

Baku, Azerbaijan

23 October, 2013

## POST-ELECTION STATEMENT

ON INVESTIGATION OF ELECTION COMPLAINTS FOLLOWING

THE 9 OCTOBER 2013 PRESIDENTIAL ELECTIONS IN AZERBAIJAN

Election Monitoring and Democracy Studies Center (EMDS) conducted long-term and short-term observation of the presidential election together with domestic non-governmental organizations and citizen groups producing two Interim Reports and Preliminary Statement following the Election Day<sup>1</sup>.

32 professionally trained long-term observers cooperating with EMDS monitored nomination and registration of candidates, pre-election campaigning and preparation to the Election Day periods during the 9 October 2013 Presidential Election. On the Election Day, observers collaborating with the organization conducted observation of voting and vote tabulation in 769 randomly selected polling stations across the country. They reported serious violations in 91 percent of polling stations, while cases of multiple voting, ballot stuffing, voting of ineligible persons and inaccurate reflection of voting results on protocols were noted in 30-45 percent of all polling stations in the country.

EMDS notes with concern that instead of properly investigating information, as well as photo and video materials about election violations Constituency Election Commissions and the Central Election Commission (CEC) demonstrated inadequate reaction failing to carry out their obligations stipulated by law.

EMDS states that investigation of four complaints about the election violation received by the CEC were carried out partially or were ignored completely resulting in violation of requirements of Articles 112 and 112-1 of the Election Code. For example, Gulagha Aslanli, authorized representative of presidential candidate Jamil Hasanli, filed a complaint to the CEC requesting to invalidate results of voting in number of polling stations and election constituencies due to occurred violations. Though the CEC considered the case, the designated expert group stated that *original copies of incident forms were not submitted and provided carbon copies cannot be considered as evidence*. Consequently, on 13 October, the CEC did not granted the request stating that claims about violations could not be verified and the appealing party failed to provide relevant documents and materials. However, Gulagha Aslanli was detained by police while on his way to the CEC with the aforementioned original documents and held in Binagadi region police custody for 5 hours without any explanation. Therefore, the CEC reviewed complaint of Jamil Hasanli without participation of his authorized representative and denied his appeal. Parties appealed the decision of the CEC to the Baku Court of Appeal which refused to grant their claims during the hearing chaired by the judge Ulvi Mayilov on 15 October.

<sup>1</sup> Please, see following link for reports and statement: <http://smdt.az/index.php/en/elections/presidential-elections-2013>

It should be noted that on 17 October, the CEC discussed the final results of the 9 October Presidential Elections and the final protocol was adopted with agreement of all its members with exception of Akif Gurbanov. However, presidential candidate Jamil Hasanli filed a complaint to the Baku Court of Appeal requesting to deem the final decision of the CEC on the results of presidential elections and the final protocol invalid. On 18 October, the court chaired by judge Hilal Khalilov discussed the complaint and ruled decision to deny the appeal without further investigation. On 21 October, Jamil Hasanli took this decision to the Supreme Court, which refused to grant his complaint.

EMDS believes that the CEC, the Court of Appeal and the Supreme Court failed to ensure effective remedy mechanisms for complaints on election violations and therefore impartial investigation of election violations did not take place. Consequently, both the CEC and judicial system did not undertake actions to execute proper investigation of election complaints in accordance with their duties required by the law.

EMDS notes with regret that alternative opinions of interested parties on election violations were not considered during the adoption of the final protocol on the Presidential Election by the CEC and the relevant plenary session of the Constitutional Court held on 19 October. The Constitution Court carried out the conduct of plenary in rush, though it had 4 more days to do so (the Court can hold plenary in 14 days after the voting).

EMDS notes that the Constitutional Court did not wait until the final date of investigation of election violations occurred on the Election Day stipulated by the law, while holding its plenary session. For example, on 18 October, Baku Court of Appeal refused to grant claim of presidential candidate Jamil Hasanli and he took the case to the Supreme Court, which held hearing on 22 October and upheld the decision of the Appeal Court.

EMDS also notes with regrets that opinion of Akif Gurbanov, who expressed special opinion to the decision of the CEC on the final results of election alternative to that of majority, was not considered during the plenary session of the Constitutional Court.

EMDS reminds that the CEC failed to consider the 5 year term of the presidency stipulated by the Constitution, while determining the 9 October as the date of the election. Therefore, the inauguration of the president did not take place five years after the 24 October 2008 presidential inauguration, but was carried out several days earlier.

***Next month EMDS will release its final report on the long-term and short-term observation of the 9 October 2013 Presidential Election and recommendations on improving the election legislation and practice of Azerbaijan.***

**Board of Management of EMDS**