

ELECTION MONITORING AND DEMOCRACY STUDIES CENTER



FINAL REPORT

ON

**THE RESULTS OF THE MONITORING OF THE 7 NOVEMBER 2010 ELECTIONS TO
MILLI MAJLIS (PARLIAMENT) OF THE REPUBLIC OF AZERBAIJAN**

BAKU

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I. SUMMARY

The Election Monitoring and Democracy Studies Center (EMDS) is a non-governmental organization working for the improvement of the election system and for the development of civil society and democracy in Azerbaijan. EMDS was founded on 1 December 2008 by founders and members of the Election Monitoring Center (EMC)¹. EMDS has observed 11 elections in Azerbaijan and trained more than 9,000 Azerbaijani observers. EMDS conducted statistically-based observations around the 2008 presidential election, 2009 referendum, and 2009 municipal elections.

EMDS conducted a range of activities to prepare for the 7 November 2010 parliamentary elections, including training long-term and short-term election observers and activities designed to increase voter participation and raise awareness among election participants.

EMDS conducted the monitoring of the election through 83 long-term and 1287 short-term observers. Long-term observation covered the processes of nomination and registration of candidates, activities of election commissions, verification of voter lists, pre-election campaign and investigation of election complaints and released two interim reports² on the results of monitoring. On 8 November, the organization released the Preliminary Statement³ on the result of monitoring conducted at 1181 precincts in 125 election constituencies.

The 7 November 2010 parliamentary elections aimed to elect 125 members to the *Milli Majlis* in the same number of single mandate constituencies. According to the Central Election Commission (CEC), 1,100 citizens were nominated and 695 of them were registered as candidates. 347 of candidates represented political parties, while the rest were independent candidates.

EMDS welcomes the efforts of Azerbaijani authorities to carry out well administered elections, as well as its efforts to improve the verification of voter lists, set up of polling stations and technical preparations for voting.

However, since the 2005 parliamentary elections, no significant actions were undertaken to improve the political environment. Freedom of assembly remains highly restricted; the activities of political parties and non-governmental organizations (NGOs) are heavily scrutinized and regulated.

There were no improvements in freedoms of speech or media. State television did not air opposition voices. Before the elections, the government refused to free Eynulla Fatullayev, the editor-in-chief of *Gundalik Azerbaijan* (Daily Azerbaijan), and bloggers Adnan Hajizade and Emin Milli, despite strong evidence that their cases are politically motivated.

The election campaign period was characterized by limited political debates and lack of public debates between competing parties in comparison to the 2005 parliamentary elections.

The amendments introduced to the election law created obstacles that disproportionately affected opposition candidates. They shortened the election period from 75 to 60 days, barred campaigning by candidates before the registration deadline, eliminated government funding for candidates' campaign expenses, and shortened the pre-election campaign period from 28 days to 23 days. Amendments to the election code ignored the recommendations of the Council of Europe's Venice Commission.

¹ Registration of EMC was annulled by the Khatai District Court of Baku on the basis of illegal claims of the Ministry of Justice on 14 may 2008

² See the Interim Reports: <http://smdt.az/content/parlament2010.html>

³ See the Preliminary Statement: <http://smdt.az/files/file/Azerbaijan%20Parliamentary%20Elections%207%20November%202010%20Preliminary%20Report%20-%20FINAL-vf.pdf>

EMDS notes that there was a 16 percent difference between the number of eligible voters reported by the Central Election Commission (CEC) and the State Statistical Committee of Azerbaijan. The CEC's preparation of the voters' list was not transparent.

Some election constituencies were formed through procedures not in accordance with the law.

Efforts to educate voters on election processes were inadequate.

The new electoral amendments required candidates to submit 450 signatures for registration rather than a simple financial deposit. This new process provided greater opportunity for constituency electoral commissions (ConECs) to disqualify opposition and independent candidates.

Local authorities in several constituencies pressured candidates to withdraw. Several cases were documented of citizens being pressured into withdrawing their signatures and, in some cases, losing their jobs for refusing.

In some cases, large numbers of signatures for registration of opposition or independent candidates were disqualified with little or no explanation. Candidates were not provided access to the signature review process as required by law. The Central Election Commission (CEC) did not adequately address candidate and party complaints about local-level registration decisions.

All 111 candidates from the governing Yeni Azerbaijan Party (YAP) who submitted registration documents were registered. Several cases were documented of government bodies and state entities collecting signatures among their employees on behalf of YAP candidates and collecting employee identification cards to be returned only after signatures were provided to nominate YAP candidates.

Several of the largest opposition parties or blocs saw more than half of their candidates disqualified. Approximately one-third of independent candidates were disqualified.

A total of 305 opposition and independent candidates were refused registration and 72 withdrew their nominations.

Almost three times as many candidates were registered in the 2005 parliamentary elections than were registered in the 2010 parliamentary elections. There have not been so few candidates since the 1995 parliamentary elections.

Observers reported remarkably high incidences of violations on election day, including ballot box stuffing in 26 percent of polling stations, multiple voting in 24 percent, failure to ink voters' fingers in 24 percent and failure to check for ink in 28 percent. In 12 percent of nationwide precincts, the number of votes was not properly reflected in the final protocols. Moreover, copies of the final protocols were not displayed outside 25 percent of precincts.

Observers and representatives of candidates faced enormous pressure in polling stations, so much so that 40 of EMDS's observers refused to monitor and 10 of EMDS's observers were removed from polling stations. EMDS observers encountered obstacles to monitoring in 10 percent of the precincts nationwide, with a majority of harassment taking place in Guba, Gusar, Nakhchivan, and Sabirabad.

EMDS concludes that the 2010 parliamentary elections failed to live up to Azerbaijani law, as well as international standards, and cannot be considered free and fair.

In order to properly respond the situation established after the 7 November 2010 parliamentary elections, EMDS urges Azerbaijan authorities to take relevant actions to

establish political confidence in the country, especially to improve the election legislation, to conduct proper investigation of election violations and to ensure liability of responsible persons, to guarantee freedom of assembly, freedom of expression, civil society development, as well as, to support initiatives enhancing citizen participation in public administration.

II. INTRODUCTION

The Election Monitoring and Democracy Study Center (EMDS) is a non-partisan, non-governmental organization focused on promoting free and fair elections and democratic development in Azerbaijan.

EMDS's main goal regarding the 7 November 2010 parliamentary elections was to contribute to the conduct of free, fair and democratic elections. To this end, the organization carried out activities to enhance citizen participation in the election process. EMDS deployed both long-term and short-term observers. In total, EMDS conducted 23 citizen forums, 35 town-hall meetings with the voters, seven capacity-building seminars and 87 trainings for election observers. Over 1,900 citizens of Azerbaijan including representatives of the local communities, youth groups, NGOs, media, political party members, teachers and students attended these events.

Prior to the parliamentary elections, EMDS published 30,000 booklets with information on election legislation and voting procedures in order to educate the voters and these booklets were distributed in 12 regions.

EMDS monitored the candidate nomination and registration process, activity of elections commissions, verification of the voter lists, pre-election campaigning and investigation of election complaints through 83 long-term observers. As a result of monitoring, EMDS produced two interim reports and distributed them to the local and international community.

EMDS conducted its election day monitoring according to the OSCE/ODIHR's and NDI's impartial election monitoring methodology. EMDS conducted Training of Trainers and 16 trainers were prepared, who then conducted 87 trainings for the election observers. 1287 observers took part in those trainings.

During EMDS's trainings, observers were trained on the code of conduct for non-partisan observers the rules of conduct for impartial observers, rights and responsibilities of observers, rules for using the observation forms and reporting.

In order to make the 7 November 2010 parliamentary elections free, fair and equal, EMDS initiated a Code of Conduct⁴ for political parties and candidates to endorse. 76 candidates signed this document.

During the 7 November 2010 parliamentary elections, EMDS provided legal assistance to 1,044 citizens to get accreditation at the CEC and 226 citizens at the ConECs. In total, EMDS cooperated with more than 1,100 observers on the election day.

During the election period, EMDS cooperated with citizen groups from 11 regions of Azerbaijan-Baku, Ganja, Sumgayit, Nakhchivan, Jalilabad, Shaki, Goychay, Mingachevir, Khachmaz, Sabirabad and Beylagan.

EMDS expresses its gratitude to observers, election commissions, civil society organizations, media, international organizations, political parties and blocs of political parties cooperating

⁴ See the Code of Conduct <http://smmt.az/content/petition.html>

with the organization at the 7 November 2010 parliamentary elections and appreciate their efforts toward holding free and democratic elections.

EMDS program on the 7 November 2010 parliamentary elections was implemented with the financial and technical support of USAID, National Democratic Institute, the Embassy of the UK, the OSCE office in Baku, German Marshall Fund and National Endowment for Democracy.

EMDS was founded on 1 December 2008 by founders and members of Election Monitoring Center (EMC), the registration of which was annulled by of Baku on the basis of illegal claims of Ministry of Justice on 14 may 2008. Founders of EMC appealed the decision of Khatai District Court at the Court of Appeals and Supreme Court. After the national courts refused to satisfy the claims of EMC's founders, the latter applied to the European Court of Human Rights.

From 2001 to 2010, EMDS conducted activities on long-term and short-term monitoring of the election, improvement of the election legislation, increase the voter turnout, assistance to the citizens participation in state governance, education of the voters, strengthening of the relations between citizens and elected state bodies (Parliament and Municipalities), monitoring of the Parliament and activities of parliamentarians, strengthening of the role of the local communities in the state governance.

Members of EMDS (either as EMC or EMDS) have observed 12 elections (including repeat and by-elections to the parliament, referenda, as well as, parliamentary, presidential and municipal elections) in the Republic of Azerbaijan. In total over 9,500 volunteer observers were trained in 480 trainings, and legal and technical assistance was provided for accreditation of volunteers with the election commissions.

EMDS is a member of the European Network of Election Monitoring Organizations (ENEMO) which unites 22 national NGOs from 17 OSCE member-states. More than 360 members of EMDS have participated in international election observation missions conducted by ENEMO. In general, EMDS' members have been involved in observation of elections in 11 countries within the international observation missions of ENEMO and OSCE/ODIHR.

III. PRE-ELECTION POLITICAL SITUATION

Since the 2005 parliamentary elections, no significant actions have been undertaken to improve the political environment. In the last five years, restrictions to freedom of assembly and the activities of political parties and non-governmental organizations (NGOs) have remained in place.

There have been no improvements in freedoms of speech or media in the last five years. State television does not air opposition voices. The government has refused to free Eynulla Fatullayev, the editor-in-chief of *Gundalik Azerbaijan* (Daily Azerbaijan).

EMDS had conducted the monitoring of the previous elections – the 2009 municipal elections – and voiced its concerns regarding the results of those elections. It should be noted that the 2009 municipal elections were not assessed as free and fair. The ruling party gained 78% of seats at municipal councils and EMDS concluded that this was an attempt by the government to establish a single-party political system in the country⁵.

A. HUMAN RIGHTS AND FREEDOMS

Prior to the elections, the authorities did not do anything to release Eynulla Fatullayev, editor-in-chief of “Daily Azerbaijan” and Ruslan Bashirli, leader of the “Yeni Fikir” Youth Organization, or other political prisoners.

Prior to the announcement of the parliamentary elections, Avaz Zeynalli, reporter of the “SalamNews” agency, Zulfuqar Kheyirkhabar and editor-in-chief of “Khural” newspaper, Leyla Ilqar and Elmin Badalov, reporters of “Yeni Musavat” newspaper, Mehman Huseynov, representative of the IRFS, Anar Gerayli, editor-in-chief of “Milli Yol” newspaper and “Poligon” information agency (pia.az), camera crews of ANS and ATV, and number of journalist were physically assaulted as they were carrying out their professional duties⁶.

Despite the fact that the Supreme Court of the Republic of Azerbaijan acknowledged the decision of the European Court of Human Rights, which was made on April 22, 2010, Eynulla Fatullayev was not released. According to the court’s judgment, Eynulla Fatullayev should not be released due to drug possession charges⁷.

Young bloggers, Adnan Hajizadeh and Emin Abdullayev (Milli) were arrested prior to 2009 municipal elections and were released on parole after the parliamentary elections.

Since the peaceful rally of “Azadlig” election bloc held on 26 November 2005 in Baku, which was dispersed by police, no peaceful rallies have been permitted. For example, Musavat, the Azerbaijan Popular Front Party and the Union for Democratic Reform attempted to hold rallies and pickets nine times in 2010. However, these actions were not permitted by the Baku City Executive Authority. They were dispersed by the police and participants of these events were detained.

Prior to the parliamentary elections, EMDS was denied registration. On August 23, 2010, the Supreme Court sent EMDS’s case to the Court of Appeals. However, on December 3, the Court of Appeals declined the claim of EMDS.

Prior to the 2010 parliamentary elections, a number of civil society organizations were too denied registration. “Human Rights 2003” Public Association, Television and Alternative

⁵ See the EMDS report on results of monitoring of the 2009 municipal elections: <http://smdt.az/files/file/Belediye%20seckileri/EMDS%20Final%20Report%20Municipal%20Elections%2023%20December%202009.pdf>

⁶ http://www.irfs.az/component?option.com_remository/Itemid,32/func_startdown/id,32/lang.az/

⁷ <http://www.news.az/articles/politics/28024>

media Development Center, “Assistance in the development of the Municipalities” Public Association, Society for the Democratic Reforms, Legal Initiatives Center, Media Monitoring Institute and others applied for the state registration, but their documents were returned to them without any further explanation. According to unofficial estimates, there are 3,500 NGOs in Azerbaijan; 2,500 of them are registered by state, almost 1,000 still operate without state registration.

B. POLITICAL PARTIES

The government failed to provide political parties with state funds and headquarters, as well as, to simplify the process of registration. Democratic conditions were not ensured for political parties, especially opposition parties, for political activity in Baku and in the regions. The main problem is that political parties still do not have headquarters that should be provided by the state. Despite the fact that there were rumors that amendments to law on political parties will be made, no real initiatives undertaken.

Observation of EMDS noted that political parties faced frequent restrictions to carry out their right to freedom of assembly and political activities in Baku and regions⁸.

Prior to the parliamentary elections, a number of political parties created political blocs. For instance, Musavat and Azerbaijan Popular Front Party formed “APFP-Musavat,” Azerbaijan Democratic Party and Hope Party formed “Karabakh” bloc, Citizen and Development Party together with Azerbaijan Liberal Party formed the “For the Sake of Human” bloc, Great Order Party with Justice and Whole Azerbaijan Popular Front Party formed “Reform” bloc, Citizen Solidarity Party and Democratic Reforms Party created “Democracy” bloc. Some of the parties, including the ruling New Azerbaijan Party, decided not to form a coalition.

C. ACTIVITY OF THE CIVIL SOCIETY ORGANIZATION

Prior to the elections, regional executive authorities created obstacles to the events held by the NGOs, especially activities on elections, human rights and democracy.

The social – political departments of local executive authorities demanded that NGOs receive the Presidential Administration’s permission to hold election-related events. When these demands were not met, local representatives of the NGOs were pressured and sometimes called to the police stations. For example, civil forums that EMDS attempted to hold in March and April in Jalilabad, Sumgayit, Sabirabad, Mingachevir and Shaki were prevented by the representatives of the local executive authorities. EMDS management informed the State Assistance Council for NGOs on these matters.

On 19 August, local authorities intervened in an event held by the Azerbaijan Network of South Caucasian Human Rights Defenders in Ganja. The Executive Power of Ganja prevented the coordinator of the network and chairman of the Legal Education Society Intigam Aliyev to take part in this event, declaring that event will not be held in case he takes part in it. Due to this incident, the event continued without Intigam Aliyev.

On 18 September, the “Law and Development” Public Association was prevented from holding a forum in the Sabirabad region by Zulfu Isayev, the deputy in chief of local police. Imran Huseynov, representative of the organization, was informed that the organization

⁸ See the EMDS report on the political situation prior to the elections: http://smdt.az/files/file/parlament2010/Situation%20prior%20to%20the%20Parliamentary%20Elections_EMDS.pdf

needed the permission of executive authorities to conduct an event in the region. Despite the representative's objections to illegal measures, the event was not permitted.

On 25-26 August, representatives of the “*Kur*” civil society coalition attempted to conduct monitoring in the Sabirabad region to identify the situation of citizens suffering from floods. However, Sabirabad region police detained representatives of the coalition and removed them from the area of the monitoring.

IV. LEGAL FRAMEWORK

A. CHANGES TO THE ELECTION CODE AND EXISTING LEGAL RESTRICTIONS

The 2010 parliamentary elections were held within a different legal framework than the previous (6 November 2005) parliamentary elections as the amendments, which significantly limit several election provisions, were made to the Election Code. The proposed law on the amendments to the Election Code was adopted on 2 June 2010 without holding any public discussions and without the support of local and international organizations. Along with technical amendments, the proposed law would shorten the election period from 120 days to 75 days and remove the registration deposit, an alternative for registration of candidates.

On 18 June 2010, the Milli Majlis (parliament) adopted the Law on “Amendments and Changes to the Election Code” introduced by a group of MPs from the ruling New Azerbaijan Party (YAP). The amendment reduced the election period from 75 days to 60 days and eliminated the provision to allocate funds from the state budget to candidates. It should be noted that the above-mentioned amendments were adopted without studying the opinion of Venice Commission of Council of Europe and without holding public discussions⁹.

In general, as result of these two amendments to Election Code, the rules of nomination and registration of candidates became more complicated and opportunities for election campaigning were restricted.

At the same time, some contradictions within the Election Code cause violations of rights of election participants and complicate restoration of these violations. For instance, the final results of the 2010 parliamentary elections were approved by the Constitutional Court on 26 November 2010. But then some of the candidates appealed to the Supreme Court in order to revoke the results of the elections. However, Article 171.4 of the Election Code states that decision of the Constitutional Court is final. As it seems, the decision of the Constitutional court is final and cannot be changed. For this reason, this part of the legislation should be changed, the appeal process should be simplified and there should be no restriction on the appeal process.

According to Article 22.4.7 of the Election Code, if the court ruled that a violation occurred, a member of the election commission should cease his/her activity. Despite the provision of the law, on a number of occasions the members of the election commissions were not removed from their positions. For instance, on 6 April 2010 the European Court of Human Rights made a decision that during the 2005 parliamentary elections, in 93rd Barda City Constituency violated the election rights of Namat Aliyev. However, election commission members were not removed from their posts.

⁹ See the EMDS opinion on the amendments http://smdt.az/files/file/sechki_qanununun_tekminleshdirilmesi/SMDT-nin%20secki%20mecellesine%20deyisiklik%20barede%20rey11%20iyun%202010.pdf

B. DECISION OF THE EUROPEAN COURT OF HUMAN RIGHTS

Forty persons filed a complaint to the European Court of Human Rights (ECHR) with regard to the election results and violations that took place around the 2005 parliamentary elections. At present, the ECHR has made three rulings on these complaints:

1. Miraziz Seyidzade, nominated for candidacy, filed a complaint on the violation of his election rights. The applicant's registration was refused in the 2005 parliamentary elections since he was a religious figure. However, the ECHR decided that the refusal of the applicant's registration was illegal, since he resigned from all positions prior to the elections.
2. In its 6 April 2010 decision on the case of Nemat Aliyev, candidate of "Azadlig" election bloc from 93rd Barda City Election Constituency, the Court ruled that Aliyev's election rights, provided by the Article 3 of the first Protocol to the European Convention, were violated and obliged the Government of Azerbaijan to pay compensation in the amount of 7,500 Euro¹⁰.
3. On 30 September 2010, the Court made a decision on the case of Flora Karimova, candidate of "Azadlig" election bloc from 42nd Sumgayit Second Election Constituency. The election officials annulled his election results without showing reasons and violated Karimova's right to be elected. In accordance with Article 41 of the Convention, the Court decided that the Government of Azerbaijan shall pay Karimova 50,000 Euro material compensation, 7,500 Euros moral compensation and 1,600 Euro for court expenses (in total, 59,100 Euro)¹¹. In 2005, the Central Election Commission annulled election results of the 42nd Sumgayit Second Election Constituency, from which Karimova was elected.

There are about 20 other cases connected to the 2005 parliamentary elections pending before the European Court.

EMDS regrets that the decisions of the Court prior to the 7 November parliamentary elections did not have a positive effect on the improvement of the Election Code of Azerbaijan.

V. LISTS OF VOTERS

According to the Election Code, permanent voters list for every precinct should be approved every year from 1 January to the 30 May by the form defined by the Central Election Commission. At the same time, six months prior to the announcement of the elections citizens who are registered in the current precinct should be added to the voters lists. However, in some of the precincts, voters were not added to the voter lists in the due time.

In accordance with Article 48 of the Election Code, the Precinct Election Commission shall submit the voter lists for public display and for verification or update by the voters at least 35 days prior to the election day, and create the necessary conditions for such display and verification.

Long-term observers cooperating with EMDS monitored the process of verification of voters' list. Observers noted that voter lists were not submitted for public display within the legally determined timeframe in some Precinct Election Commissions (PECs). For example, until 12 October, in PECs # 1, 2, 6, 7, 8 of the 67th Jalilabad City Constituency, PECs # 11, 20, 29 of the 73rd Lankaran Village Constituency, and PECs # 11 and 32 of the 10th Binagadi

¹⁰http://menneskeret.inforce.dk/files/DoekerPDF/CASE_OF_KERIMOVA_v._AZERBAIJAN.pdf

¹¹http://menneskeret.inforce.dk/files/DoekerPDF/CASE_OF_KERIMOVA_v._AZERBAIJAN.pdf

Constituency voters' lists had not been posted. Similar cases took place in PECs # 20, 22 and 23 of the 99th Shamkir Village Constituency on 14 October.

EMDS also discovered that in some PECs voter lists were not updated after the 2009 Municipal Elections. For instance, voter lists from previous years were placed in PECs # 31, 40, 43 and 49 of the 72nd Yardimli-Masalli Constituency, PECs # 10 and 11 of the 49th Yevlakh-Mingachevir Constituency, PEC # 24 of the 31st Surakhani Second Election Constituency and in PECs # 22, 23 and 26 of the 68th Jalilabad Village Constituency.

Observers cooperating with EMDS have observed cases when citizens who passed away were still on the voter lists. For instance, in 89th Goychay-Agdash Constituency some voters who died three years ago were present on the voter lists:

- ❖ Ibrahimova Hayat;
- ❖ Mammadov Niman;
- ❖ Musayeva Zeynab;
- ❖ Baghirov Sabir;
- ❖ Hajiyev Agha;

An identical case happened in PEC # 29 of the 3rd Babek-Kangarli-Naxcivan Constituency. In this precinct, citizens registered in Pusyan village of the Sharur constituency Mammadov Agayar and Aliyev Hasan passed away, but were not removed from the voters' list.

Anar Mammadli, Chairman of EMDS, wrote a letter to the CEC regarding the situation concerning voter lists and the overall number of voters. Three main questions were requested to be answered in the letter:

- The reason of discrepancy between the numbers of total voters in the country presented by the CEC (54 %) and those posted on the official web-site of the State Statistical Committee (70%)¹²;
- The reasons for the disproportionate change in the number of voters in the elections held in the last two years – the 23 December 2009 Municipal Elections, the 18 March 2009 Referendum and the forthcoming 7 November 2010 parliamentary elections.
- In the formation of some election constituencies, the rules indicated in the Election Code were violated. There are significant differences between the numbers of voters of 5th Shahbuz-Babak, 54th Shabran-Siyazan and 26th Sabunchu First Election Constituency.¹³

Unfortunately, the CEC did not give any clarifications on the above mentioned issues.

¹² http://www.azstat.org/statinfo/demoqgraphic/az/1_3.shtml

¹³ http://www.infocenter.gov.az/v3/siyahi_2010.php

VI. THE CANDIDATE NOMINATION AND REGISTRATION PROCESS

A. OFFICIAL DATA

In the first phase of the 2010 parliamentary elections, 1,100 citizens of Azerbaijan were nominated to be candidates. Among them 695 were registered as candidates. 347 of them were party members, while the remaining candidates were non-partisan:

| # | Nominated by | Number of Candidates |
|----|--|----------------------|
| 1 | New Azerbaijan Party | 111 |
| 2 | "APFP-Musavat" bloc (APFP and Musavat) | 37 |
| 3 | "Karabakh" bloc (Azerbaijan Democratic, "Umid", Intellectuals parties) | 32 |
| 4 | "Reforms" bloc (Great Order, Evolution, Justice, Whole Azerbaijan Popular Front parties) | 31 |
| 5 | Classic Popular Front Party | 30 |
| 6 | Azerbaijan National Independence Party | 25 |
| 7 | Democratic Azerbaijan World Party | 22 |
| 8 | "For Human Sake" bloc (Citizen and Development, Liberal parties) | 21 |
| 9 | "Democracy" bloc (Citizen Solidarity, Democratic Reforms parties) | 18 |
| 10 | "Motherland" Party | 7 |
| 11 | Modern Musavat Party | 7 |
| 12 | Azerbaijan National Democratic Party | 3 |
| 13 | Azerbaijan Social-Democrat Party | 2 |
| 14 | Azerbaijan Progress Party | 1 |
| 15 | By the initiative groups | 7 |
| 16 | Self-nominated | 341 |

EMDS's observations show that during the first stage of the 2010 parliamentary elections, some ConECs attempted to create a political environment without alternatives by discriminating against opposition parties and independent candidates. EMDS's reports underline that in 25 constituencies, an environment without any alternatives was artificially created (Appendix 1).

It should be noted that in the 2005 parliamentary elections, 2,063 persons were registered as candidates and 661 of them represented political parties. Thus, the number of registered candidates in the 2010 parliamentary elections was three times less in comparison to the previous parliamentary elections.

B. NOMINATION OF THE CANDIDATES

According to Article 53 and 54 of the Election Code, candidates can be nominated by themselves, voter groups and by political parties.

In accordance with Article 55 of the Election Code, equal status should be ensured for candidates during their nomination. However, some Constituency Election Commissions (ConECs) have not followed this provision and demonstrated discrimination against candidates.

Following are the examples of the above-mentioned violations:

- On 24 September 2010, the 96th Goranboy-Naftalan Election Constituency requested additional documents from Kamran Asgarov, candidate 7 nominated by “Garabagh” bloc. Besides the documents specified in the Election Code, the candidate was requested to present his children’s birth certificates, his diploma and his official identification card.
- On 21 September, Muhammad Majidli, member of APFP, faced illegal demands in 120th Jabrayil-Gubadli Election Constituency during his nomination. The ConEC stated that he needs to resign from party membership and can only be registered after bringing the document about resignation. However, on 22 September, the ConEC said that it was a misunderstanding and Majidli’s documents were accepted.
- The 120th Jabrayil-Gubadli Election Constituency requested that Shahverdiyeva Xalisa show her diploma and curriculum vitae in the process of nomination.

Identical cases occurred in 120th Jabrayil-Gubadli, 23rd Nasimi-Sabail, 26th Sabunchu 1st, and 50th Gobustan-Khizi-Sumgayit ConECs.

In total, according to EMDS reports, violations on nomination and registration of candidates occurred in 58 Constituencies across the country (Appendix 2).

C. SIGNATURE COLLECTION CAMPAIGN

According to Article 147 of the Election Code, a candidate should receive signatures from at least 450 citizens registered in his Constituency. Unlike the presidential elections, citizens can give their signatures to more than one candidate.

In accordance with Article 55.2 of the Election Code, abuse of one’s official position for gaining an advantage is prohibited. Moreover, Article 57.1 specifies that state bodies, municipalities, legal entities, regardless of their type of property should be prohibited to participate in the process of collection of signatures.

The following are examples of the violation of above-mentioned provisions:

- On 22 September, Tofiq Sadigov, Head of Beylagan Department of Education, Madatov Sahibkhan, an employee of department of education, Guliyeva Tofiga, Head of the Labor Union of Department of Education, Mamamdguliye Elmida, Head of City Post Service, Pashayev Elburus, a doctor of Central City Hospital, Shafiyev Emin, an employee of City Financial Department, and others collected signatures for YAP candidate Ayaz Orujov in state-funded organizations, schools and hospitals.
- On 25 September, in the territory of 100th Shamkir-Dashkasan ConEC, Aflatun Aliyev, Deputy Head of Executive Authority of Tazakand village and Ziraddin Musayev collected identification cards from the villagers and used them for collecting signatures for Mubariz Gurbanli, YAP’s candidate.
- On 24 September, identification cards of group of voters living in Ali Nazmi street in Kapaz district of Ganja city were collected by Ilgar Mammadov, Head of Communal Management Office No. 11, and used for collecting signatures for Khanlar Fatiyev, YAP’s candidate from 39th Kapaz First Election Constituency.
- On 30 September, Head of Khudat Executive Authority Murad Hajizade gathered local elders of 56th Khachmaz Village Election Constituency and tasked them to start the campaign for YAP’s candidate Ilham Aliyev. He also assigned school directors of the constituency to participate in collecting signatures.

- Elshan Abbasov, school director in Giyasli village of Samukh region, gathered identification cards from school teachers and used them for collecting signatures for Valeh Alasgarov, candidate from 102nd Samukh-Shamkir Election Constituency. Ilham Hasanov, Chief Doctor of Samukh region's central hospital, also gathered identification cards among employees to use them in collecting signatures for the same candidate.
- On 22 September, Gadir Aghayev, Head of the Local Executive Authority of Gavuran village of Yardimli region, and Ilgar Aghayev, Head of the Local Municipality, collected signatures for Sabir Rustamkhanli in the area of 72nd Yardimli-Masalli Election Constituency.

D. REGISTRATION OF THE CANDIDATES

As stated in the Election Code, candidates should provide their documents to the ConECs by October 8, 2010 18:00 in order to get registered. ConECs have seven days to check the documents and render a decision on one's candidacy.

In accordance with Article 59 of the Election Code, candidates, their authorized representatives, authorized representatives of political parties (blocs) may be present at the process of verification of signatures. Moreover, Article 59.3 indicates that relevant election commissions should inform the above-mentioned persons of examination of documents in advance. Despite this requirement of law, election commissions did not inform the relevant persons in advance.

Followings are the following examples of such violations:

- Rashid Abbasov, candidate of "For Human Sake" bloc from 40th Kapaz Second Election Constituency, was not informed of verification of signatures in advance. On 12 October 2010, the ConEC decided to refuse his registration as a candidate on the grounds that 235 out of 600 signatures provided by the candidate were not valid and that he failed to provide 450 signatures necessary for registration.
- Candidate from 39th Kapaz First Election Constituency Parviz Hashimli's request to participate in the process of verification of signatures was turned down. The ConEC did not invite him or his representative to the meeting held on 8 October and declined his application for registration, considering 171 out of 554 signatures provided by him as invalid.
- Iltizam Akbarov, current MP and also candidate from 79th Imishli Election Constituency, expressed his will to participate in ConEC meeting, but was not invited to the meeting of the ConeC held on 12 October. 287 out of 600 signatures collected by Akbarov were declared invalid and he was not registered.
- Baxtiyar Alizade, candidate from 40th Kapaz Election Constituency, was refused registration as a candidate on the grounds that 150 signatures provided by him were invalid. Despite his appeal, he was not permitted to observe the process of verification of signatures.

E. UNAUTHORIZED INTERVENTIONS AND PRESSURE

Article 115 of the Election Code prohibits, in all periods of elections, any interference which may affect election results as well as citizens' right to elect and to be elected.

Examples of such irregularities observed by EMDS:

- ConEC refused to receive signature sheets from Ragiba Rahimova, a candidate from 89th Goychay-Aghdash Election Constituency and member of YAP (although she nominated herself). On 2 October, Rahimova was asked to withdraw her candidacy by Ramiz Ibrahimov, first Deputy Head of the Local Executive Authority, at a meeting held in the local office of YAP. She was offered the position of kindergarten director, which she did not accept. On 4 October, Nizam Maharramov, Chairman of 89th ConEC, imposed pressure against three persons who signed Rahimova's signature sheets and made them to withdraw their signatures. Huseynbala Miralimov, Chairman of Khatai regional office of YAP called Rahimova and demanded that she withdraw her candidacy, and threatened that otherwise she would be expelled from the party. On 8 October, Rahimova received a telegram saying that she was expelled from the party.
- There was interference in the process of registration of Iltizam Akbarov, the "APFP-Musavat" candidate from 79th Imishli Election Constituency. Deputy Head of Imishli region's executive authority Saleh Samadov, officer of the Criminal Investigations Department Sahib Samadov and Executive Director of "Araz" Ltd. Mehman Mammadov collected petitions from 61 voters withdrawing their signatures through pressure and intimidation. On 12 October, the ConEC announced that 150 persons withdrew their signatures and so, I. Akbarov's registration was rejected.
- On 8 October, a petition on behalf of nine voters who signed Dunyakhanim Jarullayeva's ("APFP-Musavat" candidate from 89 Ismayilli Election Constituency) signature sheets was prepared. The candidate met with those voters from Garagaya village and they said that they have not signed any petition. The petition about the withdrawal of signatures was prepared by Galib Gasimov, Director of Children Art School of Ismayilli region and Aziza Vahabova, Chairwoman of YAP's Ismayilli office.

In accordance with Article 57 of the Election Code, to make voters sign signature sheets, to prevent them from signing, or paying any kind of reward during the process of collecting signatures are prohibited. According to the observers who cooperated with EMDS, most of the citizens, whose election rights were violated, refused to appeal to the CEC due to possible pressures from the local executive authorities and police.

Examples of such irregularities observed by EMDS:

- Khalig Nuriyev, who collected signatures for Elnur Majidli, candidate from 94th Barda Village Election Constituency, faced pressure in Khasili village from Shahin Bakhishov, Head of the Local Executive Authority of the village.
- On 11 October, the 72nd Yardimli-Masalli Election Constituency refused to register Elshad Pashasoy as a candidate. The candidate presented 590 signatures to the ConEC. However, the representatives of Yardimli Region's Executive Authority through pressure and intimidation made voters who signed his signature sheets file a petition withdrawing their signatures. Some of the people who refused to sign the petition were fired from their jobs. As a result, about 220 voters withdrew their signatures, and the candidate was not registered.
- On 4 October, Mubariz Ismayilov, a candidate from the 110th Zagatala Election Constituency, faced intimidation while collecting signatures in Suvagil village of Zagatala region. Local municipality and executive authorities demanded that he leave the village. Moreover, during the day, signature collectors were followed by two men, approximately 45 to 50 years old, in a Lada Niva with license plate number 62 BD 626.

- On 1 October, Asif Mammadov, Head of the Local Executive Authority and Akif Mammadov, Chairman of the Local Area Administration Department, pressured Gulara Muradova, candidate from 109th Balakan Election Constituency, to withdraw her candidacy.
- Mailkhan Aliyev, an independent candidate from the 72nd Yardimli-Masalli Election Constituency, withdrew his candidacy after facing pressure from Mahir Mirzayev, assistant of the Head of the Local Executive Authority. The candidate was told that if he refused to withdraw his candidacy, his brother, who is a public servant, would lose his job.
- On 8 October, Ali Abdullayev, the authorized representative of Sahib Karimov, a candidate from the 113th Shaki City Election Constituency, was detained and taken to the police station. Moreover, Abdullayev's small business was closed. Ilyas Hasanov, Director of the Shaki City Stadium, was called to the office of the Local Executive Authority. Hasanov was told that he lost his job because he signed Karimov's signature sheets.
- Despite pressure and intimidation, Umudov Lazim, who nominated himself from 65th Saatli-Sabirabad-Kurdamir Election Constituency and is member of the ruling YAP party, did not withdraw his candidacy. Pressures were made by Chairman of YAP's Saatli regional office Lutvali Shikhaliyev and his Secretary Musa Ismayilov. Moreover, the Head of the Local Executive Authority of his village and Head of the municipality, accompanied by 4 policemen, cut the water supply to 15 hectare land owned by Umudov.
- In Bahramtapa settlement of Imishli region and Dunyamalilar village of Beylagan region, voters who signed the signature sheets of Ali Gasimli, candidate from 80th Imishli-Beylagan Election Constituency, faced pressure and intimidation by the heads of the Local Executive Authority of these villages, Ramiz Ahmedov and Murshud Khudaverdiyev respectively. They forced voters to withdraw their signatures.

F. APPEALS ON THE CASES OF THE REFUSAL TO REGISTER THE CANDIDATES

i. Investigation at the CEC

There were 210 appeals to the CEC by those who were refused registration as candidates for the 2010 parliamentary elections. The CEC approved only 40 of them.

It should be noted that in most cases ConECs refused registration on the grounds that the candidate ***did not provide enough signatures***¹⁴. In most cases, the reasons why ConEC's working groups considered the signature to be invalid were not given. In some cases ConEC's working groups and decisions were based on the ground that "signatures are too similar." For instance, Aliyev Vuqar Sabir oglu, a candidate from the 95th Terter Election Constituency, was refused the candidacy by the ruling #42/381 on October 20, 2010. In the report of the signature working group, it was stated that of 600 provided signatures, 297 belong to just 25 persons. However, this reasoning cannot be considered a fact, as evidence was not provided.

Sometimes reports of the working groups are illogical. For instance, Sultanov Saxavat candidacy was not registered by the 50th Gobustan-Khizi-Sumgayit Election Constituency because the working group suspected that 290 of the 599 signatures that the candidate had

¹⁴ According to the Article 147 of the Election Code every candidate should collect 450 signatures.

provided were suspected to be invalid. Member of the working group B. Qasimov states in the report that he has provided that, “*Soltanov Saxavat who was nominated to be a candidate from the 5th Gobustan-Khizi-Sumqayit Election Constituency for the 4th Parliament provided 12 signature lists. When these lists were checked, one of them was deemed invalid as it had no ConEC stamp on it. From the 11 lists that were valid, 290 signatures were deemed invalid. 290 signatures are considered valid.*” The reports state that one of the lists is invalid due to the fact that it has no ConEC stamp; however obtaining the ConEC stamp is the responsibility of the ConEC, not the candidate. Reasoning for the 290 signatures to be declared invalid was not provided. Also, there is the irregularity in the numbers showed by the working group, as they deemed 290 signatures to be valid and 290 to be invalid and the status of the remaining 19 signatures were not stated. It should be reminded that the candidate provided 599 signatures to the ConEC.

In general, in most of the ConECs, the reasoning for the registration refusal was not provided.

According to Article 112-1.4 of the Election Code, the Expert Group of the CEC has a right to send requests to state bodies to get additional information on investigating complaints. However, the Expert Group almost never used additional arguments and evidence, making decisions solely on the rulings of the ConECs. For instance, on 2 October, ConEC no. 15 refused to register Ikhtiyar Abdalov as a candidate. The decision had very little legal reasoning. It was made according to the report of the member of Expert Group of the CEC. There was no additional investigation and the ruling of the CEC had the same details as the ruling of ConEC.

According to Article 112-1.7 of the Election Code in case applicant announced his wish to take part in the hearing of his case, he must be informed by phone one day prior to the hearing. However, candidates were rarely invited to these hearings. By doing this, the CEC violated the Election Code and did not create a transparent atmosphere during the appeals process.

During the candidate nomination and registration process, the CEC received appeals from the candidates and their representatives on the ground that they faced outside pressures. The Expert Group of the CEC did not investigate if there were legitimate cases behind these appeals and rejected them on the ground that cases were not pleaded according to the rules¹⁵. For instance, Mirehmed Abbasov, an independent candidate from 15th Yasamal First Election Constituency appealed to the CEC on 8 October 2010. In his appeal he noted that he was pressured after his candidacy was registered. The appeal was investigated by CEC expert Valida Kazimova, who decided that case should not have been sent to the CEC and therefore sent it to ConEC. Whereas, according to Article 112-1.6.5 of the Election Code, the case should have been sent to the Prosecutor’s Office to be investigated.

According to Article 112-1.13, cases investigated by the CEC should be published on the Commission’s official website. It was observed that for some cases the investigation was minimal and lacked individual approach. For example, the CEC’s official website states that decision #41/366 was made on the case of Iltizam Akbarli, candidate of the “APFP-Musavat” bloc from 79th Imishli Election Constituency. However this decision is part of the case of Hajiyev Khaliq, candidate of the “APFP-Musavat” bloc from 64th Sabirabad Second Election Constituency.

Observations show that the Expert Group did not investigate pleaded cases according to the complaints noted in the appeal. Most of the time only signatures for candidate registration were investigated. In one of the cases, the Expert Group investigated only the fact of

¹⁵ According to Article 122 of the Election Code plead should go through all instances.

revocation of the candidacy by the ConECs, while not giving any attention to other complaints. For instance, the ruling on Etibar Abdalov's complaint during the hearing of 13 October 2010 stated that:

- The number of signatures collected by the candidate is not sufficient to register him.
- In the document on the property that candidate provided for the Commission, he states that he is the owner of 5 automobiles, but there is no document supporting this.

This complaint was discussed during the hearing of the CEC on October 15, 2010. Members of the Expert Group only investigated the number of the signatures that the candidate had collected. Therefore, other complaints were ignored. It should be noted that, according to Article 112-1 of the Election Code, the Expert Group should investigate the case in every possible way.

ii. Investigation of the complaints in the Baku Court of Appeals

According to Article 112.3 of the Election Code, persons whose election rights are violated can appeal the CEC's decisions and actions. 50 candidates who were refused registration during the candidate nomination and registration process appealed to the Baku Court of Appeals. Only four of these complaints were satisfied, while the court refused to investigate the other complaints. .

In some cases, the Court of Appeals made decisions that violate the requirements of the Civil Code. For instance, on 25 October 2010, the Baku Court of Appeals held a hearing on the complaint of Vuqar Aliyev, candidate of "Karabakh" bloc from the 95th Terter Election Constituency. During the hearing, the applicant approached the court with the request to appoint an expert to investigate the voter signatures, but his request was refused. The ConEC refused to grant the candidate registration after deeming 242 of 600 signatures he provided invalid. The working group's report deemed 250 signatures invalid and the final report stated that 242 were invalid.

iii. Investigation of the complaints in the Supreme Court

The Supreme Court, the highest instances in the country to address the election complaints, received many complaints during the candidate nomination and registration process.

The Court failed to conduct objective and thorough investigations of cassation complaints. The Supreme Court often referred to the decisions made by ConECs and upheld the decisions of the Court of Appeals. For instance, on 1 November, the Court chaired by the Judge Gahraman Allahverdiyev held a hearing on the case of Intigam Aliyev, independent candidate from 43rd Sumqayit Third Election Constituency. No further investigation was conducted during the hearing, where the defendant or a representative of the CEC was not present. The Supreme Court upheld the decision made by the Court of Appeals, which referred to the reasoning of ConEC. It should be noted that the ConEC refused to register the candidate due to an insufficient number of valid signatures. Of 596 signatures which were provided by Aliyev, only 412 were considered valid, while 186 were stated to be similar and therefore deemed invalid.

According to EMDS's observations, complaints declined by the CEC were not investigated objectively and fairly by the Baku Court of Appeals. The situation was the same with the Supreme Court. The courts failed to conduct a comprehensive investigation of the complaints and provide proper legal reasoning for the decisions.

VII. CAMPAIGNING

A. *LEGAL BASIS*

At the initiative of a group of MPs representing the New Azerbaijan Party (YAP), Milli Majlis of the Republic of Azerbaijan adopted the Law on Amendments to the Election Code on 18 June 2010. According to this Law, the election period was reduced from 75 to 60 days and election campaigning period was decreased to 22 days. Also, the law removed a provision that had provided public funding for registered candidate's campaigns. It should be noted that all of the amendments included in this Law were adopted without learning the opinion of Venice Commission of the Council of Europe as well as without holding any public discussions.

According to Article 74.2 of the Election Code, election campaigning can be conducted through the following means:

- Mass media
- Public events/meetings
- Distribution of print, audio, video and other campaign materials
- Any other means not prohibited by law

However, EMDS's observation shows that shortening of the election period created time restrictions on utilizing the above-mentioned legal means and methods for election campaigning.

B. *CONDUCT OF ELECTION CAMPAIGNING THROUGH MASS MEDIA*

Election campaigning can be conducted through TV, radio and print media. In line with Article 80.1 of the Election Code, political parties and blocs of parties which have registered candidates in more than 60 election constituencies have the right to free airtime for election campaigning on Public TV and Public Radio. According to the results of the candidate registration process, only YAP obtained this right. However, when the election campaigning period started, representatives of YAP refused to use free airtime allotted to them.

In its meeting held on 15 October 2010, the CEC made a decision to allocate four minutes of free airtime on Public TV (*ITV*) to all registered candidates. It should be noted that this decision is not regulated by law and does not comply with the Election Code provisions on election campaigning though TV and radio.

The prices for paid political advertising were not affordable to all candidates. EMDS notes that the price for paid airtime was the same as the maximum price for commercials. For example, on the first, second and third days of the week, the price of airtime for campaigning on the Public TV (*ITV*) changed from AZN 13 to AZN 29 per second, depending on the time of day; on second, 4th, 6th days of the week, it changed from AZN 4 to AZN 14. Airtime for campaigning on regional television channel *Kapaz TV* cost between AZN 200-500 per minute from 8:00 till 23:00¹⁶. It is worth noting that amongst the nationally broadcast TV channels, only *ITV* and *Lider TV* offered paid airtime for election campaigning and only 3 candidates used this paid service of *ITV*.

According to the results of the monitoring of the Institute of Reporters' Freedom and Security (IRFS) during the election campaigning period, the majority of TV channels were one-sided

¹⁶<http://www.cec.gov.az/az/parlament2010/kiv/kiv.htm>

in the coverage of political parties. President Ilham Aliyev, Chairman of YAP, was shown more and portrayed positively. While the events and activities of the election blocs, including the major opposition bloc PPFA-Musavat, were not covered, YAP's events were shown on all stations.¹⁷

According to the monitoring of the IRFS, although radio stations *Ictimai* (Public), *Lider* and *Anten FM* applied to the CEC and expressed their intention to offer paid airtime, no paid campaign material was heard on any of them. Apart from this, none of the radio stations in the country aired advertisements in connection with the parliamentary elections.

In contrast to the 6 November 2005 parliamentary elections, the TV stations did not give any place to political discussions and public debates in their programs around the 2010 parliamentary elections. No political debate occurred in the four-minute period of free airtime allocated to the candidates by Public TV.

During the election campaign, candidates promised to deliver various messages on solving mostly issues of local concern undertaking election promises and offers. However, some candidates from opposition parties shared with their views on national level problems and their approach to solving those during the meetings.

During the election period, *Lider TV* conducted a Black PR campaign against opposition parties. For instance, during primetime at 19:00 on 25 October, the channel broadcasted an intimate encounter of the Director of "Azadliq" newspaper Azer Ahmadov with a female friend. As they broadcast the video, commentators noted that their activities are against national morality. Many human rights organizations and civic activists considered this illegal interference in private life and moral-political pressure. Despite this, the Television and Radio Broadcast Council did not take any action against Lider TV.

C. CONDUCT OF ELECTION CAMPAIGNING THROUGH PUBLIC EVENTS

Article 86 of the Election Code stipulates that state bodies and municipality institutions shall assist political parties in allotting places for organizing and conducting meetings with voters and public debates during the election campaigning period.

Without any legal basis, the CEC prepared a list of places for candidates to hold meetings with voters and public discussions. The list includes 4,930 places located in the territory of 118 election constituencies: 2,676 of them were outdoor and 2,254 were indoor places¹⁸. The CEC's list also indicates the capacity of each place. It should be noted that neither in the Election Code, nor in any instruction of the CEC, is there any provision concerning the capacity of places allotted for election campaigning.

Starting on 16 October, EMDS long-term observers carried out the monitoring of these places. It was revealed that the area of 511 places was not appropriate for holding meetings with voters. For example, in 46th Shirvan Election Constituency, an indoor place allocated for meetings with voters is located in an old Cultural House. According to the CEC's list, the capacity of this place is 300 seats; however, in reality, this place can hold a maximum of 200 persons. Similar cases were noted during the observation of indoor and outdoor places in 67th Jalilabad City, 48th Yevlakh, 49th Yevlakh-Mingachevir and 93rd Barda election constituencies. It was also observed that 190 places were located far from settlement areas, inconvenient for the people to go to.

¹⁷ www.irfs.az,

¹⁸ http://www.cec.gov.az/az/main_az.htm#

In contrast to the 2005 parliamentary elections, it was impossible during the 2010 elections for political parties to hold rallies. For example, “APFP-Musavat” planned to hold a rally on 10 October 2010 and appealed to the Baku Executive Authority for permission. However, Mazahir Panahov, chairman of the CEC, considered the action of the bloc as a pre-election campaign activity and stated that conducting of such an event before the pre-election campaign¹⁹ would be a violation of the law. However, in response to arguments of chairman of the CEC, party officials noted that the rally intended to raise issues political prisoners, freedom of expression and freedom of assembly.²⁰

The Baku City Executive Authority did not allow “APFP-Musavat” bloc to hold its rally planned for 17 October as well. Since the 2005 parliamentary elections, the local executive authorities have created restrictions to political parties and blocs of political parties to conduct rallies and demonstrations, as well as, indoor public meetings on a number of occasions.²¹

D. ELECTION CAMPAIGNING THROUGH PRINT, AUDIO, VIDEO AND OTHER CAMPAIGN MATERIALS

According to Article 74 of the Election Code, election campaigning can be conducted using print, audio and video materials as well as other methods not prohibited by law.

This campaign cycle, candidates used new media tools, such as, Facebook, Youtube, Twitter, etc. One of the reasons for this was that prices for paid airtime on TV and radio were not affordable for all candidates. Also, many TV channels did not participate in the election campaign process. Candidates posted messages, posters and videos of their speeches on social networks.

Although the volume of election-related information increased in official newspapers after it offered paid election campaigning service, this information was mainly related to the CEC’s meetings, process of preparations for the elections at ConECs, and the registration of local and international observers. “Yeni Musavat” newspaper published campaign-type information on some candidates. Candidates also conducted campaigning through web portals and information agencies. For example, various types of campaigning materials were posted by www.day.az, www.lent.az, APA (www.apa.az) and MIA (www.mia.az) information agencies. For example, campaigning materials of Faraj Guliyev, a candidate from 31st Surakhani Election Constituency, were posted on MIA.²² Video of speech of candidate from 22nd Nasimi Election Constituency Asim Mollazade was placed on milli.az news portal²³.

Very few candidates created their own web-sites and posted information on their biography, political platform and photos.²⁴

E. UNAUTHORIZED INTERVENTIONS

According to the Election Code, equal conditions for the campaign period should be created for all registered candidates and any and all unauthorized interventions to the campaign process are prohibited. However, some candidates faced unauthorized interference in their

¹⁹ Pre-election campaign started on 16 October 2010

²⁰ <http://deputat.az/news.php?id=623>

²¹ <http://www.azadliq.org/archive/news/20101015/1/1.html?id=2191213>

²² <http://www.mia.az/news/12379.html>

²³ <http://www.milli.az/view.php?id=25144>

²⁴ <http://www.mia.az/news/12340.html>

campaign while some candidates were engaged in misuse of administrative resources. According to EMDS's observers, local executive authorities, municipals, ConECs and other state-run organizations were engaged in abuse of administrative resources. EMDS received information on 67 cases of unauthorized intervention in the second stage of the election process.

Such cases were observed:

- On 20 October, local entrepreneurs in Mehdili village refused to post campaign materials of independent candidate Lazim Umudov from the 65th Saatli-Sabirabad-Kurdamir in their shops and other estates. The candidate argued that the entrepreneurs did this due to the order given by the son of local executive representative Akif Boyukkishi
- Valeh Alasgarov, candidate from the 102nd Samukh-Shamkir Election Constituency, held meetings with voters without the approval of the ConEC. However, the ConEC created difficulties for Etibar Akbarov, a candidate of the “APFP-Musavat” bloc, to conduct meetings with voters. The Head of the local executive authority, Vilyam Hajiyev, Head of the Regional Water Supply Department Gulagha Aliyev and Head of the Telecommunication Department Alasgar Aliyev interfered in the process and tried to prevent Etibar Akbarov’s meetings.
- On 24 October, Vagif Huseynov, local executive representative of Khidirli village of Salyan region, prevented Adalat Yusifov, a candidate from the 60th Salyan-Neftchala Election Constituency, from holding meeting with voters. He intimidated voters saying that they would be fired.
- On 24 October, Ali Karimli, the candidate of the “APFP-Musavat” bloc from the 31st Surakhani Second Election Constituency, held a meeting with voters in front of the monument of Martyrs. The electricity supply to the area was interrupted by order of the Head of local executive authority of Surakhani region Ilgar Abbasov and the candidate could not use the loudspeaker during the meeting.
- Under the supervision of deputy head of the executive authority of Kurdamir region Vasif Mammadov, employees of the executive authority were engaged in the campaign of Farhad Garibov, a candidate from the 57th Kurdamir Election Constituency. Zahid Asgarov, chief doctor of the central clinic in the region, instructed his employees to vote for Garibov.
- All of Ahmad Valiyev’s meetings (the candidate from 107th Kazakh Election Constituency) were held at the Qazakh regional department of Azerbaijan University of Teachers. Meetings were attended mainly by students who were forced to come to the event by their teachers.
- A candidate from the 63rd Sabirabad First Election Constituency Jeyhun Osmanli held a meeting on 29 October in Kurkandi village of the region. Vafadar Baghirov, deputy head of executive authority of the region, was involved in assembling local people for the meeting.

F. COMPLAINTS

Most of the complaints during election campaign of the 2010 parliamentary elections were about the candidate nomination and registration process. Election commissions received more than 80 complaints on pre-election campaigning²⁵. These complaints were about illegal intervention of police, local executive authorities and other candidates in campaign process.

- Gara Garayev, a representative of the “APFP-Musavat” bloc, appealed to the CEC on 22 October. In the appeal, he stated that representatives of the executive authorities and municipalities assisted the campaign of the Rafael Huseynov, candidate from the 58th Haciqabul-Kurdamir Election Constituency, and requested that the CEC take action. In the hearing held on 23 October, the CEC stated that complaint was sent back? to the ConEC on the grounds of relevancy.
- The appeal of the Aslan Ismailov, a candidate from the 20th Narimanov Second Election Constituency, was discussed during the meeting held on 2 November. The candidate complained that his election headquarters were attacked on 30 October and his printed materials were destroyed. The CEC decided that ConEC should make a ruling on that complaint.
- On 22 October, Giymat Mammadova, a candidate from the 107th Kazakh Election Constituency, filed a complaint to the CEC. The complaint stated that Kazakh region executive authorities were engaged in campaigning activities for Ahmad Valiyev, another candidate from same constituency. On 23 October, the CEC sent the complaint back to the ConEC without an investigation
- On 2 November, Isa Gambar, chairman of *Musavat* and a candidate from the 15th Yasamal First Election Constituency filed a complaint to the CEC. In his complaint, Gambar argued that Elbrus Abdullayev, a candidate from the 29th Sabael Election Constituency, insulted him during the free air time he received (four minutes on Public TV’s “People are electing” program). Gambar asked for free air time in order to refute the slander against him. However, the CEC did not discuss this complaint. Also, Gambar sued candidate Huseynbala Miralamov from the 33rd Khatai First Election Constituency and sent a complaint to the Yasamal District Court. Gambar stated that Huseynbala Miralamov slandered him during the “People is electing” program on 30 October. Yasamal District Court decided to reject the candidate’s complaints.
- On 2 November, Hafiz Hajiyev, chairman of the Modern Musavat Party, and Huseynbala Miralamov, head of the Khatai District Branch of YAP, filed a joint complaint to the Yasamal District Court regarding Fuad Gahramanli, deputy chairman of the APFP. Both applicants stated that they were insulted by Gahramanli during the “People are electing” program on 30 October. On 3 December, hearing was held in the Yasamal District Court but was postponed due to the fact that special prosecutor did not attend the hearing and on the grounds that F. Qahramanli had candidate immunity during that time. At the hearing held on December 10, Judge Sardar Mehraliyev stated that court received a letter from the Head Prosecutor Office, which stated that the Prosecutor’s office refused to consider Gahramanli to have criminal liability.

²⁵ <http://www.osce.org/odihr/elections/azerbaijan/75073>

VIII. ACTIVITY OF THE ELECTION COMMISSIONS

A. NEW COMPOSITION OF THE CEC

Prior to the 7 November parliamentary elections, the CEC was formed in full composition. In accordance with Article 24 of the Election Code, the CEC should consist of 18 members. However, it had been operating with 16 members since 2006. Six members of the CEC belonged to the ruling YAP, six were independent and four to the minority parties in the parliament.

The group of *Musavat* Party's MPs refused to send its two representatives to the CEC on the grounds that the CEC was not formed on the principle of parity. Rovshan Ismayilov, the representative of Citizens' Union, Social Welfare, and Motherland parties in the CEC, was appointed as a Judge to Constitutional Court and one seat in the CEC became vacant. Thus, overall, three seats were vacant in the CEC. At the Milli Majlis session held on 8 October 2010, the parliament decided to give *Musavat*'s two vacant seats to the Whole Azerbaijan Popular Front Party, and the third seat, to a group of independent MPs.

B. ATTENDANCE OF MEMBERS OF COMMISSIONS

EMDS observations conducted in 125 constituencies showed that in contrast to the previous elections, no progress was made in the attendance of constituency and precinct election commissions.

Nonattendance of commission members at their offices created obstacles for candidates and other election participants to implement their rights. It should be noted that the election period was shortened compared with previous elections (from 120 days to 65), so candidates and other election participants had very limited time for carrying out election activities. At the same time, in accordance with the elections, commission members should be present in their offices at all times. Moreover, in accordance with the Article 33.1 and 38.1, during the period of compiling voter's list and election period, members of election commissions receive a salary from the state budget. Article 179.1 of the Labor Code indicates that when an employee is called upon to perform state or social duties pursuant to the law, his job and title shall be preserved and he shall be paid his average wage while serving his duties²⁶. However, EMDS observers noted that commission members in 56 election commissions were not present in their offices.

Some information based on observation:

- From 1 to 5 October, in the PECs # 6 and 9 of the 39th Kapaz Election Constituency no members but the secretary was present;
- On 30 September, in the PECs # 1, 3 and 4 of the 87th Aghsu-Ismayilli Election Constituency, only the chairman was present;
- On 30 September, PECs # 3, 4, 5, 6 of 68th Jalilabad Village Election Constituency were closed all day;
- On 1 October, none of the commission members of PECs # 1, 2, 3, 4 of 75th Lankaran-Masalli Election Constituency was present from 15:00 to 16:30;
- On 1 October, 67th Jalilabad Election Constituency, was closed from 15:00 to 15:30;

²⁶ <http://www.e-qanun.az/print.php?internal=view&target=1&docid=7&doctype=1>

- On 30 September, PEC # 1 of 87th Aghsu-Ismayilli Election Constituency was not open;
- On 7 October, PECs # 7, 11, 16 of first Sharur-Sadarak Election Constituency was closed. On the same day, in the PECs # 5, 8, 12 of the same constituency none of the commission members was present;
- On 8 October, PECs # 20 and 22 of 4th Nakhchivan Election Constituency were closed;
- From 1 to 4 October, in 112th Gakh Election Constituency PECs # 4, 7 and 8 were open for only 2-3 hours, with only one member of commission on duty;
- On 4 October, PEC # 10 of 16th Yasamal Second Election Constituency was closed from 11:30 to 12:00
- On 1 October, PECs # 16, 25 and 29 of 109th Balakan Election Constituency were closed;
- On 30 September, in the PEC # 8 of 39th Kapaz First Election Constituency, there were no commission members but the chairman of the PEC present. In the PEC # 7 of the same ConEC, from 12:25 to 13:00 there was no member of commission but the chairman, Mammadov Mammad Ibrahim. When asked where the rest of the commission members were, the observers were told that the rest will join them few days before election day;
- On 4 October, none of the commission members was present from 15:00 to 15:30 in the PECs # 16, 25 and 28 of 31st Surakhani Second Election Constituency. At 16:10, only one member of the election commission, Elnure Bagirova, was present in PEC # 2 of the same constituency;
- On 18 October, PECs # 11 and 12 of the 4th Naxchivan City Election Constituency were closed from 14:00 till 14:30;
- On 20 October, PECs # 1 and 2 of the 10th Binaqadi Third Election Constituency were closed from 15:00 till 16:15;
- On 18 October, PECs # 17, 18 and 19 of the 7th Ordubad-Julfa Election Constituency were closed at 16:00;
- On 15 October, PECs # 29 and 30 of the 27th Sabunchu Second Election Constituency were closed at 16:00;
- On 14 October, PECs # 3 and 22 of the 33rd Khatai First Election Constituency were closed;
- On 15 October, PECs # 3 and 23 of the 34th Khatai Second Election Constituency were closed from 16:00;
- On 18 October, none of the commission members of PECs # 3, 4, 5 and 6 of the 13th Khazar First Election Constituency were present from 16:00.

C. TECHNICAL PREPARATIONS

In accordance with the Article 25 and 31 of the Election Code, the CEC ensures preparations and conduct of presidential, parliamentary, municipal elections and referenda. Prior to the parliamentary elections, a number of preparations were made by the CEC and by the ConECs.

The CEC held two stages of training sessions for raising awareness among members of lower commissions. Within the first stage of trainings, beginning from 5 October, jointly with the experts of Venice Commission of the Council of Europe, the CEC held a Training of Trainers (ToT). During the ToT, 250 domestic trainers in 125 election constituencies were trained on voting process, special cases, counting of votes, filling protocols and the election day procedures.

In the second stage, trainings for members of ConECs and PECs were conducted which were attended by more than 32,000 commission members. In the trainings, members of commissions were informed on the overall election process and election day procedures, and examples of protocols and other documents were presented.

The CEC adopted several normative acts – instructions, briefs and rules, amended previous documents in accordance with the changes made to the Election Code, published handbooks and other educational materials for members of election commissions, observers, candidates and other election participants. In accordance with the CEC schedule on the 7 November 2010 parliamentary elections, the CEC published ballots, final protocols for constituency and precinct election commissions and delivered them to the commissions.

The CEC initiated the publishing the “Memo for Observers” handbook which included rights and responsibilities of observers. This handbook and the “Memo for the” were presented to ConECs, political parties and other organizations to disseminate among observers.²⁷

During the meeting held on 12 October, the CEC announced the list of the venues and places for the candidates’ meetings with the voters for every constituency.

The CEC decided to allocate four minutes of free airtime for registered candidates on Public Television. EMDS notes that this decision does not have any legal basis and is not mentioned in existing laws. On the contrary, according to Article 80.1 of the Election Code, only the political parties and election blocs with candidates registered in over 60 districts have a right to free airtime.

The CEC announced a list of the media outlets willing to take part in paid campaigning. The list included 38 newspapers, 13 information agencies and 12 TVs and radio stations.

During one of the meetings, the CEC decided to provide 500 precincts with web-cameras in order to broadcast the election process through the internet.

Prior to the elections, the CEC registered 3,466 local observers and 1,026 international observers from 24 states to observe the elections. ConECs registered 42,494 observers to observe the elections on the territories of the Constituencies. Also, the CEC registered 28 representatives of 11 foreign media outlets – Reuters, BBC, Al-Jazeera, TRT, Associated Press, France Press, EPA, Anadolu, İhlâs Haber Ajansı, Doğan Haber Ajansı, Daily İtihad and etc. – to report from the elections.

D. MANAGEMENT OF THE ELECTION PROCESS

According to the information of observers cooperating with EMDS, most of the commissions failed to ensure impartiality and objectivity in carrying out the management of elections. An analysis of the reports gathered from the activities of commissions shows that little progress has been made since the last elections. Serious shortcomings in ConECs activity were observed during the candidate nomination and registration process, as well as, during election day.

²⁷ <http://www.cec.gov.az/az/umumi/beyanatlar/hesabat2010.htm>

Serious violations took place during the campaign stage and were ignored by election commissions. For instance, ConECs ignored the facts of illegal campaigning by the members of the ruling party and ignored cases where these candidates used administrative resources. Even when the complaints on such irregularities were made, these complaints were ignored. For example, in the 33rd Khatai First Constituency 3rd branch of the “Azerpost” Ltd (postal code-1149) campaigned for the member of New Azerbaijan party-candidate Huseynbala Miralamov. Postal office distributed campaign materials of the candidate among the citizens and lobbied them to vote for him. The headquarters of the independent candidate Zalimxan Mammadli discovered this fact and invited the head of the ConEC Alibaba Bayramov to the scene, who ignored the situation.

In some constituencies, local executive authorities violated rules of pre-election campaigning. For example, on 20 October, during the meeting of Elmira Akhundova, candidate from the 71st Masalli Village Election Constituency, in Arkivan village, work at local schools and hospitals was ceased and teachers and doctors were brought to the meeting by the members of the ConEC.

E. TRANSPARENCY IN THE ACTIVITY OF THE ELECTION COMMISSIONS AND PREPARATION OF THE OBSERVERS

According to the CEC rules, the deadline for observers' appeals was 2 November 2010. However, some ConECs denied citizens the right to register as observers starting from 1 November. In most of the cases reasoning for the refusal was improper composition of documents. For instance, the chairman of the 20th Narimanov Second Election Constituency Eldar Sadiqov refused to register Emin Muradov, Babek Musazade and Guler Abbasova as observers and did not accept their documents. Similar stories were reported from the 31st Suraxani second, 55th Khachmaz city, 10th Binaqadi Third and in 22nd Nasimi second constituencies.

Observers help ensure the transparency of ConECs. However, during the 2010 elections, normal conditions for observers were not created. Also, ConECs made numerous violations during the observer preparation process. For instance, chairman of the 64th Sabirabad Second Election Constituency Shukur Imanov refused to register Haciyev Shahbaz Ezer oglu, Mammadov Rafiq and Zeynalli Tofiq as observers without providing proper reasoning.

The chairman of the 65th Saatli-Sabirabad-Kurdamir Election Constituency refused to register Abbasov Cemil and Agayev Bakhtiyar as observers without providing any explanation.

The chairman of the 77th Astara Election Constituency refused to register Ferziyev Elvin and Xanmammadov Seyidhasan as observers.

The 110th Zaqtala Election Constituency denied registration to observers who approached them on 20 October.

The chairman of the 54th Shabran-Siyazan Election Constituency Ojaqov Amircan illegally appointed eight observers to the particular precincts they did not want to observe.

According to Article 59.3 of the Election Code and to the instructions of the CEC²⁸, a candidate or his representative can take part in the meeting of ConEC concerning his preparation documents and signatures he collected. Election commissions should inform the candidate that his documents are being checked before the meeting. ConECs should not

²⁸ See the CEC instructions: <http://www.cec.gov.az/az/parlament2010/telimat/telimat5.htm>

obstruct representatives sent by the candidate. All this is very important in order to create more transparency in the activity of election commissions.

However, during the parliamentary elections, election commissions violated the transparency principle. It was observed more clearly during the candidate preparation process. For instance, on 12 October, the 79th Imishli Election Constituency did not inform Iltizam Akbarli or his representatives that his preparation documents were being checked. The same took place in the 94th Barda Village Election Constituency, as ConEC did not inform Macidli Elnur that his preparation documents were being checked. Also, ConECs violated transparency during announcement of their decisions, as these decisions were published only on information boards of the ConECs. Therefore, the information was not accessible by most of citizens. These cases violated the Election Code, as well as, violated the principle of equality toward candidates.

Some ConECs denied the observers registered by the CEC to take part in the meeting of the commissions. For instance, although Sahib Rustamov had national observer status, he was denied the entry to the meetings of the 63rd Sabirabad first and 65th Saatli-Sabirabad-Kurdimir Election Constituency.

EMDS observer Elmar Huseynov was registered by the CEC on 20 September to participate at the meetings of the CEC. However, the CEC invited him to one meeting only. He was informed that since that seats are limited not everyone is invited to these meetings.

During the period of registration of observers, 40 citizens cooperating with EMDS were denied accreditation as observers by ConECs without providing proper and legal reasoning.

IX. MONITORING ON THE ELECTION DAY

A. *OBSERVATION METHODOLOGY/ DEPLOYMENT OF OBSERVERS*

EMDS conducted the observation of the 2010 parliamentary elections through a statistically-based observation (SBO). Within the SBO, a sample of the precincts throughout the country was randomly selected based on the national representation. SBO methodology is used in many countries to obtain a precise assessment of the quality of elections.

During the parliamentary elections, EMDS conducted a statistically-based observation in all of the 125 Constituencies and in 1,181 of the precincts. The observation was conducted on the national level and in competitive constituencies.

For the national-level observation, EMDS randomly selected 608 precincts across 125 Constituencies. Precincts were selected for the observation based on the national representation and the total number of precincts was taken into consideration. SBO methodology provides factual, accurate data about the quality of the election process throughout the country in a relatively quick fashion. Moreover, it also allows one to compare quantitative data with the official data.

On election day, EMDS observed the voting, counting and protocol preparation processes on the basis of Observation Based Statistics. EMDS considered 18 of the 125 Constituencies to be competitive and conducted an observation in these Constituencies. These Constituencies:

- Had high voter turnout during the 2005 parliamentary elections;
- Popular political leaders were candidates in these districts;
- Had candidates from most of the political parties or blocs registered within the CEC;

- Had high level of political activity during campaigning;
- Was not difficult to be observed in a technical sense;

Taking into consideration the factors listed above, EMDS considered these Constituencies to be competitive:

| # | Constituency | Region | Number of the Precincts | Number of the Candidates |
|--------------|----------------------------------|------------------|-------------------------|--------------------------|
| 1 | 4 th Nakhchivan | Nakhchivan | 37 | 5 |
| 2 | 9 th Binaqadi second | Baku | 32 | 11 |
| 3 | 15 th Yasamal first | Baku | 33 | 9 |
| 4 | 16 th Yasamal second | Baku | 30 | 8 |
| 5 | 19 th Narimanov | Baku | 31 | 7 |
| 6 | 22nd Nasimi first | Baku | 30 | 5 |
| 7 | 29 th Sabael | Baku | 32 | 9 |
| 8 | 30 th Surakhani first | Baku | 27 | 8 |
| 9 | 31st Surakhani second | Baku | 28 | 13 |
| 10 | 37 th Nizami | Ganja | 27 | 5 |
| 11 | 39 th Kapaz | Ganja | 31 | 5 |
| 12 | 107 th Qazakh | Ganja | 38 | 9 |
| 13 | 43 rd Sumgayit third | Sumgayit | 33 | 8 |
| 14 | 63 rd Sabirabad first | Sabirabad | 33 | 4 |
| 15 | 81 st Beylagan | Beylagan | 42 | 7 |
| 16 | 113 th Shaki | Shaki | 27 | 5 |
| 17 | 93 rd Barda | Mingachevir | 52 | 5 |
| 18 | 89 th Goychay-Agdash | Goychay | 34 | 7 |
| Total | 18 Constituencies | 9 regions | 597 Precincts | 130 candidates |

It should be noted that EMDS observed the opening of these precincts, as well as voting and counting in 573 of 597 Precincts in 18 Constituencies.

B. PREPARATION OF THE OBSERVERS/OBSERVATION MATERIALS

EMDS conducted a workshop for trainers and 16 trainers were prepared. Then these trainers conducted 87 trainings for short-term observers and 1,287 observers took part in them.

During EMDS's training, observers were taught rules of impartial conduct, their rights and responsibilities, voting and counting rules and how to fill questionnaires and forms of complaints. They were given the guidelines of report preparation.

Prior to the parliamentary elections, EMDS legally assisted 1,044 to become CEC observers and 226 to become ConEC observers. In total, EMDS cooperated with more than 1,200 observers on election day.

During the elections, EMDS cooperated with civic groups in 11 regions, including Baku, Ganja, Sumgayit, Nakhchivan, Jalilabad, Shaki, Goychay, Mingachevir, Khachmaz, Sabirabad and Beylagan.

In order to prepare this report, EMDS compiled and analyzed 1,044 questionnaires, 1,615 complaint forms and 705 copies of the protocols provided by the observers after the Elections.

Prior to the elections, EMDS created an election database and prepared a special software program for the election day observation, which included observation forms and information on selected polling stations.

The organization held a training for 40 operators who worked at the Election Database Center on the rules of receiving information from observers and entering into the database. Operators received reports from observers four times (opening of polling stations, voting, counting of votes and vote tabulation) on election day.

EMDS prepared and disseminated deployment packages, which included reporting form, incident form, and a map of the polling station, to observers.

Coordinators assigned to special constituencies monitored the activities of observers in the particular constituencies informing the central office of serious incidents such as pressure against observers.

C. PUBLICITY ON THE ELECTION DAY MONITORING

EMDS published two press releases on the results of its election day monitoring.

The first press release included information on the opening of polling stations and the beginning of the voting process and was distributed at 12:00 on election day²⁹.

The second press release detailed information on voter turnout, voting and closing of polling stations and was published at 19:00³⁰.

Following the elections, the organization published a preliminary statement on the results of monitoring of the elections³¹ on 8 November.

Moreover, on 18 November, EMDS produced a report on the results of monitoring competitive constituencies and disseminated it to the local and international community³².

D. PRESSURE AGAINST OBSERVER PRIOR TO THE ELECTIONS DAY

In some regions of the country observers cooperating with EMDS were pressured by the representatives of the Local Executive Authorities. The authorities demanded that EMDS observers not observe the elections. Consequently, some of the citizens who were part of the EMDS observer's trainings did not take part in the observation process on election day. Such cases were took place in the Xachmaz and Nakhchivan regions.

Examples include:

- Representative of the Vahidli village executive power Oqtay Mursalov called Asim Bagirov-registered observer from the 105th Tovuz Election Constituency and intimidated him. The observer was told that he will be expelled from Azerbaijan Agrarian University if he takes part in the observation process;
- Miriyev Ruslan and Sadiqli Rovshan – registered observers from the 63rd Sabirabad First Election Constituency were intimidated by representative of the Kurkandi village

²⁹ <http://smdt.az/news/news/120.html>

³⁰ [http://smdt.az/files/file/parlament2010/Press-release%2019-00%20EMDS%20\(1\).pdf](http://smdt.az/files/file/parlament2010/Press-release%2019-00%20EMDS%20(1).pdf)

³¹ <http://smdt.az/files/file/Azerbaijan%20Parliamentary%20Elections%207%20November%202010%20Preliminary%20Report%20-%20FINAL-vf.pdf>

³² <http://smdt.az/files/file/SBO%20results%20on%2018%20ConECs%20EMDS%20fv.pdf>

executive power Israfil Aslanov and representative of Galagayin village executive power Zulfali Musayev;

- Representative of the Mursalli village executive power Nazim Cavadov visited the home of Ehmedov Asef, a registered observer from the 64th Sabirabad Second Election Constituency, and told him that he will be banished from the village if he takes part in the observation process;
- Movsumov Huseyn, deputy of the head of Dashkesen executive power intimidated Elnur Pashayev, a registered observer from the 100th Shamkir-Dashkasan Election Constituency. He was told that he will be fired from the school where he is working if he takes part in the observation process;
- The Head of the Gadabay executive authority Kamran Rzayev invited Sarxan Musayev, a registered observer from the 103rd Gadabay Election Constituency and demanded that he not to spread information on elections;

Anar Mammadli, chairman of EMDS, appealed to the chairman of the CEC and asked him to stop pressure on the observers on November 6, 2010. However, the CEC did not take any action. On election day and the days following the elections, pressure on the observers continued.

E. RESULTS OF THE OBSERVATION ON THE NATIONAL LEVEL

Due to the fact that observers cooperating with EMDS were pressured in Xachmaz and Nakhchivan, they were not present in election precincts on election day. Therefore, information on some of the precincts was not accessible and this caused problems in the accuracy of data for those regions. However, information that was accessible proved to be enough to evaluate the quality of the election process.

i. Set up and opening of the Election Precincts

Observers cooperating with EMDS evaluated the formation and the opening of the election precincts according to 12 election actions. Results of the monitoring show that irregularities in the precincts during this phase were little to none. For instance, in only 2% of the precincts were ***conditions for the confidential elections created***. In only 3% of the precincts observed were ***ballot boxes not shown to be empty prior to being sealed***.

In most precincts across the country, the equipment and opening of the precincts went according to the guidelines. For example, 99% of the observed precincts were ***equipped with invisible ink, UV lamps and batteries***. 96% of the observed precincts had all ***the necessary information on the board***. Information collected from the observers shows that 95% of the observed precincts were opened on time (from 07:00) and in 99% of them voting process started on time at 08:00.

However, serious violations were observed in some of the precincts around the opening time, which created conditions for fraud in the election process.

Information on the irregularities listed above

| Action | Yes | No |
|--|--------|-------|
| Was the number of registered voters announced by the PEC prior to the start of voting? | 91.57% | 8.43% |
| Was the number of ballot papers announced by the PEC prior to the start of voting? | 90.93% | 9.07% |

| | | |
|---|-------|-------|
| Was the number of applications for mobile voting announced by the PEC prior to the start of voting? | 83.6% | 16.4% |
|---|-------|-------|

As it can be seen from above-mentioned table, irregularities taken place during the opening of polling stations allows to assume that violations occurred in those polling stations, which significantly influenced voting results, were systematic.

ii. Voting

EMDS observed 13 election actions during the voting process and evaluated the quality of the process based on these numbers. An analysis of the numbers collected by the observers shows that irregularities during that phase of the elections rarely occurred and did not have a significant impact on the results. For instance, only in 7 to 8% of the observed precincts ***citizens with required documents were not allowed to vote and some citizens voted without signing the voter's lists.***

Other irregularities that occurred during the voting process were systematic in nature and therefore cast doubt on the results. The scale of the irregularities can be seen in the next table:

| Action | Yes | No |
|---|------|------|
| Were people permitted to vote who had invisible ink on their finger? | 80 % | 20 % |
| Were people permitted to vote without being checked for invisible ink? | 72 % | 28 % |
| Did polling officials fail to put invisible ink on the fingers of voters? | 78 % | 22% |
| Did people vote whose names did not appear on the voters list? | 83 % | 17 % |
| Was the secrecy of the vote violated? | 76 % | 24 % |
| Multiple Voting | 75 % | 25 % |
| Ballot stuffing | 74 % | 26 % |
| Were there cases of voters brought to the polls in special groups? | 80 % | 20 % |
| Were voters being instructed to vote for a specific candidate? | 80 % | 20 % |

Number of polling stations where all above-mentioned violations occurred (17-28%) indicates that violations in those polling stations were not accidental, but systematic. Furthermore, the complaints that were sent to EMDS show that members of the commissions and unauthorized persons took part in the irregularities.

Finally, such a large scale of violation in the voting process diminishes the trust in the counting process and makes final results highly questionable.

EMDS conducted analysis of dynamics of violations by regions using 4 election actions which can significantly impact the election results:

| <i>People whose name did not appear on voter's list were permitted to vote</i> | | |
|--|----------|----------|
| Region | Positive | Negative |
| Baku | 77 % | 23 % |
| Ganja | 78% | 22 % |
| Sumgayit | 93 % | 7 % |
| Jalilabad | 89 % | 11 % |
| Sabirabad | 82 % | 18 % |
| Beylagan | 80% | 20% |

| | | |
|---|------|------|
| Goychay | 88 % | 12 % |
| Mingachevir | 77 % | 23 % |
| Shaki | 94 % | 6 % |
| Khachmaz | 89 % | 11 % |
| Nakhchivan | 70% | 30 % |
| <i>Multiple voting or proxy voting</i> | | |
| Baku | 86 % | 14 % |
| Ganja | 60% | 40% |
| Sumgayit | 87 % | 13 % |
| Jalilabad | 70% | 30 % |
| Sabirabad | 66 % | 34 % |
| Beylagan | 80% | 20 % |
| Goychay | 73 % | 27 % |
| Mingachevir | 77 % | 23 % |
| Shaki | 73 % | 27 % |
| Khachmaz | 72 % | 28 % |
| Nakhchivan | 83% | 17 % |
| <i>Ballot stuffing</i> | | |
| Baku | 82 % | 18 % |
| Ganja | 61 % | 39 % |
| Sumgayit | 90 % | 10 % |
| Jalilabad | 61 % | 39 % |
| Sabirabad | 61 % | 39 % |
| Beylagan | 77 % | 23 % |
| Goychay | 71 % | 29 % |
| Mingachevir | 77 % | 23 % |
| Shaki | 83 % | 17 % |
| Khachmaz | 78 % | 22 % |
| Nakhchivan | 87 % | 13 % |
| <i>Voters were instructed to vote for a specific candidate</i> | | |
| Baku | 92 % | 8 % |
| Ganja | 66 % | 34 % |
| Sumgayit | 83 % | 17 % |
| Jalilabad | 82 % | 18 % |
| Sabirabad | 68 % | 32 % |
| Beylagan | 67 % | 33 % |
| Goychay | 73 % | 27 % |
| Mingachevir | 88 % | 12 % |
| Shaki | 87 % | 13 % |
| Khachmaz | 78 % | 22 % |
| Nakhchivan | 72 % | 28 % |

The charts above show that the percentage of violations varies from region to region. The violations occurring in the Ganja, Sabirabad, Beylagan and Mingachevir regions were relatively more extensive. It should be also noted that due to the pressure and intimidation against observers in Nakhchivan and Khachmaz regions, EMDS was not able to gather sufficient information from these regions. Therefore information on these two regions indicated in the above-mentioned charts is not fully representative of the real picture of the process.

iii. Counting and protocols

EMDS observers evaluated the counting process according to 11 election actions. Observers reported minor irregularities. For instance, in 7% of the observed precincts, excess ballots were liquidated prior to the end of the counting and in 3% of the observed precincts stamps on the boxes were not checked prior to the box opening. However, some of the irregularities were of such a large scale that they had an impact on the results. Their percentage shows that these irregularities are systematic in nature.

The numbers on these violations are in this table:

| Action | Yes | No |
|---|------|------|
| Was the vote count accurately reflected on the protocol? | 87 % | 13 % |
| Was the copy of the protocol displayed outside the polling station? | 74 % | 26 % |
| Were copies of the protocol given to observers? | 83 % | 17 % |
| Were unauthorized people interfering in the election process? | 87 % | 13 % |

The table shows that irregularities observed during the counting process were connected and as it was in the voting process, the most of violations had systematic nature. The biggest concern about this phase of the election is the lack of transparency. For instance, in 27% of the observed precincts the final protocols were not posted for public display outside the precinct.

EMDS observers collected final protocols from 705 of the precincts.

During the analysis of the numbers given in the protocols, the difference between them and numbers announced by the CEC were evident. For instance, the final protocols from 121 election precincts have different numbers than those announced by the CEC. These inconsistencies are based upon information from the protocols. This information includes the total number of the voters, voters who received the right to vote in other precincts, the number of protocols given by the ConECs to the precincts, the number of the voters who received ballots, the number of the voters voted outside of precinct, and the number of votes deemed invalid, valid votes and others.

It should be noted that EMDS did not announce the results of its monitoring of votes received by candidates and political parties on the national level for two reasons: first, the number of the precincts chosen for the national-level observation is not enough to come up with a reliable result; and second, the number of violations and fraud observed makes any attempt to count votes unreliable.

EMDS conducted the comparable analysis among the regions for distribution of election violations. Analysis covered the 6 possible violations

EMDS conducted analysis of dynamics of violations by regions using 6 election actions which can significantly impact the election results:

| <i>Elimination of unused ballots before the vote counting</i> | | |
|---|-----------------|-----------------|
| <i>Region</i> | <i>Positive</i> | <i>Negative</i> |
| Baku | 95 % | 5% |
| Ganja | 93 % | 7 % |
| Sumgayit | 100 % | 0 % |
| Jalilabad | 94 % | 6 % |
| Sabirabad | 85 % | 15 % |
| Beylagan | 96 % | 4 % |

| | | |
|-------------|-------|------|
| Goychay | 89 % | 11 % |
| Mingachevir | 100 % | 0 % |
| Shaki | 96 % | 4 % |
| Khachmaz | 72 % | 28 % |
| Nakhchivan | 100 % | 0 % |

Checking ballot box before the opening whether it is sealed

| | | |
|-------------|-------|------|
| Baku | 96 % | 4 % |
| Ganja | 91 % | 9 % |
| Sumgayit | 100 % | 0 % |
| Jalilabad | 99 % | 1 % |
| Sabirabad | 95 % | 5 % |
| Beylagan | 100 % | 0 % |
| Goychay | 98 % | 2 % |
| Mingachevir | 100 % | 0 % |
| Shaki | 100 % | 0 % |
| Khachmaz | 89 % | 11 % |
| Nakhchivan | 100 % | 0 % |

Transparency of Vote Counting

| | | |
|-------------|-------|------|
| Baku | 96 % | 4 % |
| Ganja | 90 % | 10 % |
| Sumgayit | 100 % | 0 % |
| Jalilabad | 100 % | 0 % |
| Sabirabad | 98 % | 2 % |
| Beylagan | 78 % | 22 % |
| Goychay | 86% | 14% |
| Mingachevir | 100 % | 0 % |
| Shaki | 89 % | 10 % |
| Khachmaz | 94 % | 6 % |
| Nakhchivan | 100 % | 0% |

Proper Reflection of Voting Results on Protocol

| | | |
|-------------|------|------|
| Baku | 91 % | 9 % |
| Ganja | 80 % | 20 % |
| Sumgayit | 97 % | 3 % |
| Jalilabad | 91 % | 9 % |
| Sabirabad | 85 % | 15 % |
| Beylagan | 82 % | 18 % |
| Goychay | 80 % | 20 % |
| Mingachevir | 90 % | 10 % |
| Shaki | 89 % | 11 % |
| Khachmaz | 82 % | 18 % |
| Nakhchivan | 85 % | 15 % |

Posting a copy of protocol for public display outside the polling station

| | | |
|-----------|------|------|
| Baku | 83 % | 17 % |
| Ganja | 55 % | 45 % |
| Sumgayit | 93 % | 7 % |
| Jalilabad | 93 % | 7 % |
| Sabirabad | 70 % | 30 % |

| | | |
|--|------|------|
| Beylagan | 68 % | 32 % |
| Goychay | 66 % | 34 % |
| Mingachevir | 45 % | 55 % |
| Shaki | 77 % | 23 % |
| Khachmaz | 71 % | 29 % |
| Nakhchivan | 70 % | 30 % |
| <i>Copy of protocol were given to observers</i> | | |
| Baku | 87 % | 13 % |
| Ganja | 79 % | 21 % |
| Sumgayit | 94 % | 6 % |
| Jalilabad | 97 % | 3 % |
| Sabirabad | 80 % | 20 % |
| Beylagan | 73 % | 27 % |
| Goychay | 75 % | 25 % |
| Mingachevir | 80 % | 20 % |
| Shaki | 83 % | 17 % |
| Khachmaz | 88 % | 12 % |
| Nakhchivan | 50 % | 50 % |

The charts above show that the percentage of violations varies from region to region. The violations occurring in the Ganja, Sabirabad, Beylagan, Goychay and Mingachevir regions were relatively more extensive. It should be also noted that due to the pressure and intimidation against observers in Nakhchivan and Khachmaz regions, EMDS was not able to gather sufficient information from these regions. Therefore information on these two regions indicated in the above-mentioned charts is not fully representative of the real picture of the process.

iv. Voter turnout

According to the information given to EMDS observers, the voter turnout across the country was 44%. It should be noted that according to the CEC instructions, chairmen of precinct election commission should announce voter turnout information 5 times during election day. However, numbers given by precincts and by the CEC were different, as the latter announced turnout at 50%.

F. OBSERVATION IN COMPETITIVE CONSTITUENCIES

Monitoring conducted by EMDS on election day included 573 precincts across 18 constituencies.

The results of the observation in the competitive constituencies matched those in the national-level observation.

i. Set up and opening of the Election Precincts

The results on formation and opening of the precincts across 18 constituencies were the same as the national-level ones.

EMDS observers evaluated the phase of precinct formation and opening upon 12 election activities. Monitoring showed that violations that had little impact on the results. For instance, only in 1 to 6% of the observed precincts had problems with invisible ink, UV lamps and batteries.

In only a few of the election precincts was the opening accompanied with serious irregularities. Such cases undermined the confidence in the result of elections in these precincts. These irregularities included ***announcement of the number of ballots prior to the elections (11%), the fact that number of the voters who will vote out of Precinct was not announced (16%), the fact that number of the ballots was not announced prior to the voting (22%), the fact that number of the registered voters was not announced (8%).***

ii. Voting

The results on formation and opening of the precincts across 18 constituencies were the same as the national-level ones.

An analysis of the observer's report suggests that some of the irregularities occurred rarely and did not have an impact on the results of the voting. For instance, only in 10% of the observed precincts voters with required documents were denied the right to vote and voters voted without signing the voter's lists.

However, some of the irregularities occurred on a large scale across the 18 constituencies. These irregularities were systematic and therefore impacted the results. Such violations significantly affected the results of elections in those precincts.

The scale of the irregularities that had a serious impact on the results is in this table:

| Action | Yes | No |
|---|------|------|
| Were people permitted to vote who had invisible ink on their finger? | 81 % | 19 % |
| Were people permitted to vote without being checked for invisible ink? | 73 % | 27 % |
| Did polling officials fail to put invisible ink on the fingers of voters? | 78 % | 22% |
| Did people vote whose names did not appear on the voters list? | 74 % | 16 % |
| Was the secrecy of the vote violated? | 80 % | 20 % |
| Multiple Voting | 78 % | 22 % |
| Ballot stuffing | 77 % | 23 % |
| Were there cases of voters brought to the polls in special groups? | 77 % | 23 % |
| Were voters being instructed to vote for a specific candidate? | 83 % | 17 % |

The observations of EMDS show that in some of the 18 competitive constituencies violations was more frequent and major. These constituencies include 9th Binaqadi First, 15th Yasamal First, 19th Narimanov First, 29th Sabael, 31st Surakhani Second, 37th Nizami First (Ganja), 39th Kapaz First (Ganja), 63rd Sabirabad First, 81st Beylagan, 89th Goychay-Agdash and 107th Kazakh Election Constituencies.

iii. Counting and protocols

The results on formation and opening of the precincts across 18 constituencies were the same as those acquired during the national-level observation. Irregularities were observed in more than 10% of the monitored precincts across 18 constituencies.

This table presents information on irregularities in 18 Constituencies:

| Action | Yes | No |
|--|------|------|
| Were the unused ballots counted and destroyed before the vote count? | 83 % | 17 % |
| Were the seals of the ballot boxes examined before they were opened? | 79 % | 21 % |
| Was the counting process open? | 72 % | 28 % |
| Were the vote count accurately reflected on the protocol? | 76 % | 24 % |
| Was the copy of the protocol displayed outside the polling station? | 10 % | 90 % |
| Were copies of the protocol given to observers? | 7 % | 93 % |

As seen from the table above, irregularities in the counting process were systematic and therefore results of the elections are under serious doubt. The biggest concern of this phase of the elections was the fact that it was not transparent. For instance in 90% of the observed precincts final protocols were not posted for public display outside the precinct and in 93% of the observed precincts final protocol was not distributed among observers.

EMDS compared the numbers they compiled from the protocols that they received from the 18 constituencies and the numbers announced by the CEC. An analysis showed the difference between the CEC figures and figures compiled from the protocols. The vote figures for some of the candidates were increased and decreased for others, which is shown in the table below:

| ConEC | Precinct | Candidate | Protocols | the CEC protocols |
|--------------|-----------------|---|------------------|--------------------------|
| 15 | 19 | Etibar Huseynov | 65 | 68 |
| 16 | 2 | Sadiqov Babek | 8 | 6 |
| 19 | 19 | Bayramli Gozal Ali Ahmadov | 43 127 | 81 564 |
| 22 | 25 | Rahimov Fadail | 20 | 15 |
| 63 | 28 | Ceyhun Osmanli Mammadov Mirqalib | 584 115 | 440 215 |
| 63 | 21 | Agayev Aflan Ceyhun Osmanli Sadiqov Qiyas | 8 490 25 | 49 267 65 |

EMDS did not announce the number of voters for candidates, or for parties and blocs in the 18 competitive constituencies. The reason is that irregularities observed during the voting and counting processes made the results doubtful.

G. PRESSURE AGAINST OBSERVERS ON ELECTION DAY

In 10% of the precincts, observers encountered serious obstacles. Observers were pressured mostly in Nakhchivan, Khachmaz, Sabirabad, Quba and Qusar. Pressure on the observers registered by the CEC and ConECs during election day resulted in 10 observers being removed from precincts.

Examples of pressure on the observers:

- Observer Ali Umidov was removed from the PEC # 15 of the 88th Goychay Constituency by the police invited by the school director Khalid Mahmudov;
- Observer Nigar Abbaszade, who was protesting against repeated voting by the same persons, was removed from PEC # 14 of the 39th Kapaz First Election Constituency by the chairman of the commission Hafiz Asgarov;
- Observer Vuqar Qadirov was removed from PEC # 15 of the 79th Imishli Constituency by the police invited by the chairman of the commission;
- Observer Azer Mammadov was removed from the PEC # 30 of the 20th Narimanov Second Election Constituency by the police invited by the chairman of the commission Vugar Humbatov;
- Chairman of the commission of the PEC # 20 of the 22nd Nasimi Second Election Constituency Namiz Ahmedov came to the PEC # 19 of the same constituency and filled up the act in order to remove observer Elgiz Aliyev from the Precinct;

- Head of the PEC # 17 of the 38th Nizami Second Election Constituency Maleyka Gurcaliyeva used physical violence against observer Mammadli Ceyhun and tried to capture complaint report prepared by him;
- Observer Gulnar Aliyeva was removed from PEC # 22 of the 19th Narimanov Election Constituency without any reason;
- Chairman of the commission of the PEC # 9 of the 15th Yasamal First Election Constituency Nushaba Novruzova removed observer Shirhan Salimov from the precinct for filling out complain on the group voting;
- Chairman of the commission of the PEC # 6 of the 2nd Sharur Election Constituency Pakiza Rzayeva invited head of the Sharur Post office Arastun Aliyev in order to remove observer Zakir Asgarov from the Precinct. Aliyev used the physical force to do that;
- Observer Farid Zulfuqarov was removed from the 35th Precinct of the 107th Qazakh Election Constituency by the chairman of the commission Ibrahim Mehdiyev, who invited police to the Precinct to do that;
- Chairman of the 75th Lenkoran-Masalli Election Constituency called the observer Togrul Alakbarov from the PEC # 39 of the same Constituency and blackmailed him to leave the Precinct;
- Observer Arif Taqiyyev was not allowed to enter the PEC # 26 of the 103rd Gadabay Election Constituency by the head of the Precinct Commission Usamaddin Namazov;

X. OFFICIAL RESULTS AND COMPLAINTS

A. RESULTS ANNOUNCED BY THE CEC

During the meeting held on November 22, 2010 the CEC decided to send final protocol to the Constitutional Court in order for it to get approved. The final results of the elections states that 49.56% of all voters or 2,442,365 voted³³.

According to the final protocol, elections in 46 of the 5,314 precincts were considered void (Appendix 3). However, results from all of the 125 election precincts were considered to be valid.

On 29 November, a hearing of the plenary session of the constitutional court was held. During the hearing judge Farhad Abdullayev announced the approval of the results of the parliamentary elections held on 7 November 2010. The court did not make any changes to the final protocol provided the CEC.

According to the official results of the CEC, 125 parliamentarians represent these parties:

- New Azerbaijan Party 71,
- Citizen Solidarity Party 3,
- Homeland Party 2,
- Democratic Reforms Party 1,
- Whole Azerbaijan Popular Front Party 1,
- Grand Building Party 1,
- Citizen Unity Party 1,
- Justice Party 1,
- Azerbaijan Social Welfare Party 1,

³³According to the CEC, the total number of voters is 4,928,594

- Hope Party 1
- Independents 42

According to the official data provided by the CEC, situation concerning participation of political parties in the 7 November 2010 parliamentary election process is following:

| # | Parties/Blocs | Candidates | Votes | Parliamentarians |
|----|---------------------------|------------|-----------|------------------|
| 1 | New Azerbaijan Party | 111 | 1,243,437 | 71 |
| 2 | "APFP-Musavat" bloc | 39 | 65,792 | 0 |
| 3 | "Reform" bloc | 31 | 54,955 | 2 |
| 4 | "Democracy" bloc | 18 | 52,089 | 4 |
| 5 | CPFP | 30 | 35,645 | 0 |
| 6 | "Karabakh" bloc | 32 | 34,914 | 1 |
| 7 | Homeland Party | 7 | 33,275 | 2 |
| 8 | ANLP | 25 | 25,538 | 0 |
| 9 | "For Human Sake" bloc | 22 | 12,946 | 0 |
| 10 | Civil Unity Party | 1 | 10,196 | 1 |
| 11 | DADP | 22 | 9,195 | 0 |
| 12 | ASDP | 2 | 4,402 | 0 |
| 13 | Modern Musavat Party | 7 | 3,334 | 0 |
| 14 | National-Democratic Party | 3 | 1,209 | 0 |

B. COMPLAINTS

According to the Election Code, complaints should be first sent to the CEC and only then to the Baku Court of Appeals. However, EMDS notes that the CEC and Baku Court of Appeals failed to ensure proper and fair investigation of complaints within the timeframe stipulated by law.

During and after the elections, the CEC reviewed 108 complaints, including serious violations such as pressures against voters' will, unauthorized intervention in election process, violation of transparency during vote counting and discrepancies in protocols of PECs and ConECs. The CEC announced results of elections at 46 PECs in 20 ConECs invalid. However, no ConEC results were annulled³⁴. Most of the PECs, where results of elections were considered invalid, belong to 60th Salyan-Neftchala and 63rd Sabirabad Election Constituencies³⁵.

Complaints were overwhelmingly filed by independent and partisan candidates. The followings are some of the complaints which were addressed to the CEC and the Supreme Court (none of which were granted):

- By Bakhtiyar Hajiyev, Ganimat Zahidov, and Hasrat Gurbanali ("Karabagh" bloc) to consider the results of elections in the 17th Yasamal Third Election Constituency;
- By Fuad Gahramanli ("APFP-Musavat" bloc), Namizad Safarov ("Karabagh" bloc) and Zalimkhan Mammadli (CPFP) to consider the results of elections in the 33rd Khatai First Election Constituency;

³⁴ According to Article 170.2 of the Election Code, ConEC results shall be cancelled when voting results cancelled in two fifth of all precincts, or number of registered voters in annulled precincts exceeds 25% of all voters of relevant constituency

³⁵ 6 PECs results were announced invalid in each ConEC

- By Sarvar Mehdiyev and Khalisa Shahverdiyeva to consider the results of elections in the 120th jabrayil-Gubadli Election Constituency;
- By Sahib Karimov (“APFP-Musavat” bloc”) to consider the results of elections in the 113th Shaki City Election Constituency;
- By Nemat Aliyev (“APFP-Musavat” bloc”) to consider the results of elections in the 93rd Barda City Election Constituency;
- By Ramiz Orujov (DAWP), Rashid Abbasiv (ANIP) and Aghasi taghiyev (CPFP) to consider the results of elections in the 40th kapaz Second Election Constituency;
- By Gozal Bayramova (“APFP-Musavat” bloc”) to consider the results of elections in the 19th Narimanov Firts Election Constituency;

EMDS’s post-election observation shows that most of the complaints concerning irregularities had serious impact on the results, including pressure on the voters, unauthorized interventions in the election process and lack of transparency in the counting process. The Expert Group of the CEC satisfied some of the complaints and announced elections invalid in a few of the precincts. However, the number of the precincts deemed invalid was not enough to declare the results of any of the constituencies invalid.

None of the complaints that were passed to the Baku Court of Appeals and the Supreme Court were addressed.

In some of the court cases, the name of the applicant was wrong in the decision. For instance, on 25 November, Baku Court of Appeals investigated complaint from Bakhtiyar Haciyev-candidate from the 17th Yasamal Third Election Constituency. Judge Sariyya Seyidova mistakenly talked about Sardar Mammadov, the candidate from the 21st Nasimi First Election Constituency, during the preliminary hearing. Bakhtiyar Hajiyev’s name was mentioned in the decision, however. Therefore it is not clear which case was investigated in the court. Such an impersonal and sloppy approach to the court hearings showed that they were just a mere formality.

When cases were investigated by the Supreme Court, further investigations required by Code of Civil Procedure were not carried out. The court did not satisfied motions from the applicants for the further investigation. For instance, the complaint of candidate Panah Huseyn was investigated by the Supreme Court with Mirza Tagizade as a judge and was held on November 25, 2010. Two motions were put forward. In one of them, the applicant asked to bring video footage from the precincts as evidence. The second motion was to record the court investigation to the audio. However, none of these motions were satisfied.

The final results of the parliamentary elections were examined by the Constitutional Court on November 26, 2010 and were approved. However, some of the complaints were investigated after that decision was made. Therefore, the legal impact of these investigations is questionable. Because, according to Article 171.4 of the Election Code, the ***decision of the Constitutional Court is final***. This decision cannot be challenged. No court decision made after the final results were approved could be carried out. The Election Code takes this into consideration, as the CEC has 20 and the Constitutional Court has 10 days to announce the final results. Complaints should be investigated before the final results are approved.

XI. POST-ELECTION POLITICAL SITUATION

A. OPINIONS OF THE LOCAL AND INTERNATIONAL OBSERVERS

Other NGOs also observed the parliamentary elections held on November 7, 2010 and made their statements after the elections. For instance, “Learning Democracy” Public Association declared that elections were not free, fair and democratic in its preliminary report³⁶. At the same time, 11 independent NGOs made a joint statement and declared that the political and legal atmosphere in the country was not suitable for the free and fair elections and that the parliamentary elections were not fair.

The CEC accredited 1026 international observers from 19 international organizations. These organizations included the Council of Europe’s Parliamentary Assembly, Council of the European Union, Baku office of the European Union, European Parliament, Parliament Assembly of the Turkish States, Parliament Assembly of OSCE, ODIHR, CIS, and European Election Monitoring Academy. Local embassies of US, UK, Kazakhstan, Norway, Bulgaria, Poland, Japan and Belgium took part in the observation process.

On 8 November, the joint mission of ODIHR, PACE, Parliamentary Assembly of OSCE and European Parliament held a press-conference and announced their preliminary statement on the elections. The statement notes that while the parliamentary elections were characterized by a peaceful atmosphere and all opposition parties participated in the political process, the conduct of these elections overall was not sufficient to constitute meaningful progress in the democratic development of the country³⁷. Unfortunately, there was a difference between the joint-statement and statements from some of the leaders of the mission. For instance, statements made by the head of the OSCE Parliament Assembly mission Wolfgang Grossruck and by the head of the PACE mission Paul Wille were opposed by some of the opposition parties and civil society organizations.

PACE and the CIS missions issued separate statements that emphasized the peaceful manner in which the elections were carried out and that there was no confrontation.

The US State Department stated that while the parliamentary elections were held peacefully, they did not meet international standards. US embassy staff along with colleagues from ODIHR personally witnessed serious violations, including ballot stuffing³⁸ on election day and this was reflected in their statements.

B. OPINIONS OF THE POLITICAL PARTIES

On 8 November, the “APFP-Musavat” bloc announced that they consider the results of the elections to be unfair and fraudulent. The bloc stated that violations took place mostly in the constituencies where opposition candidates were registered and that elections were not free, fair, democratic and transparent³⁹.

All of the parties in the parliament (except Umid) held press conferences during which they announced that they recognize the parliamentary elections as free and fair.

The National Independence, Classic Popular Front, Democratic and Intellectuals parties stated that elections were accompanied by irregularities.

³⁶ <http://www.monitoring.az/index.php?lngs=aze&cats=1&ids=1784>

³⁷ <http://www.osce.org/odihr/elections/73524>

³⁸ http://www.america.gov/st/texttrans-english/2010/November/20101109124147su0_3960491.html&distid=ucs

³⁹ <http://www.musavat.com>

Following the election day, the Azerbaijan National Independence Party jointly with the “APFP-Musavat” bloc announced that they did not recognize the results of elections⁴⁰.

On 11 November, Baybala Abil, chairman of the election headquarters of Classic Popular Front Party (CPFP), stated that CPFP and other members of the Union for Democracy bloc – the Azerbaijan Popular Party, Great Azerbaijan Party, “Azadlig” party and National Liberation Party declared the results of elections invalid. Abil also noted that that sentiment was reflected in CPFP’s statement on the results of elections⁴¹.

On 8 November, Gulamhuseyn Alibayli, chairman of the “Intellectuals” party, stated that on election day, serious violations – ballot stuffing, bringing voters to polling stations in special groups and voting of commission members on behalf of citizens, whose ID documents were collected before the elections – occurred throughout the country⁴².

C. POLITICAL SITUATION CAUSED BY THE ELECTIONS

Violations and irregularities occurred in all phases of the parliamentary elections, especially nomination and registration of candidates and on the election day have created the lack of confidence to the parliament formed as a results of the 7 November 2010 elections.

EMDS believes that the elections seriously diminished the credibility of the authorities as the chairmen of the commission of the precincts which were deemed invalid after the elections were not sued, election complaints were not investigated, and authority figures that intervened in the elections were not punished.

Examinations of EMDS show that one of the main indicators that question the fairness of election results is the participation of parties in the elections revealed by the CEC. For instance, according to the official results, YAP gained a majority of seats in the parliament (71) and was represented with the highest number of candidates (111). The number of votes for YAP was also very high. The “APFP-Musavat” bloc was second in 2 of 3 of these categories⁴³. This bloc was represented by 39 candidates and received 65,792 votes. However, this bloc did not gain any seats in the parliament, even though parties and blocs that received fewer votes and had fewer candidates gained representation. This clearly shows that current parliament does not reflect the intent of Azerbaijanis as they cast their vote on 7 November 2010.

On 23 November, parties and independent candidates who were dissatisfied with the outcome held a National Forum. Candidates stated that they do not recognize the elections and demanded that the results be revoked, called for reforms to create possibility for free and fair elections to be implemented, the Election Code to be made more democratic and new elections to be held⁴⁴. Then, on 27 December, opposition parties, independent candidates and Public Associations created Public Chamber⁴⁵.

⁴⁰ <http://www.mia.az/news/12826.html>

⁴¹ <http://www.musavat.com>

⁴² <http://tia.az/index.php?name=News&op=Article&sid=5008>

⁴³ EMDS divided the participation of political parties in elections into 3 categories: (1) number of registered candidates; (2) number of received votes; and (3) number of elected candidates

⁴⁴ <http://modern.az/articles/9220/1/>

⁴⁵ <http://www.azadliq.org/content/article/2261602.html?page=2&x=1>

D. POST-ELECTION PRESSURE

After the parliamentary elections, EMDS noted pressure against election participants in some of the regions, especially in Nakhchivan. These are the examples of such cases:

- After the parliamentary elections, an observer from the PECs # 6 of the 2nd Sharur Election Constituency was removed from his job in the District Post Office. The head of the Post Office Arastun Huseynov called him on election day and demanded that he leave the precinct. The observer refused and was sacked on 29 November 2010.
- Hafiz Aliyev, brother of the observer Ceyhun Aliyev from the 16th Precinct of the 5th Shahbuz-Babek Election Constituency, was removed from his work at the school on 10 November.
- On 12 November, the relatives of Saxavat Aliyev, editor of “Democratic Musavat” newspaper and former candidate of “APFP-Musavat” from the 2nd Sharur Election Constituency, were pressured. His brother Sabit Aliyev was arrested and illegally detained in prison by deputy head of the Sharur Police Nazmi Valiyev and inspector Tofiq Huseynov for 7 days (November 12-20). He was detained without court order. On December 10, the head of the District Police Memmed Huseynov visited the house of the other brother Capay Aliyev along with 30 policemen. They have beaten Capay Aliyev and his family members, and ravaged the products from the shop belonging to him.

XII. CONCLUSIONS AND RECOMMENDATIONS

EMDS observed all of the stages of the 7 November 2010 parliamentary elections, which were the fourth in the history of independent Azerbaijan and came to the following conclusions:

- The pre-election environment was an unfit environment in which to hold free and fair elections. The environment prior to previous elections was slightly better.
- While ODIHR and the Council of Europe's Venice Commission made numerous statements encouraging the Government of Azerbaijan to positively change the Election Code, the authorities made no attempts to do so. On the contrary, on June 2, 2008 and on June 18, 2010, changes were made to the Election Code and these changes limited the possibility of holding free and fair elections and diminished the hopes that the election process would be meaningful.
- The activity of the CEC was in accordance with the law only in a technical sense. However, there were serious concerns on verification of voter lists and accreditation of local observers and the lack of transparency during the voting process. The CEC and ConECs did not react adequately to the irregularities that took place during all the phases of the elections. The precinct election commissions operated under direct or indirect control of local executive authorities.
- Despite the fact that voter lists were compiled according to old information, list-checking efforts were sufficient.
- During the candidate nomination and registration process, ConECs were biased and refused to register many candidates. Due to the shortcomings during the registration process, some of the constituencies lacked vibrant political competition and an environment without any alternatives was created.
- The campaign period was carried out in a peaceful manner; however, there were no rallies on a national scale. In some of the constituencies, local authorities unfairly assisted candidates close to the government during the campaign period and administrative resources were used.
- Media coverage favored pro-government candidates. The opposition had limited access to the media. For the first time in years, there were not any debates during the campaign period. The parliamentary elections lacked a competitive environment and the will of the voters was not expressed fully because there were so few choices in some districts.
- Violations significantly influencing the voting results occurred during the voting, vote counting and vote tabulation processes on election day. In order to secure the victory for the pro-governmental candidates, special groups were brought to the precincts to vote, and they engaged in ballot stuffing. Multi-voting took place. In some of the precincts, results were altered.
- In some of the precincts, the final protocols were changed after the elections. However, it was impossible to determine whether the ConEC or CEC changed the protocols.
- Government failed to ensure transparency during the election process. ConECs did not carry out the verification of support signatures in a transparent fashion. At the end of election day, in the most of the precincts protocols were not publicly announced. EMDS observers encountered serious pressure from local authorities and in some cases, they were physically removed from polling stations.

- Complaints to the CEC and courts were not investigated properly and thoroughly. None of the complaints were addressed positively by the Court of Appeals and The Supreme Court.

The final opinion of EMDS on the 2010 parliamentary elections:

- The 7 November 2010 parliamentary elections cannot be considered as free, fair or democratic. Monitoring of all stages of the election, especially the candidate registration and voting process, shows that the elections were marked by an environment lacking alternatives and numerous violations, therefore failed to reflect the true will of Azerbaijani society.
- The authorities of the Republic of Azerbaijan, especially the government, did not show any political will to hold free, fair and democratic elections.

Based on the conduct and results of the 2010 elections, EMDS recommends the following steps to the Government of Azerbaijan to improve the election process:

- Carry out a proper investigation of all complaints and violations that took place during all phases of the elections. Hold responsible all responsible persons, including local executive authorities, who interfered in the election process;
- The current administration should improve its relations with the opposition in order to stop political polarization within society and to ensure participation of political institution operating in the country in state administration;
- The recommendations of the local and international institutions on the improvement of the Election Code (including changes and additions adopted on 2 June 2008 and 18 June 2010) should be properly addressed by the government;
- Election commissions should be formed on the principle of parity with the representation of all political parties;
- Guidelines specifying proper and democratic rules for addressing election complaints to the Courts and relevant state bodies should be developed;
- Rules for nomination and registration of candidates should be simplified, and the financial deposit system, an alternative way of candidate registration, should be restored;
- Serious actions should be undertaken to guarantee freedom of assembly, association and expression. Moreover, journalist Eynulla Fatullayev and youth activist Ruslan Bashirli should be recognized as political prisoners by human rights groups and released;
- The pre-election campaign period should be prolonged and access of all political parties to media should be guaranteed;
- A comprehensive evaluation of the election results should be carried out, shortcomings in the Election Code and other legal documents, mechanism for investigation of complaints should be discussed within the community.

Executive Board

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Annex 1.

Election constituencies where an environment lacking alternatives was superficially created during the first stage of the 7 November 2010 parliamentary elections

LIST

| N | Constituency Election Commissions | Number of nominated candidates | Number of registered candidates |
|-----------|-----------------------------------|--------------------------------|---------------------------------|
| 1 | 23 Nasimi-Sabail ConEC | 7 persons | 3 persons |
| 2 | 24 Nizami First ConEC | 12 persons | 4 persons |
| 3 | 29 Sabail ConEC | 14 persons | 8 persons |
| 4 | 36 Khatai Fourth ConEC | 10 persons | 6 persons |
| 5 | 38 Nizami Second ConEC | 12 persons | 6 persons |
| 6 | 39 Kapaz First ConEC | 8 persons | 5 persons |
| 7 | 43 Sumgayit Third ConEC | 13 persons | 7 persons |
| 8 | 47 Mingachevir ConEC | 8 persons | 4 persons |
| 9 | 48 Yevlakh ConEC | 5 persons | 4 persons |
| 10 | 50 Qobustan-Khızi-Sumgayit ConEC | 6 persons | 4 persons |
| 11 | 54 Shabran-Siyazan ConEC | 8 persons | 4 persons |
| 12 | 62 Saatlı ConEC | 7 persons | 5 persons |
| 13 | 66 Bilasuvar ConEC | 8 persons | 4 persons |
| 14 | 67 Jalilabad city ConEC | 7 persons | 4 persons |
| 15 | 71 Masallı village ConEC | 12 persons | 9 persons |
| 16 | 72 Yardımlı-Masallı ConEC | 10 persons | 4 persons |
| 17 | 73 Lankaran city ConEC | 9 persons | 4 persons |
| 18 | 78 Lerik ConEC | 6 persons | 4 persons |
| 19 | 79 Imishli ConEC | 15 persons | 4 persons |
| 20 | 84 Fuzuli ConEC | 10 persons | 4 persons |
| 21 | 92 Zardab-Ujar ConEC | 10 persons | 5 persons |
| 22 | 94 Barda village ConEC | 8 persons | 4 persons |
| 23 | 95 Tartar ConEC | 10 persons | 4 persons |
| 24 | 100 Shamkir-Dashkasan ConEC | 6 persons | 4 persons |
| 25 | 122 Khankandi ConEC | 14 persons | 4 persons |

Annex 2.

| Numbers of ConECs | Types of Violations | | | | |
|-------------------|-------------------------------------|-----------|-----------------------------------|---------------------------|--------------------------------|
| | Violation of transparency principle | Pressures | Abuse of administrative resources | Problems with Voters list | Problems with Signature sheets |
| 11 ConEC | X | | X | X | X |
| 13 ConEC | X | X | X | | |
| 14 ConEC | X | X | | | |
| 16 ConEC | | | | X | |
| 18 ConEC | | | | X | X |
| 19 ConEC | | | | X | |
| 22 ConEC | | | | X | |
| 23 ConEC | X | | | | X |
| 24 ConEC | X | | X | | |
| 26 ConEC | X | | | X | |
| 27 ConEC | X | | | X | |
| 30 ConEC | | | | X | X |
| 31 ConEC | | | X | X | |
| 33 ConEC | X | | | X | |
| 34 ConEC | X | | | X | |
| 35 ConEC | X | | | | |
| 36 ConEC | X | | | | |
| 37 ConEC | | | X | X | |
| 38 ConEC | | | X | X | X |
| 39 ConEC | | | X | X | X |
| 40 ConEC | | | X | | X |
| 43 ConEC | X | | | X | X |
| 46 ConEC | X | | | | |
| 47 ConEC | | | | X | |
| 48 ConEC | | | | X | |
| 56 ConEC | | | X | X | |
| 57 ConEC | X | | | X | |
| 60 ConEC | | | | X | |
| 61 ConEC | | | | X | |
| 62 ConEC | X | | X | X | X |
| 63 ConEC | X | | X | X | |
| 64 ConEC | X | | | X | X |
| 65 ConEC | X | X | | X | |
| 66 ConEC | | | | X | |
| 67 ConEC | | X | | X | |
| 69 ConEC | X | X | | X | |
| 77 ConEC | X | | | X | |
| 78 ConEC | X | | | X | X |
| 79 ConEC | X | X | X | X | X |
| 80 ConEC | X | | X | X | X |
| 81 ConEC | X | | | X | X |
| 85 ConEC | | | X | X | |

| | | | | | |
|-----------|---|---|---|---|---|
| 87 ConEC | X | | X | X | |
| 94 ConEC | X | X | | X | X |
| 98 ConEC | X | | X | | |
| 99 ConEC | | | X | X | |
| 100 ConEC | | | X | X | |
| 101 ConEC | | | X | X | |
| 103 ConEC | | | | X | |
| 109 ConEC | X | | | | |
| 110 ConEC | X | X | | X | |
| 111 ConEC | X | | | X | |
| 112 ConEC | X | | | X | |
| 113 ConEC | X | X | | X | X |
| 114 ConEC | X | | | X | |
| 115 ConEC | X | | | X | X |
| 116 ConEC | X | | | X | |
| 117 ConEC | X | X | | X | |

Annex 3.

| Election Constituency | | Precincts where the result of the election was eliminated | |
|-----------------------|-------------------------|---|--------------|
| | | Number of Precincts | Total number |
| 60 | Salyan-Neftchala | 9, 22, 27, 31, 34, 37 | 6 |
| 63 | Sabirabad First | 1, 21, 23, 27, 28, 29 | 6 |
| 9 | Binaqadi Second | 7, 8, 10, 21, 32 | 5 |
| 10 7 | Kazakh | 10, 12, 16, 20, 21 | 5 |
| 11 3 | Shaki Shahar | 11, 12, 13, 14, 16 | 5 |
| 22 | Nasimi Second | 3, 4, 27 | 3 |
| 57 | Kurdamir | 26, 34, 36 | 3 |
| 10 | Binaqadi Third | 18 | 1 |
| 15 | Yasamal First | 21 | 1 |
| 26 | Sabunchu First | 8 | 1 |
| 31 | Surakhanı Second | 2 | 1 |
| 40 | Kapaz Second (Ganja) | 23 | 1 |
| 47 | Mingachevir | 2 | 1 |
| 51 | <i>Gusar*</i> | 33 | 1 |
| 64 | Sabirabad Second | 24 | 1 |
| 72 | <i>Yardimli-Masali*</i> | 80 | 1 |
| 78 | <i>Lerik*</i> | 80 | 1 |
| 84 | Fuzuli | 55 | 1 |
| 85 | SHamaxı | 7 | 1 |
| 88 | Goychay | 13 | 1 |

Total: 46

* Precincts results were eliminated by the decision of the ConECs