

OSCE/ODIHR
Election Observation Mission
Republic of Azerbaijan
Parliamentary Elections 2005
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Executive Summary

- The Central Election Commission (CEC) and the Constituency Election Commissions (ConECs) continue to proceed with technical preparations according to their schedule. The OSCE/ODIHR EOM is closely following issues pertaining to the accuracy of the voter lists. Many election commissions have been slow in deciding complaints and some have failed to adjudicate complaints in accordance with the law.
- The campaign is increasing in intensity with candidates engaged in a variety of campaign activities in Baku and the rest of the country. The campaign is becoming increasingly polarized.
- Disproportionate restrictions placed on several election rallies across the country and obstruction by police and local authorities of sanctioned campaign activities of opposition candidates violate the Law on the Freedom of Assembly and the 11 May Presidential Decree.
- There is widespread evidence that some executive authorities are intervening in the campaign in favor of certain candidates and in some cases have interfered with the electoral process in violation of the Election Code and the 11 May Presidential Decree.
- Free airtime on television is being distributed in accordance with legal requirements, which enable the four major political parties and blocs to broadcast their messages. However, outside the free time, all monitored electronic media devoted favorable and heavy coverage to the activities of the incumbent President and the government, thus benefiting candidates with a pro-government orientation.
- On 30 September, the National TV and Radio Council ordered *ANS CHM Radio* to shut down its local radio branch in Shaki. The station had been broadcasting a daily 30 minute programme offering local news and debates among candidates.

I. The Election Administration

The Central Election Commission (CEC) and the Constituency Election Commissions (ConECs) continue to proceed with technical preparations according to their schedule. Some

CEC members representing the opposition report a lack of collegiality in its work, and a lack of due attention to issues and complaints forwarded by the opposition. The CEC sessions are open to observers and the media; however, it has been noted that the CEC does not adopt minutes until many weeks after the respective session. For example, on September 22, minutes were adopted for CEC sessions from 12 August to 2 September. Similarly, the delayed issuance of minutes of meetings has been noted in lower level election commissions.

Although government officials and the Prosecutor General have continued to assure the OSCE/ODIHR EOM that the rule of law will be strictly observed, the EOM has observed that some ConECs have been unable to resist pressure or undue influence from government candidates and executive bodies. For example, on 30 September, the chairman of ConEC 86 announced his resignation explaining that he had been under considerable pressure from the executive authorities. Subsequently, other members of ConEC 86 reported to the EOM that they were threatened or offered bribes to vote for the new chairman.

Complaints and Appeals

The OSCE/ODIHR EOM has concern that some election commissions do not implement the Election Code in a fair and impartial manner, particularly with regard to complaints and appeals.

Most CEC decisions regarding complaints lack clarity and often fail to state the reasons for the decision, other than noting the power to cancel ConEC decisions under Article 25 of the Election Code. There is a tendency to refer complaints to another body instead of issuing a decision on the merits of the complaint. The CEC and the ConECs have decided in favor of the complainant in very few decisions in cases in which a candidate has complained of campaign violations or interference from local executive bodies.¹ These complaints are generally made by candidates who are not from the ruling New Azerbaijan Party (YAP). In some of these cases, complainants have provided credible supporting evidence such as video recordings, statements from other election commission officials and evidence from other candidates. In one case, the EOM observed that a candidate misused administrative resources by using his official office and vehicles for campaign purposes and that the local administration is actively supporting his campaign, whereas the ConEC 62 found no evidence of violations. In some instances, ConEC's are not deciding on complaints within the 3 day period prescribed by law.

Voter Lists

On 1 October, the period for entering changes to voter lists by a decision of an election commission expired. Changes to the voter list now require a court decision. Voters appear not to have used the opportunity to check their entry in the voter list to any significant extent. Some inaccuracies have been noted and corrected by PEC members while distributing voter cards. The process of central verification of voter lists is underway. The EOM, however, remains concerned about the accuracy of the voter lists, especially given the problems observed with the distribution of the voter cards (see below).

¹ In September, the CEC held seven sessions and adopted 44 decisions, of which only 11 concerned complaints. Of the latter, seven complaints were rejected as groundless and four referred to other bodies, such as the prosecutor's office. Some CEC rulings on complaints are not classified as formal decisions and therefore not published.

According to law, citizens who have taken temporary residence abroad but are not registered with a diplomatic representation of Azerbaijan should remain on the voter list in their home precinct. However, the EOM observed that some PECs have apparently removed such citizens from the lists without proper evidence.²

Voter Cards

Although the PECs have made a significant effort to distribute voter cards to voters, the lack of procedural uniformity in issuing voter cards is a development that raises concern. Voter cards are not strictly accounted for. They are often left with neighbours or family members, or left in the post box of private residences. The EOM has observed multiple cases of proxy signing in receipt of voter cards in a number of constituencies. Cases of voter cards issued in the name of deceased persons have also occurred, indicating that the required ID check did not take place.

In addition, voter cards do not have features that could help protect them against counterfeiting, such as a unique serial number or a watermark. The absence of security features, combined with the lack of uniformity in distribution, is difficult to reconcile with the importance given to voter cards by law. Under article 104.6 of the Election Code, a voter card is a legal requirement in order to vote on election day, although the CEC chairman has expressed the view that voters may be allowed to vote without a voter card in the interest of not disenfranchising voters who do not receive a voter card. The preliminary EOM assessment is that voter cards do not represent a credible safeguard against multiple voting.

II. The Campaign Environment

The campaign environment is thus far characterized by the dominant position of the New Azerbaijan Party (YAP), which has been the majority party since 1993. Chaired by President Ilham Aliyev, the party dominates most government and district administrations. It nominates the chairman of the CEC and chairpersons of all 125 ConECs and PECs. The government has a majority on every election commission. This dominance of a party provides for a difficult campaign environment for any outsider.

The intensity of the campaign is increasing with candidates engaged in a variety of campaign activities in Baku and the rest of the country. Most candidates conduct small-scale meetings with voters and canvass neighborhoods. A larger amount of posters is on display throughout the country in comparison to earlier in the campaign. However, large shops frequently display only posters of candidates of the ruling YAP party. With some exceptions, very few women take part in campaign activities.

The campaign is becoming increasingly polarized. Despite the 11 May Presidential Decree which instructed local executive authorities to ‘take necessary measures to ensure freedom of assembly’ the opposition remains under strong restriction in its attempts to hold rallies in central Baku and central locations in regional cities. Given that restrictions and bans on

² Article 9 of Law on Registration of Place of Residence and Temporary Residence. The law lists the possible reasons for de-registration of residence and states, *inter alia*, that a residence registration can be lifted if the person re-registers at another address, with a consular section of Azerbaijan abroad or dies.

rallies must be ‘highly needed’ and ‘a measure of last resort’ to be justified under law³, the EOM is seriously concerned that these restrictions are not respecting the fundamental principles enshrined in the Constitution and in the Presidential Decree.

The CEC Chairman has publicly warned that any candidates who participate in illegal demonstrations may face repercussions. The Minister of Internal Affairs has repeatedly made dire predictions, alleging in the media that it is ‘highly likely’ that the opposition may use arms the day after the election.

On 25 September and 1 October, the opposition Azadliq bloc attempted to hold two rallies in central Baku. The first rally was called off by its organizers as the government agreed to engage in negotiations for new rally sites. These negotiations failed, as the opposition did not accept the government’s proposal to hold rallies in locations on the outskirts of the city or at a distance from the city centre. On 1 October, the authorities thwarted another unsanctioned opposition rally in central Baku, with the police using considerable force. More than 100 persons were detained, including four candidates. Most detainees were released after a few hours, some charged with public order offences and receiving short sentences of imprisonment.

There is credible evidence from all regions that pressure is exerted on state and municipal employees, in particular teachers, to attend meetings and rallies of candidates favored by the executive authorities and to stay away from opposition events. Sanctioned opposition rallies in the regions as a rule take place under heavy police presence.

OSCE/ODIHR EOM observers report frequent obstructions to campaign activities of opposition candidates from police and local authorities. On October 5, before scheduled rallies took place in Aghstafa (ConEC 106/108) and Tovuz (ConEC 104/105), the EOM observed that local authorities under various pretexts blocked the main roads leading to the rally venues the same morning, forcing participants to continue on foot or use back roads.⁴ On October 6, the police stopped buses and cars with some 70 supporters on their way to attend a sanctioned rally in Gadabey (ConEC 103/104) chaired by leaders of the opposition Azadliq bloc, 10 km from the site of the rally. The police ordered supporters to continue on foot or return. As a result, the rally was delayed for an hour.⁵

Illegal campaigning by candidates, such as provisions of gifts and services to voters, has been widely alleged. Such abuses appear to be commonly regarded as legitimate campaign activity. On 3 October, Lider TV showed the YAP National Executive Chairman (and candidate) Ali Akhmedov distributing 20 televisions to a home for the elderly.⁶

The OSCE/ODIHR EOM continues to follow individual cases described in Interim Report 1. The Constitutional Court has been petitioned to hear the appeal of Mr. Rasul Guliyev, former speaker of parliament and a current candidate. The Court of Appeal ruled that Mr. Guliyev

³ Art. 7 and 8 of the Law on Freedom of Assembly.

⁴ In Aghstafa, trucks blocked the road and road paint work had started less than an hour before the rally. The road was reopened shortly after the rally and the paint work stopped. In Tovuz, the two main roads leading to town were blocked on the morning of the rally, one by a large pile of gravel, the other by works for which the police provided differing explanations.

⁵ The EOM observed the incident and were also not allowed to pass the police checkpoint for some time.

⁶ Art. 88.4.1 of the Election Code prohibits such activity.

did not enjoy immunity from criminal prosecution based on an arrest warrant issued in 2000. The Minister of Internal Affairs has stated repeatedly that Mr. Guliyev will be immediately arrested if he returns to Azerbaijan, and has made public comments that could undermine his right to a fair trial.

At a press conference on 28 September, defense lawyers representing the two Yeni Fikir members accused of plotting the overthrow of the state claimed that the charges are politically motivated. A third member, against whom no charges have been raised, remains hospitalized and guarded by police. Two defense lawyers complained that the prosecutor and courts had seriously violated the Criminal Procedure Code at the closed hearings which confirmed the detention.

III. The Media

The State-funded TV channels monitored by the EOM have so far adhered to their legal requirement to grant free time to candidates of the four major political parties and blocs, including allocation of time for regular debates.⁷ These debates provide a forum for an exchange of views, enabling voters to form opinions of the candidates.

Outside the free time, however, *AzTV* devoted favorable and heavy coverage to the activities of the President and the government, thus benefiting candidates with a pro-government orientation. Results of the EOM's monitoring of *AzTV* prime time news in the first four weeks of the campaign show that this state channel devoted 99 percent of its political and election coverage to activities of the incumbent President (70 percent), the government (18 percent) and the ruling YAP Party (11 percent), which is chaired by the President. This coverage was exclusively positive or neutral in tone. In general, *AzTV* is thus far failing to provide a variety of opinions on political and electoral issues.

In comparison to *AzTV*, the newly established *Public TV* offered its viewers more political information through a diversified range of programming. To date, however, *Public TV* also devotes most of its prime time news coverage to the incumbent President (29 percent), the government (42 percent) and the YAP Party (5 percent). This coverage was overwhelmingly positive or neutral in tone. By contrast, during the same period, the opposition election bloc *Azadliq* received 21 percent of such airtime, of which 60 percent was negative and 5 percent positive in tone.

The three private television broadcasters with a nationwide outreach, *Lider TV*, *Space TV* and *ATV*, have adopted a similar pattern of political favoritism. EOM monitoring shows that *Lider TV* devoted 87 percent of its political and election prime time news coverage to the incumbent President (48 percent), the government (22 percent) and the YAP Party (17 percent), of an overwhelmingly positive tone. Conversely, during the same period, the opposition election bloc *Azadliq* received 12 percent of such airtime, which was overtly negative in tone.

In contrast to the five channels mentioned before, the private broadcaster *ANS* has generally provided more balanced prime time news coverage of the campaign, offering a greater diversity of views. Since the beginning of the campaign, *ANS* has allocated 81 percent of its

⁷ The EOM has been monitoring two State-funded TV channels, *AzTV* and *Public TV* (ITV).

political and election prime time news coverage to the President (21 percent), the government (49 percent) and the YAP (11 percent). The tone of the coverage has been mainly positive or neutral. By comparison, the opposition election bloc Azadliq received 14 percent of such airtime, which was mainly neutral or positive in tone. *ANS* has to date provided the opposition with more airtime and opportunities to present their views than any other channel monitored. However, the channel's potential audience is far less than that of the three main networks, *AzTV*, *Public TV*, and *Lider TV*.

On 30 September, the National TV and Radio Council⁸ ordered *ANS* to shut down its local radio branch in Shaki claiming that a separate license was needed for transmission of a daily 30 minute programme produced in Shaki.⁹ *ANS* argues that it has broadcast on the same frequency in Shaki as elsewhere in the country and thus the Council's insistence on a new license and creation of a new legal entity in Shaki is not in conformity with the law. On 4 October, the Minister of Communications stated that the *ANS* programmes were in conformity with the law. Without a court decision, the forced closure of any media outlet during an election process is a development of concern. Further, the National Council has warned *ANS* that its national license may be revoked.

The print media has so far offered more diverse information albeit, with polarized views, demonstrating bias either by supporting the authorities or alternatively by heavily criticizing them. State-funded newspapers monitored by the EOM have so far met their legal obligation to provide free and paid advertising space to candidates. However, they have provided extensive news coverage of the incumbent President and the government, largely ignoring the activities and views of the opposition.

Apart from TV coverage, the newspapers presenting opposition viewpoints serve as the main platform for the opposition. However, these papers have a low circulation.

IV. OSCE/ODIHR EOM Activities

The OSCE/ODIHR EOM has continued an active program of meetings with candidates, civil society, election commissions, government officials, media, and with a range of other persons and groups throughout the country. It has held its second bi-weekly briefing for diplomatic missions of OSCE participating States. The Head of Mission has held regular meetings with the Foreign Ministry, the CEC and the Presidential Administration to share views on a number of election issues and concerns. Preparations for the arrival and deployment of short-term observers have commenced, including a considerable number of expected parliamentary observers.

⁸ The Azerbaijan Republic National TV and Radio Council is the regulatory body in charge of overseeing the broadcast media. The council has not issued any new licenses since 2002.

⁹ The programme offered local news and debates among the candidates.