6, 7 and 8. See also the [report](#) of Commissioner for Human Rights of the Council of Europe following her visit to Azerbaijan from 8 to 12 July 2019. See also paragraph 223 of the ECtHR judgment [Intigam Aliyev v. Azerbaijan](#).

<sup>6</sup> According to international human rights bodies and civil society organizations, there is a large number of political prisoners in Azerbaijan. See, for example, UN Human Rights Council's [Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan](#) (20 February 2017). On 16 March 2019, the president pardoned 51 persons considered to be political prisoners but the issue remains of concern. See also PACE [Report “Reported cases of political prisoners in Azerbaijan”](#) from 18 December 2019 and [Resolution 2322](#) from 30 January 2020 on the same topic.

<sup>7</sup> The ODIHR EOM was also informed that during 2019 at least 15 notifications for public gatherings were either denied by the authorities or left unanswered. These included nine by NCDF, four from *Musavat*, one from nominee Rasul Jafarov, and one from a group of women who wanted to organize a rally "Women against the violence". All were rejected but in three cases alternative venues were suggested in Lokhbatan settlement, 20 km away from Baku.

<sup>8</sup> See UN Committee on the Discrimination against Women (CEDAW) [Concluding Observations on the fifth periodic report of Azerbaijan](#) (12 March 2015), CEDAW/C/AZE/CO/5, paragraphs 26-27.

## Electoral System and Legal Framework

Members of parliament (MPs) are elected by a simple majority in 125 single-mandate constituencies for a five-year term. Following international good practice, the Election Code stipulates that the number of voters registered in each constituency should not deviate by more than five per cent and in exceptional circumstances by not more than ten per cent from the average number of voters per constituency.<sup>9</sup> However, deviations exceeding these limits currently occur in 75 of the constituencies.<sup>10</sup> This undermines the equality of the vote prescribed by OSCE commitments, Council of Europe and other international standards.<sup>11</sup>

Parliamentary elections are primarily regulated by the Constitution (last amended in 2016), and the Election Code (amended 21 times since its adoption, most recently in February 2019). Although the Constitution provides for fundamental rights and freedoms, including the freedoms of assembly, expression, association, and access to information, as well as the right to take part in the political life, these rights and freedoms remain severely limited by the legal framework and its implementation.<sup>12</sup>

The Election Code is detailed but at times repetitive and lacks clarity on several issues, including on media coverage of elections, campaign finance, and complaints. In addition, supplementary legislation, such as CEC acts, in many cases does not further elaborate on provisions contained in the law.<sup>13</sup> Revisions to the Election Code in 2018 and 2019 were of a technical nature. Many long-standing recommendations of the ODIHR and the Venice Commission, including those related to freedoms of assembly and expression, independence and impartiality of the election administration, campaign finance, media environment, and candidate registration, remain unaddressed.

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<sup>9</sup> The Code of Good Practice in Electoral Matters of the Venice Commission of the Council of Europe, p. 2.2.15, suggests that “the maximum admissible departure from the distribution criterion [...] should seldom exceed 10 per cent and never 15 per cent, except in really exceptional circumstances”. The Election Code requires constituencies’ boundaries to be reviewed every five years. The most recent decision posted on the CEC website on the review of boundaries is from October 2014.

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

<sup>11</sup> Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will “guarantee universal and equal suffrage to adult citizens.” See also paragraph 21 of General Comment No. 25 to Article 25 of the ICCPR provides that “the principle of one person, one vote, must apply, and within the framework of each State’s electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of votes or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.”

<sup>12</sup> For example, the Criminal Code provides for punishment for slander and insult of up to five years of imprisonment. The Law on Information allows Internet outlets to be provisionally blocked without a court order. The Law on State Registration and the State Registry of Legal Entities classifies information about ownership of commercial legal entities. The Election Code prohibits state-owned broadcasters from covering the election campaign. In addition, the broad definition of campaigning in media limits the opportunity of media to cover the campaign. While the Law on Freedom of Assembly only requires a five-day advance notification of a peaceful assembly, in practice a permission is required. On restrictions to the right to association see European Commission for Democracy through Law (Venice Commission) [Opinion on the Law on Non-Governmental Organizations](#).

<sup>13</sup> Examples of CEC acts which repeat what is already contained in the law can be seen in rules for opening bank accounts, preparation and submission of ballot papers and other election materials, on complaints consideration, and in campaign coverage in the media.

Azerbaijan is party to major international and regional instruments related to the holding of democratic elections, including the European Convention on Human Rights (ECHR).<sup>14</sup> The ECHR obliges countries to execute the judgments of the European Court of Human Rights (ECtHR). Azerbaijan has executed 37 out of 225 decisions adopted by the ECtHR.<sup>15</sup> Violations of the right to free elections have occurred in 23 cases, for which none of the judgments is executed.<sup>16</sup>

## Election Administration

The elections are administered by the Central Election Commission (CEC), 125 Constituency Election Commissions (ConECs) and 5,573 Precinct Election Commissions (PECs), with 18, 9 and 6 commission members respectively.<sup>17</sup> The CEC made the necessary arrangements to facilitate the exercise of voting rights for IDPs from territories affected by the ongoing conflict with Armenia. Voting did not take place in the entirety of 7 and in parts of 3 out of 125 constituencies. Polling stations within constituencies not under or only partially under government control have since 1993 been relocated to constituencies across the country where IDPs reside, and 14 ConECs with 523 polling stations served them. Additionally, 131 polling stations were established in military units in exceptional cases and in prisons and detention centers.<sup>18</sup>

All election commissions are permanent bodies appointed for a five-year term, with the current composition established in 2016. CEC members are elected by parliament, ConECs are appointed by the CEC, and PECs by the respective ConECs. Three out of 17 CEC members are women, including one of two CEC secretaries. According to the CEC, at the ConEC and PEC levels 17 and 37 per cent of members respectively are women who chair 2 and 25 per cent of the total number of corresponding commissions.

By law, the composition of all election commissions reflects the representation of political forces in the parliament: three equal quotas are reserved for members nominated by the parliamentary majority, the parliamentary minority (defined as the other political parties represented in the parliament), and independent MPs. Given that there is no genuine political differentiation between the three groups in the parliament, as evidenced by the voting patterns, the formula for nominating commissioners does not in practice safeguard an impartial and independent election administration, as noted by case law of the ECtHR.<sup>19</sup> Moreover, chairpersons of all commissions are, by law, nominees of the parliamentary majority. Parties and blocs of parties that registered candidates in more than 60 constituencies may appoint a member with consultative rights to each commission. For these elections, only YAP fielded members with consultative voting rights in election commissions at all

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<sup>14</sup> Including the 1966 International Covenant on Civil and Political Rights, 1979 Convention for Elimination of All Forms of Discrimination against Women, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 2003 Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities, and the 2002 Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States. Azerbaijan is also a member of the Council of Europe's Venice Commission and Group of States against corruption (GRECO).

<sup>15</sup> See Azerbaijan [country factsheet](#) of the Department for the Execution of Judgment of the ECtHR.

<sup>16</sup> These cases cover 65 applicants. Consideration of at least a further 48 cases on the right to free elections have yet to start. Violations of freedom of expression were found in six cases, of freedom of assembly in five and freedom of association in seven of the ECtHR rulings against Azerbaijan.

<sup>17</sup> One seat at the CEC remains vacant.

<sup>18</sup> Guideline I.3.2.xi of the Venice Commission Code of Good Practice states that "military personnel should vote at their place of residence whenever possible. Otherwise, it is advisable that they be registered to vote at the polling station nearest to their duty station."

<sup>19</sup> See for example, [Gahramanli and Others v. Azerbaijan](#), App no 36503/11 (ECtHR, 8 October 2015) paragraph 78.

levels.<sup>20</sup> While most candidates expressed trust in the efficiency of the election administration, a number noted it lacked independence and impartiality, particularly at the lower levels.

Overall, the election administration at all levels was well resourced and demonstrated preparedness by administering the elections within legal deadlines despite the short timeframe. The CEC held regular sessions open to accredited observers and media to which the ODIHR EOM was invited in a timely manner and provided with an agenda prior to the sessions. Sessions were well attended by media, international observers, and a YAP representative. During the sessions observed by the ODIHR EOM, most commission members engaged in discussions which featured concurring opinions. Decisions were in general adopted unanimously. In addition to relevant instructions and regulations of 2010 and 2015, the CEC adopted 8 instructions and regulations for these elections as well as over 90 decisions which were published in a timely manner. Additionally, the CEC website was regularly updated with information on the activities of the commission. However, the CEC's approach to publishing data was not consistent.<sup>21</sup>

Most ConECs held sessions on an ad-hoc basis which did not allow for continuity in observation of their decision making. ConECs visited by ODIHR EOM continued to publish decisions on noticeboards and some general information related to their work was posted on the CEC website.

The CEC produced manuals and videos for election commissions and conducted cascade trainings for members of ConECs and PECs on election day procedures. The CEC also undertook trainings for ConECs on electoral dispute resolution, and also trained the police and employees of institutions in charge of overseeing the vote in prisons and military units. While CEC trainings for ConECs and executive authorities observed by the ODIHR EOM were informative, practically oriented, interactive and well attended, trainings for PEC members appeared to be optional, and at times poorly attended. In general, PEC trainings did not have a consistent set of topics covered and only some of the trainings were interactive. The CEC conducted a voter information campaign that included posters and video spots aired on public and state broadcasters in the pre-election period.

The authorities remained committed to facilitating voting by persons with disabilities. The CEC provided a Braille kit for visually impaired voters and installed ramps at polling stations where persons with physical disabilities were registered to vote. In line with the previous practice and with a view to increase transparency, 1,000 web-cameras were installed in pre-selected polling stations throughout the country. Voting and the vote count were streamed from pre-selected polling stations.<sup>22</sup>

## **Voter Registration**

By law, citizens 18 years of age or older by election day are eligible to vote, unless deprived of their legal capacity by a court decision. The blanket denial of voting rights of persons recognized by a court as incapacitated on grounds of intellectual or psychosocial disability is at odds with international

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<sup>20</sup> Parties and self-nominated candidates delegated a total of 7,206 members with consultative voting rights in ConECs and PECs.

<sup>21</sup> While the publishing of disaggregated data on candidates allowed for public review and enhanced transparency of the process, an update on aggregates was not available to the public. In addition, qualitative and quantitative data on accredited entities also not made available on the CEC website. This data was provided to the ODIHR EOM upon request.

<sup>22</sup> These were the same polling stations as selected for same purpose by the CEC during the 2019 municipal elections. The CEC's instruction that regulates the use of web cameras, clarifies that recordings of the voting and counting process may be used as evidence during the investigation of complaints.

obligations and standards.<sup>23</sup> Stateless persons who have resided in Azerbaijan for at least the last five years, have the right to vote.<sup>24</sup> There is no out of country voting in parliamentary elections.

Voter lists are drawn from the integrated nationwide voter register maintained by the CEC. PECs provide an update of the lists to the CEC through ConECs annually by 30 May. The lists are again updated at least 25 days prior to election day. The CEC and ConECs maintained the practice of obtaining monthly updates on citizens' data from various local branches of executive authorities. While this practice contributes to the accuracy of the voter register, it is not elaborated in the existing regulations, which limits accountability and transparency of this process.

Voters were given ample opportunity to verify and request corrections of their registration and query other voters' data. Preliminary extracts of voter lists were available for public review at polling stations and ConECs, on the CEC website and through its hotline, between 5 and 15 January. Between the two updates, the number of voters increased by 25,098. Until 6 February, over 1,700 of printed deregistration voting certificates (DVCs) were issued to voters to grant them the possibility to vote at any precinct within the constituency where they are registered. The number of registered voters as of 15 January was some 5,238,000 of whom 340,689 are IDPs. The CEC printed 5,387,600 ballots.<sup>25</sup>

Following the update, voters residing in the constituency can be added by PECs to a supplementary voter list upon presenting a proof of residency, including on the election day. Although inclusive, voter registration by PECs on election day is at odds with Council of Europe standards.<sup>26</sup>

A longstanding difference between the data from the CEC on the number of registered voters, and the data from the State Statistical Committee (SSC) on the number of citizens of voting age, with the latter being almost two million higher, and lack of public information to explain this difference creates mistrust in the accuracy of the voter register, as noted by several IEOM interlocutors.<sup>27</sup>

## Candidate Nomination and Registration

The right to stand for parliament is granted to eligible voters, without dual citizenship or obligations before other states and without prior conviction for a serious crime. Four political and civil society activists were denied nomination due to previous convictions and a non-expunged criminal record, despite the rulings of the ECtHR.<sup>28</sup>

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<sup>23</sup> Article 12 of the Convention on the Rights of Persons with Disabilities obliges states to "recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life". Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens." See also The UN Committee on the Rights of Persons with Disabilities (CRPD) "Concluding Observations on Azerbaijan" (12 May 2014), CRPD/C/AZE/CO/1, paragraph 45.

<sup>24</sup> According to official statistics there are around 3,500 stateless persons in Azerbaijan.

<sup>25</sup> By law, the number of printed ballot papers may exceed the number of voters registered in each constituency by a maximum of three per cent.

<sup>26</sup> Paragraph 1.2 (iv) of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends: "There should be an administrative procedure subject to judicial control or a judicial procedure, allowing for the registration of a voter who was not registered; the registration should not take place at the polling station on election day".

<sup>27</sup> The SSC informed the ODIHR EOM that the number of citizens of voting age, as of December 2019 is estimated at 7,325,000. According to the SSC, this data includes Azerbaijani citizens residing abroad, foreign citizens residing in Azerbaijan, as well as the population of Nagorno-Karabakh based on the 1989 Soviet Union census.

<sup>28</sup> The Committee of Ministers at the Council of Europe has regularly urged Azerbaijan to revoke the convictions and delete the criminal records of eight applicants before the European Court of Human Rights (ECtHR) known collectively as the "Ilgar Mammadov group"; however, on 6 January 2020, the government maintained its [non-execution of the ECtHR decision](#).



Candidates can be self-nominated or nominated by a registered political party, a coalition of parties, or a group of voters.<sup>29</sup> To be nominated, each candidate had to submit their notification and nominating party documents to the respective ConEC, including endorsement by at least 450 supporting signatures of voters, declarations on income and property, and their first campaign finance report. In line with the international good practice a voter can sign in support of more than one candidate in the constituency where the former resides.

ConECs had five days to examine the documents and certify nominations and seven days to check the accuracy of declarations, verify signatures and decide on the registration of a candidate. The two-step process of candidate registration was handled by ConECs with the CEC's working group participating in the verification of signatures only upon a candidate's appeal against a ConEC's decision to deny registration. While IEOM interlocutors described the candidate registration process as accessible overall, several candidates experienced discriminatory treatment by ConECs as illustrated by delays in processing their documentation, which, in turn, had a negative impact on their campaign preparations.

Candidate registration took place from 5 December until 10 January and was generally inclusive. Nomination status was granted to the vast majority of those who had applied for it.<sup>30</sup> The majority of nominated candidates and their representatives were invited to the sessions of ConECs where their registration was discussed and decided upon. The property and income declarations as a requirement to qualify for registration appeared to be prioritised over signature requirement.<sup>31</sup> Out of 794 prospective candidates (33 per cent of those who applied for nomination and subsequent registration), 35 challenged the ConECs' decisions not to register them, to the CEC (*See Complaint and Appeals*).<sup>32</sup> A total of 1,637 candidates were registered.<sup>33</sup>

By law, candidates can withdraw their participation up until 10 days prior to election day. After 323 (20 per cent) withdrawals, and three cancelations of registration, 1,314 candidates contested the elections. Of them, 1,057 (80 percent) were self-nominated, 246 were candidates nominated by nineteen political parties and 11 by a voter initiative group.<sup>34</sup> A total of 80 current MPs (close to 70 per cent) sought re-election.<sup>35</sup> Several IEOM interlocutors questioned the genuine intention of some candidates to participate. Over half of withdrawals came from self-nominated candidates who are public sector workers.

ConECs and some of those candidates who withdrew informed the ODIHR EOM that reasons for withdrawals included agreements made between parties, a lack of finances, financial incentives, and pressure by authorities at the local level, the latter being contrary to paragraph 7.7 of the 1990 OSCE

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<sup>29</sup> A candidate may stand in only one constituency and does not have to be registered to vote in that constituency.

<sup>30</sup> Based on data posted on the CEC website as of 17 January, of 2,431 applicants who submitted their notification and nominating party documents to the ConECs, 2,358 were accepted; of 2,247 who received signature lists, 1,774 returned them completed to the ConECs, along with other registration documents.

<sup>31</sup> Only a few ConECs visited by the ODIHR EOM requested the opinion of a graphologist in cases where signatures were contested. The law states that opportunity to correct mistakes should be granted in instances when the mistake is assessed as not being intentional. The ConECs and the CEC interpreted mistakes on property and income declarations as intentional by default. Therefore, in instances where property or income declarations were partially or not submitted, candidates were not given an opportunity to correct errors.

<sup>32</sup> This included 73 who did not pass the nomination stage, 584 who had not received or returned signature lists, and 137 who passed the nomination but were not registered after submission of all documentation.

<sup>33</sup> 83 percent (1,357) were self-nominated. Nineteen political parties nominated 272 candidates with YAP fielding the largest number (123) followed by *Musavat* (25) and *Umid* (21).

<sup>34</sup> YAP fielded the largest number of candidates (122) followed by *Musavat* (23) and *Umid* (19).

<sup>35</sup> Of the total of 123 candidates fielded by YAP over one third are outgoing MPs. A total of 76 of these candidates are contesting for the first time and 18 of those candidates are 35 years old and younger.

Copenhagen Document and ECtHR case-law.<sup>36</sup> The Election Code provides that if a candidate who indicated a political party affiliation has been excluded from the party, then the party name may not be used by the candidate. *Musavat* informed the ODIHR EOM that it strategically nominated candidates through the party but also encouraged self-nominations. YAP requested self-nominated candidates affiliated to the party to withdraw their candidacy or face expulsion. Of the total number of 323 withdrawals, 250 were made upon request from the YAP.<sup>37</sup> In addition, the ConECs, upon the YAP's request, removed the party affiliation of 24 candidates and instructed PECs to manually cross out the affiliation of those self-nominated candidates on the ballot paper.

Of the candidates who contested the elections, 21 percent were women. There are no legal requirements to promote women candidates and gender equality programme has not been developed to date.<sup>38</sup>

## Campaign Environment

The official campaign period commenced on 17 January and lasted for 22 days.<sup>39</sup> Despite a high number of candidates, the campaign was largely indiscernible as a result of a politically controlled environment, and the ruling party was the most visible. Overall the campaign was devoid of political engagement that is essential to a competitive campaign environment in which voters are provided with a genuine choice.

Fundamental freedoms of assembly, association, and movement are guaranteed by the Constitution, but restricted by the legislation. The Election Code regulates that political parties and candidates must submit a request to the relevant ConEC specifying the venue and the time slot for campaign events.<sup>40</sup> The holding of an event in a non-designated venue is regulated by the Law on Freedom of Assembly. Accordingly, a notification must be sent to the local authorities at least five days before the event. While the legislation prescribes advance notification of a peaceful assembly, in practice a permission is required.<sup>41</sup>

As required by law, 136 outdoor and 136 indoor venues were designated by the CEC based on the recommendations of the local authorities and in cooperation with the ConECs. Several contestants complained about the limited number of indoor venues and also noted that some were small and difficult to reach.<sup>42</sup> Although in some areas venues were fully booked, this was not reflected in the actual number of rallies and/or campaign meetings held. The approach adopted by ConECs regarding

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<sup>36</sup> Pressure and intimidation ranged from threats to life to loss of jobs for the candidate or family members (As observed in ConECs 55, 53, 77, 81, 99). See Article 46 paragraph 4 in the ECtHR Grand Chamber judgment in case of [Ilgar Mammadov v. Azerbaijan](#).

<sup>37</sup> On 25 January, the deputy executive director of YAP publically stated in the media that more than 200 YAP members had individually decided to run without the approval of the party, thereby rivalling the officially-fielded YAP candidates. Some 5 per cent of self-nominated candidates indicated party affiliation with the largest number being from *Musavat* (39) and YAP (31).

<sup>38</sup> The 2006 law on Guarantee of Gender Equality prescribes the development and implementation of state programmes for ensuring gender equality.

<sup>39</sup> Some candidates noted that the campaign period is too short to properly present themselves to the electorate, especially since this is the only period when they have opportunity to reach out to the voters.

<sup>40</sup> The law is silent on how many days prior to an event a request must be submitted and on the deadline for ConECs to respond.

<sup>41</sup> See Venice Commission's Opinion on the draft amendments to the law on freedom of assembly of Azerbaijan (17 December 2007, CDL-AD(2007)042), paragraph 35: "The law must be applied and interpreted by the administrative authorities, the courts reviewing their decisions and the police in a manner which respects the standards which have inspired it. They must show a presumption in favour of assemblies."

<sup>42</sup> The ODIHR EOM was informed that in some ConECs candidates refrained from using the designated venues due to police presence and the resulting discomfort that this would create among attendees.

the organization of meetings outside of designated venues, including in courtyards and parks, was not consistent.<sup>43</sup>

During campaign events observed by the ODIHR EOM, local community issues and candidates' personalities took primacy over broader party platforms and policies. Campaign messages by YAP candidates focused on the continuation of reforms and importance of engaging youth in public life, endorsing the programme of the president in their events, while other candidates appealed for systemic change, better opportunities for youth and a decrease of monopolies in the economy. Some of the independent candidates also promoted the president's programme. One block focused its campaign exclusively on promoting turnout in order to address what they described as general apathy among the electorate.<sup>44</sup> Political forces that decided to boycott the elections actively disseminated campaign materials containing the names of candidates whom they believed would enter the new parliament. The composition of the new parliament was, according to them, a foregone conclusion. The ODIHR EOM received credible information and directly observed pressure, including on state employees, to attend rallies or not to leave the venue.<sup>45</sup> In the last days of the campaign Musavat, REAL-supported candidates and independent candidates informed the ODIHR EOM that they were summoned to the police stations and warned against organizing protests on election day and after.<sup>46</sup> Two candidates were warned against committing electoral fraud.

Due to limited opportunities for assembly and lack of access to traditional media, many candidates campaigned through Facebook, including paid services, and other social media platforms.<sup>47</sup> Visual materials like photos and videos were widely used, including to document violations of the campaign regulations. There were indications of campaigning against other candidates, and pro-government bots and trolls were active in comment sections. Other campaign tools were door-to-door canvassing, leaflets and posters.

## Campaign Finance

There is no public funding of electoral campaigns, which, in view of a number of IEOM interlocutors, negatively affects a level playing field for all electoral contestants. The legal framework for campaign finance is generally in place but many key provisions including on donations, oversight and sanctions are not implemented, thereby limiting transparency and the effectiveness of campaign finance system.<sup>48</sup>

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<sup>43</sup> Some ConECs allowed unnotified meetings with up to 200-300 participants while other ConECs asked for a notification of meetings if the number of participants was to exceed a handful of attendees.

<sup>44</sup> The ODIHR EOM observed 42 campaign rallies, of which 26 organized by independent candidates, 9 organized by YAP, and a total of 7 events organized by other candidates. Female candidates were present at 8 out of 42 events.

<sup>45</sup> In ConEC 8, ODIHR EOM received credible information that students were compelled to attend the meeting of an incumbent candidate. In ConECs 79 and 92, voters, mostly women teachers and kindergarten personnel, were gathered in their villages and brought by busses to the rally and some participants were not allowed to leave the venue, as observed by ODIHR EOM.

<sup>46</sup> ConECs 46, 47, 74, 53, 94.

<sup>47</sup> Aside from Facebook, Instagram and YouTube were also used for campaigning. Many candidates invested in targeted advertisement.

<sup>48</sup> 2003 United Nations Convention Against Corruption paragraph 7.3 prescribes that state "shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties." See also paragraphs 12.4 and 12.5 of the 2002 Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States (CIS Convention). See also [GRECO Second Addendum to the Second Compliance Report on Azerbaijan, 24 March 2017](#) which states that "a number of its recommendations to enhance campaign finance have not been fully addressed".

Each candidate can spend a maximum of AZN 500,000 (some EUR 265,000).<sup>49</sup> Candidates can fund their campaigns from their own resources and donations from individuals and legal entities.<sup>50</sup> Foreign, state, charitable and anonymous donations, as well as in-kind donations, are prohibited. Supporters can work for candidates free of charge and this practice was widely used. All candidates opened dedicated bank accounts at the state-owned International Bank of Azerbaijan, as determined by the CEC, for all campaign related transactions. Parties can use up to AZN 150,000 of their own finances to fund their nominees.<sup>51</sup> YAP, having registered candidates in more than 60 constituencies, formed a unified campaign fund. The Election Code is unclear on the maximum permitted amount that a party can contribute to each candidate in cases of a unified account.

The Election Code stipulates that candidates must report to the ConEC on their campaign finance on three occasions.<sup>52</sup> Reports should be posted on the respective commission board within five days of receiving the report. If figures reported are above a certain amount, they must also be published in the local media. The law is unclear as to whether this obligation rests with the media or with the ConEC. The International Bank of Azerbaijan is required to provide the relevant ConEC with a weekly update of individual candidates' accounts. As of ten days before election day, information must be provided at least every three days and ConECs are obliged to provide the media with information on amounts received and spent by the candidates on a bi-weekly basis. Reports submitted by candidates were for the most part posted on ConECs boards but the fields pertaining to donations and expenditures were mostly left blank. In light of the fact that YAP had a unified account, the CEC published on 3 February YAP's second report indicating the total amount of income received.<sup>53</sup> As of 9 February, the IEOM was not aware of any information presented in the media. In addition, several ConECs noted that the International Bank of Azerbaijan did not provide them with the relevant information.

Violation of campaign finance regulations, including non-submission and non-publication of reports, may result in financial penalties.<sup>54</sup> The IEOM received multiple reports both from ConECs and candidates, that some candidates received cash donations, thereby circumventing the law and the oversight mechanism. Some IEOM interlocutors noted that potential benefactors refrain from donating, in particular to the opposition, for fear of reprisals. As of 9 February, the IEOM is not aware of any measures taken for violation of campaign finance rules.

The CEC and ConECs oversee campaign finance via the control and audit services created within each commission. However, the law does not require them to pro-actively conduct an audit, undermining the effectiveness of oversight.

## Media

While the Constitution guarantees freedom of expression, the right of access to information, and prohibits censorship, these rights are severely restricted by primary legislation. Slander and public

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<sup>49</sup> EUR 1 equals approximately AZN 1.89 (Azerbaijani *Manat*).

<sup>50</sup> Contribution limits set at AZN 3,000 for individuals, and AZN 50,000 for legal entities.

<sup>51</sup> In 2019 approximately AZN 3 million was allocated from the state budget for funding of political parties. Of this amount, 10 per cent should be allocated proportionally to those parties not represented in parliament but who nevertheless have received at least three percent of valid votes in the last parliamentary elections. Forty per cent should be divided equally among parties represented in parliament and a further 50 per cent proportionally to the number of their elected MPs.

<sup>52</sup> An initial report at the time of registration, an interim report between 10 and 20 days prior to election day, and a final report no later than 10 days after the publication of the final election results.

<sup>53</sup> The report contained the information on donations from individuals amounting to AZN 453,300 and no expenditures were reported.

<sup>54</sup> For the non-submission and non-publication of financial reports fines range from AZN 1,000 to 2,000. Fines for individual donors range from AZN 100 to 500; for officials from AZN 1,500 to 2,000, and for legal entities AZN 5,000 to 7,000.

insult, including in social networks, are criminal offences and are punishable by up to three years of imprisonment, or up to five years if targeting the president.<sup>55</sup>

According to a number of IEOM interlocutors, state-affiliated media enjoy free access to information while independent journalists do not.<sup>56</sup> Interlocutors noted that official information has been withheld even in instances when a court has ruled in favour of a journalist's right to such information.<sup>57</sup> Furthermore, both journalists and bloggers are subject to arbitrary arrests and detentions and charged for crimes that are seemingly unrelated to their professional activities but are viewed by IEOM interlocutors as retaliation for reporting that is critical of the government.<sup>58</sup> The OSCE Representative on Freedom of the Media (RFoM) regularly expresses concerns about charges for grave crimes against journalists as well as about their ability to report in a free and safe manner, without fear of intimidation.<sup>59</sup> According to the Council of Europe, five journalists remain in detention.<sup>60</sup>

The National Television and Radio Council (NTRC) oversees broadcast media and is empowered to grant and withdraw broadcasting licenses.<sup>61</sup> Despite the law providing for a public funding mechanism, the public *ITV* is funded from the state budget which potentially undermines the editorial independence of the channel.<sup>62</sup> Several interlocutors informed the IEOM about harassment of advertisers who sponsor private media. The NTRC informed the ODIHR EOM that some private broadcasters face closure due to financial unsustainability and accumulated debts. Traditional media outlets are often dependent on state funding.<sup>63</sup> The presidential State Support Fund for Mass Media Development funds 25 print media monthly.<sup>64</sup> Nevertheless, the circulation of the most popular newspapers is not higher than 8,000 copies per day. The Ministry of Transportation, Communications and High Technologies is entitled to provisionally block websites based on their content before a

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<sup>55</sup> Article 38 of the ICCPR [General Comment No. 34](#) states “[...] laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned”. See also Decision No. 3/18 of the 2018 OSCE Ministerial Council calls on participating States. Decision No. 3/18 of the 2018 OSCE Ministerial Council calls on participating States to “[e]nsure that defamation laws do not carry excessive sanctions or penalties that could undermine the safety of journalists and/or effectively censor journalists and interfere with their mission of informing the public and, where necessary, to revise and repeal such laws”.

<sup>56</sup> Paragraph 26 of the 1991 OSCE Moscow Document commits participating States “not to discriminate against independent media with respect to affording access to information, material and facilities”. See also paragraph 26 of the [1999 OSCE Istanbul Summit Declaration](#) and paragraph 5.2.3 of PACE Resolution 2172 (2017).

<sup>57</sup> For example, in 2019 *Turan* news agency requested access to the financial report of the “Azersu” OJSC regarding the implementation of the State Programme and the Presidential Orders for the installation of water meters. The company failed to provide information within the legal deadline. *Turan* won the court case. Yet, according to *Turan*, the company has to date not abided by the court’s ruling. Even though journalists can challenge a refusal or a delay in the provision of information, they can only be represented in court by a lawyer who is a member of the Bar. Alternatively, they can represent themselves.

<sup>58</sup> See, statements from 22 January 2019, as well as the [Regular Report](#) of the OSCE Representative on Freedom of the Media (RFoM) to the OSCE Permanent Council for the period from 5 July 2019 to 21 November 2019. See also the [report](#) following the visit of the Commissioner for Human Rights of the Council of Europe on 8-12 July 2019. See also the OSCE RFoM [statements](#) from 22 January 2019.

<sup>59</sup> See the OSCE RFoM statements from [22 December 2018](#), [22 February 2019](#), [22 October 2019](#).

<sup>60</sup> See the Council of Europe [platform to promote the protection of journalism and safety of journalists](#). Also, see the OSCE RFoM statement from [21 November 2019](#).

<sup>61</sup> The NTRC is financed by the state and all six members are appointed by the president. Human rights lawyer Rasul Jafarov applied to the NTRC for vacant frequencies in order to open a radio station and was rejected. The case was submitted to the ECtHR in 2012 and is pending.

<sup>62</sup> The Law on Public Broadcaster provides that citizens must pay a television license fee. This requirement has never been enforced. Since 2012 the Law also allows an additional source of income to be derived from the state budget. See the CoE [Recommendation on public service media governance](#) (2012) that states that while the State is inevitably responsible for defining the method and level of funding, it should not affect editorial policy.

<sup>63</sup> See the OSCE RFoM statement from [20 February 2019](#).

<sup>64</sup> Furthermore, representatives of the fund informed the ODIHR EOM that in the summer of 2020 the president will grant some 250 apartments to workers in the media sector.

court decision.<sup>65</sup> Due to persecution of journalists and bloggers, most of the websites critical of the authorities and pages in social media platforms are managed from abroad.

The combined effect of all these factors severely limits pluralism in public discourse. In spite of the fact that television remains the most accessible media across the country, many IEOM interlocutors opined that it is mostly a source of entertainment, while social media platforms are used for seeking alternative political information, particularly during the pre-election campaign period.

The Election Code provides for the allocation of free airtime in the public broadcaster and of space in the print media during the official campaign period only for those parties with candidates registered in more than 60 constituencies. For these elections, only YAP qualified for free airtime and space in newspapers with national coverage. On 17 January, YAP announced that it does not intend to use free airtime. While contestants could also buy time for paid political advertising, the *ITV* was the only broadcaster which offered this opportunity. Many IEOM interlocutors raised concerns over the excessive cost of political advertising during the campaign, and noted that they would campaign through social media platforms.<sup>66</sup> A Media Group under the auspices of the CEC was tasked to oversee the campaign coverage and to resolve media-related issues during the campaign.<sup>67</sup>

No campaign events or public gatherings were covered in any of the monitored national or regional broadcasters.<sup>68</sup> Instead, the media outlets monitored by the ODIHR EOM, including their respective pages on social media platforms, focused on the activities of the CEC.<sup>69</sup> Specifically, the CEC received between 7 and 20 per cent of coverage in the monitored national TV channels, and between 1 and 6 in most regional ones.

Coverage of the activities of the president, who is not a candidate, and of the government dominated the media during the election campaign predominantly in positive tone. The monitored national TV channels dedicated between 74 and 83 per cent of their news coverage, and regional channels between 23 and 76 per cent, to the president and government. In stark contrast, no candidates and political parties received any relevant coverage in political news on TV. *Iki Sahil* newspaper dedicated 42 per cent of its space during the campaign period to candidates, nominated by the YAP party.<sup>70</sup> Online

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<sup>65</sup> Access to some 20 online media outlets with political content remains restricted, while court rulings were made in only 5 cases. The Baku Court of Appeal and the Supreme Court justified the broad interpretive discretion of the State in cases of promotion of religious extremism, violence and callings for the overthrowing of the Constitutional Order. Contrary to article 13-3 of the Law on Information, there is no publicly available consolidated list of blocked websites. The OSCE RFoM expressed serious concerns about blocking of Internet in Azerbaijan and urged that laws and regulations affecting media be reformed. See statement from [10 August 2018](#).

<sup>66</sup> The cost per second was AZN 22-65 and 7-25 on TV and radio respectively, depending on what time it was aired. This amounted to up to AZN 3,900 and 1,500 per minute on TV and radio respectively (some EUR 2,080 and 795 per minute).

<sup>67</sup> The Media Group consisted of 4 CEC members and 15 representatives of media organizations. The latter are approved by the CEC. *Turan* news agency is included in the Group but was not aware of it and remained unrepresented. The head of the Media Group is elected from the Group's CEC members. As of 9 February, the Media Group had held one meeting, during which they discussed the topic of campaigning on social media platforms.

<sup>68</sup> The Election Code defines campaigning in the media as speeches, interviews, press conferences, open discussions, debates, round-table discussions, and political advertising, and TV and radio programmes.

<sup>69</sup> Since 11 January, the ODIHR EOM conducted qualitative and quantitative monitoring of 11 media outlets. Prime time coverage on the following TV channels was monitored: national channels *AzTV* (state), *ITV* (public), *ATV*, *Real* and *Xazar* (private channels), as well as news blocks of the regional channels *ARB Kapaz*, *Dunya TV*, *Naxchivan TV*, and *Qafqaz*. Coverage in the following newspapers was monitored: *Iki Sahil* and *Xalq Qazeti*. The ODIHR EOM also conducted qualitative analysis of the election-related coverage in the following online outlets: [apa.az](#), [haqqin.az](#), [turan.az](#), as well as followed election-related content on Facebook and Youtube.

<sup>70</sup> The editor-in-chief of the *Iki Sahil* newspaper is in the political council of YAP. A similar pattern was noticed in the *Yeni Məsəvat* newspaper whose editor-in-chief contested the elections.

news agencies extensively covered activities of the YAP, but most materials were not clearly marked as paid for.

Overall, traditional media failed to provide voters with information on contestants and their platforms and the public was deprived of a genuine political debate. This compromised voters' ability to make an informed choice.<sup>71</sup> In online content, about a third of the election-related coverage by the news agency APA was marked as paid, and most of the rest was dedicated to the CEC. Some online media outlets made an effort to organize debates, but the participation was limited. Media outlets on YouTube widely covered the activities of a number of the candidates.

## Complaints and Appeals

According to the law, complaints and appeals can be filed by voters, candidates, political parties and blocs, their representatives, as well as by 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 upon complaints, as well as decisions and actions of the CEC, can be appealed to the courts of appeal. Decisions of the courts of appeal can be further challenged to the Supreme Court.

Complaints filed to the CEC and ConECs are dealt with by internal expert groups composed of commission members and staff with a legal background. The expert assigned to a case conducts an investigation and prepares a draft decision to be considered and voted upon during a session.

The CEC considered 38 complaints which challenged ConEC decisions on candidate registration.<sup>72</sup> In three cases ConECs did not approve the nomination of prospective candidates based on past convictions.<sup>73</sup> A total of 31 complaints challenged the non-registration of candidates, 17 of which were rejected, 9 upheld, 4 partially upheld and 1 withdrawn, that resulted in registration of 9 candidates. Eight out of ten appeals to the CEC against ConEC decisions on signature lists were satisfied. Conversely, the CEC upheld 12 of 15 ConEC decisions which denied registration on the basis of incorrect or incomplete disclosure of property ownership.<sup>74</sup>

During the campaign period 18 complaints were received by the CEC and some 43 by ConECs mostly on vote buying, interference in the campaign and misuse of state resources. The CEC issued warnings to several candidates but no protocols on administrative violations were initiated.<sup>75</sup>

A total of 23 appeals were submitted to the Baku Court of Appeal and regional courts and 18 further to the Supreme Court. None of the 41 appeals were satisfied. Courts did not challenge the CEC's interpretation but focused on technical and procedural aspects.

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<sup>71</sup> Article 13.2 of the CIS Convention stipulates that "the mass information and telecommunications media are called upon to keep the population informed about elections, nomination of candidates (list of candidates), their election programs (platforms), the progress of an election campaign, voting returns and election results operating within the framework of the constitution, laws, international obligations of the state."

<sup>72</sup> There were 4 requests for the deregistration of candidates. One based on the alleged obligations towards another state was not satisfied and three based on dual citizenship were satisfied.

<sup>73</sup> The ECtHR decisions in [Rasul Jafarov v. Azerbaijan](#) and in [Rashad Hasanov and others v. Azerbaijan](#) found violation of Article 18 in conjunction with Article 5 of the ECHR. Azerbaijan was required to eliminate the negative consequences of the imposition of the charges which the Court found to be abusive and to quash their convictions. See [Committee of Ministers' Human Rights meeting notes](#) from December 2019 on supervision of the execution of the European Court's judgments.

<sup>74</sup> Other grounds for filing a complaint against or appealing ConEC decisions included: candidates missing the deadline for the submission of registration documents, inaction of ConECs, dual citizenship, and obligation before other state.

<sup>75</sup> The CEC issued five warnings related to violations of campaign rules, including on vote buying, and abuse of the right to campaign.

Transparency of the adjudication process was generally ensured and the CEC published on its website the decisions and opinions of experts. However, during court hearings several complainants stated that they were not invited to the CEC session when their complaint or the one against them were under consideration. Decisions of the CEC did not always reflect or provide a response to the issues raised in the complaint.<sup>76</sup> In addition decisions did not indicate the further remedy available, thereby challenging paragraph 5.11 of the 1990 OSCE Copenhagen Document.<sup>77</sup>

Adjudication deadlines were generally respected.<sup>78</sup> In at least 15 cases, the appeal process was ongoing by the start of the campaign due to the overlapping timelines between the adjudication of registration related complaints and the start of the campaign, undermining the principle of effective and timely remedy.<sup>79</sup>

The IEOM is aware of a limited number of complaints submitted to the regional prosecutor offices.<sup>80</sup> The office of the prosecutor informed the ODIHR EOM that it requests the opinion of the CEC on election related complaints prior to taking any action. This practice is not prescribed in the law.

## Election Observation

The Election Code provides for citizen and international election observation, in line with OSCE commitments. Citizens can register to observe individually, or as representatives of non-governmental organizations working in the field of elections or as representatives of candidates and political parties. Of 89,676 domestic observers accredited by the CEC and ConECs, over 62 per cent were representative of contestants, 34 per cent were individual observers and only 4 per cent were nominated by non-governmental organizations. A total of 883 international observers were accredited by the CEC.

While accredited observers have the right to observe the implementation of all election related activities, including sessions of election commissions, prior to and on election day, citizen observers can observe commissions' sessions only if they seek permission from the CEC.<sup>81</sup>

Some IEOM interlocutors reiterated that legal provisions related to foreign funding limit the possibility of civil-society organizations to function, train and deploy observers. Some civil society organizations, including the Election Monitoring and Democracy Studies Center (EMDS), the Institute for Democratic Initiatives (IDI), and the Association for Civil Society Development in Azerbaijan (ACSDA), conducted long-term and short-term observation and several other

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<sup>76</sup> The law does not required complaints to be made public. The CEC did not publish complaints.

<sup>77</sup> Paragraph 5.11 prescribes that “administrative decisions against a person must be fully justifiable and must as a rule indicate the usual remedies available.” In addition territorial jurisdiction is defined by general legislation and there is no supplementary regulation clarifying the territorial jurisdiction of election-related complaints. This resulted in some instances of contradictory information provided by stakeholders to the ODIHR EOM and confusion among some courts and plaintiffs.

<sup>78</sup> The CEC conducted countrywide trainings for experts assigned to deal with complaints and also for a mixed group of judges serving in appellate courts and commission members.

<sup>79</sup> See Article 2 (a) of the International Covenant on Civil and Political Rights, paragraph 13.9 of the 1989 Vienna Document and paragraph 5.10 of the 1990 Copenhagen Document that prescribe the right to effective remedy. See also [Abdalov and Others v. Azerbaijan](#).

<sup>80</sup> These cases pertain to pressure on candidates to withdraw from the race, and property documents falsified by state authorities.

<sup>81</sup> The Election Code stipulates that the CEC decides by drawing lots which observers shall have the right to be present at election commission sessions. Each category of observers shall have one observer with such right per commission. A maximum of ten observers at a time can be present at an election commission. According to the CEC, only one YAP observer applied and was accredited to observe the CEC sessions, and no citizen observers applied to the CEC to observe ConEC sessions.



organizations fielded short-term observers on election day. The EMDS and IDI remain unregistered, thus without legal status. Therefore, volunteers of both organizations were accredited as individual observers. The EMDS, the IDI and the ACSDA published interim reports on the pre-election environment and planned to issue post-election statements.

A considerable number of IEOM interlocutors raised concerns about the political affiliation or lack of independence of some citizen observer groups.<sup>82</sup>

The CEC determined that the three organizations which held exit-polls in the last parliamentary and presidential elections as well as in the 2016 referendum, continue to meet the requirements and accredited them along with two other organizations, one for the first time, to conduct exit polls for these elections.<sup>83</sup>

## Election Day

The opening of polling stations was assessed by IEOM observers negatively in 19 out of 116 observations. This was primarily due to procedural shortcomings, such as omitting to count and record the number of ballots received (35 and 52 observations, respectively) or to record the serial numbers of ballot box seals (37 cases). Contrary to legal requirements, the counting and cancelling of DVCs did not take place in 19 cases.

The voting process was assessed negatively in 7 per cent of 1296 polling stations observed, a statistically high figure which is indicative of serious procedural shortcomings. Voters were often not consistently inked (9 per cent of observations) or checked for traces of ink (13 per cent), which are important safeguards against multiple voting. International observers reported ballot box stuffing or indications of it from 16 polling stations. Additionally, group voting was observed in 5 per cent and violations of secrecy in 4 per cent of polling stations observed. Overcrowding was noted as a problem in 8 per cent of polling stations observed.

In 7 per cent of observed polling stations, not all phases of the voting process were visible to observers, thereby reducing the transparency of the process. In about a quarter of observations IEOM observers noted that those accredited as citizen observers *de facto* represented the interests of parties or candidates, at times interfering in the process. Tension inside the polling stations was often caused by disagreements between PEC members and citizen observers. In 39 cases, PECs were not fully cooperative with observers and in 6 cases party or candidate representatives or citizen observers were expelled from polling stations. Unauthorized persons, including police, security and military personnel as well as state officials, were noted in 44 polling stations observed.

The vote count was assessed negatively in 66 of 113 observations, mostly due to a blatant disregard of important reconciliation procedures both before and after opening the ballot boxes. Procedural errors or omissions were noted in 65 of counts observed. Important numerical cross checks intended to safeguard against manipulations during the count were not carried out. Specifically, cross checks were bypassed and figures were not recorded in the draft protocol in 63 and 69 cases respectively. In 51 cases, PECs did not count the number of signatures in the voter lists, which eliminated a safeguard against manipulation during the count.

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<sup>82</sup> For example the *Association for Civil Society Development in Azerbaijan*, headed by an outgoing MP accredited 45 per cent, the *Azerbaijan Public Union of Disabled Persons, Veterans, and Families of Karabakh war* headed by a contestant accredited 20 per cent and the *Azerbaijan Red Crescent Society*, also headed by an outgoing MP who seeks re-election, accredited some 10 per cent of all observers nominated by civil society organizations.

<sup>83</sup> The US based Arthur J. Finkelstein & Associates in partnership with the *Citizens' Labor Rights Protection League*; the *"Rey" Monitoring Center*; and the *"Human Rights XXI Century - Azerbaijan" Foundation* together with the French research company *Opinion Way*.

Following the opening of the ballot boxes, IEOM observers noted indications of ballot box stuffing, including clumps or stacks of ballots, in 14 cases. In an additional 7 cases the number of ballots in the ballot box was higher than the number of voters who had voted, but the counts went on.<sup>84</sup> The number of ballots in the ballot box was not recorded in the draft protocol in 49 of 113 vote counts. In addition, in 15 cases, IEOM observers noted evidence of deliberate falsification of voter list entries, results, or protocols.

In 42 observations, not all observers at the polling station had a clear view of the counting process. In 48 cases, observers were not able to clearly see voters' marks on ballots and results were not announced before being entered in the draft protocol in 50 out of 113 observations. A copy of the protocol was not posted at the polling station in over half (65) of the polling stations observed. In approximately one quarter of observations, IEOM observers were restricted in their observation. All this diminished transparency of the counting process.

The start of the tabulation process was delayed in a number of constituencies due to the data entry system not working. The process was assessed negatively in 22 of 109 observations mainly due to the poor organization of receipt of protocols and other materials, and in some instances because of limited understanding of the tabulation procedures by ConEC members. In 24 cases, the lack of space and inadequate conditions negatively affected the process.

In 47 cases, not everyone present had a clear view of procedures or was able to observe without impediments, due to the strictly designated seating areas for the observers which limited transparency of the process. Except for 17 cases, those entitled to receive copies of the electronic PEC result protocols did so. IEOM observers reported that ConEC chairpersons failed to announce entries in the computer in 48 cases, and in 22 cases PEC chairpersons did not sign the three printouts of the protocol. IEOM observers reported that in 17 ConECs PEC members either changed protocol figures or filled out their protocols, in violation of the law. Citizen observers and candidate or party observers were present in one third of ConECs observed.

The CEC announced the turnout regularly four times on election day and the final turnout set at 47.81 per cent was announced at midnight, five hours after the close of the polling stations.

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

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<sup>84</sup> Election day procedures state that all ballot papers cast are invalidated if their number exceeds the number of ballots issued.

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## **MISSION INFORMATION & ACKNOWLEDGEMENTS**

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Baku, 10 February 2020 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA), and the Parliamentary Assembly of Council of Europe (PACE). The assessment was made to determine whether the election complied with OSCE commitments, Council of Europe's and other international obligations and standards for democratic elections and with national legislation.

Artur Gerasymov was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and leader of the OSCE short-term observer mission. The OSCE PA Delegation was led by Elona Hoxha-Gjebrea. The PACE Delegation was led by Frank Schwabe. Ambassador Peter Tejler is the Head of the ODIHR EOM, deployed from 7 January.

Each of the institutions involved in this International Election Observation Mission has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The OSCE PA will present its report at its Winter Meeting in Vienna on 21 February 2020. PACE will present its report at its Standing Committee in Paris on 6 March 2020.

The ODIHR EOM includes 12 experts in the capital and 26 long-term observers deployed throughout the country. On election day, 356 observers from 26 countries were deployed, including 271 long-term and short-term observers deployed by the ODIHR, as well as a 57-member delegation from the OSCE PA, and a 28-member delegation from PACE. Opening was observed in 116 polling stations and voting was observed in more than 1290 polling stations across the country. Counting was observed in 113 polling stations, and the tabulation in 109 ConECs.

The IEOM wishes to thank the authorities for their invitation to observe the elections, and the Ministry of Foreign Affairs and the Central Election Commission for the assistance. They also express their appreciation to other state institutions, political parties, media and civil society organizations, and international community representatives for their co-operation.

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