

December 08, 2014

**STATEMENT ON
SITUATION OF HUMAN RIGHTS IN AZERBAIJAN
IN THE RUN-UP TO THE 23 DECEMBER 2014 MUNICIPAL ELECTIONS**

Summary

EMDS is concerned about the current socio-political situation in Azerbaijan in the run-up to the 23 December 2014 Municipal Elections and regretfully states that shortcoming in ensuring human rights and political freedoms in the country do not allow holding free and fair elections.

Gross violations of human rights and crackdown on civil society and opposition political parties, as well as systematic restriction of political freedoms, particularly, freedom of expression, assembly and association observed prior to the Municipal Elections does not allow establishment of democratic environment necessary for holding free and fair elections in Azerbaijan.

The organization states that due to increasing government pressure and repression by the authorities, as well as the situation of political freedoms, which does not allow holding democratic elections, it will not carry out long-term and short-term observation of the 2014 Municipal Elections.

Crackdown on Dissent

Following the 2013 Presidential Election, further restricted activities of opposition, civil society and media through series of repressions and increased violations of political freedoms. Since the beginning of 2014, the government controlled parliament has adopted series of amendments to the legislation, particularly changes to the laws on Grants and NGOs introduced on 17 October, imposing serious administrative obstacles to the operation of NGOs.

Politically motivated arrest and detentions increased in 2014, while number of political prisoners has exceeded 100 persons. The presidential pardon granted on 17 October only covered 4 political prisoners and failed to take into account repeated calls of international community and domestic organizations.

Immediately after Azerbaijan assumed the chairmanship of the Committee of Ministers of the Council of Europe in May 2014, a number of civil society and political activists were arrested and sentenced to pre-trial detention by courts, while several activists received lengthy prison sentences. Lawyer Aliabbas Rustamov, well-known human rights defender Leyla Yunus and her husband Arif Yunus, civil society leaders Bashir Suleymanli, Rasul Jafarov, Intigam Aliyev, opposition activist Faraj Karimov, journalist Seymour Hazi were arrested during Azerbaijan's chairmanship of the Council of Europe. Furthermore, bank accounts of around 30 NGOs were put under arrest by the court decisions, while dozens of NGOs were forced to cease their operations under significant administrative and political pressure.

Azerbaijan failed to use the opportunity of chairing the Council of Europe, the body which stands for human rights and democracy, to improve the situation of human rights in the country. On the contrary, during its chairmanship, Azerbaijan did not live up to its commitments before the body, while citizens faced pressure and harassment for exercising their rights to freedoms of assembly, expression and association.

The judicial system continues to be under control of the executive branch and enforcing the decisions of the government. Gultakin Hajibayli, board member of the opposition National Council, and Khadija Ismayil, well-known investigative journalists, face defamation charges, while Ms Ismayil was banned to leave the country. Moreover, Eldaniz Guliyev, another board member of the National Council, and Alayif Hasanov, lawyer of political prisoner Leyla Yunus, were also convicted of defamation by the court. On 29 October, Khalid Garayev, employee of the opposition Azadlig newspaper and critical satellite TV “Azerbaijani Hour”, was detained by the police and later sentenced to 25 days of administrative arrest by the court. On 30 October, Algushad Gulaliyev, son of the human rights defender Ogtay Gulaliyev, received 6 months of suspended sentence. Serious violation of due process accompanied the cases of all above-mentioned persons, who believe that they face such pressure due to their political and social activism.

Legislation

With the amendments to the Election Code adopted in June 2008, the election period was shortened from 120 days to 75 days and registration deposit, the alternative for registration of candidates was eliminated. As result of adopted amendments, provision allowing candidates to be registered by providing money deposit in case of insufficient number of signatures collected during the nomination period was eliminated. According to current legislation, candidates are required to provide 40, 000 signatures while at least 50 signatures should be collected from the territory of at least 60 constituencies.

On 18 June 2010, prior to the Parliamentary Elections, the parliament adopted new series of amendments and additions to the Election Code bringing down the election period from 75 days to 60 days and reducing pre-election campaigning period to 23 days. Moreover, new amendments eliminated the provision stipulating allocation of funds to candidates from state budget.

All above-mentioned amendments to the legislation were adopted without consulting opinion of the Venice Commission of the Council of Europe or conducting public debates. Recommendations noted in the reports on monitoring of elections produced by EMDS and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) included need for improvement of the election legislation and ensuring confidence in composition of the election commission. However, Azerbaijani government failed to address the recommendations of the OSCE/ODIHR and the Venice Commission, as well as those of civil society in the last 5 years.

Reports of the Monitoring Committee of the Council of Europe and independent domestic organizations show that Azerbaijan failed to implement commitments undertaking during its accession to the European Charter of Local Self-Governance in 2001. The government has not carried out necessary measures to increase competencies and financial resources of municipalities. Azerbaijan remains the only member of the Council of Europe that does not have institute of elected Mayor in its capital and other large cities. The status of the local self-governance bodies are ambiguous and is not included in the state governance system.

Regretfully, no measures have been undertaken to investigate or remedy violations occurred in the last presidential elections and noted in the OSCE/ODIHR’s report, while the government failed to introduce recommended changes to the election legislation. Decisions of the European Court of Human Rights related to the violation of the election rights were properly addressed and no practical actions were taken to prevent occurrence of similar violations in the future.

In addition, the government failed to implement decisions of the European Court of Human Rights on the case of Ali Insanov, former minister of health and current political prisoner, and on the case of Ilgar Mammadov, imprisoned presidential candidate and chairman of REAL party.

Pressure on EMDS

EMDS was also targeted during the crackdown on civil society. Chairperson of EMDS, the largest election observation organization in the country, Anar Mammadli and the organization's Executive Director Bashir Suleymanli were arrested and sentenced to 5.5 and 3.5 years of prison time respectively based on groundless and trumped up charges of tax evasion, illegal entrepreneurship and abuse of power. During the investigation, volunteers cooperating with EMDS were summoned for questioning where they faced psychological pressure and intimidation.

The organization continues to face political pressure, while government officials carry out smear campaign against its leaders. Ali Hasanov, aide to the president, and Siyavush Novruzov, MP from the ruling party, stated groundless accusations and slander about leaders of the organization. Moreover, persons working with EMDS in regions are under regular surveillance by local authorities in an attempt to weaken and eliminate the domestic election observation.

EMDS was denied state registration by authorities, while bank accounts of its partner organizations were put under arrest. The organization states that due to increasing government pressure and repression by the authorities, as well as the situation of political freedoms, which does not allow holding democratic elections, it will not carry out long-term and short-term observation of the 2014 Municipal Elections.

Recommendations:

In order to improve the situation of the political freedoms and create conditions necessary for democratic elections, EMDS calls Azerbaijani authorities to implement following recommendations:

- Release all political prisoners (recognized as such by domestic and international human rights organizations) immediately and without conditions;
- End prosecution, intimidation and harassment of civil society, journalists, political and social activists;
- Implement commitments that it undertook before the Council of Europe and other international institutions ensuring right to the freedom of expression, assembly and association;
- Introduce amendments to the election law based on recommendations of domestic and international organizations, including the OSCE/ODIHR and the Council of Europe;
- Revoke the recently introduced restrictive amendments to the laws regulating the work of NGOs and eliminate the obstacles to their work;
- Create necessary conditions for domestic election observers to monitor the elections and release chairperson and executive director of EMDS Anar Mammadli and Bashir Suleymanli;
- Create conditions for international organizations to freely operate in the country.

About EMDS

The Election Monitoring and Democracy Study Center (EMDS) is a non-partisan, nongovernmental organization focused on promoting free and fair elections and development of democracy and civil society in Azerbaijan.

EMDS was founded on 1 December 2008 by founders and members of Election Monitoring Center (EMC), the registration of which was annulled by the Court on the basis of illegal claims of Ministry of Justice on 14 May 2008. In 2009, EMDS applied for state registration to the Ministry of Justice, but was denied the registration. As a violation of the right to freedom of association, the organization appealed the decision to the Court. After the national courts refused to satisfy the claims of EMDS, the organization filed a complaint to the European Court of Human Rights.

Members of EMDS have observed 12 elections held in the Republic of Azerbaijan. In total over 13,000 volunteer observers were trained in more than 600 trainings, and legal and technical assistance was provided for accreditation of volunteers with the election commissions. EMDS conducts monitoring of all stages of elections including but not limited to the long-term observation.

EMDS is a member of the European Network of Election Monitoring Organizations (ENEMO), which unites 22 national NGOs from 17 OSCE member-states, Eastern Partnership Civil Society Forum, Network of Parliament Monitoring Organizations (PMO) and European Platform for Democratic Elections (EPDE).