

# ELECTION MONITORING AND DEMOCRACY STUDIES CENTER



## FINAL REPORT

**Results of the Monitoring of the Presidential Election  
held in the Republic of Azerbaijan on October 15, 2008**

**JANUARY, 2009, BAKU, AZERBAIJAN**

**This Report was prepared by the Election Monitoring and Democracy Studies Center (EMDS) on the basis of information submitted by election observers registered in the Central and District Election Commissions for monitoring the October 15, 2008 Presidential Election held in the Republic of Azerbaijan. Information received from “Turan” and “Trend” information agencies, “Azerbaijan”, “Xalq” and “Zerkalo” newspapers, “Elections” Information Center, and the Institute of Reporters’ Freedom and Security was also used in the report.**

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## **I. SUMMARY**

The Election Monitoring and Democracy Studies Center (EMDS) is a non-governmental organization working for holding free and fair elections, and development of civil society and democracy in Azerbaijan. EMDS was created on December 1, 2008, by the founders and members of the Election Monitoring Center (EMC), after the organization's registration was annulled. It must be noted that on May 14, 2008, the Khatai District Court of Baku City terminated registration of EMC on the basis of an illegal claim of the Ministry of Justice of the Republic of Azerbaijan.

After termination of EMC's registration, members of the organization continued to function as the Citizen Group of Observers with regard to October 15, 2008 Presidential Election. Members of this Group (election experts and lawyers) registered with the Central Election Commission (CEC) and carried out activities covering monitoring of the process of updating voter lists, preparing local election observers, and long- and short-term election observation.

The October 15, 2008 Presidential Election in the Republic of Azerbaijan was held in 125 election districts (constituencies) which covered 5359 election precincts. The process of nomination and registration of presidential candidates started on August 1, 2008 and ended on September 5, 2008. According to the information of the CEC by September 15, 2008, 21 persons received signature lists to collect voter signatures and their candidacies for Presidency was approved by the CEC. During the process of collection of signatures, the CEC annulled candidacies of three of them. Out of 10 persons who submitted back completed signatures lists, the CEC registered candidacies of seven and refused to register candidacies of three.

After the official announcement of the date of Presidential Election, Citizen Group of Observers conducted Long-term Observation with its 83 individually-registered long-term observers, who covered 98 out of 125 election districts (constituencies). Long-term observation lasted from August till October 14, 2008 and was conducted at the national and election constituency levels. Based on the results of its long-term observation carried out during that period, two Interim Reports were prepared and disseminated.

Election Day Observation was carried out in accordance with Parallel Voting Tabulation (PVT) methodology by 1680 observers in 840 randomly-chosen precincts located in 123 election districts (constituencies). Based on PVT, the observers monitored the processes of organization and opening of election precincts, organization of the voting and counting of votes, as well as, voter participation.

For the purpose of evaluating the October 15, 2008 Presidential Election, EMDS has taken into account all phases of the election process, because no aspect or phase of the process should be evaluated separately from the whole. As to the evaluation of all phases of the election process, this includes the current situation concerning the election legislation and its improvement, pre-election political environment, election campaigning, election process, counting of votes, announcement of election results, consideration of complaints, and the process of formation of the new government.

Appreciating some improvements concerning the update of voter lists, organization of election precincts, and technical preparations for voting observed during October 15, 2008 Presidential Election as compared to the previous elections, EMDS noted serious violations of law observed in all stages of the election process. These violations were mainly related with abuse of administrative resources, interference in the election process, and exerting pressures on voters' will. At the same

time, lower voter participation and conduct of the election process in an uncompetitive atmosphere were the most important shortcomings in this Presidential Election. On Election Day, bringing voters to polling stations through using administrative resources and thus artificially increasing voter participation was observed in majority of election precincts country-wide.

EMDS notes that despite some improvements observed in the election process, certain serious violations of law concerning national legislation and international standards (such as external interferences in the election process, pressures on voters' will, and violation of the principle of equality) occurred in the overall election environment and, as a result, the October 15, 2008 Presidential Election cannot be considered free and democratic. At the same time, as this Election took place in an uncompetitive and "no-alternative" environment, and voter participation was artificially increased, it did not reflect true will of the Azerbaijani people.

Although on the eve of the October 15, 2008 Presidential Election it was expected that the national election legislation would be improved in accordance with the recommendations of local and international organizations, it did not happen. On the contrary, just two months before starting of the election campaign, on June 2, 2008, with the last amendments made in the Election Code, all legal opportunities for holding free and fair elections were limited.

On the eve of October 15, 2008 Presidential Election political environment was not conducive for holding free and fair election. In this period, freedoms of assembly, as well as, freedom of expression and media were not ensured and equal opportunities for all political forces to participate in the Election were not provided.

During the process of collection of signatures for nominating presidential candidates, observers noted that the violations of law which occurred during the previous elections happened again. These kinds of violations mainly include abuse of administrative resources and executive bodies' forcing voters to give their signatures. There were also cases in which national ID cards were collected from voters on various other pretexts, but these IDs were used in the process of collection of signatures for a candidate without the knowledge of ID card holders.

In the period of election campaigning, observers noted violations of law similar to the violations noted in the previous elections: use of administrative resources in the campaign period, lack of equal opportunities for all candidates, destruction of candidates' campaign materials, and pressures on voters. As in the case of previous elections, the media largely participated in the campaign process in favor of the government's candidate during this Election.

The campaigning period did not take place in an environment of political debates that was the case in the 2003 Presidential and 2005 Parliamentary elections. The main reason of this was that the major opposition parties which participated in the previous elections decided to boycott the October 15, 2008 Presidential Election. At the same time, political debates and meetings between presidential candidates that would draw the voters into the election process did not happen. Presidential candidates organized few public meetings and/or debates with the voters during the election campaigning period. As a result, the October 15, 2008 Presidential Election was held in an uncompetitive and "no-alternative" environment and the opportunities of the voters to elect were limited.

During the monitoring of accuracy and update of voter lists, observers noted that in some precincts voter lists were not published during the time established by law and in some other precincts they witnessed that the voter lists from the November 6, 2005 Parliamentary Elections were not updated. However, the CEC tried to create unlimited opportunities for the voters to update their data in the voter lists and participate in the election.

Legal-technical improvements regarding organization and opening of election precincts were observed on Election Day. In most cases, election precincts were provided with information boards and ultra-violet lights for checking inking of fingers. In general, negligible violations were observed during the process of opening of precincts on the Election Day. Observed violations of law concerning the voting process were not different from the ones that had been noted during the previous elections. However, this time such violations were observed in fewer election precincts – 34 percent countrywide. These violations mainly included multiple voting by one person, bringing groups of voters to the polling station, voting by the persons whose names were not on the voter list, ballot stuffing, and fair and open counting of votes. Official information about voter participation on the Election Day is suspicious, as in 70 percent of election precincts artificial increasing of voter participation was observed.

Ensuring of transparency in the election process was mainly limited. In majority of cases, transparency was not provided in the process of checking signature lists for nomination of candidates at the CEC. At the end of the Election Day, protocols on voting results were not publicized in a number of election precincts. Also, the election process was accompanied by pressures on independent observers and this revealed existing legal-political limitations concerning election transparency. Serious pressures against observers accredited by the CEC were observed on the eve of and on the Election Day. As a result of these pressures, mainly put by the local executive authorities, 120 independent observers declined to monitor the elections on the Election Day.

In general, remarkable technical improvements were observed in the work of the CEC on the eve of and during the Election. Especially, efforts demonstrated by the CEC with regard to updating voter lists and accreditation of local observers can be noted. However, election commissions could not respond adequately to harsh violations of law, including external interferences in the election process, abuse of administrative resources, and pressures on voters' will, that occurred in all stages of the election process. It was observed that Precinct and District Election Commissions largely functioned under direct or indirect control of local executive bodies on the Election Day, as it was the case in the previous elections.

After the Election, based on random sampling, final protocols on the election results prepared in 579 election precincts were compared with the official information of the CEC. According to the comparison, in 90% of election precincts the results were correctly reflected in the protocols. However, there were differences and inconsistencies between numbers shown in the protocols of 35 Precinct Election Commissions (PEC) and official numbers published by the CEC. These discrepancies were noted in the total number of voters who voted, number of valid votes, and distribution of votes between leading candidates.

EMDS considers that during the October 15, 2008 Presidential Election, there were not suitable political circumstances for reflecting true will of the Azerbaijani people and the Election did not relieve tensions in domestic political relations. In order to overcome this situation, EMDS believes that it is necessary for the political authorities to undertake serious measures to create political

confidence in the country. These measures should especially include amendments that will ensure improvement of the election legislation, punishment of the persons violating election rights, protection of the right of free assembly as well as freedom of expression and media, development of civil society, and local election observation.

## II. INTRODUCTION

Election Monitoring and Democracy Studies Center (EMDS) is a non-governmental organization working for holding free and fair elections, and development of civil society and democracy in Azerbaijan. EMDS was created on December 1, 2008, by the founders and members of the Election Monitoring Center (EMC), the registration of which had been annulled. It must be noted that on May 14, 2008, Khatai District Court of Baku City terminated registration of EMC on the basis of an illegal claim of the Ministry of Justice of the Republic of Azerbaijan.

From 2001-2008, within the framework of EMC, founders and members of EMDS participated in election observation programs with regard to repeat- and by-elections to the Parliament; August 24, 2002 Constitutional Referendum; October 15, 2003 Presidential Election; December 17, 2004 Municipal Elections; and November 6, 2005 Parliamentary Elections. Besides, within observation missions of European Network of Election Monitoring Organizations (ENEMO) (of which EMC was a member) and OSCE/ODIHR (Organization for Security and Cooperation in Europe/Office of Democratic Institutions and Human Rights), representatives of EMDS observed presidential and parliamentary elections as well as referenda held in Albania, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Turkey and Ukraine.

After termination of EMC's registration, members of the EMC worked as a Citizen Group of Observers with regard to October 15, 2008 Presidential Election. This Group (election experts and lawyers involved in the Group) carried out a program that included monitoring of the process of updating voter lists, preparing local election observers, and conducting long- and short-term election observation. This program was implemented with the financial-technical support of OSCE's Baku Office, US Agency for International Development (USAID), US National Democratic Institute for International Affairs (NDI), Embassy of the United Kingdom in Baku, and the German Marshall Fund.

Citizen Group of Observers (former EMC) conducted pre-election and Election Day monitoring with its 12 members of the Working Group, 16 regional representatives, 83 election district (constituency) coordinators, and 1680 observers.

After the official announcement of the date of Presidential Election, Long-term Observation was conducted with participation of 83 individually-registered long-term observers, who covered 98 out of 125 election districts (constituencies). Long-term observation lasted from August till October 14, 2008 and was conducted at the national and election district levels. Based on the results of its long-term observation carried out during that period, two Interim Reports were prepared<sup>1</sup>.

With regard to the preparations for the Election Day monitoring, legal-technical assistance was extended to 1836 individuals in getting accreditation as election observers in the Central and District

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<sup>1</sup>See: First Interim Report was publicized on September 26, 2008; second – on October 10, 2008.

Election Commissions. 94 training sessions were conducted for registered observers countrywide and 1680 of these trainees acted as short-term observers on the Election Day.

1680 independent observers cooperated with EMDS and conducted Election Day observation, based on Parallel Voting Tabulation (PVT) methodology. This is a statistical methodology, according to which observers are located in randomly chosen election precincts representing the whole country. This tested methodology has been used for holding free and fair elections and defending voters' rights in many countries of the world.

The observers submitted to the General Information Center, located in Baku, their information and notes about opening of polling stations, voting process, counting of votes, and voter participation five times during the day. Afterwards, the information submitted by the observers was verified by comparing with the monitors' Observation Forms, Acts on Violations of Law, and Final Protocols of election precincts on the election results. The results of the Election Day observation are based on the reports that were collected from 80% of election precincts chosen in 123 election districts (constituencies) by random sampling.

On the basis of 771 Observation Forms, 452 Acts on Violations of Law (this number excludes some Acts that were not taken into consideration because of being incomplete) and 579 Final Protocols of election precincts received from 840 randomly-chosen precincts in 123 election constituencies, the experts of EMDS analyzed three stages of the Election Day – organization and opening of election precincts, voting, and counting of votes.

### **III. PRE-ELECTION POLITICAL ENVIRONMENT**

#### **1) Political Situation**

Opportunities for conducting political activities seriously worsened in the period from the last elections (November 6, 2005 Parliamentary Elections) to the October 15, 2008 Presidential Election. In this period, some opposition political parties were ousted from their offices in central Baku area as well as in the regions of the country, and opportunities for holding social-political gatherings and peaceful actions were restricted.

From the independence period of the Republic of Azerbaijan until this Election, four Presidential Elections (June 7, 1992; October 3, 1993; October 11, 1998; October 15, 2003) have been held. None of the Presidential Elections held in the past 10 years or the Parliamentary Elections held in 2000 and 2005 were considered free, fair and democratic by the international observation missions of the OSCE/ODIHR as well as local observers.

According to domestic and international observation missions<sup>2</sup>, the October 15, 2003 Presidential and November 6, 2005 Parliamentary elections were accompanied by severe violations of the law and thus were not free and fair. Although legal bases of both elections created opportunities for holding relatively free and fair elections, those opportunities were not used and consequently, results of these elections further increased political tensions in the country.

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<sup>2</sup> See: Reports of the Election Monitoring Center and OSCE/ODIHR on respective elections.

After the Presidential Election of October 15, 2003, supporters of Isa Gambar, the candidate of opposition *Bizim Azerbaijan* (Our Azerbaijan) election bloc and Chairman of *Musavat* (Equality) Party, were subject to pressures and several election activists were arrested. According to the official results of the CEC, with 13% votes, Isa Gambar came second in this election and Ilham Aliyev, the candidate of the New Azerbaijan Party, was elected President with a vast majority of votes (76%).

November 6, 2005 Parliamentary Elections were held in an environment of competition between political forces representing the ruling New Azerbaijan Party and opposition “Freedom” (*Azadliq*) Bloc of political parties (composed of Musavat, Popular Front, and Democratic parties), Liberal Party and “New Policy” (*Yeni Siyaset - YeS*) election bloc (composed of National Independence, Liberal, and Social-Democratic parties). Besides these political blocs, prominent independent intellectuals and academicians also participated in these elections as candidates, which increased the competition even more.

A few months before October 15, 2008 Presidential Election opposition “Freedom” Bloc of political parties (composed of Liberal, Popular Front, and Civil Development parties) declared that it would not participate in the election. Afterwards, as a response to the last amendments to the Election Code and the Law on Freedom of Assembly, leaders of Musavat, National Independence, and Democratic parties, as well as, the National Forum for the Sake of Azerbaijan, decided not to participate in the election. These parties and organizations comprise the core opposition force in Azerbaijan and had participated actively in 2003 Presidential and 2005 Parliamentary elections.

## **2) Situation in the Field of Human Rights and Civil Society**

No significant progress occurred with regard to the protection of human rights and development of civil society on the eve of the October 15, 2008 Presidential Election. On the contrary, more serious problems concerning assurance of human rights were observed.

On the eve of the October 15, 2008 Presidential Election, all efforts of local human rights organizations to get freed more than 50 persons whom they consider political prisoners – including Chairman of *Yeni Fikir* (New Idea) Youth Movement Ruslan Bashirli, former ministers Farhad Aliyev and Ali Insanov, satirical journalist Mirza Sakit (Zahidov), Chief Editor of “Gundelik Azerbaijan” (Daily Azerbaijan) newspaper Eynulla Fatullayev, and Chief Editor of “Azadliq” (Freedom) newspaper Ganimat Zahidov – did not give any result. By this time, assassins of Elmar Huseynov, Chief Editor of “Monitor” magazine, who was murdered on March 2, 2005, have not been found and arrested.

Although implementation of reforms in the court system in Azerbaijan is one of the main requirements of the Council of Europe, efforts of local NGOs in this field have not produced any results. Observations show that appointment of judges in accordance with democratic procedures and adaptation of legal advocacy institute to international standards are key preconditions for establishment of independent and improved court system in the country.

Restrictions in the field of freedom of assembly that were created after 2005 Parliamentary Elections have not been lifted. Opposition parties were not allowed to hold any rallies or other protest acts until Presidential Election. Such acts were allowed to be held in the Bibiheybat settlement, which is located outside of the capital city, Baku.

It should be noted that on May 30, 2008, amendments were made the Law on Freedom of Assembly. Although some of these amendments were evaluated positively by local and international organizations, EMDS believes that the amendments did not solve the problems in the field of freedom of assembly. As a result in the period leading up to October 15, 2008 Presidential Election, restrictions on freedom of assembly were not lifted. Some provisions of this Law created opportunities for abuse of power by local executive authorities during implementation of the Law. For example, grounds for accepting or declining applications for peaceful gatherings are not specified clearly and concretely. Similarly, the purposes of established restrictions on peaceful gatherings are not clear and the necessity for these restrictions is not precisely substantiated. Therefore, it is quite possible to apply different approaches or double standards in implementation of some norms.

During the campaign period of Presidential Election, peaceful protest actions of various political parties were avoided. For example, request of the National Independence Party and Musavat Party to hold a peaceful rally in Baku city was turned down by the authorities. At the same time, organization of election-related public debates in Baku and regions of Azerbaijan was limited. In Baku city, number of venues for holding such events was artificially decreased and in the regions, local executive authorities did not allow to hold such gatherings.

### **3) Situation in the Field of Assuring Domestic and International Observation**

According to the information spread by the Central Election Commission (CEC), 50 thousand local and 1250 foreign (international) observers were accredited in the election commissions until the Election Day.

On October 2, 2008, the CEC considered applications of Assistance Association for Development of Civil Society in Azerbaijan, “ELS” Independent Research Center, “For the Sake of Civil Society” Independent Consulting and Assistance Center, and “RƏY” Monitoring Center about conducting exit-poll on the Election Day and made a decision to accredit all of them. However, the CEC turned down the application of the Sumgayit Union for Legal Education of Youth (an NGO) about conducting exit-poll on the ground that the latter did not submit a complete application. But the Union considered the decision of the CEC groundless and complained to Baku City Court of Appeals. On September 9, 2008, the Court made a verdict by which it kept the decision of the CEC in force. The Union submitted a petition about the verdict of Court of Appeals to the Supreme Court (highest court instance) and the latter also kept the previous decision in force.

Three months before the Presidential Election (on May 14, 2008), based on a claim of the Ministry of Justice, Khatai District Court of Baku City annulled registration of the Election Monitoring Center (EMC) – the most experienced and independent local election observation organization in Azerbaijan. In the claim of the Ministry of Justice, the following were shown as the grounds for termination of EMC’s registration: (a) Documents on EMC’s establishment were uncertain; (b) EMC did not inform the Ministry of Justice about change of its address; (c) EMC did not submit for state registration the information about its representative offices in 8 cities of Azerbaijan. However, considering this claim of the Ministry of Justice groundless, EMC’s representatives maintained that none of the cases shown in the claim happened and declared that this claim was a violation of the right of free assembly of citizens.

Although EMC submitted its complaint to the Court of Appeals in connection with this problem, its registration has not been reinstated yet. On the contrary, former volunteers of the organization have been subject to pressures from local and central executive bodies, despite the fact they were observers

individually-accredited by the CEC. For example, former volunteers of EMC have been intimidated by representatives of the local executive authorities in Agdam, Agjabadi, Baku, Goychay, Jalilabad, and Khachmaz. At the same time, entry to the websites ([www.emc-az.org](http://www.emc-az.org) and [www.smm-az.org](http://www.smm-az.org)) that belong to EMC has been restricted in the territory of the Republic of Azerbaijan. Two days before the Presidential Election, independent observation activity of former EMC members was denounced in APA information agency as well as *Lider* and *Ictimai* TV stations by a representative of the Assistance Association for Development of Civil Society in Azerbaijan (*AVCIYA*), a pro-government NGO.

Before the Election Day, 86 observers, who were trained and wanted to go to 43 polling stations, refused to act as observers because of pressures and intimidation. Such pressures on observers were mainly the case in Khachmaz. As a result, on the eve of the Election Day, a majority of observers in Khachmaz region declined to observe the election. Similar pressures against observers happened in Agjabadi district. The number of recorded cases in which accredited observers were prevented from observing the election was 10.

Before the Election Day, students of Baku State University, Azerbaijan Medical University, Azerbaijan International University and Azerbaijan Pedagogical University who cooperated with EMC were pressurized by the officials of their respective universities. Similar pressures were put on students in Ganja and Jalilabad, where the students were demanded not to act as observers on the Election Day.

In Precinct # 14 of Khatai Second Election District No: 34, members of the Precinct Election Commission (PEC) ousted observer Darya Hajiyevev from the precinct. In so doing, members of the PEC told him that he should leave the precinct because of cooperating with EMC. Members of the PEC also took from him all observation documents, including acts on violation of law, and tore them.

By invitation of the Government of Azerbaijan, two international observation missions, under the auspices of OSCE/ODIHR and Executive Committee of the Commonwealth of Independent States (CIS), observed the election.

Long-term observation mission of OSCE/ODIHR, composed of 40 observers, started its work on September 1, 2008. The mission produced and publicized two Interim Reports until the Election Day. For short-term observation, OSCE/ODIHR, European Parliament, and Parliamentary Assembly of the Council of Europe organized International Observation Mission, which observed the election on the Election Day in 124 election districts (constituencies).

Observers of the Executive Committee of CIS as well as Turkish “Marmara Group”, which possesses no international election observation methodology, also conducted monitoring on the Election Day.

#### **IV. LEGAL ENVIRONMENT CONCERNING THE ELECTION SYSTEM**

##### **1) The Election System**

Azerbaijan is a presidential republic where the power is separated between three branches – President (executive), Milli Majlis (Parliament – legislative), and Court System (Judiciary). President, Parliament, and Municipalities (local governance bodies) are elected every 5 years.

In the Republic of Azerbaijan, all elections are held by the Central, District (constituency), and Precinct election commissions. One-third of the members of the election commissions represent majority party in the Parliament, another one-third represents independent members of the

Parliament, and the remaining one-third represents minority parties in the Parliament. One of two commission members representing independent MPs is appointed by agreement with the majority party, the other one – with the minority parties in the Parliament.

For October 15, 2008 Presidential Election, opposition Musavat Party, which is in minority in the Parliament, did not nominate any representative to the election commissions. Party officials made this decision as a response to the fact that election commissions are not formed in accordance with the principle of equal representation of major political parties. As a result, upper and lower election commissions functioned with less number of members.

In the Republic of Azerbaijan, elections are held in the existing 125 election districts that cover election precincts. In October 15, 2008 Presidential Election, there were 5,359 election precincts in the country.

## **2) Initiatives on Improvement of the Election Code**

Since 2003, relevant structures of Council of Europe and OSCE (both of which Azerbaijan is a member of), as well as local civil and political organizations have repeatedly put forward their recommendations for improvement of the Election Code and its alignment with international standards for free elections. However, when the Election Code was adopted in 2003 and in the following period, recommendations of local and international organizations concerning the composition of election commissions, submission of petitions on violation of election rights, lifting of limitations on local observation and other procedural rules have not been considered.

Although after its adoption several amendments were made to the Code, those amendments largely did not address the most important issues. For example, OSCE/ODIHR and Council of Europe's Venice Commission (CoE/VC) issued two joint statements and CoE/VC separately issued another statement concerning the Election Code during 2003. Moreover, in its Final Report on the results of observation of October 15, 2003 Presidential Election, OSCE/ODIHR emphasized the necessity for improving election law in Azerbaijan. During 2004-2005, experts of OSCE/ODIHR and CoE/VC issued joint statements concerning amendments to the Election Code five times.

For the purpose of holding free and democratic elections in the Republic of Azerbaijan, local and international organizations<sup>3</sup>, that had monitored elections held in the country during the last five years, repeatedly suggested amendments to various provisions of the election legislation. For example, from 2003-2007, EMC suggested improvements to the Election Code in the following areas:

- **Composition of the election commissions and election administration**

According to the existing Election Code, election commissions at all levels (Central, District, Precinct) are formed with the participation of political parties represented in the Parliament and independent MPs. Formation of election commissions in accordance of this rule does not include the principle of equal representation of political parties and as a result, election commissions are not independent, because the ruling political party constitutes a majority in the election commissions at all levels. Consequently, in most cases it appears that election commissions do not act independently

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<sup>3</sup> Election Monitoring Center (local NGO), Venice Commission of Council of Europe, and OSCE/ODIHR.

from central and local executive authorities and cannot be considered impartial in the electoral process.

As to the administration of the elections, the main issues of concern are connected with the lack of transparency, professionalism, mutual confidence and sense of responsibility in the work of election commissions, which creates important obstacles to the independent and effective functioning of the election commissions.

- **Registration and authority of local observers**

The current Election Code requires each individual citizen who wishes to participate in the observation mission on behalf of an NGO, candidate or election bloc, to be accredited by the Central Election Commission (CEC). However, the practice shows that accreditation of an NGO, candidate or election bloc by the CEC can be sufficient for all individuals who want to observe the elections on behalf of that NGO, candidate or election bloc. It should thus not be necessary for each observer to seek individual accreditation.

Another legal restriction concerning local observers is the requirement that each application for an observer identification card include a photo. According to the Election Code, an observer card is valid only if presented together with a citizen's ID card, and so there should be no need to put a picture on the observer card.

- **Improvement of rules regarding complaints on violation of election rights**

In the current Election Code, there is no effective mechanism for the protection and restoration of the rights of persons whose election rights are violated. The Election Code establishes complicated procedures for consideration of voter complaints and creates some obstacles to the implementation of voters' right to appeal to the courts. At the same time, the short time period (three days) that is given for preparing complaints limits opportunities to distinguish between cases that constitute criminal violations and cases that do not. The result is to make it more difficult to send complaints to the election commissions and courts.

- **Improvement in the rules of compiling voter lists**

According to the current Election Code, permanent voter lists are compiled in accordance with the citizens' state-registered places of residence. However, as the level of internal migration within the Republic of Azerbaijan is very high, many Azerbaijanis do not live at their state-registered addresses. This poses problems for those who try to vote at their actual (rather than state-registered) places of residence.

- **Improvement in the procedures regarding voting and counting of votes**

There is a need for changes in the Election Code to prevent interference of the representatives of local executive authorities and municipalities in the voting process and to avoid outside pressures on the participants of the election process.

The rules concerning counting of voting ballots, votes, and election results in a transparent manner are not described in the Election Code in a concrete and simplified form. Moreover, the Election

Code should clearly indicate the order of functions and procedures regarding announcement of voting results by the Precinct Election Commissions (PECs), District Election Commissions (DECs) and Central Election Commission.

Despite all these shortcomings, unfortunately, most of the suggestions and recommendations of neither local community nor OSCE/ODIHR and CoE/VC (made in 2003-2005) with regard to the improvement of the election law have been taken into consideration.

### **3) Amendments to the Election Code**

On June 2, 2008, Draft Law on “Additions and Changes [Amendments] to the Election Code”, which was agreed with the President of the Republic of Azerbaijan, was approved by the Parliament. Beside some restrictive provisions, certain amendments that could positively affect the elections were also approved. These include decreasing of the number of voter signatures for nomination of presidential candidates from 45 thousand to 40 thousand, lifting of the rule about late inclusion of voters in the voter lists only by court decision and other progressive changes.

According to the amendment made to the Article 102 of the Election Code, while entering the polling station, thumbs of the voter are checked with ultra-violet light to see if s/he has already voted; if it is found out that a thumb of the voter is inked, s/he is not allowed to enter the polling station. According to the same Article, left thumb of the voter is inked with invisible ink before s/he gets a ballot paper for voting. Voters who refuse this are not given a ballot paper. Establishment of this rule in the law is estimable. At the same time, lifting of the rule about putting ballot paper in envelope can be appreciated as a good amendment.

Nevertheless, by approving this law, certain amendments that create concerns and can be deemed undemocratic were also made to the Election Code. From this perspective, the most undemocratic amendment can be considered the one, according to which election campaigning period was decreased from 120 to 75 days. Unfortunately, the authorities could not justify the necessity for this amendment by any strong argument. This amendment limited the period for implementation of several election activities (e.g. updating voter lists, nomination of candidates, collection of voter signatures in support of candidates, election campaigning, etc) to a large extent. As a result, it restricted opportunities for participants of the elections, especially voters and candidates, and decreased confidence in holding objective and fair elections. In particular, the amendment about decreasing election campaign period from 60 to 28 days can be considered a serious step backward.

According to this law, the following amendment was made to the Article 77.1 of the Election Code: “Election campaigning is not carried out via TV and radio broadcast organizations that belong to the state”. At the same time, amendment to the Article 81.11 says: “...airtime for paid election campaigning on TV and radio is allotted in accordance with the Law on Advertisement”. As could be predicted, such amendments created unequal opportunities for the candidates of the ruling political party vis-à-vis other candidates. The experience of the elections held during the last 10 years, as well as, the October 15, 2008 Presidential Election shows that during presidential and parliamentary elections, as a rule, state TV stations show activities (including speeches and visibility) of presidential or parliamentary candidates of the ruling political party more broadly. From this perspective, the above-mentioned amendments created inequality in opportunities given to different candidates on state TV channels.

Another change that could affect election campaigning is the amendment to the Article 87.7 of the Election Code, which stipulates that “putting campaigning materials in buildings and other objects,

except rooms, is prohibited”. Inclusion of such provision in the Election Code can create serious limitations on publicizing campaigning materials of the candidates not supported by the ruling political party. For example, election experience in Azerbaijan shows that billboard pictures and slogans of the President, which are widely spread in the country, help with his election campaigning. But other candidates do not enjoy the same opportunity. Moreover, prohibition of campaigning materials in buildings and other public places is contrary to the requirements of the Law on Advertisement and Civil Code.

According to the new law, candidates’ option of putting money deposit (instead of collecting voter signatures) for registration was lifted. The experience shows that candidates’ option of putting money deposit for registration proved to be a successful rule in many election systems in the world, including Azerbaijan. Thus, lifting this rule from the Election Code limited legal opportunities for nomination and registration of candidates.

The law brought in the following addition to the Article 13.3.4 of the Election Code: “Such obligations<sup>4</sup> may include registration, tax, non-abandonment of the territory of a country longer than a certain time and other political or legal obligations causing existence of durable, strong and stable relations that emerged in connection with living in a foreign country for more than five years”. It must be noted that, first of all, the essence and purpose of this amendment is not clear. Secondly, the content of this “obligation” is so broadened that it can restrict the right of practically every Azerbaijan citizen who uninterruptedly lived abroad for more than 5 years to be a candidate.

According to the law, certain amendments regarding the rules on submission of petitions and investigation of violations of law were made to the Election Code. However, composition of the expert group for investigating petitions creates special concern. In accordance with the relevant amendment, expert groups, composed of 9 persons in the CEC and three persons in DEC’s, are created for the purpose of investigating complaints of the citizens concerning actions (and lack of actions) as well as decisions that violate election rights. Members of the election commission with legal education can be included in the group. The CEC determines rules of forming expert groups. Experience shows that inclusion of commission members in the group will hinder objectivity in its work. As members of election commissions are an interested party, petitioners, especially representatives of political parties, will doubt that they will objectively investigate complaints. From the perspective of creating confidence in the expert groups, it would be better to form these groups from totally independent lawyers

According to the amendment to Article 25.2.23 of the Election Code, the CEC accredits the organizations wishing to conduct exit polls and determines the rules for accreditation of those organizations. However, the nature of exit-polling should not necessitate accreditation by the CEC, because exit-poll organizations do not participate in the election process inside the polling station, and carry out their activities after the voting and outside the polling station. Therefore, there is no need for accreditation of exit-poll organizations by the CEC. In addition, the instruction of the CEC on the rules of accreditation of exit-poll organizations, dated September 19, 2008, raises concerns in that the rules and requirements in the instructions are not concrete and well-defined. As indicated in the instruction, prominent organizations specialized and experienced in this field can apply for accreditation to conduct exit-poll. However, the instructions do not clearly define the criteria for what is considered “specialized”, “experienced”, and “prominent”.

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<sup>4</sup>See: Election Code of Azerbaijan Republic, Article 13.3

Amendment to the Article 35.5 of the Election Code establishes the rules for creation of election precincts in the territory of special military units and determination of the period of such precincts by the CEC. However, considering principal importance of such issues from the perspective of election rights, they should be determined not by the CEC, but by the law.

Unfortunately, during the process of approval of June 2, 2008 Law on “Additions and Changes [Amendments] to the Election Code” broad public debates with the participation of civil-political institutions and local and international organizations were not held, and public opinion was not studied. As a result, this document, which was important for the future of the election system in Azerbaijan, was adopted in rush and without obtaining confidence of the Azerbaijan society and thus, did not bring about creation of general belief in the formation of a legal environment for holding free and democratic elections.

## **V. REGISTRATION OF VOTERS AND VOTER LISTS**

According to the Election Code of the Republic of Azerbaijan, all citizens with the election rights must be included in the voter lists. Permanent voter lists are approved in every election precinct in the form determined by the CEC until May 30 of every year. At the same time, after the announcement of the Election Day (which takes place 12 months before the elections), at least during 6 months citizens living in the territory of the appropriate election precinct are included in the permanent voter list of that precinct.

In accordance with June 2, 2008 Amendments to the Election Code, the period for reviewing voter lists was decreased to 35 days and for updating voter lists to 25 days. This amendment limits the opportunities to get acquainted with voter lists to some extent.

Until the Election Day, Civic Group for Election Observation (former EMC) conducted monitoring of the update of voter lists during June-September, 2008 in the territory of 25 election districts (constituencies) out of 125. During the first stage of the monitoring, information of randomly-selected voters, including names, surnames, birthdates, and registration precincts, were obtained. Then this information was compared with the information in the voter lists published at the website of “Elections” Information Center ([www.infocenter.gov.az](http://www.infocenter.gov.az)) functioning within the CEC. As a result of the comparison, names of 81 voters out of 391 were not found in the website of “Elections” Information Center. After complaining to the CEC, it became clear that non-inclusion of the names of these persons in the voter lists was mainly connected with inactivity of the relevant precinct election commissions.

The second stage of the monitoring of voter lists also covered 25 election districts. Overall, 496 voters from 50 randomly-selected election precincts (two precincts from each of 25 election districts) participated in the monitoring. According to the monitoring results, it was found out that the names of 44 voters out 496 (around 11%) were included in the voter lists by mistake.

In general, the results of two stages of the **Monitoring of Voter Lists** show that the following shortcomings, which applied to 14% of 887 voters (i.e. 125 voters), occurred in the process of compiling and updating voter lists:

- Names of deceased persons were included in the voter list;
- Names of voters did not appear in the voter lists of election precincts where they are registered;
- Names of voters appeared in the voter lists of election precincts where they are not registered;
- Names of persons, who no longer live in the territory of the Republic of Azerbaijan, appeared in the voter lists;
- Addresses and/or names of voters were not put correctly in the voter lists.

Results of the monitoring of voter lists show that in comparison with previous years, mass shortcomings was not observed in the process of registration of voters. Nevertheless, the number of deficiencies revealed by the monitoring – i.e. errors found in the case 125 voters out of 887 (that is, in 14%) – show that the problem in this field is still serious. This indicates inaccurate implementation of duties by some Precinct Election Commissions (PECs) concerning compilation and update of voter lists.

During the monitoring, independent observers also noted that in a number of election precincts, voter lists were not published at the precincts by the date established by law (September 25, 2008). For example, voter lists were not published by October 5, 2008 in precincts # 4 and 29 of Narimanov-Nizami Election District No: 18, precinct # 22 of Nasimi-Sabayil Election District No: 23, and precincts # 2, 3, 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 20 and 21 of Nizami First Election District No: 24.

Independent observers noted that in some election precincts voter lists were not updated since November 6, 2005 Parliamentary Elections. For example, results of observation in Jalilabad Election District No: 67 show that in precincts # 20, 21 and 31 of this Election District, voter lists from previous elections were published without any update.

Observations show that the mechanisms for individual voters' checking their names in the voter lists have been improved in comparison with the previous years. For example, voters were given the opportunity to check the accuracy of their details in the voter lists online – through the website of “Elections” Information Center. Yet, for further improvement of the voter lists, it is necessary to increase the quality of this process at the level of lower election commissions, local executive bodies, and municipalities.

## **VI. ELECTION ADMINISTRATION**

Results of the monitoring of all stages of October 15, 2008 Presidential Election show that differently from PECs, District Election Commissions (DECs) and the CEC have made improvements in implementation of their functions with regard to organization of the election. Although major deficiencies were observed in the activities of PECs, in some cases, violations were observed in the activities of DECs and the CEC as well. However, the CEC did not investigate and effectively respond to information in the media regarding shortcomings in the implementation of candidates' election campaigns and cases of abuse.

Serious restrictions concerning accreditation of local observers and checking/correction of voter details, observed in the previous elections, were not noted in the activities of the CEC and DECs during October 15, 2008 Presidential Election. On the contrary, this process has been improved. The CEC also ensured registration of candidates' legal representatives and members with the right of consultative vote.

According to the information submitted to EMDS from 98 election districts out of 125, certain shortcomings observed in the activities of DEC and PECs in previous elections were not overcome. In some cases, lower (precinct) election commissions did not operate during their working days. In other cases, it was observed that members of PECs were absent from work during business hours, thus violating requirements of both the Election Code and the Labor Code. For example, it was observed that during one month after starting of the Election process (until September 5, 2008), in precincts # 5, 14, 16 and 24 of Sabunchu First Election District No: 26, members of the PECs came to work in shifts (rotation). In the same election district, precincts # 7, 8 and 27 were not provided with offices and the DEC did not hold any meeting during one whole week.

Independent observers noted that one month after official announcement of the election, some PECs were not still working due to the refurbishment works carried out in their offices. For example, precincts # 14, 15 and 16 of Narimanov-Nizami Election District No: 18 did not work on September 9, 2008 because of renovation works. According to information received on September 10, precincts # 17, 21 and 22 of the same election district were not yet provided with offices.

According to the Election Code, election commissions should announce date and time of their meetings in advance and ensure transparency in their activities. However, Nasimi-Sabayil District Election Commission No: 23 held a meeting on August 23, 2008, but did not put any information about this on the announcements board of the commission.

The CEC determined the amount of funding allotted to the presidential candidates for election campaigning and transferred funds to the accounts of seven presidential candidates.

Some infringements were observed during the election campaigning period in the activities of the Expert Group and Media Group, functioning within the CEC. In accordance with the Article 112.1 of the Election Code, the Expert Group was created within the CEC to investigate acts and activities that violate election rights. However, during the whole election campaigning period, the Expert Group considered only one complaint (The petition of presidential candidate Aliyev Arif Hasangulu oglu).

In contrast to the Expert Group, the Media group considered petitions and complaints concerning implementation of the election campaigning addressed to the CEC and made relevant decisions during this period. According to the Article 74.5 of the Election Code, the Media Group exercises control over obedience to rules regarding election campaigning. However, by the Regulations on "Media Group" adopted by the CEC on July 18, 2008, broader authorities than envisaged in the Election Code were given to the Media Group. In accordance with these Regulations, besides applying control over obedience to the rules on election campaigning, the Media Group also considers complaints concerning implementation of the election campaigning, by which it restricts functions of the Expert Group in practice.

The CEC accredited some organizations (except Sumgayit Union for Legal Education of Youth) which applied for conducting exit-poll on the Election Day.

Accreditation of exit-poll organizations is implemented in accordance with the instruction of the CEC, dated September 19, 2008. However, the rules and requirements put in the instruction are not concrete and well-defined. According to the instruction, prominent legal persons that are specialized and experienced in this field can apply for conducting exit-poll. But the instruction does not show

mechanisms and criteria for determining what is “prominent”, “specialized” and “experienced”. Therefore, these are not clear and concrete requirements for registration.

According to the information given by independent observers, observer applications for registration were groundlessly turned down by some DEC. For example, 10 observers were not accredited and given observer cards by the Election Day in Agjabadi-Agdam Election District No: 83 and Zaqatala Election District No: 110.

On the eve of the October 15, 2008 Presidential Election, the CEC adopted rules on installation and use of webcams in election precincts. These rules were aimed at ensuring transparency, preventing illegal interferences in voting, increasing sense of responsibility in PEC members, and strengthening public confidence in the elections through providing the society with the chance to watch the voting process without any barriers on the Election Day. According to the rules adopted by the CEC, it must be possible to watch on the webcam the desks of PEC members giving out ballot papers to the voters and working with election documents.

Although control of webcam on the will of voters is excluded in the CEC’s rules, the society was not properly informed about this. On the contrary, looking at the webcams installed in the election precincts, some voters feared that the secrecy of voting would be violated. At the same time, reminding their employees about the existence of webcams in the polling station, some senior managers of public organizations abused the webcams to influence will of the voters.

According to the information given by independent observers, members of some DEC and PEC did not take any real steps to show impartiality and prevent interference of local executive authorities and police in the voting process on the Election Day.

Observations conducted throughout all stages of the Presidential Election show that in majority of election precincts, contrarily to the law, members and chairpersons of PECs worked in two jobs – in their permanent job and in the election commission. In so doing, such members of PECs violated Article 17 (Status of Member of Election Commission), Article 30 (Organization of District Election Commissions) and Article 36 (Organization of Precinct Election Commissions) of the Election Code.

## **VII. NOMINATION AND REGISTRATION OF CANDIDATES**

The process of nomination and registration of presidential candidates started on August 1 and ended on September 5, 2008. According to the information of the CEC by September 15, 2008, twenty-one persons received signature lists to collect voter signatures and their candidacies for Presidency was approved by the CEC. During the process of collection of signatures, the CEC annulled candidacies of three of them. Out of ten persons who submitted back completed signatures lists, the CEC registered candidacies of seven and refused to register candidacies of three. Eight persons did not submit completed signature lists until the deadline established by the CEC.

As in the case of previous elections, one of the main problems observed in the process of registration of candidates during this Election was the lack of transparency. For example, independent observer Ulviyya Tahmazli applied to the CEC with the request to observe the process of checking signature lists for nomination of candidates, but her request was declined. It should be noted that in some cases, the CEC did not allow not only observers, but also legal representatives of presidential candidates to participate in the process of checking signature lists. A serious violation of law with regard to this

issue was noted during the process of registration of the candidacy of Mais Gulaliyev, Leader of the Green Movement. M. Gulaliyev submitted completed signature lists to the CEC on September 5, 2008 and after this, verification (checking) of signature lists started. However, official representative of M. Gulaliyev was not allowed to participate in the process of checking signature lists.

In its meeting held on September 11, 2008, the CEC rejected to register candidacy of M. Gulaliyev on the following grounds: (1) number of valid signatures were less than stipulated in the law; (2) information about his property submitted to the CEC was not correct; (3) he did not give precise information about his income; (4) he did not submit initial financial report in accordance with law. M. Gulaliyev, considering this decision of the CEC biased, applied to Baku Court of Appeals. In his petition to the Court, M. Gulaliyev put that the CEC's protocol about invalidity of signatures for his nomination was incorrect and that the signatures were not checked correctly. However, the Court made a decision against his claims, after which the candidate appealed to the higher court instance – Supreme Court. The Supreme Court made a verdict that the decision of the previous court (Court of Appeals) should be kept in force.

In general, the process of nomination of candidates, collection of signatures in support of candidates, and registration of candidates went on quietly and calmly, but some severe violations of law were observed. Especially, participation of the representatives of local executive authorities and other state organizations in the process of collection of signatures in support of the government's candidate was noted. For example, senior managers of the Academy of Agriculture and University of Technology, both located in Ganja city, instructed their faculty and staff members to give their signatures only in support of Ilham Aliyev, current President and presidential candidate.

According to the information received from voters, in this period, there were cases in which voters were forced to give their signatures in support of a candidate. In other cases, citizens' ID cards were illegally collected from them and their ID details were used in filling out signature lists of a candidate without their knowledge. For example, in Samukh Election District No: 102, Vilyam Hajiyeu, Head of the local executive authority, ordered chiefs of all state organizations to collect copies of the ID cards of their employees for the purpose of collecting signatures in support of presidential candidate Ilham Aliyev. Collected ID cards were used for filling out signature lists for nomination of presidential candidates. This process was led by Ilham Hasanov, General Doctor of Samukh District's Central Hospital.

In this stage of the Election, there were also cases in which presidential candidates were pressurized and/or their activities were interfered in. For example, in order to hinder activities of Mahabbat Jabbarov, resident of Beylagan district who collected signatures in support of presidential candidate Igbal Agazade, he was pressured and water supply to his house was cut.

**Below are some other examples of the violations of law noted by independent observers during the process of registration and nomination of candidates:**

- Upon instruction of Aziz Azizov, Head of Jalilabad Local Executive Authority, on September 2, 2008, Director of Jalilabad District Education Department Adalat Asgarov instructed the school directors that all teachers should vote for candidate Ilham Aliyev. On August 28, 2008, Aziz Azizov visited election precincts # 28 in Jalayir village, # 29 in Kovuzbulaq village and # 22 in Kurdler village, and ordered local executive representatives as well as heads of municipalities to campaign in favor of candidate Ilham Aliyev.

- In Yardimli District, Head of the Executive Authority Khazar Aslanov, Director of the Education Department Kamal Ashurov and Director of the Cultural Department Ayaz Aliyev visited villages and instructed people to give their signatures in support of candidate Ilham Aliyev.
- Suleyman Mikayilov, Head of the Executive Authority of Lankaran city, carried out campaign of candidate Ilham Aliyev, during his meetings in the territory of the district. Jamil Huseynov, Head of Lankaran LiVan Municipality, gave instruction to all of his employees that their families and relatives should vote for candidate Ilham Aliyev.
- Rafael Pesiyev, Director of the Land Department of Beylagan District, threatened Vusal Mukhtarov, Cashier of Beylagan City Municipality, that he would get him fired if the latter did not collect 100 signatures in support of candidate Ilham Aliyev and help with Ilham Aliyev's campaigning.
- According to the information received from Nizami (Ganja) First Election District No: 37, Nizami (Ganja) Second Election District No: 38, Kapaz (Ganja) First Election District No: 39, Kapaz (Ganja) Second Election District No: 40, Goranboy-Naftalan Election District No: 96, Shamkir City Election District No: 98, Shamkir Rural Election District No: 99, Shamkir-Dashkasan Election District No: 100, Samukh-Shamkir Election District No: 102, Tovuz Election District No: 105, Qazakh Election District No: 107 and Agstafa Election District No: 108, chairpersons of local branches of the ruling New Azerbaijan Party in these areas, influenced the will of employees of educational, healthcare and other state organizations through local executive authorities and collected copies of their ID cards beginning from July.
- On August 17, in the territory of Nizami (Ganja) Second Election District No: 38, two persons collected signatures from voters in favor of Hafiz Hajiyev, presidential candidate from Modern Musavat Party, under the pretext of conducting national census. Their being supporters of Modern Musavat Party was revealed when they were asked authorization documents. However, in the list of signatures, they did not put the name, surname and organization of the candidate. These persons stopped this swindle after the election headquarters of their party as well as DEC No: 38 were informed about it.
- In Kapaz (Ganja) First Election District No: 39, when Salman Imanov, the Chairman of *Umid* (Hope) Party's Election Headquarter in the Western region and other representatives of the Party collected signatures in Uzeyir Hajibeyov Street, it was revealed that local police officer and House Management Department collected copies of ID cards from the residents in July.
- In Gusar Election District No: 51, name and surname of the candidate of Modern Musavat Party Hafiz Hajiyev, were not put down in the signature lists during the process of collection of signatures.
- In precincts # 8 and 10 of Agjabadi Election District No: 82, it was observed that Javad Mammadov, who collected signatures in support of candidate Ilham Aliyev, concurrently collected signatures in support of the candidate of Modern Musavat Party Hafiz Hajiyev.
- In Goychay-Agjabadi Election District No: 89, Mansur Guliyev, Deputy Chairman of the Municipality of Arabjabirli village, participated in the process of collecting signatures in support of presidential candidate Ilham Aliyev.

- In the territories of Shamkir City Election District No: 98 and Shamkir Rural Election District No: 99, representatives of House Management Departments and local police offices visited voters' houses and collected their ID information.
- In Agstafa Election District No: 108, copies of the ID cards of employees in educational, healthcare and other public organization were collected during June-July. According to the information received from Shamshad Nagiyev, Chairman of Umid Party's Agstafa district branch, members of candidate Ilham Aliyev's election headquarter in Agstafa district collected copies of approximately 30.000 ID cards in this way. In Soyuq Bulaq village of the same district, people's ID cards were collected with the help of the local police officer.

## VIII. ELECTION CAMPAIGNING

The election campaigning process started on September 17, 2008 and lasted till 08:00 a.m., October 14, 2008. Seven presidential candidates registered at the CEC participated in this process.

EMDS observed that in comparison with 2003 Parliamentary and 2005 Presidential elections, campaigning period of October 15, 2008 Presidential Election went on in a dull and less heated environment. Intense political debates between competing candidates did not take place during the campaigning period. Presidential candidates did not show enthusiasm for holding public meetings with voters and wider segments of population were not attracted to debates concerning the election. As a result, presidential candidates could not create a competitive election atmosphere and voters' opportunities for alternative choices were limited.

### 1) Conduct of the Election Campaigning

#### ● Election campaigning in the media

Election campaigning is conducted through TV, radio, and print media. In this Election, Public (*Ictimai*) TV and Radio allotted free airtime (six hours a week – three hours on TV and three hours on Radio) to the candidates. However, EMDS noted that the time of roundtables with presidential candidates in TV and Radio was not suitable for voters to watch or listen. These roundtables were aired right after the close of business hours, when majority of working people did not have an opportunity to watch TV (every Tuesday, Thursday and Saturday, at 18:50). Usually, majority of working people are on their way back home at this time and so, cannot watch TV.

The election law also gives presidential candidates the right to conduct election campaigning on paid basis and certain amount of money was allotted to the candidates from the state budget (28.800 New Azerbaijan Manat to each candidate) for this purpose. However, as the prices of airtime in private TV and radio stations were very high, majority of the candidates did not use this right. Some of the candidates stated that the funding allotted from the state budget does not suffice for conducting campaigning on paid basis.

During the campaigning period, the majority of national-level TV stations allotted more airtime to the speeches and visibility of current President and presidential candidate Ilham Aliyev. News about I. Aliyev's activities, connected with implementation of his functions as President, was widely put in the daily media. From this perspective, as compared to the other candidates, more time/space in electronic/print media was given to I. Aliyev.

In this period, a local NGO – Institute of Reporters’ Freedom and Security (abbreviation in the Azerbaijani language – RATI<sup>5</sup>) conducted monitoring of the Azerbaijani media with support of the Slovakian NGO, MEMO98. According to the second report of RATI which covered the period from September 17 – October 9, coverage of the activities of the Government was reduced and more time was allotted to other presidential candidates in the news programs of the Public TV in this period. Nevertheless, still I. Aliyev’s coverage was more than his rivals in the presidential race. After starting of the official campaigning period, Public TV’s news program allotted 14 minutes 8 seconds for Ilham Aliyev’s coverage. 75.6% of the coverage was evaluated as “positive”, 24.4% - “neutral”. The second candidate in terms of coverage in Public TV was Fazil Gazanfaroglu with 1 minute 42 seconds, mainly reported “neutrally”. The time for coverage of the other 5 candidates was 5 minutes 19 seconds in total. Thus, Public TV did not ensure equality in the coverage all candidates in its news program.

RATI noted that the state TV channel, AZTV, showed its immense support to President Ilham Aliyev. During the period of monitoring, AZTV allotted 14 hours 38 minutes 27 seconds to I. Aliyev in its news programs, while the time allowed for all other candidates’ coverage was only 49 seconds, mostly evaluated as “neutral”. In AZTV’s news programs, full texts of President’s decrees or executive orders were read and during all this time, picture of I. Aliyev was shown in the background. Reading of some of these texts took too much time; for example, in AZTV’s September 27 news program, reading of President’s decree on awarding employees of Prosecutor’s Office took more than 7 minutes. In another news program of AZTV, on October 4, reading of President’s decree on awarding employees of educational institutions took approximately 5 minutes. Moreover, during the period monitoring, AZTV mainly showed I. Aliyev in ceremonial events and/or while doing benevolent activities.

A national-level private TV station *Lider TV* allocated 1 hour 16 minutes 58 seconds for the coverage of I. Aliyev and only 37 seconds for the coverage of the other candidates.

*Space TV*, another national-level private TV channel, allotted 42 minutes 20 seconds to the government, with completely positive coverage, while the other candidates’ activities were not covered at all (0 seconds).

Most of the airtime (1 hour 2 minutes 30 seconds) apportioned for the coverage of presidential candidates in *ATV*, also a national-level private channel, was devoted to the government.

Another nationally broadcast TV channel *Xazar TV* spared relatively less time to the government – 28 minutes 54 seconds, which was mainly positive coverage. The second candidate report reported in their news program was Hafiz Hajiyev with 42 seconds.

Only in the news program of *ANS*, a nationally broadcast private TV channel, all candidates were given opportunity to express their ideas about different issues. However, in general, the channel devoted most of its coverage to the current President – 39 minutes 9 seconds. The President’s coverage was mainly positive or neutral. The second candidate in terms of coverage in ANS TV was Igbal Agazade, with 5 minutes and 6 seconds of neutral and positive (50/50) reporting.

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<sup>5</sup> For detailed information, see: [www.irfs.az](http://www.irfs.az)

According to the report of RATI, the TV channels, by and large, did not allot any airtime to the political leaders who boycotted the Election and thus, the voters were not given a chance to understand the reason behind boycott decision of those leaders.

Observations of local media organizations as well as EMDS show that extensive coverage of the government's candidate in state and private TV channels during the campaigning period was a result of the continued negative attitude of the authorities towards political pluralism. Here, a major issue of concern is that TV stations funded from the state budget did not fulfill their obligation to inform the society about alternative views of the government's political opponents. Furthermore, by not giving proper opportunities to the political opposition to express its views, all TV stations in the country failed to serve as arenas for debates and exchange of views, where the society could get objective and detailed information about competing political forces. Consequently, voters' right to receive accurate and fair information about the candidates was restricted.

- **Organization of election campaigning through public events**

Among all presidential candidates, only election headquarter of Ilham Aliyev, Chairman of the ruling New Azerbaijan Party, held a public meeting in Baku on September 17, 2008, with participation of thousands of voters. However, candidate I. Aliyev himself did not participate in this meeting. During campaigning period, I. Aliyev visited various regions of the country as President and presidential candidate and held a number of meetings with the population. However, it was not possible to determine whether I. Aliyev's speeches in these meetings were of campaigning character, because he did not ask voters to vote for him. In general, it was observed that in public events or meetings, presidential candidate I. Aliyev did not give promises to voters, invite them to participate in the election, or ask them to vote for him.

Differently from the candidate of the ruling party, other presidential candidates did not carry out firm election campaigning at the national level. This could be explained by the lack of presidential candidates' social resources, weak organization of election campaigning by candidates, as well as, use of administrative resources in favor the government's candidate. As a result, the election campaigning period mainly passed in an uncompetitive atmosphere and thus, voters' opportunities to make alternative choices were limited.

- **Conduct of election campaigning through print materials**

In October 15, 2008 Presidential Election, certain innovations were observed in the process of election campaigning. Election headquarter of Igbal Agazade, Chairman of Hope (*Ümid*) Party and presidential candidate, distributed special DVD disks and sent out SMS messages about election platform of the candidate. At this stage, all presidential candidates published and organized distribution of their posters in various sizes and booklets.

During the campaigning period, observers noted violation of equality of opportunities between candidates with regard to posting of campaigning materials. In other words, one candidate was given superiority over others in posting their campaigning materials and so, equality between the candidates was breached. It must be noted that such cases violate Article 87.2 of the Election Code. For example, only posters of Ilham Aliyev, presidential candidate of the ruling New Azerbaijan Party, were attached on campaigning boards located in the territories of precincts # 1, 2, 3, 4, 5, 6, 7 and 8 of Gusar Election District No: 51. The same situation was observed in precincts # 20, 21 and 31 of

Jalilabad Election District No: 67, as well as, in majority of precincts in Shamkir City Election District No: 98, Shamkir Rural Election District No: 99, Shamkir-Dashkasan Election District No: 100, Goygol-Dashkasan Election District No: 101, and Gedebe Election District No: 103. None of the presidential candidates submitted any complaint to the election commissions in connection with such cases. Observers also noted passivity on the part of some candidates with regard to organization of their election campaigning by the means of campaign posters.

Observers also noted that only pictures/posters of presidential candidate Ilham Aliyev were attached in the campaigning boards in front of precincts # 5, 6, 8, 11, 15 and 21 of Nizami First Election District No: 24. The campaigning board located in front of the precinct # 1 of Yardimli-Masalli Election District No: 72 were completely occupied with posters of candidate I. Aliyev and there was no place left for posters of the other candidates.

It must be mentioned that before starting of the presidential election, President and presidential candidate I. Aliyev gave an instruction to take away his pictures from parks, streets and roadsides. After this, the number of publicized posters of the President decreased countrywide. Despite this, during the election period, there remained a vast number of posters of I. Aliyev attached in the walls of buildings, shopping centers and public transport vehicles.

## **2) Use of Administrative Resources in the Election Campaigning**

Cases in which administrative resources were used in favor of the candidate of New Azerbaijan Party were observed in the period of election campaigning. It should be noted that such cases, which are considered as traditional violations of law in Azerbaijan's election practice, are mainly characterized by participation of local executive authorities in the organization of a candidate's election campaigning. Local and international observers had noted use of administrative resources in the election campaigning during all elections held in the country in the last 10 years<sup>6</sup>.

Such violations of law also occurred in the October 15, 2008 Presidential Election. It was observed that citizens were forced, through local executive authorities and organizations financed from the state budget, to participate in public meetings of a presidential candidate. Thus, free will of the voters was subject to pressures and their right to make their choice freely was violated. Such cases violate the Election Code and Code of Administrative Misdemeanors of the Republic of Azerbaijan, and are contrary to the OSCE standards on organization of free elections.

For example, according to the information given to EMDS, Nariman Movsumov, instructor of the Medical School No. 1, forced his students to go to the campaign meeting of presidential candidate Ilham Aliyev on September 17, 2008. Transportation of students to the meeting was organized and those who refused to go were threatened that they would be ousted from the School.

## **3) Pressures**

During the election campaigning period, observers did not note any positive changes concerning protection of the citizens' right of free and peaceful assembly, as well as, assurance of the freedom of expression and media. After the beginning of the election campaign, Executive Authority of Baku City did not allow political parties, which boycotted the election, to hold any peaceful protest action. At the same time, organization of public debates concerning the elections was restricted in the capital-city Baku and other regions. In the regions, mainly the local executive authorities did not

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<sup>6</sup> See: Relevant reports of OSCE/ODIHR and Election Monitoring Center.

allow such gatherings. For example, representatives of local executive authorities of Shamakhy and Aghsu districts prohibited all tea houses, cafes and restaurants to allow holding any election-related events and warned the owners of such places that relevant events can be held only after agreeing with local executive bodies.

Policemen did not allow Emil Mammadov and Maarif Akbarli, correspondents of “Trend” Information Agency and Radio Liberty respectively, to take pictures during the campaigning meeting of presidential candidate Ilham Aliyev on September 17, 2008. When the journalists refused to do so, the policemen wanted to forcefully put them in the police cars and get away from that area. Only after interference of other journalists, they were released.

The application of the political parties, which boycotted the election, to hold a Public Forum in Baku City was turned down by the authorities. The venues for holding press conferences and civil-political events were artificially restricted.

#### **4) Destruction of Campaigning Materials**

EMDS’s observers noted destruction of campaigning materials of presidential candidates during the campaigning period. For example, it was observed that posters of Iqbal Agazade, Chairman of Hope Party and presidential candidate, attached on the campaigning board in front of the precinct # 9 in Agstafa district were repeatedly destroyed. The same also occurred in the precinct # 21, which is located in the building of executive office of Poylu village of Agstafa district. Shamshad Nagiyev, Chairman of Agstafa district branch of Hope Party, claimed that it was done by Khalil Nasibov, representative of local executive body in Poylu village, and Tahir Bayramov, Secretary of the PEC # 21. Posters of I. Agazade were also torn down in the territories of some election precincts located in Yasamal and Binagadi districts of Baku.

The observers also noted that insulting pictures were drawn on the poster of presidential candidate Hafiz Hajiyev affixed in the campaigning board in front of the precinct # 3 of Samukh-Shamkir Election District No: 102. In order to overcome this, representatives of H. Hajiyev attached new posters onto the spoiled ones.

#### **5) Transparency in the Funding of Election Campaigning**

Transparency was not provided in the funding of election campaigning during both the election and post-election period. With the exception of Ilham Aliyev and Gudrat Hasanguliyev, the presidential candidates did not publicize any information about their campaigning budgets and expenditures. Although the Article 95 of the Election Code stipulates publication of the candidates reports on financing of the election campaigning, implementation of this provision was not ensured.

#### **Other examples of violations of law noted by the observers during the campaigning period:**

- Campaign meeting of presidential Ilham Aliyev was held in the Central Stadium of Khachmaz City on September 23, 2008. Voters from villages of Khachmaz district were brought to the meeting by buses organized by local executive authorities.
- In the congress of Baku City Education Department held on September 9, Naila Rzaquliyeva, Head of the Department, carried out campaigning on behalf of candidate Ilham Aliyev and called all education staff to vote for I. Aliyev.
- On September 22, in the 13<sup>th</sup> Congress of Azerbaijani Teachers, Minister of Education Misir Mardanov campaigned on behalf of presidential candidate Ilham Aliyev. He said that all employees in the education sector had already given their decision and would vote for Ilham Aliyev.

- In the 3<sup>rd</sup> Congress of Women held on September 26, Hijran Huseynova, Head of the State Committee for Family, Women and Children Issues, declared that all women would vote for candidate Ilham Aliyev.
- Within the framework of candidate Ilham Aliyev's election campaign, a mass action was held in front of the Milk Factory in Samukh district on October 3. Valeh Alasgarov, Vice-Speaker of the Parliament, also participated in the event. The voters were not allowed to leave the event until the end, and teachers and schoolchildren that wanted to leave were prevented by the police.
- Vugar Hajiyev, Chief of Goygol District State Road Police, instructed his employees to vote for Ilham Aliyev on the Election Day and threatened them that he would fire anybody who voted otherwise.
- Shakir Ibadov, Director of Goygol District's Malikkend Village School, ordered all teachers and students to vote for Ilham Aliyev. In the same district, Azer Aliyev, Head of the village municipality instructed all members of the municipality in a municipal meeting (held on September 25) that they and their relatives should vote for candidate Ilham Aliyev.
- In Kochvelili village located in the territory of Agstafa Election District No: 108, Tahir Imanov, representative of village executive authority, conducted door-to-door campaign and asked village residents to vote for Ilham Aliyev.
- Aydin Aliyev, Director of Ganja State College of Humanities, ordered all employees of the College to go to the precinct election commissions in their places of residence and cancel their voter registration in those precincts. He told them that they should vote in the election precinct located in the building of the College on the Election Day.
- In Baku State University, Dean of the Faculty of Chemistry Abdulsaid Azizov and Dean of the Faculty of Journalism Yalchin Alizade demanded their students to get a document about change of voter registration from their respective precincts (places of residence) and vote at the Baku State University on the Election Day. Vagif Hasanov, Dean of the Faculty of Chemistry of Azerbaijan State Pedagogical University, also demanded the same from his students.

## **IX. THE ELECTION DAY**

### **1) Observation Methodology / Deployment of Observers on the Election Day**

On the Election Day, 1680 independent observers, individually-registered at the CEC and DEC's, conducted monitoring based on Parallel Voting Tabulation (PVT) methodology. This is a statistical methodology, according to which appropriate number of election precincts representing the whole country is selected through random sampling and observers (two observers per precinct) are located in these precincts. It should be noted that this methodology has been used for holding free and fair elections and defending voters' rights in many countries of the world.

Members of EMDS conducted trainings for 1836 Azerbaijani citizens to prepare them for conducting observation in 840 election precincts on the Election Day. 1680 of these trainees observed the election in 840 precincts in accordance with PVT methodology.

The observers were informed about Election Day rules, functions of observers, and impartial observation. They were provided with Guidebook on Election Day Rules, Manual on Rules of Observation, as well as, observation forms and instructions. According to Articles 40.4 and 40.5 of

the Election Code, observers received accreditation on their individual initiative; majority of them were accredited in DEC, more than 600 observers – in the CEC.

The observers submitted to the General Information Center their information about opening of polling stations, voting process, counting of votes, and voter participation 5 times during the day. 40 operators working at the General Information Center entered the information received from the observers to computer databases in accordance with a special methodology. A group of lawyers assisted observers with regard to the rules and procedures concerning voting and counting of votes on the Election Day.

After the Election Day, the information submitted by the observers was verified by comparing with the information on Observation Forms, Acts on Violations of Law, and Final Protocols of election precincts on the election results.

**The results of the Election Day observation are based on the reports that were submitted from 80% of randomly-chosen election precincts in 123 election districts (constituencies). EMDS divided the information received from 123 election districts countrywide between 10 indicative regional observation zones. (Regional observation zones and list of election districts included in each zone are presented in Appendix 1)**

*On the basis of 771 Observation Forms, 452 Acts on Violations of Law (this number excludes some Acts that were not taken into consideration because of being incomplete) and 579 Final Protocols of election precincts received from 840 randomly-chosen precincts in 123 election constituencies, the experts of EMDS analyzed three stages of the Election Day – organization and opening of election precincts, voting, and counting of votes.*

## **2) Election Day Observation**

Although observers noted serious violations of law in some precincts on the Election Day, in comparison with previous elections, such violations were not widespread. In general, small number of problems was observed in following election rules during the process of voting and counting of votes on the Election Day.

### **a) Opening of election precincts**

Observers witnessed negligible number of problems at the time of opening of election precincts: 99.2% of the precincts were opened at 07:00 a.m. and in 98.8% of the precincts necessary conditions for ensuring secrecy of voting were created.

### **b) General situation in the country with regard to the organization of election precincts:**

- 99.2% of the election precincts were provided with invisible ink, ultra-violet lights, and batteries for the lights;
- In 99.3% of the election precincts, empty ballot boxes were shown to all people at the polling station before starting of voting process;
- In 97.8% of the election precincts, number of voters registered in the territory of the precinct and number of ballot papers were announced before starting of voting;
- In 94.8% of the election precincts, number of voters who applied for voting outside the polling station (because of illness, disability, etc) was announced;

- In 99.2% of election precincts, voting process started at time determined by the law – 08:00 a.m.

### **c) Voting process**

During the voting process, observers noted that some of the problems, which were widespread in previous elections, occurred in negligible number of cases. For example, in 96.6% of the election precincts, voters who possessed necessary documents participated in voting without any obstacles and in 95.2% of the election precincts, voters participated in voting after signing voter lists.

**Despite this, serious violations of law that could affect voting results took place in 34% of the election precincts countrywide. EMDS divided such violations into the following groups in terms of number and nature:**

- **In 9.5% of the election precincts, it was observed that voters were allowed to participate in voting without controlling whether or not their fingers were inked.**

For the first time in Azerbaijan's election system, the rule about controlling voter's finger to see if s/he voted somewhere else was introduced on the eve of November 6, 2005 Parliamentary Elections. According to this rule, before entering the polling station, thumbs of the voter must be checked with ultra-violet light to see if they are marked with invisible ink. If the ultra-violet light discovers ink in voter's finger, this means s/he has already voted and so, s/he cannot be allowed to vote again. As in the case of November 6, 2005 Parliamentary Elections, during October 15, 2008 Presidential Election, this rule was not correctly applied in some election precincts, where voters were allowed to participate in voting without checking their fingers.

- **In 12% of the election precincts, it was observed that voters were allowed to participate in voting without marking their fingers with invisible ink.**

According to this rule, which has been applied since November 6, 2005 Parliamentary Elections, left thumb of the voter should be marked with invisible ink while entering the polling station. This rule is aimed at preventing multiple voting by one voter. It was observed that this rule also was not correctly implemented in some election precincts during October 15, 2008 Presidential Election.

- **In 15.8% of the election precincts, it was observed that persons, whose names were not in the voter lists, were allowed to participate in voting. In 4.5% of the election precincts countrywide, it was noted that in each of these precincts more than 10 such persons were allowed to vote.**

According to the Election Code, every voter is supposed to vote in the election precinct organized in the territory where s/he is officially registered. As an exception, s/he can cancel registration in his/her precinct and showing the cancellation document, vote in another precinct. However, as it was the case in previous elections, in October 15, 2008 Presidential Election, this rule was not correctly followed in some election precincts, where persons, whose names were not in the voter lists (and who were not registered in the territory of the relevant precinct), were allowed to vote without showing any document about cancellation of registration in another precinct.

- **In 13.3% of the election precincts, there were cases in which one voter voted more than once.**

According to the Election Code, on the Election Day, one voter can participate in voting only once. However, as noted in previous elections, during the October 15, 2008 Presidential Election, serious violations of law concerning one person's voting more than once were observed.

- **In 10% of the election precincts, ballot stuffing (putting forged ballots into the ballot box) was observed.**

Such violations of law were mainly aimed at preparing forged ballot papers in favor of a candidate and putting them in the ballot box. Such violations of law, which were committed with the participation or under patronage of members of precinct election commissions (PECs), directly affect and so, cast doubt on voting results in relevant election precincts.

- **In 15% of the election precincts, the cases of bringing groups of voters to the polling stations were observed.**

According to the Election Code, every voter should participate in the voting process voluntarily. No voter can be forced or instigated to vote. However, as it was the case in the previous elections, in October 15, 2008 Presidential Election, it was observed that especially local executive authorities organized bringing of voter groups to the election precincts on the Election Day. Whereas in the previous elections it was done for the purpose of bringing more voters to vote for pro-government candidates, in the Presidential Election it was aimed at increasing voter turnout. It must be noted that bringing of voters to polling stations is organized with vehicles and the observers noted that these vehicles belonged to the persons working in local executive structures.

- **In 10% of the election precincts, voters were instigated to vote in favor of one of the candidates.**

The law prohibits not only campaigning in an election precinct on the Election Day, but also putting pressure on the will of voters. However, like in previous elections, during October 15, 2008 Presidential Election, harsh violations of law were observed with regard to instigating voters to vote in favor of one of the candidates and thus, forcing the will of the voters and conducting illegal campaigning on the Election Day.

- **In 13% of the election precincts, secrecy of voting was violated.**

Such type of violations usually happens when voters mark the ballot papers outside the polling booth. In some precincts, members of PECs did not follow the rules on secrecy of voting and allowed voters to mark ballot papers in an open area of the precinct.

As it can be seen, in term of their nature, the violations of law that occurred during the voting process were the same as the traditional violations observed in the previous elections. However, in comparison with the previous elections, such violations occurred in less numbers (9-15% of election precincts countrywide) during October 15, 2008 Presidential Election. For comparison, in November 6, 2005 Parliamentary Elections, such violations took place in 13-77% of precincts during the voting process on the Election Day. Nevertheless, although the decrease in the number of such traditional violations during this Presidential Election is appreciated, it must be noted that these violations affected voting results and therefore, must be subject to legal investigations.

A general statistical analysis of the information on voting process received from observers on the Election Day shows that bringing of voters to polling stations in groups mainly happened in Beylagan (39.5%) and Ganja (21.9%) regions. Also, the cases of allowing persons whose names were not in the voter lists to vote were mostly observed in Nakhchivan (26.8%) and Ganja (19%) regions. **(Violations of law observed in voting process are classified by regions in Appendix 2)**

#### d) Counting of votes

In comparison with previous elections, in October 15, 2008 Presidential Election, observers noticed less number of violations of law in the process of counting of votes. For example, in 99% of the election precincts, seals of the ballot boxes were checked before opening them. Also, in 96% of the election precincts, unused ballots were counted and destroyed before starting counting of votes, as stipulated in the law.

At this stage of the Election Day, very few important violations of law (except violations of the rules concerning transparency of the process) were observed. For example, only in 6% of the election precincts, results of the counting of votes were not correctly entered in the final protocols.

With regard to creation of obstacles on assurance of transparency in the process of counting of votes, independent observers noted the following:

- a) In 10% of the election precincts, final protocols on voting results were not published at the precinct;
- b) In 10% of the election precincts, copies of final protocols on voting results were not given to the observers.

Violations of law concerning counting of votes were largely observed in the election districts located in Nakhchivan, Shirvan, and Beylagan regions. **(Violations of law observed in the process of counting of votes are classified by regions in Appendix 3)**

### 3) Tabulation of Voting Results

In comparison with previous elections, final protocols on voting results put together in precinct election commissions (PECs) were taken into calculation of votes in higher election commissions with little or no change. The results shown in the protocols that observers received from PECs generally coincide with the official results announced by the CEC:

Candidate	CEC's results	(Initial) Results of the PECs	Difference
Igbal Agazade	2.8	3.1	0.3
Fuad Aliyev	0.7	0.8	0.1
Ilham Aliyev	88.7	88.1	0.6
Gulamhuseyn Alibeyli	2.2	2.8	0.6
Hafiz Hajiyev	0.6	0.7	0.1
Gudrat Hasanguliyev	2.2	2.3	0.1
Fazil Mustafayev	2.4	2.2	0.2

However, this information itself shows that members of election commissions made small mistakes while preparing the protocols. Equally, EMDS found out that the results shown in the protocols of 35 election precincts are different from the results officially announced by the CEC.

#### **4) Voter Turnout**

According to the information announced by the CEC, nationwide voter turnout on the Election Day was 75.6%. But according to the information EMDS received from independent observers, this figure is lower – 66.4%.

Furthermore, having carried out investigations on the election precincts, from which observers submitted reports, EMDS determined that even the lower figure (66.4%) on voter turnout did not reflect the reality, because the observers counted number of voters who came out of the polling booths and put ballots in the ballot boxes. During this process, the observers noted a violation of law – allowing persons, whose names were not in the voter lists, to vote (observed in 15.8% of the election precincts) – which led to an artificial increase in the voter turnout. Given this information of independent observers, it becomes apparent that actual voter turnout was lower than 66.4%.

The difference between figures of the CEC and independent observers concerning nationwide voter turnout (9.2%) shows that the official figure announced by the CEC has been exaggerated and so, creates doubts.

Having compared reports of independent observers with CEC's officially-announced information regarding voter turnout, EMDS came to a conclusion that the official figure is exaggerated also because of the following:

- a) According to the information on voter turnout given by PECs, in 70% of election precincts, 1 voter spent about 1 minute for participating in voting. That is, in such election precincts, 120 voters voted during 2 hours (120 minutes). As such voter turnout is physically impossible, this information is doubtful.
- b) According to the reports of 132 PECs (where observers monitored the election) on voter turnout, in their precincts, at least 300 persons voted in 2 hours (120 minutes). If this information is true, it means that one voter spent approximately 24 seconds for voting. Again, as it is physically impossible, this information seems exaggerated.
- c) In 3% of election precincts, where observation was conducted, voter turnout was more than 95%. Such voter turnout is practically impossible and therefore, doubtful.

#### **Other examples of the violations of law noted on the Election Day by the observers cooperating with EMDS:**

- According to the information received from Azad Ismayilov, who observed the election in precinct # 3 of Binagadi First Election District No: 8, Secretary of the Precinct Election Commission (PEC) Jeyran Nagiyeva and members of the PEC Irada Mehdiyeva put a bunch of marked ballot papers in the ballot box.
- According to the information received from Darya Hajiyev, who observed the election in precinct # 14 of Khatai Second Election District No: 34, member of the PEC Besti Mammadova and extraneous persons put bunches of marked ballots in the ballot box.
- According to the information given by Elnare Muradova, who observed the election in precinct # 5 of Nizami (Ganja) First Election District No: 37, Shahla (it was not possible to learn her surname) and Tinati Mishkinazi, who were assign to the precinct as doctors, put bunches of ballots in the ballot box at various times of the day.

- According to the information received from Shamil Hasanov, who observed the election in precinct # 1 of Kapaz (Ganja) Second Election District No: 40, bunches of ballots were put in the ballot box under the supervision of Fakhraddin Adigozalov and Rovshan Jafarzade, Chairman and member of the PEC, respectively. According to the information given by Khalida Ahmadova, who observed the election in precinct # 13 of this election district, at 15:30 on the Election Day, Saida Allahverdiyeva voted second time and put a bunch of ballots in the ballot box. Similarly, members of the PEC Malik Abbasov and Shafaq Salamova repeatedly voted and put bunches of ballots in the ballot box. In this election precinct, voter Fazil Isayevich voted 3 times and each time put a bunch of ballots in the box.
- According to the information given by Anar Feyruzov, who observed the election in precinct # 24 of Jalilabad Rural Election District No: 68, upon instruction of Nazim Aliyev, Chairman of the PEC, unknown persons who were not show as registered voters in the voter lists of the precinct put bunches of ballots in the ballot box. According to the information received from Elchin Musayev, who observed the election in precinct # 30 of this election district, Bedir Mirzayev, Chairman of the PEC, put a bunch of ballots in the ballot box and created conditions of other persons to do so.
- According to the information given by Gamet Abbasov, who observed the election in precinct # 5 of Gedebe-Tovuz Election District No: 104, on the Election Day, Chairman of the PEC Sakit Jafarov and member of the PEC Talat Garayev put bunches of ballots in the ballot box at 11:00 and 16:40, respectively. According to the information received from Uzeyir Bunyadov, who observed the election in precinct # 11 of this election district, member of the PEC Bahman Garayev put a bunch of ballots in the ballot box.
- According to the information received from Azad Ismayilov, who observed the election in precinct # 3 of Binagadi First Election District No: 8, after completion of the voting process, members of the PEC ousted all observers from the polling station.
- According to the information given by Elchin Musayev, who observed the election in precinct # 30 of Jalilabad Rural Election District No: 68, member of the PEC Gorkhmaz Sherbetov threatened observers and demanded them to leave the polling station.
- In precinct # 5 of Nizami (Ganja) First Election District No: 37, Chairman of the PEC Etibar Murguzov created conditions for a group of voters to participate in voting without checking their fingers.
- According to the information given by Tural Goyushov, who observed the election in precinct # 24 of Tovuz-Qazakh-Agstafa Election District No: 106, Fuzuli Isayev, another observer who came to the precinct, was allowed to vote second time without checking his finger.
- According to the information given by Nasimi Aliyev, who observed the election in precinct # 28 of Narimanov First Election District No: 19, in this precinct, employees of Polyclinic Hospital No: 7 voted two times.
- According to the information given by Tanriverdi Huseynov and Alovsat Aliyev, who observed the election in precinct # 3 of Neftchala Election District No: 61, Fakhraddin Guliyev, Director of Water and Sewage Department of Neftchala District, participated in voting several times. The observers also noted that although there were names of 127 soldiers in the voters list, more than 400 military men from the military unit located nearby were brought to the precinct and voted. During this process, neither fingers of the soldiers were checked before giving them ballot papers, nor were their fingers inked after giving them ballots.

- According to the information given by Ibish Abilov, who observed the election in precinct # 42 of Imishli-Beylagan Election District No: 80, voter Fehrüz Izzetov received ballot papers and voted on behalf of all his family members.
- According to the information received from Elchin Bayramov, who observed the election in precinct # 45 of Kalbajar Election District No: 123, Chairman of the PEC Elbrus Mirzayev allowed one voter to vote more than once.
- According to the information given by Gamet Abbasov, who observed the election in precinct # 5 of Gedebeý-Tovuz Election District No: 104, a bus with state license plate (number: 21 AC 065) brought special groups of persons for voting several times during the day. Driver of the bus Mammad Abbasov told the observer that he was doing this upon instruction of Shahin Kazimov, representative of the local executive body.
- According to the information given by Khalida Ahmadova, who observed the election in precinct # 13 of Kapaz (Ganja) Second Election District No: 40, Ilkin Huseynov, son of the Chairman of the PEC Samandar Huseynov, brought voters to the precinct in the car with license plate number 10 CF 271 multiple times during the day. In precinct # 25 of this election district, groups of voters were brought to the precinct by GazEL minivan with license plate number 10 FZ 630 several times during the day.
- In precinct # 24 of Sumgayit Third Election District No: 43, it was observed that groups of voters were brought to the precinct by the car (Lada-2106) with license plate number 10 HZ 927 during the day.
- In precinct # 16 of Absheron Election District No: 45, groups of voters were brought to the precinct by the cars with license plate numbers 10 LN 720, 10 KC 683, 10 HH 359, 10 AA 712, 10 CK 195 and 52 BD 624 during the day.
- In precinct # 28 of Samukh-Shamkir Election District No: 102, observer Punhan Namazov noted that groups of people were brought for voting by the cars (Lada-21011) with license plate numbers 34 BO 614 and 51 BX 734.
- According to the information given by Ruhulla Abushov, who observed the election in precinct # 21 of Kurdemir Election District No: 57, Chairman and Secretary of the PEC, carried out counting of votes together with the observers and unauthorized persons.
- According to the information given by Tanriverdi Huseynov and Alovzat Aliyev, who observed the election in precinct # 3 of Neftchala Election District No: 61, after counting of ballots it was revealed that there was discrepancy between the number of ballots and number of signatures in the voter list: there were 1078 ballots in the ballot box, while the number of signatures in the voter list was 1104. Afterwards, Chairman of the PEC marked 26 annulled ballots and added them to the counted ballots. Vurgun Shiraliyev, Head of the Electricity Network of Neftchala District, helped Chairman of the PEC in this process. After the counting of votes, while preparing final protocols on voting results, it became known that candidate Ilham Aliyev received 91% of votes in this precinct. Chairman of the PEC said that he received an instruction from District Election Commission (DEC) No: 61 about decreasing percentage of I. Aliyev's votes and used unused ballots to increase votes of other candidates. The Chairman refused to give copies of the final protocol on voting results to the observers.
- According to the information given by Aslan Najafzade, who observed the election in precinct # 21 of Nasimi Election District No: 22, after completion of the counting of votes, members of the PEC refused to give copies of final protocol to the observers.

- According to the information received from Elshan Tagiyev, who observed the election in precinct # 10 of Lankaran City Election District No: 73, copies of final protocol were not given to the observers. Members of the PEC told the observers that they could receive their copies on October 16, after the final protocol was approved by the DEC.
- According to the information received from Vilayat Jafarov, who observed the election in precinct # 3 of Imishli Election District No: 79, he was not given a copy of the final protocol and he requested it, Chairman of the PEC insulted him.
- According to the information given by Vasif Fatiyev, who observed the election in precinct # 36 of Imishli-Beylagan Election District No: 80, Chairman of the PEC told the observers that he did not receive any instruction about the necessity for giving copies of the final protocol to them.
- According to the information given by Vagif Talibov, who observed the election in precinct # 10 of Beylagan Election District No: 81, after the counting of votes, Chairman of the PEC took all the documents, closed the precinct and left. Voting results were not announced, copies of the final protocol were not given to observers, and the protocol was not publicized in the precinct. According to the information received from Alovzat Jafarov, who was observer in precinct # 40 of this district, after the counting of votes, copies of the final protocol were not given to the observers.
- According to the information given by Emin Guliyev, who observed the election in precinct # 18 of Fuzuli Election District No: 84, Chairman of the PEC gave observers unfilled protocols and taking all the documents, left the precinct. According to the information given by Shunasi Shamilov, who was observer in precinct # 68 of this district, Chairman of the PEC gave observers unsigned and unsealed copies of the final protocol.
- According to the information received from Abbas Asgarov, who observed the election in precinct # 46 of Lachin Election District No: 121, by the order of Mazahir Bayramov, representative of the local executive body, copies of the final protocol were not given to the observers.
- According to the information given by Naila Guliyeva, who observed the election in precinct # 23 of Sabunchu Election District No: 26, the process of counting of votes was carried out not in presence of the observers, but secretly, in the room of the Chairman of the PEC.
- According to the information given by Zahir Shirinov, who observed the election in precinct # 29 of Shamkir Rural Election District No: 99, during counting of votes, members of the PEC ousted observers from the room.
- In precinct # 11 of Shamkir-Dashkasan Election District No: 100, Chairman of the PEC Mulki Abdullayeva ousted observers from the room during counting of votes.
- According to the information given by Nijat Hasanov and Elchin Hasanov, who observed the election in precinct # 23 of Nizami (Ganja) Second Election District No: 38, Tunzala Bagirova and Akif Gambarov, Chairman and Secretary of the PEC, respectively, instigated voters to vote for candidate Ilham Aliyev.
- According to the information received from Ibrahim Hakiyev, who observed the election in precinct # 3 of Agjabadi Election District No: 82, Chairman of the PEC Tofiq Zeynalov told the voters to vote for candidate Ilham Aliyev.
- According to the information received from Shahriyar Huseynov, who observed the election in precinct # 7 of Goranboy-Naftalan Election District No: 97, a person who had no documents, under the pretext of helping voters, asked people to vote for candidate Ilham Aliyev inside the polling station.

- According to the information given by Said Aliyev, who observed the election in precinct # 17 of Gedebey-Tovuz Election District No: 104, Chairman of the PEC Agil Mammadov and PEC members Rovshan Asgarov, Mirza Hajiyev and Elman Pashayev, violating voters' rights, voted instead of them.
- According to the information given by Intizar Algayeva, who observed the election in precinct # 5 of Balaken Election District No: 109, Chairman of Qazbina Municipality brought ID cards of a few people to the precinct and voted instead of them.

## **X. OFFICIAL RESULTS AND POST-ELECTION SITUATION**

### **1) Official Results**

By a decision of the CEC, dated October 19, 2008 and with Ref. No. 29/137, the final protocol on general election results were sent to the Constitutional Court for approval. According to the CEC's final protocol, 75.12% of 4 927 561 voters registered in the country, that is, 3 701 690 persons received ballot papers and participated in voting process on the Election Day. 3 642 874 of these votes were valid, 57 760 votes – not valid. Ilham Aliyev received 88.73% of votes, i.e. 3 232 259 votes.

Having considered the documents presented by the CEC, the Constitutional Court held a Plenary Meeting on October 22, 2008, in which it passed a decision on approval and official announcement of the election results. It was said in the decision that as a response to the enquiry of the Constitutional Court of the Republic of Azerbaijan, Courts of Appeals of the Republic of Azerbaijan in Baku, Sumgayit, Ganja, Shirvan and Sheki, Supreme Court of Nakhchivan Autonomous Republic, as well as, Supreme Court of the Republic of Azerbaijan stated that they did not receive any complaints concerning the results of October 15, 2008 Presidential Election. Approving the results shown in the CEC's above-mentioned final protocol (dated October 19, 2008), the Constitutional Court declared candidate Ilham Heydar oglu Aliyev "President-Elect of the Republic of Azerbaijan".

### **2) Post-Election Complaints**

In line with the Election Code, after the Election Day, the process of checking final protocols received from DEC's started at the CEC. But unfortunately, additional documents (other than the final protocols of precinct and district election commissions), such as observers' acts on violations of law, and their comments were not investigated.

Both the CEC's decision dated October 19, 2008 and the decision of the Constitutional Court dated October 22, 2008 state that no complaints were submitted to the courts after the Election Day.

In general, it is very surprising that no complaints concerning violations of voting procedures that occurred on the Election Day were submitted, because after the Election Day, some independent observers and presidential candidates spoke about certain violations of law. The most regretful fact is that presidential candidates did not submit any complaint to the CEC about violations.

### **3) Post-Election Situation**

The International Observation Mission, jointly organized by OSCE/ODIHR, European Parliament, Parliamentary Assembly of the Council of Europe, and Parliamentary Assembly of NATO, made a statement. The statement noted that *"The elections marked considerable progress toward meeting OSCE and Council of Europe commitments and other international standards but did not meet all commitments. The election process was carried out in a peaceful manner, but was characterized by*

***a lack of robust competition and of vibrant political discourse facilitated by media, and thus did not reflect all the principles of a meaningful and pluralistic democratic election.”***

On December 15, 2008, OSCE/ODIHR publicized its Final Report<sup>7</sup> on the Presidential Election. All stages of the Election were evaluated and recommendations were put in the Report. Unfortunately, however, unlike in its previous reports, OSCE/ODIHR's Final Report on the October 15, 2008 Presidential Election did not express any view regarding conformity or non-conformity of the election process with OSCE standards regarding free and fair elections.

In their statement publicized after the Election Day, observers from the CIS noted that the Election was free and democratic.

A third statement, issued by Norway's Helsinki Committee, said that the atmosphere of Presidential Election in Azerbaijan made it impossible to hold a free and fair election. The Committee stated that major preconditions for holding elections were organization of public debates, freedom of media, and creation of equal opportunities for all political forces in the country, but none of these preconditions existed in Azerbaijan.

In the statement distributed by the French Embassy in Baku on behalf of the Presidency of the European Union, it is said that the Presidential Election did not meet international standards in terms of organization of public debates, conduct of voting, and counting of votes. The statement called for Azerbaijan to continue its efforts toward fulfillment of international obligations it has taken in the field of democratic pluralism and media freedom. Croatia and Macedonia (candidates for EU membership), Albania, Bosnia-Herzegovina, Montenegro and Serbia (potential candidates for EU membership), as well as, Iceland and Norway also joined this statement.

The Center for Cooperation of Opposition (CCO) that unites Musavat Party, Popular Front Party, Liberal Party, Civil Development Party and Public Forum for the Sake of Azerbaijan, all of which boycotted the Presidential Election, expressed its opinion one day after the Election. CCO declared that the Presidential Election was not free and fair, and that it considered the government illegitimate.

On October 24, 2008, Ilham Aliyev, who was elected for second term, held inauguration and started implementation of his duties as President.

Thus, October 15, 2008 Presidential Election did not bring any solution to the political crisis that has been observed in Azerbaijan during recent years. At the same time, it did not create opportunities for development of state-citizen dialogue in the country. On the contrary, tensions in political relations between the authorities and other political forces, which had participated in 2003 Presidential and 2005 Parliamentary elections, deepened. The Election led to *de facto* consolidation of single-party political administration and strengthening of the ruling political majority in the country.

By not participating in the Election, major opposition parties of the country showed a political behavior that did not comply with their obligations not only before their supporters, but also before the political minority in general. As a result, opportunities for participation of the minority political opposition in state administration weakened. During political debates that started shortly after the Election, opposition parties declared that they would participate in municipal elections to be held in 2009. And so, it became apparent that the decision of political opposition forces about non-participation in October 15, 2008 Presidential Election was contradictory.

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<sup>7</sup> <http://www.osce.org/odihr-elections/32175.html>

## **XI. CONCLUSIONS AND RECOMMENDATIONS**

Having analyzed the information submitted by observers with regard to all stages of October 15, 2008 Presidential Election, including the Election Day, EMDS came to the following conclusions:

- Pre-election political environment in the country did not create normal conditions for holding free and fair elections. Substantial measures were not taken to ensure participation of all political forces in the Election. Especially, reforms that would guarantee freedom of peaceful assembly, opportunities for political activity, and freedom of expression and media were not carried out. Referring to all these shortcomings, political opposition parties, which were major opponents of the ruling political party in 2003 Presidential and 2005 Parliamentary elections, did not participate in the Election.
- In general, recommendations of OSCE/ODIHR and Venice Commission of the Council of Europe were not taken into consideration. On the contrary, last amendments to the Election Code, made on June 2, 2008, limited legal opportunities for holding free and fair elections in the country and did not create confidence in the election process. After adoption of these amendments, new needs for formation of improved legal basis for a democratic election system emerged.
- On the eve of the election and during the election period, remarkable technical improvements were observed in the work of the Central Election Commission (CEC). Especially, efforts demonstrated by the CEC with regard to updating voter lists and accreditation of local observers can be noted. However, election commissions could not respond adequately to harsh violations of law that occurred in all stages of the election process. It was observed that precinct and district election commissions largely functioned under direct or indirect control of local executive bodies on the Election Day, as it was the case in the previous elections.
- Although the voter lists were compiled on the basis of old data, opportunities for updating/correcting voter lists were created at a high level. The work of “Election” Information Center of the CEC in this area can be considered an important achievement.
- While discrimination was not observed in the process of nomination and registration of candidates, other serious shortcomings were noted. These shortcomings included abuse of administrative resources and pressuring voters’ will in the process of collection of signatures in support of the government’s candidate. As a result of such deficiencies, principles of organization of the process of nomination and registration of candidates were violated.
- During the election campaigning period, there were harsh violations of law that did not seriously affect election results. These violations were mainly connected with abuse of administrative resources and participation of representatives of local executive authorities in the election campaign of the government’s candidate.
- As in the case of previous elections, the media participated in election campaigning mainly in favor of the government’s candidate. Thus, equality of opportunity between candidates with regard to using electronic and print media was hindered.
- The campaigning period was not accompanied organization of public-political debates between registered presidential candidates with the participation of broad segments of the population. Besides weak participation of presidential candidates in election campaigning, non-participation of several opposition parties in the Election led to holding of October 15, 2008 Presidential Election in an uncompetitive and “no-alternative” environment. As a result, the Election did not reflect true will of the voters.

- On the Election Day, massive violations of law that could affect election results did not take place in the process of voting, counting of votes and tabulation of voting results. Despite this, certain violations, which had been observed in the previous elections, were noted in a number of precincts in this Election too. They included bringing groups of voters to the polling stations by local executive authorities for the purpose of increasing voter turnout, ballot stuffing, multiple voting by one person, falsification of voting results and other violations.
- Official information about voter turnout on the Election Day creates serious doubts. Figures about voter turnout were artificially inflated in majority of election precincts.
- Protocols on voting results were changed after the Election Day in some election precincts. However, it is difficult to determine whether this process happened at the level of district election commissions or the CEC.
- Ensuring of transparency in the election process was mainly limited. In majority of cases, transparency was not provided in the process of checking signature lists for nomination of candidates at the CEC. At the end of the Election Day, protocols on voting results were not publicized in a number of election precincts. Also, the election process was accompanied by pressures on independent observers and this revealed existing legal-political limitations concerning election transparency.
- During the period following the Election Day, no complaint concerning the election results was submitted to the CEC or courts.

**Taking into consideration the results of its monitoring of October 15, 2008 Presidential Election, EMDS came to the following final opinion:**

- Presidential Election held in the Republic of Azerbaijan on October 15, 2008 was not free, fair and democratic. Analysis of all stages of the Election, especially election campaigning period and results of voting on the Election Day, shows that this Election was held in an uncompetitive environment with lack of alternatives and thus, did not reflect true will of the Azerbaijani people.
- State bodies of the Republic of Azerbaijan, especially political authorities, could not show strong political will for holding this Election freely, fairly and democratically.

**Based on the results of its monitoring of October 15, 2008 Presidential Election, EMDS recommends the following:**

- In order to overcome violations of law observed in the Presidential Election and improve election practice in the country, fundamental measures should be taken;
- In order to avoid deepening of political polarization in the society, the present political power should implement activities aimed at creating mutual confidence between main confronting political sides and create opportunities for political institutes in the country to participate in the process of state administration;
- All persons violating election rights, especially representatives of local executive authorities, should be charged and punished;

- Legal initiatives of local and international organizations towards improvement and democratization of the Election Code (including last amendments to the Code made on June 2, 2008) should be supported;
- Composition of the election commissions should be formed on the basis of equal representation of major political forces, in accordance with the principle of parity;
- Democratic and improved rules should be established with regard to submission and consideration of complaints about violation of election rights;
- Public debates on evaluation of election results, loopholes in the Election Code and other laws, as well as, mechanisms for submission and investigation of complaints should be organized.

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## XII. APPENDIX

### Appendix 1.

#### THE LIST of Regional observation zones and election districts

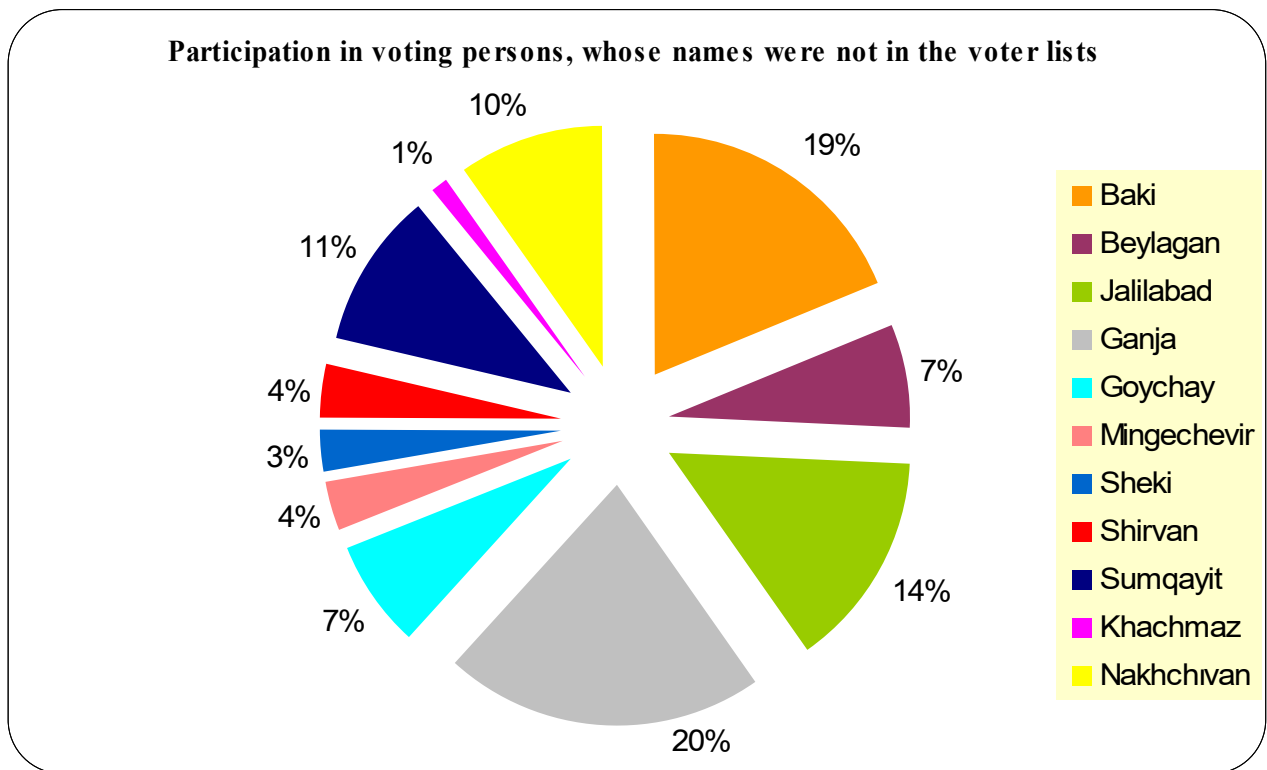
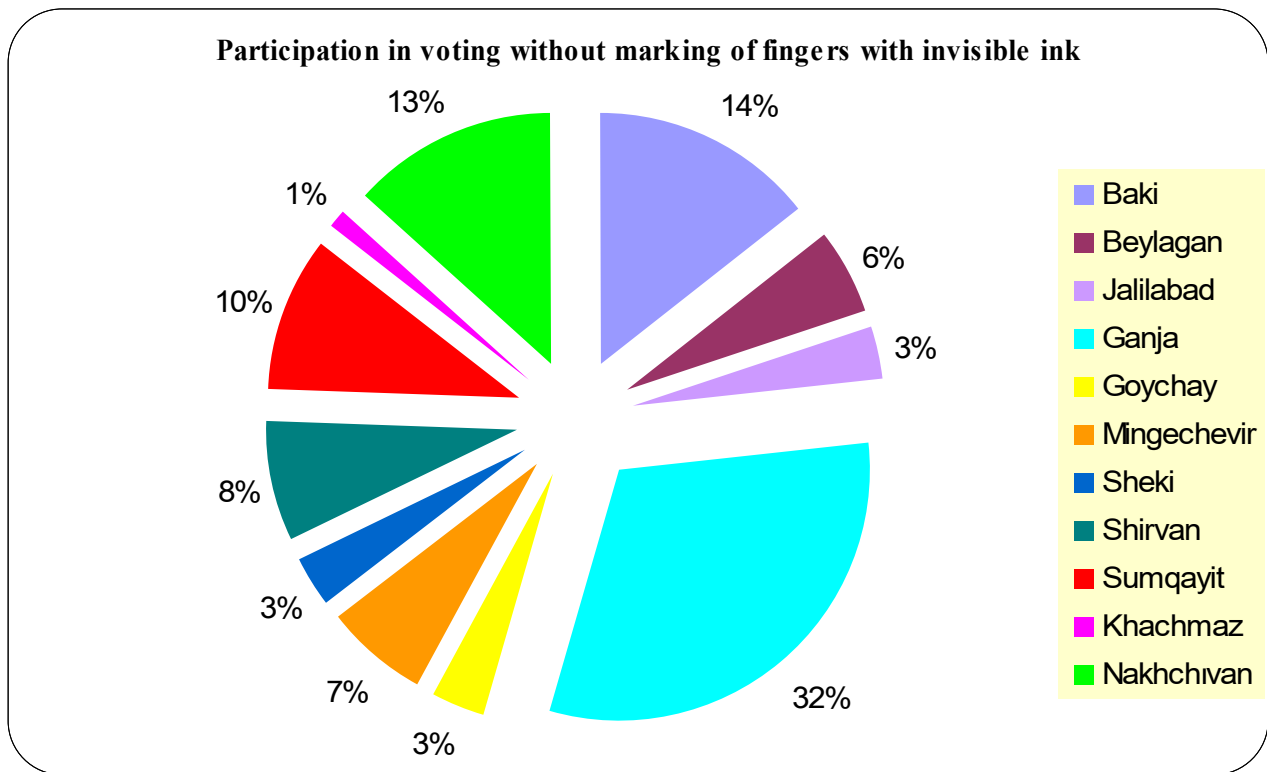
No:	Region Observation Zone	Number of Election Districts
<b>1</b>	<b>Nakhchivan</b>	Election districts No: 1-7
<b>2</b>	<b>Baku</b>	Election districts No: 8-36
		Agdam City Election District No: 118
		Jabrayil-Qubadli Election District No: 120
		Lachin Election District No: 121
		Kalbajar Election District No:123
		Shusha-Fuzuli-Khodjali-Khodjavand Election District No:124
		Zangilan-Qubadli Election District No: 125
<b>3</b>	<b>Ganja</b>	Election Districts No: 37-40
		Election Districts No: 96-108
		Lachin Election District No: 121
		Khankandi Election District No: 122
		Kalbajar Election District No: 123
		Shusha-Fuzuli-Khodjali-Khodjavand Election District No:124
		Zangilan-Qubadli Election District No: 125
<b>4</b>	<b>Sumqayit</b>	Election Districts No: 41-45
		Qobustan-Khizi-Quba Election District No: 50
		Fuzuli Election District No: 84
		Agdam village Election District No:119
		Jabrayil-Qubadli Election District No: 120
		Lachin Election District No: 121
		Kalbajar Election District No: 123
		Zangilan-Qubadli Election District No: 125
<b>5</b>	<b>Mingachevir</b>	Election Districts No: 47-49
		Election Districts No: 93-95
		Goranboy-Agdam-Tartar Election District No: 97
		Agiabadi-Agdam Election District No: 83
		Agdam City Election District No: 118
		Agdam village Election district No:119
		Lachin Election District No: 121
		Kalbajar Election District No: 123
<b>6</b>	<b>Khachmaz</b>	Election Districts No: 50-56
<b>7</b>	<b>Shirvan</b>	Shirvan Election District No: 46
		Election Districts No: 57-65
		Agiabadi-Agdam Election District No:83
		Fuzuli Election District No:84
		Lachin Election District No: 121
		Shusha-Fuzuli-Khodjali-Khodjavand Election District No:124
<b>8</b>	<b>Beylagan</b>	Election District No: 79-82
		Agiabadi-Agdam Election District No: 83

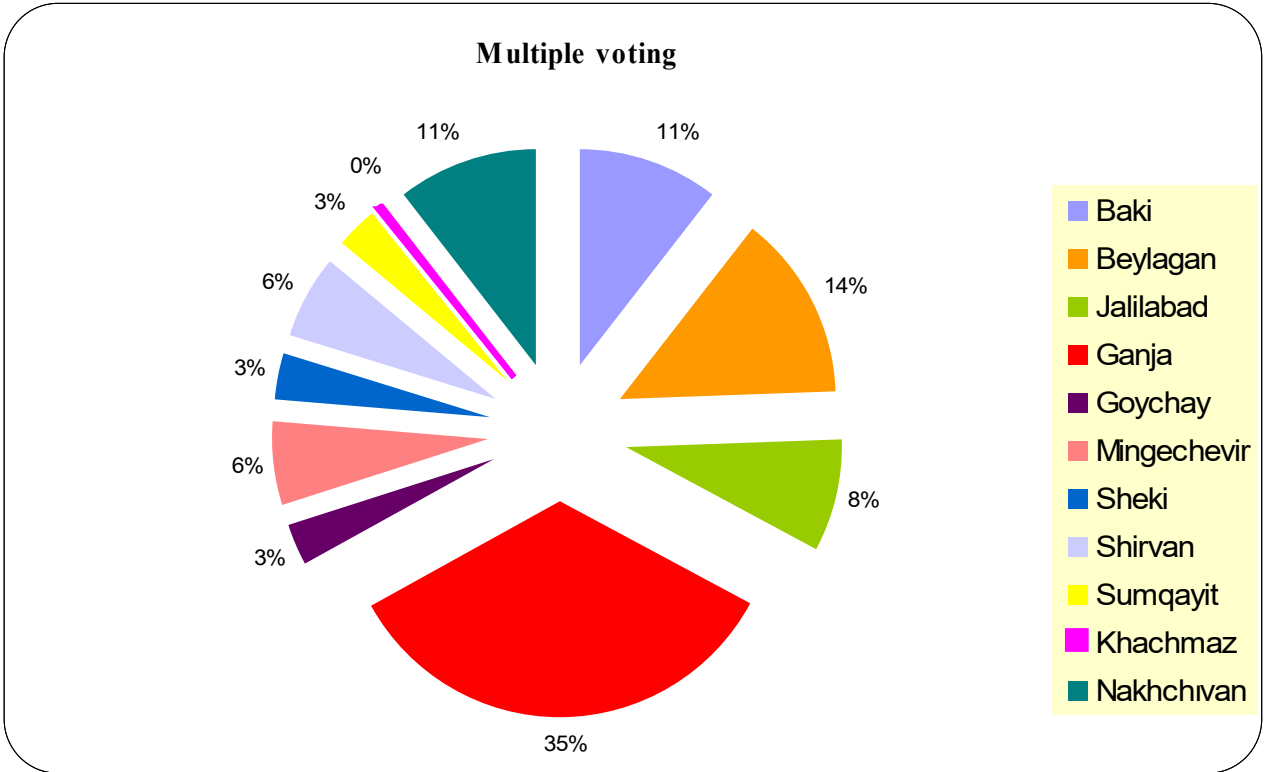
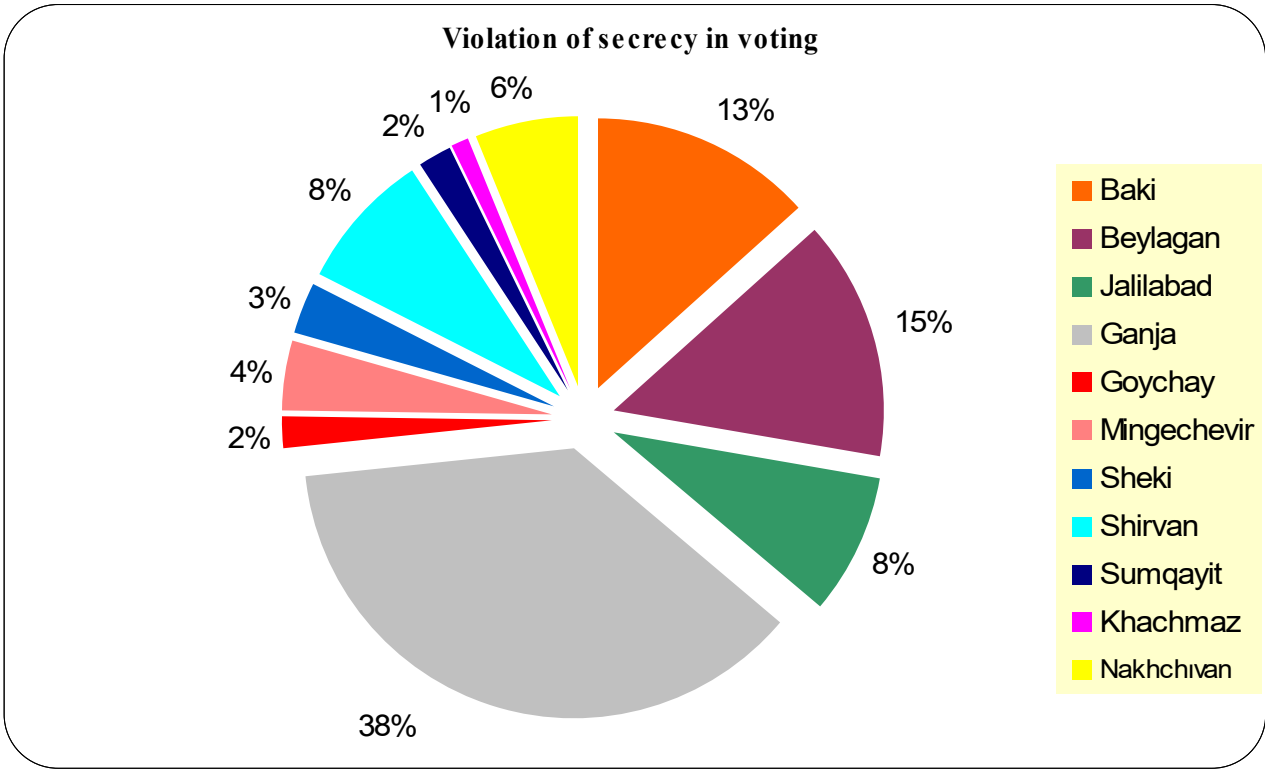
		Fuzuli Election Districts No: 84
<b>9</b>	<b>Goychay</b>	Election Districts No: 85-92
		Jabrayil-Qubadli Election District No: 120
		Lachin Election District No: 121
<b>10</b>	<b>Shaki</b>	109 – 117 Election District No:109-117
		Kalbajar Election District No: 123

Note: Election stations of election districts which IPs registered were divided among 6 observation zone.

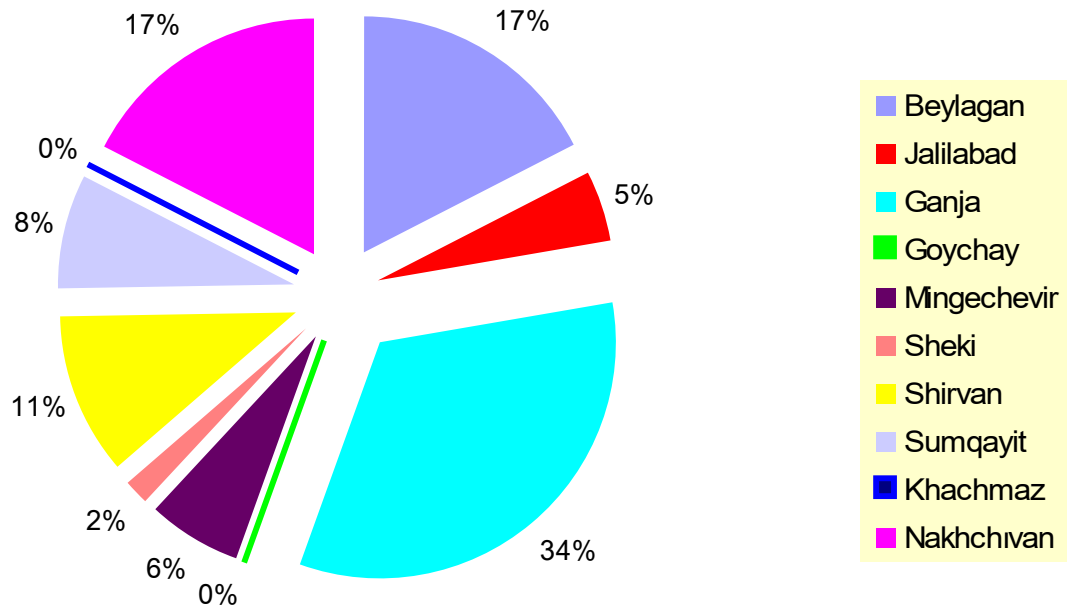
Appendix 2

Violations of law observed in voting process by regions

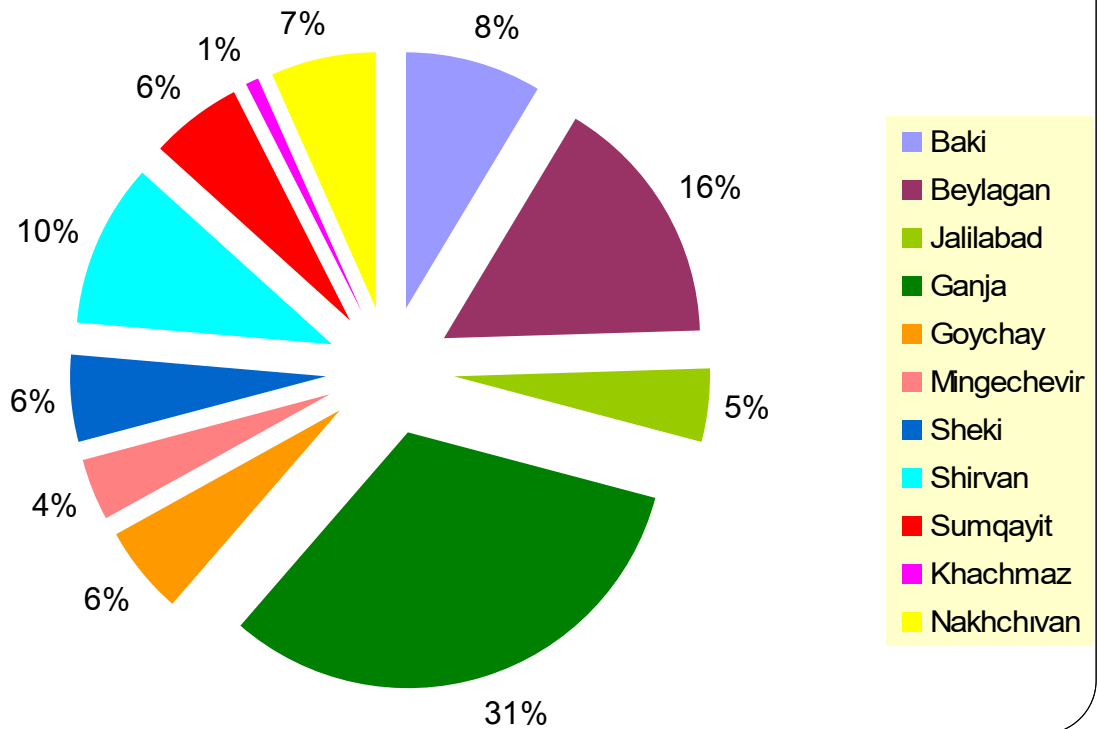




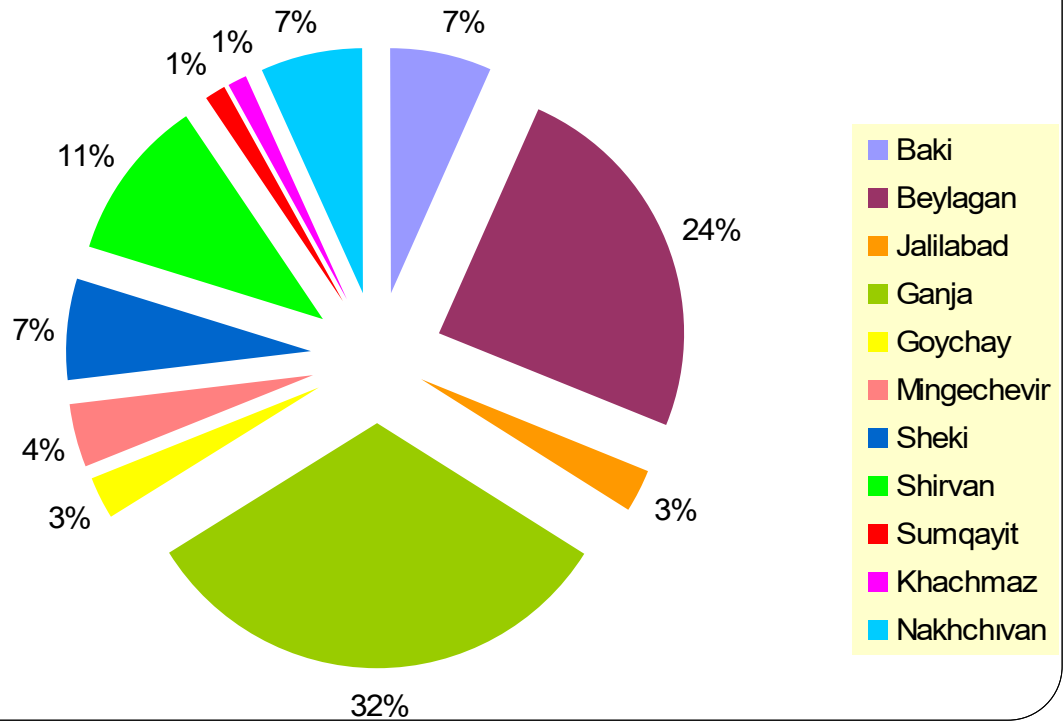
### Ballot stuffing



### Bringing groups of voters to the polling stations



Voters were instigated to vote in favor of one of the candidates



**Appendix 3**

**Violations of law observed in the process of counting of votes by regions**

