

Free Elections – Fair Society!

Baku, 30 October 2015



INTERIM REPORT

ON ELECTION CAMPAIGNING

1 NOVEMBER 2015 PARLIAMENTARY ELECTIONS

THE REPUBLIC OF AZERBAIJAN

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I. EXECUTIVE SUMMARY

Election Monitoring and Democracy Studies Centre (EMDS) is a non-partisan and independent non-governmental organization which works for holding free and fair elections and development of civil society and democratic traditions in Azerbaijan. EMDS believes that holding free and fair elections can create necessary conditions for citizens to express their will. It could also be a significant contribution to development of democratic traditions, citizens' welfare and protection of human rights in the light of current political crisis.

EMDS notes with regret that the election campaigning stage of 1 November 2015 Parliamentary Elections was marred with restrictions of activities of civil society, repression of freedom of speech, limitation of agitation and campaigning, withdrawal of main opposition forces from the race and uncompetitive environment, which raises serious questions about freedom and fairness of elections. Election campaign was characterized with very low key

Unlike the previous elections, candidates were not allocated free air time on the Public TV, while very high prices for paid air time effectively denied access to number of candidates violating the principle of equality among candidates.

EMDS notes with regret that several domestic election observation organizations announced that they will not carry out observation of the Election Day due to pre-electoral conditions which do not allow for holding free and fair elections. It is the first time in the last 10 years that, no independent civil society group will organize a large-scale monitoring of the Election Day. Several pro-governmental NGOs announced about their plans to conduct exit-polls and observation.

Cancellation of the election mission of Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR), along with other respectful international institutions and Embassies of the European Union states raises further doubts about the fairness and freedom of the electoral process.

EMDS believes that boycott of elections by main opposition forces should be regarded as an important political event which casts further doubts on the results of elections.

EMDS urge Azerbaijani authorities to conduct proper investigation of violations occurred during the election period and to put forth necessary efforts to prevent interference in voting, counting of votes, and tabulation processes by local executive authorities and other bodies on the Election Day. Election commissions should ensure proper conditions to avoid pressures against election participants, while guaranteeing necessary conditions for observers to conduct observation on the Election Day

EMDS carried out the long-term observation of the 1 November 2015 Parliamentary Elections with support of 45 long-term observers (LTOs) in 80 election constituencies. The organization published the First Interim Report on nomination and registration of candidates on 12th of October.

II. LEGAL-POLITICAL SITUATION PRIOR TO THE ELECTION

A. Legislative framework

Election agitation campaign of the 1 November 2015 Parliamentary Elections coincided with the rulings of the European Court of Human Rights (ECHR) on election related cases.

On 9 October, ECHR adopted a ruling on case of candidates in 2010 Parliamentary Elections Fuad Gahramanli, Namizad Safarov and Zalimkhan Mammadli against Azerbaijani government recognizing

the violation of their election right. Azerbaijani government is to pay 10,000 EUR compensation for non-material damages to each applicant according to the ruling. ¹

The Court also granted the complaint of another candidate during the 2010 elections and director of the Azerbaijan Lawyers Association Annaghi Hajibayli on violation of his election right. He was entitled to 10,000 EUR compensation for non-material damages and 2,600 EUR for legal expenses. ²

B. Political environment

Political crisis remained unsolved during the election campaigning period of the 1 November 2015 elections.

Several domestic election observation organizations announced that they will not carry out observation of the Election Day due to pre-electoral conditions which does not allow for holding free and fair elections. It is a first time in the last 10 years that, no independent civil society group will organize a large scale monitoring of the Election Day.

One of the main opposition parties Musavat demanded to suspend elections and pulled out of the race on 28 October, just three days before the Election Day. The statement released by the party noted there was no democratic conditions necessary for free and fair elections, while election commissions are controlled by the government. Decision not to allocate free air time to candidates eliminated any chances of equal opportunities for candidates. More than 100 political prisoners and ongoing repressions during the election period, along with election irregularities and violation of freedom of expression further deteriorate the situation. The party demanded to suspend elections for four months while these issues are addresses and to have new elections in four month.

C. Freedom of Expression

There was no any positive change on the situation of the freedom of speech and media during the election campaigning period of the 1 November 2015 parliamentary elections. On the contrary, the pressure against critical voices has further increased.

On 21 October, website of the Meydan TV, Berlin-based independent news portal, subjected to large-scale hacker attack which disrupted the work of the media outlet. Just two weeks before the Election Day, the tax ministry launched unplanned investigation in two journalists cooperating with the Meydan TV Aynur Elgunash and Aytan Farhadova.

On 13 October, editor of Meydan TV and writer Gunel Movlud's brothers Raji Imanov and Vakil Imanov were detained by police and sentenced to 3 months of pre-trial detention on drug possession charges. Movlud's parents gave a statement to the media renouncing her as a daughter after pressure and in order to ensure security of their sons.

On 27 October, another journalist, who cooperated with Meydan TV in the past, was banned from leaving the country. She told local media that she was prevented from leaving country by the custom services on her way to Iran.

On 28 October, editor-in-chief of the "Yukselish Namine" newspaper Elchin Hasanov was summoned to the Organized Crimes Unit of the Ministry of Interior Affairs. Hasanov was stopped at the Gazakh border crossing and prevented from leaving the country by custom officials on his way to attend the session of the Parliamentary Assembly of the Council of Europe. He was informed by the Ministry of

¹ <http://gozetci.az/article/index/4664>

² <http://www.azadliq.info/97230.html>

Interior that a criminal investigation on charges of hooliganism was launched against him. Therefore, he is banned from leaving the country.

Several international media journalists were denied an accreditation by the Ministry of Foreign Affairs.¹

D. Human rights and civil society

Election campaigning period did not see any improvement of human rights with regards to human rights and civil society. On the contrary, government continued with pressure against international organizations and their representatives in the country.

President of the Parliamentary Assembly of the Council of Europe Anne Brasser sent an open letter to President Ilham Aliyev noting her deep concern regarding the deterioration of situation of democracy, human rights and rule of law in Azerbaijan. She urged Aliyev to intervene with harassment of political prisoners and activists, and to implement the decision of the European Court of Human Rights regarding Ilgar Mammadov.

On 7 October, two employees of the Amnesty International were stopped at the Baku airport and were deported from the country. Amnesty International released a statement about the incident calling it “a serious violation” of freedom of assembly.

During the election campaigning period, imprisoned chairperson of the ReAL movement, one of the main election participants, were brutally beaten by prison administration.² Mammadov lost a tooth and attained serious injuries.

On 27 October, chairperson of the Democracy and Human Rights Committee of the OSCE Parliamentary Assembly Isabel Santos issued a statement urging the Azerbaijani government to release imprisoned civil society activists Anar Mammadli, Intigam Aliyev, Rasul Jafarov, Leyla Yunus, journalist Khadija Ismayil and opposition leader Ilgar Mammadov, and calling the authorities to work with international community and to commit to open and genuine dialogue.

On 13 October, satirical poet Tofiq Hasanli was detained by police for his critical writings on social media.³

III. RESULTS OF NOMINATION AND REGISTRATION OF CANDIDATES

A. Official information

Despite registration of 1246 candidates for the parliamentary elections, just few days after the registration of candidates finalized, almost 40% of candidates withdrew from the race. 477 mainly self-nominated candidates pulled out of the race without providing any explanations. As of 21 October, 769 candidates will compete for 125 seats in the parliament on the 1 November. On 28 October, Musavat party announced that it would not participate in elections, which reduces the number of candidates 25 more persons.

¹ <http://musavat.org.az/index.php/192-m-savat-se-kil-rin-dayand-r-lmas-n-t-l-b-etdi>

² <http://contact.az/docs/2015/Politics/101900133501az.htm#.Viu5YX7hBdh>

³ <https://www.meydan.tv/az/site/politics/8787/V%C9%99fa-M%C9%99mm%C9%99dova-%C4%B0lqar-M%C9%99mm%C9%99dovun-di%C5%9Fi-s%C4%B1nd%C4%B1r%C4%B11%C4%B1b.htm>

B. Complaints on registration process

The Election Code provides election participants – political parties, blocs, candidates and their representatives to appeal the decision or action of the election commission to the higher level commission within three days. The actions of the precinct election commissions can be appealed to the relevant constituency election commission, while complaint about the actions or lack of actions of the latter can be filed to the CEC. Election participants have a right to apply to the Baku Court of Appeal if they are not satisfied with the decision of the CEC.

The CEC received number of complaints from the actions of the ConECs, mainly regarding illegal refusal of the registration of candidacy. Monitoring findings conclude that candidates' complaints were not objectively and fairly investigated by higher election commissions. Although, the CEC granted claims of some opposition candidates, it declined most of the complaints filed by candidates not supported by the government, who were denied registration by ConECs. Moreover, the CEC failed to ensure transparency of the work of its expert groups in accordance with the requirements of the law.

The CEC refused to grant claims of following opposition and independent candidates:

- Karim Agarzayev – self-nominated from the 60th Salyan-Neftchala ConEC.
- Nemat Karimli – self-nominated candidate from the 9th Binagadi Second ConEC.
- Ahad Mammadli – candidate from 34th Khatai Second ConEC.
- Rauf Aghayev – candidate of Musavat party from the 12th Garadagh-Binagadi-Yasamal ConEC.
- Nadir Gafarli – candidate of Musavat from the 54th Shabran-Siyazan ConEC.
- Amil Seyidov – candidate of Free Republican party from the 79th Imishli ConEC.
- Fuad Aliyev – candidate of the Azadlig-2015 bloc from the 27th Sabunchu Second ConEC.
- Iman Imanov – candidate of the Azadlig-2015 bloc from the 83rd Aghjabadi-Fuzuli ConEC.
- Nizami Alakbarov – candidate of the Azadlig-2015 bloc from the 35th Khatai Third ConEC.
- Shohrat Mammadzada – candidate of the Azadlig-2015 bloc from the 107th Gazakh ConEC.
- Shafi Shafiyev – candidate of Citizen Solidarity party from 51st gusar ConEC.
- Khaladdin Jahangirov – candidate from the 42nd Sumgayit Second ConEC.
- Fikrat Faramazoghlu – candidate from the 72nd Yardimli-Masalli ConEC.
- Kamran Asadov – candidate from the 61st Neftchala ConEC.

IV. PRE-ELECTION AGITATION CAMPAIGNING

A. Legal Basis

According to the Election Code, election campaigning period starts 23 days before the Election Day and finishes 24 hours before the opening of polling stations. 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' observations show that shortening of the election period by law created time restriction on utilizing the above-mentioned legal means and methods for election campaigning

B. Campaigning through Media

Article 80.1 of the Election Code stipulates that, political parties and blocs of parties which have registered candidates in more than 60 election constituencies have the right to get free airtime for election campaigning on the Public TV and Public Radio. According to the results of the process of registration of candidates for the 1 November Parliamentary Elections, only ruling YAP obtained this right. However, when the election campaigning period started, YAP declined from using the free airtime allotted to them.

Unlike the 2010 Parliamentary Elections, the CEC did not allocate free airtime to candidates on the Public TV. Chairperson of the CEC Mazahir Panahov told media that due to “economic reasons and issues”, Public TV could not provide free air time to candidates for this election.

Prices of paid air time and advertisement space for election campaigning offered by media outlets were not accessible for all candidates. A price of free air time on TV was based on the maximum price of commercial advertisement.

For example, a candidate would have to pay around 17,700 AZN (almost 17,000 USD) for 5 minutes of paid air time on Public TV during the prime time, which is equal to 3 years of average salary. 5 minutes of non-prime time would cost 6,000 AZN (5,700 USD). Public Radio defined the price of every minute of election related add from 7 to 25 manats depending on time of the day. Prices for advertisement on newspapers ranged between 2 and 10 manats per square centimetre with official gazette offering cm² for 2-4 manats and Yeni Musavat for 2 manats. News agencies defined price of ads depending on size and place on the website from 500 to 2000 manats.

Overall, 3 TV (Public TV, internet TVs Vision.az and Ses), 19 newspapers and 23 agencies (mainly websites) offered paid space for election campaigning.

Failure to allocate free airtime and extremely high prices for paid airtime effectively restricted candidates' opportunities to access the TV, which is the main source of information for the most part of the country. This resulted in very low profile election campaign across the country.

Baku-based Institute for Democratic Initiatives (IDI) carried out monitoring of the media outlets during the election period covering TVs and online media. The monitoring results pointed out that TV channels did not provide any coverage for opposition parties and media outlets receiving funding from the state fails to ensure political pluralism and space for alternative opinion.

Baku-based Institute for Democratic Initiatives (IDI) carried out monitoring of the media which covered the period from 1 September to 30 September and included prime time (19:00-23:00) 4 main TV channels including the Public TV. The monitoring findings pointed out that only 8% or 38 hours out of 480 hours of prime time were allocated for the election related information. 92% of this time included positive coverage of the ruling party, while the opposition received only 6 minutes (0.26%) of negative coverage. Opposition forces did not receive any positive coverage on monitored TV channels.

The IDI also monitored pro-government, opposition and independent online news outlets – AzerTag state news agency, Azerbaijan newspaper, opposition Azadlig and Musavat newspapers, lent.az and contact.az. Monitoring of online media outlets revealed that more than half (53%) of content covered the ruling party in a positive light, while 22% was against it. Non-partisan content amounted to only 6% of monitored articles. 100% of content published on the state news agency AzerTag described the ruling party in a very positive light. Yeni Musavat newspaper, which is regarded as opposition media outlet, included 34% of pro-ruling party articles, and 7% against the ruling party, while covering the opposition negatively in 17% of its articles.

C. Conduct of election campaigning through public events

Article 86 of the Election Code stipulates that state bodies and municipality institutions should 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 venues for the candidates to hold meetings with voters and public discussions. The list includes 128 indoor and 128 outdoor venues located in the territory of 117 election constituencies. Restricting candidates' meetings with voters to certain venues determined by the CEC is a violation of the freedom of assembly, the Constitution and relevant law, along with international commitments of Azerbaijan.

D. Election campaigning through print, audio, video and other campaign materials

Unlike the previous elections, candidates extensively used the social media – Facebook, Youtube, and Twitter – for the campaigning purposes. One of the reasons for this was that prices for paid airtime on TV and radio were not affordable for all candidates. Also, all TV channels, with exception of the Public TV, did not participate in the election campaigning process.

E. Observation of EMDS during the election campaigning period

Observers cooperating with EMDS monitored more than 50 election constituencies of the country and concluded that the principle of equality was violated while cases of intimidation and pressure were noted:

Violation of the principle of equal opportunities for all candidates

According to observers, equal opportunities for all candidates were not ensured by some ConECs. While necessary conditions for conducting meetings with voters were provided for some candidates, such conditions were not guaranteed for others. This is a violation of Article 82, 83 and 87 of the Election Code, which stipulate establishment of equal opportunities for all candidates. EMDS has received information about following cases:

- 🗳️ On 18 October, local executive authorities interfered with the meeting of Musavat party candidate from the 71st Masalli Village ConEC Khasay Farzullayev with voters.

Abuse of administrative and financial resources

Information on such violations shows that like in the previous elections, candidates have used various illegal means to gain voters support. In some constituencies, local authorities engaged in abuse of administrative resources to gather support for certain candidates which is a violation of Article 74 of the Election Code, as well as Articles 39 and 42-1 of the Code of Administrative Offences. EMDS has received information about following cases:

- 🗳️ Employees of the local municipality and budget funded organizations were involved in the election campaigning of the ruling YAP's candidate from the 37th Nizami First ConEC of Ganja city Parvin Karimzada. Doctors and employees of the children polyclinic no. 2 were brought to the meeting with the candidate under strict instruction.
- 🗳️ Chairperson of the Social Democrat Party and candidate from the 35th Khatai Third ConEC filed a complaint about his fellow candidate from the same ConEC Igbal Aghazada, claiming that

Aghazada launched campaign before the official start date and repaired roads. The CEC reviewed the complaint on 5 October and subsequently issued an official warning to Aghazada.

- Teachers working in the area of the 89th Goychay-Aghdash ConEC were brought to the local cultural club in Shahadat village in special busses during the school hours to participate in the meeting with ruling party's candidate Elman Nasirov.
- Voters of 60th Salyan-Neftchala ConEC were forced to attend the meeting with pro-government Motherland party's candidate Fazail Aghamali by local authorities. Similar incident took place at the 59th ConEC where local authorities used administrative resources to gather voters for a meeting with pro-governmental self-nominated candidate Aliagha Huseynov.
- Employees of the budget funded organizations were assembled for a meeting with the ruling party's candidate from the 61st Neftchala ConEC Arif Rahimzada.

Pressures and Intimidations

Cases of pressures against election participants, particularly against candidates were observed during the election campaigning process. Such cases took place during meetings of candidates with voters and posting the campaigning materials of candidates. This is a violation of Article 55 of the Election Code. EMDS has received information about following cases:

- Election campaign office of the candidate from the 34th Khatai Second ConEC and well-known public figure Ali Aghayev was purged by unknown persons and destroyed.
- An independent candidate from the 89th Goychay-Aghdash ConEC Vidadi Isgandarov was taken to the custody by local police and kept for two hours without grounds.
- Supporters of Umid party's candidate from the 81st Beylagan ConEC Anar Isayev were harassed by local police.
- An independent candidate from the 54th Shabran-Siyazan ConEC Elza Seyidcahan and her supporters faced pressure and harassment. According to the candidate, incumbent candidate Tahir Suleymanov and another candidate Etibar Heydarov were behind the intimidation.

Destruction of campaign materials

Observers cooperating with EMDS noted cases where campaign materials of candidates posted on information boards, roadside, personal properties and other places were destroyed. Following are examples of such observation:

- Posters of ReAL's candidate from the 23rd Nasimi-Sabail ConEC Azer Gasimli in front of the PECs no. 16, 22, 20 and 28 were destroyed.
- Posters advertising independent candidate Jalal Aliyev and Musavat party candidate Saday Farajov were destroyed by employees of local executive authorities in the territory of the 61st Neftchala ConEC.

V. OPERATION OF ELECTION COMMISSIONS

The CEC carried out series of actions for preparing for the Election Day. On 9 October, the CEC approved the list of indoor and outdoor venues in all election constituencies where registered candidates can organize meeting with their voters. It also announced the list of media outlets accredited for participation in paid election campaign, which included 3 TVs, 19 newspapers and 23 news agencies.

The CEC has installed web-cameras in more than 1000 polling stations which will allow real-time online observation on the Election Day. Overall, 605 domestic election observers were accredited at the CEC to observe elections across country, while the ConECs registered over 55,000 observers who will be able to observe elections within territories of ConECs. 426 international observers representing 33 international institutions were registered at the CEC.

Some ConECs violated the requirements of the law during the registration process of observers. Observers of some opposition and independent candidates faced difficulties in registration. For example, none of observers of independent candidate from 61st Neftchala ConEC Jalal Aliyev were able to get accreditation at the ConEC.

Although, the CEC and ConEC conducted their meetings in line with requirements of legislation, meetings of PECs were not carried out consistently, while representatives of candidates were not properly informed in advance about the meetings.

Following irregularities were noted with regards to attendance of PECs.

- On 17 October, PECs no. 8, 39 and 43 of the 101st Goygol-Dashkasan ConEC after 2:00 PM.
- PECs of the 60th Salyan-Neftchala and 81st Beylagan ConECs did not operate during the second half of day.

VI. VOTER LISTS

In accordance with the Election Code, permanent Voter Lists for a precinct should be approved by the relevant Precinct Election Commission each year by 30. A voter may be included in the Voter List of the relevant precinct if he or she resides at least 6 months of past 12 months within the area of precinct.

PECs should 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.

Findings of monitoring pointed out that shortages related to the voter lists recorded in precincts in the previous elections remain not addressed. Election commissions failed to dully verify voters' lists and to display the updated lists for public display within timeframe required by the law.

Monitoring also noted lack of interest and engagement from voters with regards to verifying their names on lists. This can be explained by overall lack of public trust in elections or by the fact that any citizen can request to add their name on the additional voter list on the Election Day by the Precinct Election Commission by simply showing an identification document.

VII. DOMESTIC AND INTERNATIONAL OBSERVATION

Due to restrictions imposed on civil society and NGOs, there will not be a large-scale domestic election observation on the Election Day. 1 November 2015 Parliamentary Elections will be the first major elections in the last 10 years, which will not be observed by domestic observers on the Election Day. Following the election period started, EMDS board member and Ganja regional representative Asaf

Ahmadov was intimidated by police and local executive authorities. He was told to leave the country and come back after the election after he was seen to visit some polling stations.

Government controlled organizations will carry out observation and exit-polls on the Election Day. None of these organizations released information about sources of their funding which raises serious questions about their impartiality.

Some pro-governmental international observers are also expected to observe the Election Day. Following the cancellation of the OSCE/ODIHR mission, it appears that the authorities attempt to involve observers from international observers which demonstrated pro-governmental position in the previous elections.

Domestic election observation organizations – EMDS and Institute for Democratic Initiatives along with Nida Movement refused to meet with the election observation mission of the PACE. Organizations stated that the PACE mission's previous biased statement about the upcoming elections casts serious doubts about the mission's impartiality. The NGOs are concerned that the PACE will produce pro-government report and will disregard the violations observed during the process. Needs Assessment Mission of the PACE visited Baku on 22 September and assessed the electoral process positively after meeting with political parties, NGOs and journalists, who claimed the otherwise.

VIII. BOYCOTT OF ELECTION BY OPPOSITION

The elections were boycotted by main opposition forces – Popular Front party and Musavat party. Popular Front party together with the National Council of Democratic Forces announced its decision to boycott the elections in early September due to lack of democratic conditions necessary for free and fair elections. On 27 October, Nida youth movement also released its decision to withdraw from the race. On the same day, ReAL movement said its statement that it would not recognize the results of the elections. The movement urged the government to release all political prisoners, to create necessary political conditions for competitive elections, and to make changes to the legislation guaranteeing free air time to all candidates. ReAL demanded the authorities to conduct new elections in 2016.

On 28 October, Musavat party announced its decision to pull out of the race just 4 days prior to the Election Day. The party stated that gross violations recorded during the election period before the Election Day motivated the party leadership to boycott the elections.

IX. CONCLUSIONS AND RECOMMENDATIONS

Following the monitoring of the second stage of election period – election campaigning and agitation, EMDS presents following conclusions and recommendations regarding the 1 November 2015 Parliamentary Elections.

Conclusions:

- During the election campaigning process no positive steps were taken with respect to the political freedoms, especially freedom of assembly and freedom of expression and media;
- Election campaigning process was accompanied with interference of local executive authorities, abuse of administrative resources, and violation of the principle of equality among candidates;
- The rate of attendance among members of Constituency Election Commissions increased; however, this was not the case among members of Precinct Election Commissions;
- Voter lists were not updated in some ConECs, while some PECs displayed old voter lists;
- In some cases, the Central Election Commission adopted decisions on the matters beyond its jurisdiction.

Recommendations:

- Parties responsible for violations occurred during the election campaigning process should be held liable for their actions and be subjected to relevant sanctions in accordance with the law;
- Election commissions should ensure proper conditions to avoid pressures against election participants, while guaranteeing necessary conditions for observers to conduct observation of the election process on the Election Day
- Authorities should put forth necessary efforts to prevent interference in voting, counting of votes, and tabulation processes by local executive authorities and other bodies on the Election Day;
- The government should demonstrate a genuine political will to guarantee free, fair and democratic election.

Election Monitoring and Democracy Studies Centre

Baku 30 October 2015

Note: The final report on results of monitoring of 1 November 2015 Parliamentary Elections will be released on 5 November.