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Election commissions, transparency and recent election-related developments in Azerbaijan

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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

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THE SERBIAN ELECTORAL COMMISSION,
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and
THE COUNCIL OF EUROPE OFFICE IN BELGRADE

UNIDEM SEMINAR

"ORGANISATION OF ELECTIONS BY AN IMPARTIAL BODY"

Belgrade, 24-25 June 2005

Report by
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Chair of Central Election Commission of Azerbaijan

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Introduction

1. Democratic elections are the basis for progressive development of state and civil society in every country. Constitution of the Republic of Azerbaijan adopted in referendum in 1995, determined major directions for the conduct of transparent and democratic elections and provided legal framework for elections conducted in free and regular manner by secret and personal voting in the basis of general, equal and direct suffrage in Azerbaijan. One of the goals of the leadership of the Republic of Azerbaijan was to make progressive steps in the field of elections. Obvious sample for it is the Election Code of the Republic of Azerbaijan adopted in May of 2003. Election Code was prepared in close cooperation with OSCE/ODIHR and the Venice Commission of the Council of Europe. It was stated in the joint final assessment of the above-mentioned international organizations that the Election Code provides a comprehensive framework for the conduct of elections and referenda and, in most respects, meets international standards.

Election Commissions

2. In the Republic of Azerbaijan, within the authority considered by the Election Code of the Republic of Azerbaijan, election commissions carry out the preparation and conduct of elections (referenda), aggregation of results of voting and elections, realization and protection of citizens' suffrage and supervise its adherence. Election commissions are independent in their activities and within their rights provided by law, they do not depend on state bodies or other institutions. Decisions and acts adopted by election commissions are obligatory for state bodies, municipal authorities, candidates, political parties, non-governmental and other public organizations, as well as incumbents. Interference of the above-mentioned organizations or their officials in the activity of election commissions is not permitted. Persons intervening or influencing the work of election commissions are bearing administrative or criminal liability in accordance with the Criminal Code or the Administrative Offences Code of the Republic of Azerbaijan.

3. The system of election commissions in the Republic of Azerbaijan is set up of the following commissions:

- Central Election Commission (15 members)
- Constituency Election Commissions (9 members)
- Precinct Election Commissions (6 members).

4. Permanently functioning Central Election Commission leads the activity of election commissions and its decisions are obligatory for lower election commissions.

5. Term of office for all election commissions is 5 years and they have been organized on the basis of multi-party principle that is characteristic for our modern society and they are set up of independents and representatives of eight political parties, i.e. New Azerbaijani Party that is ruling party and opposition parties - Musavat, Azerbaijan Popular Front Party, Azerbaijan National Independence Party, Azerbaijan Democratic Party, Civil Solidarity Party, Azerbaijan Liberal Party and Azerbaijan Communist Party.

6. Central Election Commission consists of 15 members elected by the Milli Majlis (Parliament). 6 members of the Central Election Commission represent the political party that takes majority of seats in the parliament and which nominates them, i.e. the government party; 3 members represent the political parties taking minority in the parliament, i.e. opposition parties represented in the parliament; 3 members represent 4 opposition parties

which have participated in 2000 Parliamentary elections in nation-wide constituency, but not represented in the parliament as have not passed the threshold but collected the majority votes in comparison; 3 members represent independent members of the parliament elected in single-mandate constituencies. Constituency and Precinct Election Commissions those are lower branches of the election administration system, are also formed on the basis of the same principle. Though election commission members are nominated by political parties, they shall not be political party members. No one can dismiss member of election commission until his/her own appeal about retiring.

7. Session of Central Election Commission is considered authorized when at least 10 members are present and decisions are adopted by two-third majority of votes in open ballot. Adopted decisions are signed by CEC Chairman (representing ruling party) and 2 Secretaries (one representing independents and other opposition parties). Central Election Commission is entrusted to prepare and conduct presidential and parliamentary elections as well as referenda and local elections.

8. In order to improve professional level of Constituency and Precinct Election Commission members, Central Election Commission implements wide range of educational and training projects during the pre-election period.

Transparency

9. One of the important factors of elections is to ensure transparency in the preparation and conduct of elections and one of its main indicators is observation of elections by local and international observers. Elections conducted in Azerbaijan were always open for observers. So that in 2003 Presidential Elections, approximately 1000 international and 43 000 local observers observed the election process. Azerbaijani citizens having active suffrage are entitled and provided with all conditions to observe elections and accreditation procedure is quite simplified. So it is enough for citizens intending to observe, just to apply to the relevant election commission. Mass media representatives are entitled to observe the whole process without being required any accreditation. Furthermore, another step put forward for ensuring transparency in the election process is the use of numbered ballot papers and numbered carbonated protocols for results of voting, as well as transparent ballot boxes in two latest elections (2003 Presidential and 2004 Municipal Elections). In order to make the activity of election commissions transparent for the interested parties, registered candidates and their authorized representatives, agents of political parties or political party blocs have the right to observe meetings of election commissions, as well as all procedures implemented on election day and to get copies of the decisions adopted by election commissions and other electoral documents (except voter lists, de-registration cards for voting, ballot papers and signature sheets), as well as observing the implementation of other election procedures by election commissions. Mass media representatives have the rights referring to observers.

10. Activities taken by CEC to ensure transparency in elections also include announcing election results operatively and consideration of filed complaints. For example, in 2003 Presidential Elections, preliminary results of voting from precincts were put up on the CEC website within 5 hours after the voting was over and publicized for local and international publicity. Consequently, protocol information of 5144 precincts of constituencies was completely posted on the CEC website within 12 hours. It was also emphasized in the report of OSCE/ODIHR Final Report on 2003 Presidential Elections and it says: “The CEC took a welcome decision to publicize election results by precincts as they were received on election night, by immediately

posting each precinct result on the CEC website. This gave an unprecedented degree of transparency to the tabulation process."

11. According to the Election Code, Constituency Election Commissions forwarded results protocols of Constituency Election Commissions to CEC within 48 hours. Following the checking of accuracy of the information on protocols, the Commission discussed the issue of election results at its session dated on October 20, 2003 and invalidated voting results of 694 precincts of 115 constituencies because of errors on the protocols of some lower election commissions and filed complaints and some complaints were sent to the Office of the Prosecutor General of the Republic of Azerbaijan.

12. CEC had the same approach in December, 2004 Municipal Elections. Results of elections conducted to 2730 municipalities were posted on the CEC website nearly within 15 hours. By examining the election documents and received complaints, the Commission invalidated election results in 135 municipalities, adopted decisions on inappropriateness of 9 Constituency Election Commission chairpersons for their posts because of their faults and 50 Precinct Election Commissions were dismissed, i.e. 300 members of these commissions were dismissed from their posts and some documents were sent to the Office of the Prosecutor General of the Republic of Azerbaijan.

Recent election-related developments

13. In order to conduct more democratic elections which are planned for autumn of this year in the Republic of Azerbaijan, regular and aimed actions are taken. As one of these activities, the Executive Order by the President of the Republic of Azerbaijan "on improving election practice in the Republic of Azerbaijan" dated on May 11, 2005 is especially worthwhile. Namely this order encouraged more democratic pre-election atmosphere in the country before November, 2005 Parliamentary Elections. In previous elections, observers claimed representatives of some local executive authorities interfered in election process in some precincts. This issue is specially emphasized in the Order and it is stated that in the case of heads of central and local executive authorities or other state officials illegally interfere in election process, they will bear very serious liability according to the legislation of the Republic of Azerbaijan. Central and local executive authorities are ordered not to admit, according to Election Code of Republic of Azerbaijan, prosecution of citizens because of their political affiliation after elections within their authorities and in the case of finding of such kind of facts, to take necessary measures, according to legislation of Republic of Azerbaijan, for involving persons having committed such actions, to accountability according to the legislation of Republic of Azerbaijan. Another issue stated in the Order is related to the conduct of exit polls and alternative counting. To this end, central and local executive authorities are ordered to create necessary circumstance within their authorities, according to the Election Code, for implementation of exit polls and parallel counting which will be carried out by specialized public pollsters and not to interfere illegally in these processes. One of the duties put forward by the Order is the relevant bodies to ensure equal access to mass media and to create equal campaigning possibilities for all the candidates pursuant to the Election Code.