



INTERIM REPORT

Of Election Monitoring and Democracy Studies Center
On Nomination and Registration of Candidates
9 February 2020 Parliamentary Elections

I. EXECUTIVE SUMMARY

Election Monitoring and Democracy Studies Center (EMDS hereinafter) has carried out long-term observation of 9 February 2020 early Parliamentary Elections.

EMDS has reviewed the period of nomination and registration of the candidates based on the inputs of 18 volunteer observers registered through election commissions and information received from the direct communication with election commission members, political parties, candidates and their representatives.

EMDS notes, in comparison with last Parliamentary elections in 2015 there is an increase in political activeness prior to the current elections, thanks to a large number of independent candidates joining the race. However, the restrictions brought on the enjoyment of political freedoms, notably freedom of peaceful assembly and association, freedom of speech are not eliminated, and this tendency has negatively affected the democratic principles of the current election.

EMDS regrettably notes that the current Election Code, of which restrictive provisions, including the short period of time for the campaign period, undermine the genuineness of competitive environment, has not been advanced based on the recommendations put forward together by OSCE Office for Democratic Institutions and Human Rights (OSCE ODIHR hereinafter) and Venice Commission of the Council of Europe (Venice Commission hereinafter) on the eve of upcoming Parliamentary election.

EMDS has observed numerous violations of law during the period of nomination and registration of candidates noting that this has been characteristic to all parliamentary elections held since 2005. Mostly, those violations happened against the opposition party members and independent candidates who have been intimidated and pressured by local executive authorities, election commissions or places where they work to withdraw their candidacies. In some cases, citizens are denied to get the signature sheets and the participants of the signature collection process have been pressured as well.

No improvement has been observed on the level of transparency in the work of election commissions by EMDS. The online information center of the Central Election Commission (CEC hereinafter) has failed to work up to date. Especially, the process of update of the list of registered candidates was prolonged until the end of the process. Though the relevant information on the registered candidates has started to be uploaded to the information center

on 11th January 2020, only a day after the end of the period for nominating the candidates, the necessary dates of the receiving and returning the signature sheets and actual day of registration are missing.

EMDS reiterates that the pressure made against election participants and the practice of abusing administrative resources in favour of some candidates must end in the next period of elections and legal measures must be taken to hold the representatives of executive authorities responsible for violating the laws.

EMDS recommends that the investigation of the complaints on elections should be comprehensive and happen with the presence of the candidates or their representatives. Moreover, not only the national legislation but also the judgements of the European Court of Human Rights on violation of electoral rights should be taken into account.

II. INTRODUCTION

Election Monitoring and Democracy Studies Center (EMDS hereinafter) has carried the out long-term observation of 9 February 2020 early Parliamentary Elections.

This interim report, covering the period of nomination and registration of the candidates, is prepared with the contributions of 18 volunteer observers registered through election commissions. EMDS has analysed the inputs of observers alongside the information received from the direct communication with election commission members, political parties, candidates and their representatives. The collected information has been confirmed with voters, election commission members and other relevant stakeholders when necessary. This Interim report also involves observation results in sections of the pre-election legal and political environment, work of election commissions.

EMDS is a non-partisan and independent nongovernmental organization which works for holding free and fair elections and development of civil society and democratic traditions in Azerbaijan.

EMDS (former EMC) has carried out observation of 15 elections in Azerbaijan since 2001. EMDS has conducted more than 600 training for more than 14000 citizens and provided them with the legal and technical assistance with their accreditation through the election commissions.

EMDS is a member of the European Network of Election Monitoring Organizations (ENEMO), a platform of NGOs operating in the OSCE countries, Eastern Partnership Civil Society Platform, the European Platform for Democratic Elections (EPDE), and the Global Network of Domestic Election Monitors (GNDEM). EMDS is operating in accordance with the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations.¹

III. PRE-ELECTORAL POLITICAL ENVIRONMENT

¹ Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations, <https://gndem.org/declaration-of-global-principles/>

In comparison with last Parliamentary Elections held in 2015, the current electoral period is accompanied by increased political activeness in the pre-election period, where some positive elements are noticed. Especially, the participation of the growing number of young opposition-minded candidates in the elections in an independent manner has drawn attentions.

Some opposition forces have refused to participate in the election referring to the nationwide mistrust of voters in the elections to be held in a free and fair manner. For instance, National Council of Democratic Forces (NCDF hereinafter), founded in 2013 prior to the 2013 Presidential Elections, has boycotted the elections stating the grounds that the election is conducted under restrictive political conditions.² Musavat, ReAl Party and Nida Civic Movement have decided to participate in the election.³⁴

In the period prior to the elections, the restrictions brought on the enjoyment of political freedoms, including freedom of peaceful assembly and association, freedom of speech are not eliminated.

Peaceful protests have not been allowed to be hold in the central street and squares of Baku after the crowded 19 January protest held by the NCDF in Baku.⁵ Opposition parties are denied holding peaceful protests in the central Baku by local executive power or are offered unsuitable remote places to gather. Unauthorized protests are dispersed with the disproportionate use of force by police.⁶ The pressure and intimidation of alternative political views have been observed in the pre-election period as well. According to the list of the Working Group on the unified list of political prisoners, composed of independent human rights defenders, 112 people are currently in jail with politically motivated charges, including 5 of them as journalists.⁷

The social media platforms stand as the only open tribunal for opposition forces and independent activists. However, online media outlets face occasional restrictions. Many media outlets, such as Radio Liberty, Azadlig Newspaper and Meydan TV face blocked access of viewers to their websites across the country.

IV. LEGAL FRAMEWORK

According to the Constitution of Azerbaijan, Milli Majlis (Parliament) is the legislative branch of the Government. The unicameral Parliament of Azerbaijan consists of 125 deputies each elected for 5 years. Every citizen of Azerbaijan above 18 years old can be elected for the Parliament in an established order according to law. People whose disability confirmed by

² CEC: Repts of 19 parties apply for participation in Azerbaijan's early parliamentary elections, NCDF Decides to Boycott Parliamentary Elections,

https://www.contact.az/ext/news/2019/12/free/politics%20news/en/85788.htm?fbclid=IwAR0d5Igd4_bf2XcFVaGt_PrDU4E0Pe6hqkhGT0wsFqBobMFwZs0fQJacz4

³ Musavat Party adopted decision on participating in parliamentary elections <https://www.news.az/articles/politics/144018>

⁴ The Electoral Bloc "Movement" is established, <http://www.turan.az/ext/news/2019/12/free/politics%20news/en/86162.htm?fbclid=IwAR23H3Htnn2F0GOLi2ujCbEVOOrQQx0Ym9jIFoWc8rchIF9xWX6Vp-xDluE>

⁵ NCDF Puts Forward Demands on Authorities Politics <https://www.contact.az/ext/news/2019/10/free/politics%20news/en/84356.htm>

⁶ EMDS issued a statement on the 19-20 October rallies in Baku, <https://smdtaz.org/en/emds-issued-a-statement-on-rallies-19-20-october-in-baku/>

⁷ The Working Group on Unified List of Political Prisoners presents updated list: <https://smdtaz.org/en/the-working-group-on-unified-list-of-political-prisoners-presents-updated-list-4/>

the court are disallowed from participating in elections.⁸ The grounds on which the rights of the citizens to stand as a candidate in parliamentary elections are enshrined in the Constitution.⁹

The norms of dissolution of the Parliament and call for early parliamentary elections are regulated by the Article 98.1 of the Constitution which was amended into the constitution as the result of the referendum held on 26th September 2016. However, there is a divergency of opinions among various experts and political institutions on the usage of the abovementioned article for this early parliamentary election. Accordingly, many legal experts are claiming that the constitution does not authorize the parliament to dissolve itself or to ask the president to dissolve the parliament and therefore the dissolution of the parliament by president according to the request of the parliament is against the constitution.

On 2nd of December 2019, the Parliament of Azerbaijan approved a proposal to the President of Azerbaijan to dissolve the fifth parliament with the initiative of members of New Azerbaijan Party (YAP hereinafter) who are in majority in the Parliament. President Ilham Aliyev requested to the Constitutional Court to check the compliance of the appeal by the Parliament on the dissolution of the parliament by the president. After the decision of the Constitutional Court to consider the appeal to be in conformity with Article 98.2 of the Constitution of Azerbaijan,¹⁰ the President of Azerbaijan issued a decree.¹¹ According to the decree, the early Parliamentary elections will be held on 9th of February 2020.

The Parliamentary Elections are regulated by the Constitution of the Republic of Azerbaijan¹², Election Code¹³, Law of the Republic of Azerbaijan on Political Parties, Law on Freedom of Assembly, Criminal Code of Azerbaijan, The Code of the Azerbaijan Republic on Administrative Offences and other relevant legislative documents.

The recommendations put forward in the final report of the OSCE ODIHR which carried out long-term observation of the Parliamentary Elections 2010 and recommendations of the Venice Commission prior to 2010 Parliamentary Elections on the advancement of the Election Code have not been addressed and no advancement has been observed during last 10 years.

V. NOMINATION AND REGISTRATION OF CANDIDATES

According to the Election Code, the candidates may be nominated through self-nomination or by voters with active suffrage rights, political parties and political party blocs.¹⁴ For single-

⁸ Constitution of Azerbaijan, article 56.2

⁹ Constitution of Azerbaijan, article 85.

¹⁰ Plenum of Azerbaijan's Constitutional Court issues decision on conformity of parliament's dissolution with Constitution , <https://en.trend.az/azerbaijan/politics/3158599.html> , The decision of the Constitutional Court of Azerbaijan in Azerbaijani language: <http://www.constcourt.gov.az/decision/1096>

¹¹ Azerbaijan's President Sets Snap Parliamentary Elections For February, <https://www.rferl.org/a/azerbaijan-president-sets-snap-parliamentary-elections-for-february/30309391.html>, Presidential decree on dissolution of the Parliament in Azerbaijani language: <https://president.az/articles/35112>

¹² V section of the Constitution of the Republic of Azerbaijan <https://static2.president.az/media/W1siZiIsIjIwMTgvMDMvMDkvNHQzMWNrcGppYV9Lb25zdGI0dXNpeWFfRU5HLnBkZiJdXQ?sha=c440b7c5f80d645b>

¹³ Election code of the Republic of Azerbaijan, http://www.msk.gov.az/uploads/qanunvericilik/Election-code_2020.pdf

¹⁴ Election Code, article 53

mandate constituency, citizens with active suffrage rights and permanent residence in the given constituency, political parties and political party blocs may nominate the candidate.¹⁵ In support of the candidate at least 450 signatures should be collected within the territory of the constituency the candidate has been nominated for.¹⁶

5.1. Official information

The phase of nomination and registration of candidates started on 6 December 2019 and continued until 17 January 2020. According to the Central Election Commission, out of 2431 people, the nomination of 2358 was confirmed. 2247 nominated people obtained the signature sheets and 1774 of them returned the sheets. After all, 1560 of the 1774 people were registered as candidates running for seats in parliamentary elections.

According to the Election Code, the political party blocs can be formed by at least 2 political parties. Also, according to Election Code, only the political parties registered in more than 60 single-mandate constituencies have the right to use free airtime on channels of TV and radios.¹⁷ 19 Parties are participating in current Parliamentary Elections.¹⁸ All of the 123 people nominated by the ruling party YAP are registered as candidates. However, the YAP has refused to use the free air time.

Musavat nominated 81 people, however, only 64 of them were registered as candidates through 60 constituency election commissions (ConEC hereinafter). Thus, Musavat could not get free airtime.

31 out of 42 nominated people by the bloc of ‘Real Republicans’, formed by the initiative of Republican Alternative Party (ReAL hereinafter), are registered as candidates. The ‘Movement bloc’ formed by activists of Nida Civic Movement together with other civil society activists managed to get 16 out of 18 nominated people registered. The blocs representing opposition forces could not be registered as election blocs due to not meeting the necessary criteria.¹⁹

75 candidates nominated by YAP are new faces in comparison with the last Parliamentary Elections 2015. 18 people from the fifth parliament representing YAP were not nominated again. Overall, 30 deputies from the last parliament have not been nominated again.

5.2. Observation of the nomination of candidates

EMDS has observed numerous violations of law during the period of nomination and registration of candidates. Mostly, those violations happened against the political party members and independent candidates. Many candidates have been intimidated and pressured by local executive authorities, election commissions or places where they work to withdraw

¹⁵ Election Code, article 146

¹⁶ Election Code, article 147

¹⁷ Election Code, article 80

¹⁸ CEC: Reprs of 19 parties apply for participation in Azerbaijan's early parliamentary elections, <https://en.trend.az/azerbaijan/politics/3167298.html?fbclid=IwAR2ByBNYrqM-btjUHe56s0ZoZhqGZqClmdmnOtLBcduY5mk-gcwnq5L2eLE>

¹⁹ Election Code, article 50.1

their candidacies. In some cases, citizens are denied getting the signature sheets and the participants of the signature collection process have been pressured as well

a) Administrative obstacles on the nomination of candidates

EMDS has observed the refusals to either present the signature sheets to nominated people or present extra signature sheets after a certain number. Moreover, the prolongation of the process of accepting the documents of citizens standing as candidates is among the observed instances.

The head of the **54th Shabran-Siyazan ConEC** Saleh Tahmazov refused to accept the collected signatures of Mardan Mehdili, nominated by Musavat Party, alongside other necessary documents. The ConEC has accepted the documents after the nominated person filed a complaint to CEC. Bakhtijar Hajiyev, self-nominated person has also faced a similar situation in the **29th Sabail ConEC**.

The process of presenting the signature sheets to self-nominated person Rahman Rasulzada has been prolonged by the **110 Zagatala ConEC** until the day of the deadline and he was told to collect the signatures on the same day the sheets were provided.

Opposition and independent candidates have mostly suffered from pressure made upon the nominated people themselves, their relatives and participant of the signature collection process by local executive authorities and the management in relevant work places. In some cases, the voters have been forced to withdraw the signatures they had given for the opposition and independent candidates.

Teymur Mammadov, nominated for the **91st Ujar ConEC** by Musavat Party, noted that some of the voters who had given their signatures for him have been pressured to submit an application for withdrawal. The head of the ConEC Abdulrazaq Abbasov told the nominated person that 15 people have applied to withdraw their signatures after Teymur Mammadov submitted the signature sheets.

The students of the Lankaran State University have been threatened with expulsion for supporting the signature collection process for the self-nominated Baba Mammadli for **73rd Lankaran city ConEC**

Razim Rzayev, self-nominated person for the **113th Shaki city ConEC**, has faced pressure from Maharram Maharramli, the headmaster of the school he is working for to withdraw his candidacy. He was threatened with being fired if he does not do so. The candidates Punhan Imanov, nominated by Citizen Solidarity Party (VHP hereinafter) for the **114th Shaki village ConEC**, Tahir Huseynov, nominated by Musavat Party for the **78th Lerik village ConEC** and Osman Kazimov, nominated by Musavat Party for the **84th Fuzuli ConEC**, noted that they have also faced similar pressure.

Fariz Hasanli, the self-nominated person for the **110th Zagatala ConEC**, has faced physical violence by the the head of the ConEC Fikrat Mustafayev. According to Fariz Hasanli, head of the ConEC has punched him in the face in front of others in the ConEC building on 9th

January 2020. Fariz Hasanli has filed official complaints both to CEC and to the Prosecutors Office of Azerbaijan. Saleh Sultanov, nominated by Musavat Party for the same ConEC, has been summoned to the Zagatala's local executive authority where the head of the body Mubariz Ahmadzada threatened him and demanded him to withdraw his candidacy. Some of the ex-political prisoners were denied the passive suffrage rights due to not extinguished conviction even though they have been released.

Rasul Jafarov, self-nominated person for the **15th Yasamal ConEC**, Zaur Gurbanli, self-nominated person for the **20th Narimanov ConEC** and Ilkin Rustamzada, self-nominated person for the **25th Nizami second ConEC** were denied the nomination by relevant ConECs because of their remaining criminal records. All three of them have filed their complaints to CEC. Rasul Jafarov and Zaur Gurbanli have also referred to the decision of the Committee of Ministers of the Council of Europe, decided during 3-5 December 2019 meeting, demanding Azerbaijani government to restore their civil and political rights including the passive suffrage rights.²⁰ However, the CEC upheld the decisions of the relevant ConECs and justified the denial of the passive suffrage right on the ground of remaining criminal record from previous conviction according to domestic legislation.²¹

b) The verification of the collected signatures and registration of the candidates

EMDS observed that unlike the self-nominated independent and opposition candidates, YAP candidates and the nominated people loyal to the government returned signature sheets and were registered in a short period of time. This has cast in doubt about the possible abuse of administrative resources in favour of them.

The verification of the information on signature sheets of the candidates, alongside the signatures, are checked by the working group called by ConECs. The independence and impartiality of the working groups are under question since those working groups are supervised by the same ConEC members in leading roles.

Many of the nominated people who were not registered by ConECs on grounds of misconduct in the signature collection process, were later registered by the CEC based on their filed complaints. However, the return of the signature sheets after the deadline and the absence of documents stating the source and amount of the income of the nominated people were among the most iterated reasons for rejections to register.

The rejection of the registration for the Zahir Rahimov, self-nominated person for the **45th Absheron ConEC** was justified on the wrong information given by him on his assets. However, Zahir had submitted the statement he received from the State Committee of Property Issues of Azerbaijani Republic to the ConEC. Apparently, the Committee submitted a different statement to the ConEC in response to the official inquiry where it also included the mutual property where the name of the nominated person is also included as a family member. The CEC has not granted the complaint from the decision of the ConEC.

Punhan Imamli, nominated by VHP for the **114th Shaki village ConEC**, were denied

²⁰ Committee of Ministers of the Council of Europe, 1362nd meeting, 3-5 December 2019 (DH) H46-2 Ilgar Mammadov group v. Azerbaijan (Application No. 15172/13), https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168098f832

²¹ 1369th meeting (March 2020) (DH) - Rule 9.1 Communication from the applicant (08/01/2020) in the case of RASUL JAFAROV (ILGAR MAMMADOV group) v. Azerbaijan (Application No. 69981/14) [Anglais uniquement], https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809971ec

registration by the ConEC which stated he has an undeclared property of size of 4700 square metres. However, the nominated person denies such property and claims he had heard of that for the first time. Similarly, the CEC has not granted the complaint from the decision of the ConEC

c) ELECTION COMMISSIONS

Though the CEC has worked in a timely manner according to the laws, the online information center of the CEC has failed to work up to date. Especially, the process of update of the list of registered candidates was prolonged until the end of the process. EMDS has submitted information inquiry to the CEC on the lack of transparency and accountability on the working regime of the information center of the CEC, there has not been any answer yet. The relevant information on the registered candidates has started to be uploaded to the information center on 11th January 2020, only a day after the end of the period for nominating the candidates.²² Similar to previous elections, the ConECs have performed a lack of continuity in their working regimes during the period of nomination and registration of candidates. In some cases, the commission members failed to gather in full or necessary numbers during working hours. This has caused the serious loss of time for candidates several times during the processes of getting signature sheets and submitting the signature sheets. One of the main problems candidates were facing was the absence of the official stamps of the ConECs. Such instances led to extra visits to ConECs by candidates. ConECs justified prolongation with the overlap of the electoral periods of both municipal and parliamentary elections. For instance, Nurlana Jalil, self-nominated candidate for the **110th Zagatala ConEC**, was delayed the nomination process due to similar excuses (the absence of the official stamp, the absence of the head of the ConEC). She received the signature sheets only 11 days after these problems. Xalid Bagirov, self-nominated candidate for the **73rd Lankaran city ConEC**, has also faced similar issues on being provided with signature sheets.

41st Sumgait first ConEC has refused to confirm the nomination of the Konul Aliyeva, the candidate nominated by the Musavat Party, stating excuses such as the upcoming municipal elections and claiming the day being Saturday and unsuitable for such an operation. She was able to receive the signature sheets on 26th December 2019, only after filing a complaint to the CEC.

VI. CONCLUSIONS AND RECOMMENDATIONS

Based on results of the long-term monitoring of the first stage of the parliamentary elections, EMDS has concluded:

- On the eve of the early parliamentary elections, the government has failed to express the political will to democratize the political situation in the country with respect to political freedoms, freedom of expression and media, and freedom of assembly and release of people who are in jail with politically motivated charges.

²² List of candidates running in parliamentary elections 9 February 2020, <https://www.informationcenter.gov.az/archive/MilliMeclis2020.aspx?i=4>

- During the period of nomination and registration of the candidates, some oppositional party members and independently nominated people have faced bureaucratic obstacles, their relatives and supporters were pressured. However, the pressures in this period have not been observed in many instances
- Artificial obstacles were made against some candidates during the processes of submitting their documents to ConECs, however, such instances have not affected the number. While in some cases the rejection decisions of ConECs for the nominated people were revoked by the CEC, 10 such complaints are yet to be investigated by courts.
- The profile, profession and the experience of the experts involved in the working groups of experts inside election commissions to verify the collected signatures are not provided for public access.
- Election Commissions performed traditional shortcomings and sometimes did not gather in full staff during the period of the nomination and registration of the candidates. CEC had not been publishing the names and relevant information of candidates and nominated people for a month and failed to act in a transparent manner

Based on the results of the long-term monitoring of the first stage of the parliamentary elections, EMDS has produced the following recommendations:

- In order to ensure the competitive environment, candidates should be provided with equal opportunities during the campaign period, all candidates should be granted free air time and prices set for paid airtime should be reasonable and affordable.
- The restriction put upon the freedom of peaceful assembly and media must be eliminated and the number of the both open and closed venues for candidates to reach all voters should be increased.
- The pressure made against election participants and the practice of abusing administrative resources in favour of some candidates must end and legal measures must be taken to hold the representatives of executive authorities and election commissions responsible for violating the laws and interfering in elections.
- The investigation of the complaints on elections should be comprehensive and happen with the presence of the candidates or their representatives. Moreover, not only the national legislation but also the international conventions to which Azerbaijan is party and therefore has obligations thereunder should be considered while reviewing the complaints. Notably, the judgements of the European Court of Human Rights on violation of electoral rights should be taken into account.

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