



INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Azerbaijan – Early Presidential Election, 11 April 2018

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The 11 April 2018 early presidential election in the Republic of Azerbaijan took place within a restrictive political environment and under a legal framework that curtails fundamental rights and freedoms, which are pre-requisites for genuine democratic elections. Against this background and in the absence of pluralism, including in the media, this election lacked genuine competition. Other candidates refrained from directly challenging or criticizing the incumbent, and distinction was not made between his campaign and official activities. At the same time, authorities were co-operative and international observers were able to operate freely in the pre-election period. The election administration was well-resourced and prepared the election efficiently. On election day, international observers reported widespread disregard for mandatory procedures, lack of transparency, and numerous serious irregularities, such as ballot box stuffing.

Eight candidates stood in this election, including the incumbent president, nominated by the ruling New Azerbaijan Party (YAP), which maintains the dominant position. Some opposition parties boycotted the election, referring to a non-competitive environment, while other parties did not participate saying that the early election date left them with insufficient time to meaningfully participate.

This was the first presidential election since constitutional amendments in 2016 that further increased the powers of the president. A number of constitutionally guaranteed fundamental rights and freedoms related to elections are in practice subject to legal and administrative restrictions, as also concluded by the European Court of Human Rights (ECtHR). The Election Code is detailed and well-structured. While the Central Election Commission (CEC) issued additional regulations, they did not cover all procedural aspects of the election. While a few previous ODIHR recommendations have been taken into account, none of the priority recommendations of ODIHR and Venice Commission were addressed.

The election administration at all levels appeared highly organized and well-resourced. The formula for appointing election commissions does not guarantee an impartial election administration, as evidenced by the case law of the ECtHR, given that there is no political differentiation between the three groups in the parliament that nominate the commissioners. The CEC held regular public sessions at which no dissenting or argumentative opinions were stated, and the majority of members did not engage in any discussions. The decision making by the CEC and Constituency Election Commissions (ConECs) was not fully transparent, as the minutes of their sessions were not made public. The CEC conducted an extensive public information campaign aimed at increasing voter turnout.

Around 5.2 million voters are registered in the permanent voter register maintained by the CEC. Voters were provided with ample opportunity to verify their records and could request corrections. Data provided by state authorities show that the number of registered voters is almost two million lower than the approximate number of citizens of voting age, raising questions related to the accuracy of the figures. Persons with disabilities declared incapacitated by a court decision do not have the right to vote, contrary to international standards.

To be registered, nominated candidates had to collect at least 40,000 supporting signatures. By law, nominees had no possibility to address errors and shortcomings identified by the CEC, related to supporting signatures. The CEC registered eight candidates. It denied registration of two nominees, arguing that they lacked sufficient supporting signatures as they submitted a considerable number of duplicate or invalid ones. The verification of support signatures was conducted by a CEC working group (WG) and contained visual checks of signature entries and for suspected duplicate signatures. The WG was unable to clearly demonstrate that the process was technically adequate and accountable. Deficiencies in the verification process were previously found by the ECtHR to contravene Protocol 1 Article 3 of the European Convention of Human Rights and also potentially challenge paragraph 7.5 of the 1990 OSCE Copenhagen Document.

Overall, the campaign generated limited public engagement. The YAP campaign in favour of the incumbent was well-organized and well-resourced. The president chose not to campaign himself but made visits across the country and received many high-profile foreign dignitaries in his official capacity. The campaigns of the other seven candidates were limited and appeared hampered by a lack of regional structures and resources. As a result of, and within a restrictive political environment, none of the candidates openly challenged or criticized the incumbent and, therefore, the election lacked genuine competition.

The ODIHR EOM observed cases where public-sector employees and university students were compelled to attend YAP campaign activities, as well as several YAP events where those in attendance were prevented from leaving. Such pressure on voters raised concerns whether the campaign was conducted in a fair and free atmosphere as provided by paragraph 7.7 of the 1990 OSCE Copenhagen Document.

Presidential candidates are only allowed to finance their campaigns from private funds and donations. Campaign finance is overseen by the CEC; candidates are obliged to submit campaign finance reports, which the CEC can audit. The CEC published candidates' reports as required by law. The absence of a legal requirement to publish the findings of audits limits the transparency of campaign finance.

The media environment is characterized by a highly restrictive legislative framework that challenges the freedoms of expression and the press and which extends to websites and social media content. The fact that defamation is a criminal offense punishable by imprisonment, with additional penalties for defamation of the president, further limits the freedom of expression that is key to political campaigning. As required by law, the public broadcaster allocated free airtime, which was used exclusively for roundtables on TV and radio. All TV stations monitored by the ODIHR EOM devoted the largest part of their news coverage to the authorities and their activities. As there are no broadcast or print media that critically analyze government policies, dissenting opinions regarding authorities' performance were absent from newscasts. Most of the political coverage was given to the incumbent in his official capacity, while all other candidates combined received only a fraction of the time.

Election disputes are adjudicated by election commissions and courts. No complaints were filed with election commissions or the courts before election day; several IEOM interlocutors specifically stated that they would not file complaints since they do not trust election commissions and courts to handle their complaints in an impartial and professional manner, as also noted by the ECtHR in its recent rulings. Given the absence of formal complaints the IEOM is not in a position to assess the effectiveness and independence of the system and whether it would in practice provide an adequate and effective remedy against violations of electoral rights.

According to the CEC, a total of 58,175 domestic observers were registered, including 4,041 observers accredited by NGOs. A number of IEOM interlocutors maintain that obstacles introduced by the

government and the election administration limit the possibility of civil-society organizations to operate. A well-known citizen observer organization, the Election Monitoring and Democracy Studies Center, remains unregistered since 2008, and its volunteers had to accredit themselves individually, some of them facing difficulties.

Throughout election day, IEOM observers reported that PECs did not perform mandatory procedures. IEOM observers assessed 23 of the 138 observed openings of polling stations negatively, often because the number of received ballots was not established properly or ballot boxes sealed securely. Voting was assessed negatively in 12 per cent of polling stations observed, a very high number. While voting was overall orderly in most polling stations observed, IEOM observers reported that PECs often failed to follow key procedures, and lacked transparency, sometimes hindering observers' work. Observers often reported indications of ballot box stuffing, series of seemingly identical signatures on the voter lists, and group, proxy and multiple voting. Notably, many observers were not allowed to scrutinize voter lists. IEOM observers assessed more than half of the vote counts observed negatively, largely due to deliberate falsifications (17 cases), along with an obvious disregard for prescribed procedures, which did not allow the PECs to properly reconcile figures. Tabulation was generally assessed positively, although procedures were again frequently omitted. The CEC announced that turnout was 74.5 per cent. It posted detailed preliminary election results from most polling stations at around 02:00 hrs. on 12 April.

PRELIMINARY FINDINGS

Background and Political Context

On 5 February 2018, President Ilham Aliyev declared an early presidential election for 11 April. The Republic of Azerbaijan has a presidential system of government under which the president exercises wide constitutional powers relative to the parliament. The president appoints and chairs the cabinet of ministers and appoints the vice presidents as well as the central and local executive authorities. The president also nominates the judges of the Constitutional Court, Supreme Court and courts of appeal, and the Prosecutor General, who are formally appointed by parliament. The Council of Europe's European Commission for Democracy through Law (Venice Commission) concluded that the provision allowing for the incumbent president to call for early presidential elections is incompatible with democratic standards.¹

The early presidential election took place within a political environment dominated by the ruling New Azerbaijan Party (YAP), which holds a majority in parliament. President Aliyev, chairperson of YAP, stood for a fourth consecutive term. The party informed the ODIHR EOM that the presidential election was brought forward to avoid an overlap of presidential and parliamentary elections in 2025.

Some opposition parties boycotted the election, referring to a non-competitive environment and pointing to limitations related to citizens' participation in public life.² Other parties chose not to put forward their candidates saying that the early election date left them with insufficient time to meaningfully participate. Senior YAP representatives questioned these stated reasons, noting that all political parties knew that the election was going to take place in 2018. They also claimed that the opposition's decision to boycott the election was motivated by the fact that it enjoys limited public support. Several interlocutors noted that

¹ See Venice Commission "[Opinion on the Draft Modifications to the Constitution Submitted to the Referendum of 26 September 2016](#)" from 18 October 2016.

² The UN Human Rights Committee in its "[Concluding observations on the fourth periodic report of Azerbaijan](#)" (16 November 2016), CCPR/C/AZE/CO/4, paragraph 43 calls on State party to "[...bring its electoral regulations and practices into compliance with the Covenant... including by ensuring fully transparent elections and a genuine pluralistic political debate...]."

Ilgar Mammadov was prevented from running in this presidential election since he remains in prison, despite judgments of the European Court of Human Rights (ECtHR).³

Equality of rights between women and men is provided for by the Constitution and by law.⁴ There are no specific legal measures to promote the participation of women in political life. With few exceptions, women are strongly underrepresented in political and public life, holding 21 of the 125 seats in the parliament, one out of 14 chairs of state committees and no ministerial positions in the Cabinet of Ministers.⁵

Legal Framework and Electoral System

The Constitution guarantees fundamental rights and freedoms, including the freedoms of assembly, expression, association, and access to information, the right to take part in political life, and the right to redress. The Constitution also provides for universal, equal and direct suffrage by secret ballot. These constitutional guarantees are in practice restricted by provisions in the Criminal Code, especially those related to defamation, and other legal and administrative restrictions of the freedoms of assembly, expression and association, as also concluded by the ECtHR.⁶ The space in which civil-society organizations, including those involved in election observation, can operate is increasingly confined by restrictive legislation, including on foreign funding.⁷

Presidential elections are primarily regulated by the 1995 Constitution (last amended in 2016) and the comprehensive 2003 Election Code (amended in 2013 and 2017) which governs all elections and referenda.⁸ The Election Code is detailed and well-structured. The Central Election Commission (CEC) has issued a number of regulations and instructions to implement and to further detail the Election Code.⁹ Azerbaijan is a party to major international and regional instruments related to the holding of

³ See [Ilgar Mammadov v. Azerbaijan](#), No. 919/15 (ECtHR 16 November 2017). The REAL movement has also informed the ODIHR EOM that it has not been able to hold its constituent congress due to obstacles it continues to face in finding a venue. According to civil society organizations working in Azerbaijan and international human rights bodies, there is a large number of political prisoners.

⁴ The 2006 Law on Guarantees of Gender (Men and Women) Equality.

⁵ See [UN Committee on the Discrimination against Women \(CEDAW\) Concluding Observations on Azerbaijan](#), para. 26, 12 March 2015.

⁶ See the [UN Human Rights Committee "Concluding observations on the fourth periodic report of Azerbaijan" \(16 November 2016\)](#), CCPR/C/AZE/CO/4, paragraphs 38, 40 and 42. See also the Resolution of the Parliamentary Assembly of Council of Europe (PACE) "[The functioning of democratic institutions in Azerbaijan](#)" (11 October 2017), paragraphs 6, 7 and 8.

⁷ The legislation related to non-governmental organizations (NGOs) was amended substantially in 2013 and 2014, rendering registration procedures cumbersome and resulting in many NGOs not being registered. The amendments also introduced restrictions on foreign funding, which in addition to affecting Azerbaijani NGOs' ability to function also caused many foreign NGOs to leave the country. See Venice Commission "[Opinion on the Law on non-governmental organisations \(Public Associations and Funds\) as amended by the Republic of Azerbaijan](#)", para. 93, and "[Opinion on the compatibility with human rights standards of the legislation on non-governmental organisations of the Republic of Azerbaijan](#)."

⁸ Aspects of the election process are also regulated by the Law on Political Parties, the Law on Freedom of Assembly, the Law on Non-governmental Organizations, the Law on State Registration and the State Register of Legal Entities, the Law on Radio and Television Broadcasting, the Law on Access to Information, and relevant provisions of the Criminal Code, the Code of Administrative Procedures, and the Civil Procedures Code.

⁹ The CEC informed the ODIHR EOM that it has so far issued 48 regulations and instructions, of which 11 are specifically related to presidential elections. Some procedural aspects, such as the verification of supporting signatures, the timelines in case of a second round, and the procedures for invalidation of election results, are not addressed by the CEC regulations.

democratic elections.¹⁰ While a few previous ODIHR recommendations have been partially taken into account, none of the priority recommendations of ODIHR and Venice Commission were addressed.

The latest constitutional amendments were initiated by the president and enacted by referendum in 2016. They give the president the power to call early presidential elections without defining specific conditions and introduced the office of unelected vice presidents, appointed and dismissed by the president, who could substitute for the president in case of resignation or inability to exercise his office.¹¹ In February 2017, the president appointed his spouse, Mehriban Aliyeva, as first vice president. The initiative to amend the Constitution met with resistance from parts of the opposition and from civil society, who claimed that the changes gave the president excessive powers. The amendments and the process in which they were adopted have also been a source of concern to several international human rights bodies.¹²

The president is directly elected by popular vote for a seven-year term by an absolute majority of votes cast, without a requirement for a minimum voter turnout. If no candidate receives the required majority, a second round will take place between the two candidates who received the most votes, on the second Sunday after the first round.

Election Administration

The presidential election was administered by the CEC, 125 Constituency Election Commissions (ConECs) and 5,426 Precinct Election Commissions (PECs), with 18, 9 and 6 commission members, respectively.¹³ All election commissions are permanent bodies appointed for a five-year term, with the current composition established in 2016. CEC members are elected by parliament, ConEC members are appointed by the CEC, and PEC members are appointed by the respective ConECs. Three of the 18 CEC members are women, including one of the two secretaries. At the ConEC and PEC level, 17 and 36 per cent of members, respectively, are women. Only 2 out of 125 ConECs are chaired by women, while around half of PECs chairpersons are women.

By law, the composition of all election commissions reflects the representation of political forces in parliament: three equal quotas are reserved for members nominated by the parliamentary majority, the minority (defined as the remaining political parties represented in parliament), and parliamentarians elected as independent candidates. The formula for appointing election commissions does not provide for an impartial election administration in practice, as evidenced by the case law of the ECtHR, given that there is no political differentiation between the three groups in the parliament that nominate the commissioners.¹⁴ Moreover, the chairpersons of all commissions are, by law, nominees of the

¹⁰ Including the 1966 International Covenant on Civil and Political Rights, 1979 Convention on the Elimination of All Forms of Discrimination Against Women, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 2003 Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities, the 1950 European Convention on Human Rights, and the 2002 Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States. Azerbaijan is also a member of the Venice Commission and of the Group of States against Corruption (GRECO).

¹¹ In addition, the 2016 constitutional amendments *inter alia*: extended the presidential term in office from 5 to 7 years; granted the president wide powers to dissolve parliament; and removed the age limit for presidential candidates.

¹² See, for example, UN Human Rights Committee “[Concluding observations on the fourth periodic report of Azerbaijan](#)” (16 November 2016), CCPR/C/AZE/CO/4, paragraph 6, and Venice Commission “[Opinion on the Draft Modifications to the Constitution Submitted to the Referendum of 26 September 2016](#)” from 18 October 2016.

¹³ An additional 215 PECs were formed for voting at hospitals, other inpatient institutions, prisons and detention centers, and military units. The Ministry of Foreign Affairs (MFA) co-ordinates out-of-country voting in 41 polling stations established abroad.

¹⁴ See [stenographs](#) of the sessions of the parliament. See for example [Gahramanli and Others v. Azerbaijan](#), App no 36503/11 (ECtHR, 8 October 2015), [Tahirov v. Azerbaijan](#), App no 31953/11 (ECtHR, 11 June 2015), and [Annagi Hajibeyli v. Azerbaijan](#), App no 2204/11 (ECtHR, 22 October 2015).

parliamentary majority. Most candidates expressed their trust in the work of the election administration, while some opposition parties stated that the mistrust in the election administration is one of the reasons for their decision to boycott the election.

The CEC is responsible for the overall conduct of elections and has a wide-ranging mandate.¹⁵ The CEC held sessions when required, to which the ODIHR EOM was regularly invited and which were well-attended by the media and some candidate representatives. No dissenting or argumentative opinions were stated during the CEC sessions observed by the ODIHR EOM, and the majority of members did not engage in any discussion. All observed sessions only served to formally confirm decisions by a unanimous vote.

While many ConECs met their legal obligation to publish decisions on their noticeboards, at least one quarter of those observed by the ODIHR EOM did not do that. The transparency of the work of ConECs was further lessened by the fact that ConEC sessions were frequently called on an *ad hoc* basis and that ConEC decisions were not published online.¹⁶ Minutes of the CEC and ConEC sessions were not published, as this is not required by law.

Overall, the election administration at all levels appeared highly organized and well-resourced, administering the election within legal deadlines. In the run-up to the election, the CEC organized trainings for ConECs and PECs focusing on election-day procedures, including on completion of results protocols. In addition, trainings were conducted for law-enforcement representatives on duty during election day. These trainings were assessed by ODIHR EOM observers as having been conducted professionally.

As in previous elections, the CEC installed web cameras in 1,000 polling stations in order to stream and record voting and the vote count, with the stated aim to increase transparency and allow for remote observation. The CEC, on numerous occasions in meetings and sessions, dispelled concerns about the perceived lack of secrecy of the vote.

The CEC conducted an extensive public information campaign aimed at increasing voter turnout and distributed information posters and produced television and radio spots, which were broadcast during the pre-election period. The campaign, however, did not focus on informing voters about their rights.

The authorities made efforts to facilitate voting for persons with disabilities. The CEC informed the IEOM that it provided Braille ballot sleeves for visually impaired voters and installed ramps at all 1,455 polling stations where voters with physical disabilities are registered to vote. All ballots, protocols and other official election materials, as well as voter education and information materials, were produced exclusively in the Azerbaijani language.

Voter Registration

All citizens who are 18 years or older by election day have the right to vote, except those declared incapacitated by a court decision. Deprivation of the right to vote on the basis of mental disability is inconsistent with international obligations and standards and challenges Articles 12 and 29 of the UN Convention on the Rights of Persons with Disabilities and paragraph 7.3 of the 1990 OSCE Copenhagen

¹⁵ This includes the registration of candidates, maintenance of the voter register, and review of complaints against ConEC decisions. The CEC is also in charge of campaign finance and media oversight during the campaign.

¹⁶ While the CEC maintains a comprehensive website and publishes online all its decisions and regulations, ConECs do not have websites.

Document.¹⁷ In addition to citizens, stateless persons who have resided in Azerbaijan for at least the last five years, have the right to vote.¹⁸

Voter lists are extracted from the integrated nationwide voter register maintained by the CEC. By law, PECs update the lists by 30 May each year, as well as 25 days before election day. In addition, the CEC and ConECs have an established practice to obtain monthly updates on citizens' data from various local bodies of executive authorities. While, according to the CEC and ConECs, this practice improves the accuracy of the voter register, it is not elaborated in existing regulations, which limits transparency and accountability of this process. The CEC informed the IEOM that a total of 5,192,063 voters are registered in the permanent voter register.¹⁹ Of these, 335,422 are internally displaced persons (IDPs) who were registered to vote in 510 PECs within 10 ConECs.

Voters were provided with ample opportunity to verify their voter list records. They could check voter lists through online tools or by using a CEC hotline. The CEC published online the complete set of permanent voter lists, disaggregated by precincts. Preliminary extracts of voter lists were displayed at PECs for public scrutiny from 7 to 17 March, when voters could also check their data in person and request corrections. Until 8 April, voters could request de-registration voting cards (DVCs), which allow them to vote in any polling station in the country. According to the CEC, a total of 150,000 DVCs were printed, of which more than 20,000 were issued to voters by the legal deadline.²⁰

Data provided by state authorities show that the number of voters in the lists is almost two million lower than the approximate number of citizens of voting age, raising questions related to the accuracy of the figures.²¹ By law, citizens can register to vote on election day through a decision of the PEC, in case they can prove their residence within the precinct. Although inclusive, voter registration by PECs on election day is not in line with international good practice.²²

Candidate Registration

The right to stand for president is granted to voters who have permanently resided in Azerbaijan for at least 10 years and have a university degree, do not hold dual citizenship, and who do not have any liabilities before other states or a previous conviction for a serious crime. The residency and education requirements are unreasonably restrictive and run contrary to international obligations and good practice.²³

¹⁷ Paragraph 7.3 of the [1990 OSCE Copenhagen Document](#) states that the participating States will “guarantee universal and equal suffrage to adult citizens.” See also The UN Committee on the Rights of Persons with Disabilities (CRPD) “[Concluding Observations on Azerbaijan](#)” (12 May 2014), CRPD/C/AZE/CO/1, paragraph 45.

¹⁸ According to official statistics there are around 3,500 stateless persons in Azerbaijan. The CEC does not have information on how many of them are registered to vote.

¹⁹ In addition, a total of 13,961 voters were registered on temporary lists to vote abroad. A total of 122,302 voters were registered to vote in special polling stations.

²⁰ By law, the remaining DVC forms were to be destroyed at the opening of polling stations on election day.

²¹ The [population information](#) of the State Statistics Committee from 2017 indicates that there are more than 7.1 million individuals of voting age.

²² Paragraph 1.2 (iv) of the 2002 Venice Commission [Code of Good Practice in Electoral Matters](#) recommends: “In any event polling stations should not be permitted to register voters on election day itself.”

²³ Paragraph 15 of the 1996 [UN Human Rights Committee General Comment No 25](#) to Article 25 of the ICCPR states that any restrictions on the right to stand for election must be justifiable on objective and reasonable criteria and persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education or residence. See also sections I.1.1.c.iv and I.1.1.d.i. of the 2002 Venice Commission [Code of Good Practice in Electoral Matters](#).

Candidates could be self-nominated or be nominated by political parties (or coalitions) or groups of voters. To be registered, the nominated candidates had to collect at least 40,000 supporting signatures from registered voters. The CEC had seven days to check the submitted signatures. In case identified errors reduced the number of valid signatures below the required number, the law does not foresee the possibility for nominees to address shortcomings. Furthermore, a voter could only sign in support of one candidate, which can be seen as a limitation of political pluralism.²⁴ The combination of these rules may hinder prospective candidacies.

The candidate registration period lasted until 12 March. Fifteen prospective candidates were nominated, of whom ten submitted supporting signatures. By 17 March, the CEC registered eight candidates, all male.²⁵ The CEC denied the registration of two nominees, arguing that they submitted a considerable number of duplicate or invalid signatures, leading to fewer than 40,000 valid signatures in both cases.²⁶ Neither of the nominees appealed the CEC decision to court, explaining to the ODIHR EOM that they lack trust in the integrity of the candidate registration process, the independence of the judiciary and in the possibility for a genuine legal redress.

The CEC informed the ODIHR EOM that it had provided the nominated candidates and their representatives with the possibility to observe the verification process, as required by law. However, the two unregistered nominees both claimed that they were not invited to observe the verification of their supporting signatures.²⁷

The verification of the submitted signatures was conducted by a CEC working group (WG) and formed the basis for the respective CEC decisions to register or deny registration of candidates.²⁸ WG members described to the ODIHR EOM that the process contained visual checks of signature entries, as well as visual checks for suspected duplicate signatures. The WG did not check entries on the signature lists against the electronic and searchable voter lists, but only checked the date of birth and whether ID card numbers are structurally consistent. It relied on a process of comparing signatures solely through visual spot-checks across hundreds of sheets, which cannot be considered to be complete and reliable. The WG was unable to clearly demonstrate that the process was technically adequate and accountable.²⁹

The information provided by the WG and analyzed by the ODIHR EOM cast doubts whether the OSCE commitments regarding the right to stand are adequately protected by law and implemented in practice.³⁰ Moreover, the ECtHR has in recent cases found the legal framework for candidate registration and its

²⁴ Paragraph 3 of 1990 OSCE Copenhagen Documents states that participating States “recognize the importance of pluralism with regard to political organizations”. Paragraph 77 of the [2011 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#) recommends that “in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party”.

²⁵ Six candidates were nominated by political parties, one was self-nominated, and one was nominated by a group of voters: Ilham Aliyev (New Azerbaijan Party), Araz Alizadeh (Social Democratic Party), Faraj Guliyev (National Revival Movement Party), Hafiz Hajiyev (Modern Equality Party), Gudrat Hasanguliyev (Whole Popular Front Party), Sardar (Jalaloglu) Mammadov (Democratic Party), Razi Nurullayev (Frontiers' Initiative Group), Zahid Oruj (self-nominated).

²⁶ Those nominees were Tural Feyruz Abbasli and Ali Aliyev.

²⁷ One of the rejected nominees said he was invited to the CEC for an explanation what the problems with his supporting signatures was, which he refused, as it was only after the verification was completed.

²⁸ The WG included was chaired by a CEC member and included authorized graphologists, and representatives from the Ministry of Interior and the Ministry of Justice, among others.

²⁹ The WG informed the ODIHR EOM that it did not use any computer-based aid; it did not maintain the list of those who signed in support for any of the candidates thus far to ensure that there are no duplicates; it did not maintain a record of which signatures were invalidated and for what reason.

³⁰ Paragraph 7.5 of the 1990 OSCE Copenhagen Document commits participating States to “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.”

implementation to be flawed and in violation of Protocol 1 Article 3 of the European Convention of Human Rights.³¹

Campaign Environment

The official campaign period commenced on 19 March and lasted for 22 days, until 24 hours before the start of voting on election day. The CEC designated 168 indoor and outdoor venues throughout the country for campaigning.³² Overall, the campaign generated limited public engagement.³³

The YAP conducted a well-organized and well-resourced campaign on behalf of the incumbent that was extensively covered by the media. The incumbent explained to the ODIHR EOM that he did not wish to campaign himself since this would put his electoral competitors at a disadvantage and because, after 15 years in office, his public record was well-known. The YAP campaign, which included senior party officials who traveled the country promoting their candidate, focused on highlighting the president's past achievements as head of state, emphasizing, among other themes, the importance of stability, regional security, and increased economic and social development. The incumbent, in his capacity as president, made visits across the country. A series of high-profile visits by foreign dignitaries also took place during the pre-election period, receiving extensive media coverage.

Persistent allegations of the misuse of administrative resources with regard to the YAP campaign reduced confidence in the electoral process. On several occasions, the ODIHR EOM observed senior public officials either as speakers in YAP-led campaign events that all took place during working hours, or as clearly visible attendees seated in prominent positions. Furthermore, the ODIHR EOM observed several occasions where state vehicles appeared to be used in transporting key senior YAP officials to and from campaign activities. Such misuse of administrative resources is at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document.³⁴

In a number of instances, public-sector employees and university students informed the ODIHR EOM that they had been compelled to attend election campaign rallies organized by YAP. The ODIHR EOM observed several occasions where people attending YAP activities were prevented from voluntarily leaving the event by either party officials and/or police. On a number of occasions, the exits from the YAP events were found to be locked as, for example, at the opening YAP campaign event on 19 March in Baku. Such pressure on voters raises concerns whether the campaign was conducted in a fair and free atmosphere, as provided by paragraph 7.7 of the 1990 OSCE Copenhagen Document.³⁵

The ODIHR EOM noted that the number of campaign rallies organized by the other seven presidential

³¹ See, for example, [Tahirov v. Azerbaijan](#), App no 31953/11 (ECtHR, 11 June 2015). and [Annagi Hajibeyli v. Azerbaijan](#), App no 2204/11 (ECtHR, 22 October 2015).

³² The ODIHR EOM was informed by the CEC that, according to an announcement the CEC chairman made during a CEC session, political parties and candidates would be able to meet with voters in other locations and that they would require no permission to do so. However, the ODIHR EOM has been unable to locate any document confirming this point of view (CEC session minutes are not made public and have not been made available to the ODIHR EOM).

³³ The ODIHR EOM observed 39 campaign rallies organized by YAP and a total of 11 events organized by the other seven candidates.

³⁴ Paragraph 5.4 of the 1990 OSCE Copenhagen Document calls for a clear separation between the State and political parties.

³⁵ Paragraph 7.7 of the 1990 OSCE Copenhagen Document commits the participating States to “ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution.”

candidates was very limited. These candidates informed the ODIHR EOM that due to limited resources, they planned to focus on door-to-door campaigning and the use of social media. Where they existed, the regional structures of these candidates, indeed, appeared far less developed than those of YAP. The ODIHR EOM observed that the campaign events of these candidates were invariably far smaller in size than those of the incumbent. Although remaining often general in nature, their respective election platforms included such themes as socio-economic development, problems related to corruption, a need to reduce presidential powers and to maintain strong national defense. None of these candidates challenged the incumbent or his policies, or provided distinctive political alternatives. As a result, the election lacked genuine competition.

On 10 and 31 March, the ODIHR EOM observed two opposition-organized protest rallies in Baku.³⁶ In the periods preceding each protest, organizers from one party stated that many party members had been questioned and some had been detained by police.³⁷ The Ministry of Interior informed the ODIHR EOM that these allegations were untrue. Both cases raised doubts over the ability of political parties to campaign freely as well as the ability of citizens to engage in political activity without the fear of retribution, challenging Articles 10 and 11 of the European Convention of Human Rights and paragraph 7.7 of the 1990 OSCE Copenhagen Document.

A lack of concrete campaign platforms directly addressing gender issues was noticeable, with women generally still referred to in the context of their perceived ‘traditional’ roles as wives and mothers. The ODIHR EOM noted that women appeared to be underrepresented in the campaign both as party officials and as attendees of campaign rallies. National minority issues did not feature prominently during the campaign, and the ODIHR EOM did not observe any anti-minority rhetoric during the campaign.

Campaign Finance

Presidential candidates are only allowed to finance their campaigns from private funds and donations. The law prohibits contributions from foreign countries and citizens, international organizations, state bodies and municipalities, charitable organizations, religious associations and anonymous donors.

Nominated candidates must open a special account for their campaign transactions with a bank determined by the CEC who is in charge of overseeing campaign finance. The maximum amount a candidate can spend for campaign purposes is AZN 10 million (around EUR 4.79 million). The ceiling for contributions is set at AZN 3,000 from individuals, AZN 50,000 from legal entities, and AZN 250,000 from the nominating party or group of voters.³⁸

Candidates or parties participating in elections are required to submit three financial reports on received campaign contributions and their expenditures to the CEC: an initial report at the time of registration, an interim report between 20 and 10 days prior to election day, and a final report within 10 days from the publication of final results.³⁹ The CEC can audit the reports and request additional information from candidates or parties. All registered candidates submitted their first and second financial reports, which the CEC posted on its website, as required by law.⁴⁰ The absence of a legal requirement to publish the findings of audits limits the transparency of campaign finance.

³⁶ The protests were organized by the National Council of Democratic Forces, with other groups participating.

³⁷ Following each event, police issued statements explaining that the protests were held in line with the law.

³⁸ EUR 1 is approximately AZN 2.08.

³⁹ Registered parties not participating in an election are only required to submit annual financial reports to the CEC.

⁴⁰ See [financial reports](#) of all candidates.

Media

Freedom of expression, media freedom and the right of access to information are guaranteed in the Constitution. However, highly restrictive legislation challenges these constitutional guarantees. Defamation and libel remain criminal offenses, from 2016 also applicable to online content, with a penalty of up to three years imprisonment, or up to five years imprisonment if it targets the president.⁴¹ This limits the freedom of expression that is key to political campaigning. Journalists and bloggers also become subject of arbitrary arrests and detentions on criminal charges that are seemingly unrelated to their professional activities but are viewed by ODIHR EOM interlocutors as retaliation for critical reporting.⁴² A number of broadcasters informed the ODIHR EOM about the practice of refraining from any critical coverage of high-ranking government officials and their families.

The 11 television stations with nationwide coverage remain the main source of political information in the country. The ownership structures of these broadcasters are opaque. ODIHR EOM interlocutors alleged direct government influence on all private broadcasters, with websites and social networks being the only platform for alternative and critical viewpoints. However, the independence of online platforms was limited after the Ministry of Transportation, Communications and High Technologies was authorized by law to block websites based on their content without prior court decision.⁴³

In line with legal requirements, the public broadcaster allocated free time that was used exclusively for 9 one-hour long roundtables on TV and radio respectively, in which seven candidates took part while the incumbent was represented by a proxy. While these roundtables provided candidates with a platform to present their views, their value was diminished by the non-participation of the incumbent. Contestants devoted significant time to attacking and condemning the opposition parties, movements and individuals that chose to boycott the election or not to participate in it. Three state-owned newspapers provided every candidate with free space.

Coverage of the campaign in newscasts was limited and was overshadowed by coverage of the activities of the election administration.⁴⁴ All monitored TV channels devoted the largest part of their news coverage to the authorities and their activities. The incumbent received almost all of his media coverage in his capacity as president, including through extensive coverage of ceremonial events, such as opening of the roads, hospitals, and factories. As there are no broadcast media that critically analyze government policies, dissenting opinions regarding authorities' performance were absent from newscasts.

⁴¹ The OSCE Representative for Freedom of the Media (RFoM) has [called](#) on participating States to “Recognize that no one should be penalized for the social media activities such as posting and direct messaging unless they can be directly connected to violent actions.” In March 2017, the Nasimi District Court in Baku sentenced a Facebook blogger, Mehman Huseynov, to two years in prison on defamation charges. The PACE Resolution “[Indicators for media in a democracy](#)” (3 October 2008) reads that “state officials shall not be protected against criticism and insult at a higher level than ordinary people, [...] Journalists should not be imprisoned, or media outlets closed, for critical comment.”

⁴² See also, for example, statements of the OSCE RFoM from [18 December 2017](#) and [12 January 2018](#) and the UN Human Rights Committee “[Concluding observations on the fourth periodic report of Azerbaijan](#)” (16 November 2016), CCPR/C/AZE/CO/4, paragraph 36.

⁴³ The ODIHR EOM noted that a number of websites that provide daily political coverage are generally inaccessible in Baku and the regions. Decisions of the ministry for blocking of websites are not publicly available, which significantly limits accountability and the possibility to appeal such decisions.

⁴⁴ During the campaign period, the ODIHR EOM monitored the following media outlets: TV stations – ITV (public), AzTV (state), ATV, Lider TV, Space and Khazar TV; state-owned newspapers – *Azerbaijan*, *Xalq qazeti*; private newspapers – *Kaspi*, *Yeni Musavat*. The ODIHR EOM also followed the election-related coverage in the Azerbaijani-language versions of online outlets www.trend.az and www.turan.az.

In particular, during the official campaign period, the public and private media outlets devoted between 48 and 81 per cent of their political and election-related news coverage to the activities of the authorities, including the president (between 26 and 40 per cent), the first vice-president (between 3 and 19 per cent), the government (between 13 and 17 per cent), the presidential administration (between 1 and 5 per cent), local government (between 1 and 5 per cent). The ruling YAP received between 4 and 19 per cent. This coverage was overwhelmingly positive in tone. By contrast, all other candidates and political parties, received a combined total of between 4 and 20 percent per cent. In addition, negative coverage of civil activists who were calling for a boycott of elections was observed in all monitored newscasts. The CEC received between 6 and 18 per cent of news coverage in the monitored broadcasters.

The coverage of candidates in newscasts was often paid-for, although the broadcasters did not consistently identify paid advertisements as such.⁴⁵ The definition in the Election Code of what constitutes election campaigning, and the rules for campaign coverage by the media, rendered any election-related current affairs programs impossible outside of the newscasts.⁴⁶ State-owned AzTV is by law prohibited from airing any campaign-related materials. It interpreted this limitation as prohibiting them from covering any campaign activities in its newscasts. Consequently, it devoted a total of 17 seconds to all contestants during the entire campaign period. At the same time, it provided extensive coverage of the activities of the president, who received about 5 hours of coverage.⁴⁷

The CEC established a special working group on the media, composed of CEC members and representatives of media outlets, to assist the CEC in overseeing compliance with the campaign-related provisions of the Election Code. The group did not convene during the campaign period, and the majority of editors of media outlets who were members of the group appeared to be unaware of their membership.

Complaints and Appeals

According to the Election Code, complaints can be lodged by voters, candidates, political parties or coalitions of parties, agents of registered candidates and observers. A complaint can be filed against a decision or an action (or lack of action) which violate electoral rights. Cases should be filed to the election commission superior to the one whose decisions, actions or inactions are challenged. CEC decisions can be appealed to the Court of Appeal, whose decisions can be challenged to the Supreme Court. The Election Code provides for short deadlines for the filing and adjudication of complaints. The timeframe for submitting a complaint or appeal is three days from the day a violation occurred, or a decision was adopted or published, or the day the plaintiff was informed of the decision. Complaints and appeals lodged less than 30 days before election day must be decided upon within two days. Complaints submitted on or after election day must be decided on immediately.

The IEOM is not aware and has not been informed of any complaints filed at any level of election administration and the courts before election day. Several IEOM interlocutors specifically stated that they would not file complaints since they do not trust election commissions and courts to handle their complaints in an impartial and professional manner, as also noted by the ECtHR in its recent rulings.

⁴⁵ In particular, the majority of national private broadcasters confirmed to the ODIHR EOM that they were broadcasting political advertisement without clearly and consistently identifying it as such, while Space TV labelled paid-for news items with an ® sign.

⁴⁶ The Election Code defines campaigning in the media as speeches, interviews, press conferences, open discussions, debates, round-table discussions, political advertising and TV and radio programs. Such coverage could be either free on public media or paid in public and private media.

⁴⁷ Article 7.8 of the 1990 OSCE Copenhagen Document commits participating States to “provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.”

Given the absence of formal complaints, the IEOM is not in a position to assess the effectiveness of the system and whether it would in practice provide an adequate and effective remedy against violations of electoral rights.

As Azerbaijan is a member of the Council of Europe since 2001, cases can be submitted to the ECtHR. Out of 120 judgments related to Azerbaijan that are partially or fully pending implementation, 48 are directly related to elections.⁴⁸ The ECtHR recently ruled that the authorities had not properly examined complaints or investigated allegations on electoral irregularities. Furthermore, a number of cases related to the 2005 and 2010 parliamentary elections are pending. An infringement proceeding according to Article 46.4 of the European Convention for Human Rights regarding the non-implementation of the court judgment to release Ilgar Mammadov from prison is presently pending with the ECtHR.

Citizen and International Observers

The Election Code provides for citizen and international election observation. Domestic observers can register to observe individually, or as representatives of candidates, political parties or non-governmental organizations (NGOs). According to the CEC, a total of 58,175 domestic observers were registered by the ConECs and the CEC, including 4,041 observers accredited by NGOs; a total of 894 international observers were also accredited. The political parties that are boycotting the election or not participating in it informed the ODIHR EOM that they will not observe the election process.

While candidates' authorized representatives can by law observe all CEC and ConEC sessions, including before election day, observers need to obtain special authorization from the CEC to do so.⁴⁹

A number of IEOM interlocutors maintained that restrictive legal provisions related to foreign funding limit the possibility of civil-society organizations to train and deploy observers. Some NGOs previously active in election-related activities, including in citizen observation, informed the ODIHR EOM that their operational capacities had been heavily restricted by obstacles introduced by the government and the election administration. The Election Monitoring and Democracy Studies Center (EMDS) has significant experience in conducting independent and professional observation both in Azerbaijan and abroad but remains unregistered since 2008 and thus without legal status. Therefore, its volunteers had to accredit themselves individually. The EMDS informed the ODIHR EOM that some of its volunteers experienced difficulties acquiring accreditations.⁵⁰

Election Day

Election day was characterized by a widespread disregard for mandatory procedures, numerous instances of serious irregularities and lack of transparency. The CEC announced that turnout was 74.5 per cent. It posted detailed preliminary election results from most polling stations at around 02:00 hrs. on 12 April.

⁴⁸ See [article 3 of Protocol No. 1](#) to the Convention for the Protection of Human Rights and Fundamental Freedoms. See also the PACE Resolution "[The functioning of democratic institutions in Azerbaijan](#)" (11 October 2017), paragraph 7.

⁴⁹ Article 40.13 of the Election Code stipulates that the CEC decides by drawing lots which observers shall have the right to be present at election commission sessions, up to a maximum of ten observers for each commission. According to the CEC, only one YAP observer has applied and was accredited to observe the work of the CEC, and no domestic observers applied to the CEC to observe in ConECs.

⁵⁰ The IEOM was informed of cases where ConECs restricted EMDS volunteers to observing only in a specific polling station, rather than in any polling station of the respective ConEC, and also of cases where volunteers withdrew their accreditation applications due to pressure from their employers.

IEOM observers negatively assessed 23 of the 138 observed openings of polling stations. PECs often did not perform such mandatory procedures as counting and recording the number of received ballots (37 and 49 observations, respectively), counting and cancelling DVCs (25 observations), showing ballot boxes to be empty and sealing them securely (13 observations), and recording the serial numbers of the ballot box seals (34 observations). All these are important safeguards against electoral malfeasance.

Voting was assessed negatively in 12 per cent of more than 1,300 polling stations observed, which is a very high number and is of serious concern. While the process was overall orderly and smooth in most polling stations observed, IEOM observers reported that PECs often failed to follow key procedures, lacked transparency and hindered observers' work.

IEOM observers reported numerous indications of serious violations, including evidence of ballot box stuffing (4 per cent), series of seemingly identical signatures on the voter list (8 per cent), as well as group, proxy and multiple voting (3, 2, and 1 per cent, respectively). Procedures related to inking, a safeguard against multiple voting, were frequently disregarded, as voters were not always checked for traces of invisible ink (17 per cent) or were not inked before receiving a ballot (11 per cent).

IEOM observers reported some problems regarding the secrecy of the vote, including not all voters marking their ballots in secret or not folding them before going to the ballot box to deposit them (5 and 12 per cent, respectively). Web cameras were at times placed in a way that could undermine the secrecy of the vote (in 15 per cent of observed polling stations with web cameras installed). More than three quarters of polling stations observed were not readily accessible for voters with physical disabilities, and in 42 per cent, the layout inside the polling station was not suitable for such voters.

Party and candidate observers were present in 88 per cent of polling stations observed, and citizen and self-nominated observers in 72 per cent. They were at times interfering in the work of the PECs, and party observers often did not know who they represented. IEOM and other observers were restricted in their observation (4 and 8 per cent, respectively). Notably, many observers were not allowed to scrutinize the voter lists.

IEOM observers assessed more than half of the 133 vote counts observed negatively, largely due to an obvious disregard for prescribed procedures or deliberate falsifications. Importantly, almost one half of PECs observed did not count the signatures on the voter lists, which made it impossible to reconcile the number of ballots found in the box with the number of people who signed the list. IEOM observers reported 19 cases of indications of ballot box stuffing, as well as 17 instances of evidence of deliberate falsification of voter list entries, results, or protocols.

A number of legally prescribed procedural steps in the counting were often omitted. Almost one quarter of PECs observed did not cancel unused ballots and about half of them did not enter figures in the protocol before opening the ballot boxes – both important safeguards against manipulations during the count. In more than two thirds of the counts observed, the ballots were not stamped on the back, as prescribed by the law.

In some cases, shortcuts were taken during the process, such as establishing the number of ballots cast for the incumbent by subtracting the number of votes cast for other candidates from the total number of ballots found in the box. This further undermined proper reconciliation of key figures. Results protocols were frequently not completed in the prescribed manner, and in one half of polling stations observed were not posted for public familiarization. There were numerous cases when IEOM or other observers were restricted in their observation and, in a few instances, intimidated.

Tabulation was assessed positively in 99 of the 111 reports submitted by IEOM observers. IEOM observers noted that premises were not always adequate (21 reports), which led to overcrowding negatively impacting the process in some ConECs (12 reports) or those present not having a clear view of the process (15 reports). Prescribed procedures were frequently not followed during the handover of materials and the tabulation of results. The figures in PEC results protocols did not always add up in 28 ConECs, and there were 12 reports of PECs filling out protocols at the ConEC premises, as well as 9 cases of PECs correcting protocols without the prerequisite formal ConEC decision.

*The English version of this report is the only official document.
An unofficial translation is available in the Azerbaijani language.*

MISSION INFORMATION & ACKNOWLEDGEMENTS

Baku, 12 April 2018 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA), and the Parliamentary Assembly of Council of Europe (PACE). The assessment was made to determine whether the election complied with OSCE commitments, Council of Europe's and other international obligations and standards for democratic elections and with national legislation.

Ms. Nilza de Sena was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and to lead the OSCE short-term observer mission. Ms. Margret Kiener Nellen headed the OSCE PA delegation. Mr. Viorel Riceard Badea headed the PACE delegation. Ms. Corien Jonker is the Head of the ODIHR EOM, deployed from 9 March.

Each of the institutions involved in this International Election Observation Mission has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The OSCE PA will present its report at its Standing Committee meeting in Berlin on 7 July 2018. The PACE will present its report at its Standing Committee Meeting in Zagreb on 1 June 2018.

The ODIHR EOM includes 12 experts in the capital and 28 long-term observers deployed throughout the country. On election day, 350 observers from 40 countries were deployed, including 265 long-term and short-term observers deployed by the ODIHR, as well as a 48-member delegation from the OSCE PA, and a 37-member delegation from the PACE. Opening was observed in 138 polling stations and voting was observed in more than 1,300 polling stations across the country. Counting was observed in 133 polling stations, and the tabulation in 118 ConECs.

The IEOM wishes to thank the authorities for their invitation to observe the election, and the Central Election Commission and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties, media and civil society organizations, and international community representatives for their co-operation.

For further information, please contact:

- Corien Jonker, Head of the ODIHR EOM, in Baku (+994 12 4042130);
- Thomas Rymer, ODIHR Spokesperson (+994 55 6041733 or +48 609 522 266), or Radivoje Grujić, ODIHR Election Adviser, in Warsaw (+48 669 672 451);
- Andreas Baker, OSCE PA (+45 601 08126);
- Bogdan Torcătoriu, PACE, (+33 650 392940)

ODIHR EOM Address:

White City Business Center, 5th floor
Nobel Ave. 25E, 1025 Baku
Tel: +994 12 4042130; Fax: + 994 12 4042140; Email: office@odihr.az