

ELECTION MONITORING CENTER

FINAL REPORT

ON THE RESULTS OF MONITORING OF THE MUNICIPALITY ELECTIONS OF THE REPUBLIC OF AZERBAIJAN OF DECEMBER 17, 2004

Baku, January 24, 2004

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RESUME

The Election Monitoring Center (EMC) getting prepared to the 2004 municipality elections, have conducted certain activities on perfection of electoral legislation, investigation of the consideration of communities and voters to the municipalities, preparation of voters and other election participants to the election process.

In January-March 2004, on the eve of the upcoming (second) municipality elections, the EMC conducted an opinion poll investigating the consideration of local communities to the activity of municipality councils within last 4 years and preparedness of citizens to the municipality elections.

The EMC conducted its opinion poll in Baku and 5 regions of the country (Ganja, Sumgait, Lenkaran, Imishli, and Yevlakh) involving 120 representatives of NGOs and political parties, municipality council members, and journalists. Based on the investigation materials, the EMC prepared a report consists of underlined below parts: legislation on local governance, consideration towards the activity of municipality councils, municipality-community relations, relations between municipality councils and local executive powers, and preparation to the municipality elections. The report was disseminated among the governmental structures, political parties, NGOs, mass media, and international organizations. Concurrently, the EMC presented to the public its suggestions on development of the system of local governance in Azerbaijan.

In April 2004, the EMC stated its suggestions on improvement of election system and electoral legislation of Azerbaijan. These suggestions generally concerned the formation of election commissions, registration of candidates, preparation of voter lists, transparency of the election process, and other directions.

On the eve of municipality elections, the EMC having implemented a number of programs on preparation of voters and candidates to the election process, attraction and equipment of voluntary non-partisan observers.

After the municipality elections had been arranged, the EMC monitored all stages of the election process. And on Election Day, 6 Observation Corps, consists of 563 NGO members and volunteers, observed the election process in 1140 precincts of 38 DECs. Based on information received from the Observation Corps, the EMC prepared 5 press-releases on the Election Day and sent them to mass media, the Central Elections Commission, NGOs, and international organizations.

I. PRE-ELECTION ENVIRONMENT

A. Efforts on perfection of electoral legislation:

Initiatives of political parties on preparation for the elections were generally tied with changes to the current electoral legislation and improvement of the authorities of municipality councils, their independence and status.

Members of the Parliament from the Azerbaijan Popular Front Party (APFP) made several proposals at parliament discussions. At the same time, the APFP (reformer) had prepared a package of proposals on changes to the electoral legislation and presented it to the public in April 2004. But the Executive Power of Baku City did not allow this party to conduct demonstrations with demand of election reforms.

Concurrently, the Executive Power of Baku City gave a refusal to the Musavat, Democratic, and National Democratic (Bozgard) parties applying for such demonstrations. Despite all attempts and protest actions of the Azerbaijan National Independence Party, which had to leave its head office, the problem was not solved. In general, the Executive Power of Baku City did not allow protest actions as a rule and oppositional parties could not realize their intentions to conduct public protest actions in 2004.

Initiated by the EMC, 18 NGOs, working in the field of elections, human rights, and democracy, applied to the president on June 1, 2004 asking to make changes to the articles 40.6 and 40.7 of the Electoral Code and article 2.4 of the law “On Non-Governmental Organizations (public unions and foundations)”.

They expressed an anxiety on prohibition of elections monitoring for NGOs getting financial support from abroad according to the law “On Non-Governmental Organizations (public unions and foundations)”: Article 2.4 of that law states that NGOs getting grants from foreign physical or juridical persons as well as those getting financial donations from local physical or juridical persons more than 30% of their budget may not observe president, parliament or municipality elections. This article does not serve to the openness and transparency of elections.

At the same time, articles 40.6 and 40.7 of the Electoral Code set up difficult procedures for registration of observers. Thus, according to those rules, NGOs, political parties, candidates or initiative groups wishing to observe elections, are prohibited to apply to the Central Election Commission or District Election Commissions directly but they have to apply based on personal written applications of each citizen. Parallel to this demand, each citizen has to attach 2 photos to the application. And all these articles make the registration more difficult. From another point of view, if a citizen shows his/her identity card, there is no need for additional photos. In the appeal of NGOs, they state that articles limiting observation, do not correspond to the articles 56 and 71 of the Constitution of Azerbaijan Republic, article 8 of the OSCE’s Copenhagen document on Human Rights accepted in 1990, and protocol number 1 of the European Convention on Human Rights and Freedoms.

In May 2004, the EMC applied to political parties, parliament, and president administration, OSCE/ODIHR, Venice Commission of the Council of Europe, and other international organizations

inviting them to discuss electoral legislation and legislation on local governance and presented its own proposals in this direction.

We should note, that the proposals of the EMC mentioned to reform local governance and election systems in 2 directions. In the first direction, were proposed to improve the authorities of municipality councils, give them a status of state governance branches, and make other changes to the Constitution according the demands of the Council of Europe.

Related to the second direction, election commissions should be formed basing on new principles, obstacles for elections monitoring should be removed off, voter lists and registration rules for candidates should be renewed.

On the eve of municipality elections, the activity of the Venice Commission of the Council of Europe was remarkable for its attempts on development of electoral legislation. On the 58-th meeting of the VCCE in March 2004, were accepted suggestions on renewal of election commissions in Azerbaijan, unlimited monitoring opportunities for NGOs, enlargement of the status of observers, registration pf candidates without hindering, and other issues. Concurrently, the VCCE suggested accepting those 26 proposals of the OSCE/ODIHR made after the presidential elections.

Unfortunately, the government did not respond seriously all the proposals made by domestic and some international organizations and did not accept real improvements in the direction of perfection and democratization of the electoral legislation. As a result, municipality elections were conducted according to the imperfect electoral legislation which does not set up equal opportunities for all sides.

On the eve of the elections, the embassies of the United Kingdom of Great Britain and Northern Ireland and Norway granted 2500 ballot boxes thanks to appeal of the Central Election Commission.

The USAID and Open Society Institute financially supported different programs on education of voters, voter activity aid, and preparation of election participants to the election process.

B. Pre-election public-political situation and situation with human rights and civil society:

The crisis in the field of democracy and human rights, which was a result of accidents on October 15-16, 2003, was overcome partly on the eve of municipality elections. We should note, that the case of 136 people arrested during that happenings had gone on in courts within 10 months in 2004. Unfortunately, despite the attention of the public to this process, juridical organs, investigators and prosecutors were not neutral and impartial. Thus, though witness evidences were not accurate, 42 persons, including leaders of Musavat, Democratic, and Umid parties, Rauf Arifoglu, editor-in-chief of “Yeni Musavat” newspaper, Etimad Asadov, chairman of the Organization of Karabakh Veterans, and others were accused for 1 to 6 years.

On the eve of municipality elections, the president edited an amnesty for some political prisoners, including Iskender Hamidov, former minister of internal affairs, Surat Huseynov, former prime-minister, Fahmin Hajiyev, former commander of internal forces, and others.

A hard situation with protection of the freedom of speech and press went on in the year of municipality elections as well. For instance, the executive power of Baku City hindered selling of newspapers by “Gaya” Press Distribution firm in July-August.

In 2004, pro-oppositional newspapers – “Bizim Yol”, “Baki-Khabar”, “Yeni Musavat”, “Azadlig”, “Mukhalifat” and “Monitor” magazine met numerous pressures by state bureaucrats and people presenting governing authorities. Aydin Guliyev, a chief editor of “Baku-Khabar” newspaper, were kidnapped on July 17, 2004 and threatened for his professional activity. In April, Rovshan Kabirli, chief editor of “Mukhalifat” newspaper, and Ganbar Yisifli, a reporter of the same paper, were accused for 2 years according to the decision of Nasimi District Court.

It is necessary to note, that the executive power of Baku City did not allow media organizations and newspapers to conduct a protest picket on August 9, 2004.

Crisis with human rights and democracy had an impact on political processes in 2004 as well. A tension in relations between the government and opposition had a negative influence on mutual confidence and political pluralism. In general, the public-political situation after the last presidential elections should be named as a period of stagnation and prohibition of political activity.

For instance, in 2004 the authorities did not allow protest actions of different oppositional parties – pickets, marches, and demonstrations.

As it was expected, public-political environment in the country generated very passive competition during the municipality elections. In the result of dependence of election commissions from local and central executive powers and undemocratic administration, a number of candidates from different political parties were not registered. A prejudice, observed during registration of candidates, pointed at discrimination between candidates to municipality councils from the ruling New Azerbaijan Party and from oppositional parties. For instance, the number of registered candidates from the NAP was hugely more than from the Musavat, Democratic, Popular Front, and National Independence parties, which created 2 political blocks on the eve of last presidential elections. As a result, 3 political parties – the Musavat, Democratic, and Popular Front parties boycotted the municipality elections and this decision lessened public-political activity. Concurrently, the analysis of political processes in the year of municipality elections shows insufficient preparation of political parties to the elections, attempts and initiatives in the direction of legislative reforms.

In general, pre-election political situation in the country created minimum opportunities for equal competition and did not provide sufficient political environment for the elections.

II. ELECTION CAMPAIGN

A. Elections administration and activity of election commissions:

The observation conducted by the EMC proves no serious changes in the activity of election commissions in comparison with last presidential and parliament elections. Thus, as it was during the last elections, the commissions were not be able to show independency, initiatives, and neutrality in their activity.

According to the article 46.1 of the Electoral Code, voter lists in each precinct should be certified by the Central Election Commission (CEC) till May 30 every year and explicit at least 35 days before the Election Day. But during this period, the fruitful and initiative activity of precinct and district election commissions was not observed and in number of precincts voters could not find their names in the voter lists on the Election Day. In general, observation of the EMC conducted in 25 election districts proved that in many precincts voter lists were not hung before the Election Day.

Analysis of the process of registration of candidates proves that the activity of the District Election Commissions (DECs) in some cases were not suited to demands of the law. The CEC cancelled dozens of decisions of DECs refusing to register candidates and this fact points at serious prejudice in their activity. Concurrently, some positive tendency in the activity of the CEC was explained not with the willingness to protect laws but to create a democratic image to this process.

Bureaucratic obstacles for registration of observers, noticed during last elections, did not observe widely during these elections. Serious problems in this field took place generally in DECs situated in Nakhchivan Autonomous Republic.

Another principal matter in activity of election commissions is promotion of openness and transparency. Their activity during these elections was not more transparent than during last ones. Thus, they did not give the public continual information on the election process, financing of elections, registered candidates, and etc.

A number of normative acts edited by the CEC did not suit the demands of the electoral legislation. Some of these acts limited or extended the norms of the electoral legislation.

B. Nomination and registration of candidates:

According to the Election Code of Azerbaijan Republic candidates to municipality councils may be nominated individually or by initiative groups, as well as by political parties and blocks of political parties.

The EMC have observed that a great number of candidates were nominated individually. Among the political parties only the ruling New Azerbaijan Party profited the right to nominate candidates. The EMC considers the reason of it in election legislation. Because demands and procedures for candidates representing political parties in municipality elections are difficult enough and absolutely most parties could not use their right to nominate candidates.

Another problem hindering registration of candidates relates to the activity of District Election Commissions (DEC). Some DECs hindered getting by citizens applying necessary documents (signature lists, appeal forms, and etc.). The EMC observed such violations in Sharur-Sadarak DEC number 1, Sharur DEC number 2, Nakhchivan city DEC number 4, Shahbuz-Babak DEC number 5, and Julfa-Babak DEC number 6 which are situated in Nakhchivan Autonomous Republic.

In general, there have been observed serious law violations during nomination and registration of candidates in activity of some DECs and the Central Election Commission (CEC). For instance, on October 9, 2004 after the reception of documents from candidates had been officially completed, the CEC announced that 40 794 citizens got application documents and only 37 398 of them returned them to DECs. Later, the CEC proved about 300 candidates rejected by DECs and declared this fact as “reconstruction of violated rights of candidates”. But this fact also shows at existence of serious problems in election administration.

At the end, the CEC announced that 38 856 candidates were registered and 22 103 of them represent the New Azerbaijan Party, 14 202 are neutral, and 2 551 are members of different oppositional parties. But after 4 oppositional parties – Musavat, Popular Front, Democratic, and Umid parties boycotted the elections, this number have been lessened.

C. Pre-election propaganda campaign:

The EMC considers current municipality elections as most passive elections during last 5 years because of voter passiveness and low competition. The main reason is a local character of municipality elections. But there are other reasons as well.

First of all, should be noted some articles of election legislation. Thus, current legislation does not provide fundamental legal framework for conduction of pre-election campaign. Candidates have very limited access to mass media, particularly to electronic versions.

The legislation does not provide candidates with real financial support as well. Though, according to the Election Code, candidates must get financing from the state budget (article 225.1.3) election commissions have not made this.

Another reason is interruption of local executive powers to election process and hindering pre-election campaign of candidates in some regions. Thus, local executive authorities of Lenkaran and Jalilabad did not allow the EMC to conduct meeting of candidates with voters and organize debates among them in appropriate halls.

Boycott of municipality elections by oppositional political parties and lack of civic enlightenment on the nature of municipalities are among the reasons causing voter passiveness and law competition. The EMC observed activity of only non-governmental organizations have in this field. But relevant state institutions, election commissions, political parties, and mass media have not acted systematically in this sphere. Though legislative branches edited some acts responding mass media, they do not follow these rules.

III. ELECTION DAY

The Election Monitoring Center of Non-Governmental Organizations observed the municipality elections conducted on December 17, 2004 in collaboration with volunteers, civic groups, and other non-partisan observers.

The monitoring was conducted by 563 local observers in 38 election districts. Information and documents received from them allow summarizing final results:

Most of polling stations, with some exclusion, had necessary technical equipment and were ready to voting on time. There was not prejudice towards observers when the voting started.

One of law violations observed on the Election Day is that members of the Precinct Election Commissions (PECs) gave voting bulletins to citizens without demanding identity documents.

For example, Eldaniz Maharramov, an observer, reported that in precinct number 9 of Kapaz Second (Ganja) election district number 40 commission members gave voting bulletins to 21 citizens without demanding identity documents.

Observations, conducted during these elections, show that election commissions could not act in accordance with electoral legislation and could not administer elections independently, objective, and impartially.

In some precincts observers noticed prejudice in organization of voting cabins, voting stations, and administration of elections. For instance, in precinct number 19 of Nakhchivan City election district

number 4 voting bulletins were not counted after the voting completed but were taken to the District Election Commission without counting.

Sevinj Mammadova, an observer, reported that in precinct number 27 of Kapaz Second (Ganja) election district number 40 voting cabins were not ready until 10.45. And voters had to complete voting bulletins outside the cabins.

Another violation relates to facts that in some precincts, at the same time, were conducted elections in 2 or 3 municipality councils. For example, in precinct number 23 of Masalli election district number 70 were conducted elections to Imanli and parallel to Kalbahuseynli municipalities.

In general, the analysis of information and documents received by the EMC allows summarizing the law violations in underlined below groups:

Problems with voter lists:

The summary of the observation proves that in precincts the names of some voters were not included in voter lists, or the names of citizens not living in this area were included in lists, or the names of the same voters were included in lists few times. In most precincts, violating the legislation, were composed additional voter lists. For instance, an observer Huseyn Ahmadov reported from the precinct number 25 of Kapaz First (Ganja) election district number 39 that a citizen Fakhraddin Ibrahimov showed members of the above mentioned PEC two notifications asking people to come and vote but those people died earlier. And as it was known later, in documents of that precinct was written that those people signed, took bulletins, and voted. Yashar Nazarov, an observer, reported from the precinct number 30 of Lankaran-Masalli election district number 75 some people could not find their names in voter lists and according to the decision of the court the names of 26 voters were included in the lists on the Election Day.

On the Election Day, the problems with voter lists were observed in precincts number 7, 9, 10, 14, and 15 of Nizami First (Ganja) election district number 37, precincts number 23, 24, and 25 of Nizami Second (Ganja) election district number 38, precincts number 2, 5, 6, 9, 10, 11, 12, 13, and 17 of Jalilabad election district number 67, precincts number 6, 7, 11, 12, 17, and 19 of Binagadi First election district number 8.

Voting instead of others:

The voting instead of other voters took massive character on the Election Day in the country. For example, in precinct number 15 of Narimanov Second election district number 20 one voter threw many bulletins in a ballot box. When Said Nuriyev, an observer, wanted to write an act on this issue, he was withdrawn from the precinct by the police. Asgar Mammadov, an observer, reported from the precinct

number 18 of Nakhchivan City election district number 4 that the members of the above mentioned PEC filled about 300 bulletins outside the polling station, came into and fulfilled a ballot box.

Observers Rovshan Muradov and Aynura Garayeva reported from the precinct number 17 of Nizami Second (Ganja) election district number 38 a voter Panah Mammadov came with 3 members of his family but he was told by the PEC members that they all “had already voted”. But observers noticed as other people voted instead of them.

Such prejudices were also observed in precincts number 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 19, 20, 33, 34, 35, 36, 37, and 38 of Nakhchivan City election district number 4, in precincts number 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of Julfa-Babak election district number 6, in precincts number 3, 5, 6, 7, 11, 12, 16, 17, 18, 23, 24, 25, and 26 of Ordubad-Julfa election district number 7, in precincts number 5, 6, 7, 12, 13, 14, 15, 18, 19, 20, and 21 of Binagadi First election district number 8, in precincts number 1, 2, 4, 7, 8, 15, 16, 17, and 21 of Binagadi Second election district number 9, in precincts number 2, 4, 8, 9, 15, 16, 17, and 19 of Azizbayov First election district number 13, in precincts number 15, 16, 17, 18, 19, 20, 21, and 22 of Nizami First (Ganja) election district number 37, in precincts number 2, 3, 4, 5, 12, 13, 14, 15, 16, 17, 19, and 22 of Nizami Second (Ganja) election district number 38, in precincts number 2, 3, 9, 10, 11, 12, 13, 14, 20, 21, 22, 23, 24, and 25 of Kapaz First (Ganja) election district number 39, in precincts number 1, 2, 3, 6, 8, 9, 12, 13, 15, 16, 20, 21, 22, and 24 of Kapaz Second (Ganja) election district number 40, in precincts number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, and 20 of Yevlakh election district number 48, in precincts number 4, 5, 6, 7, 9, 10, 11, 12, 15, 16, 17, 18, and 19 of Yevlakh-Mingechevir election district number 49.

Multiple voting:

Information and documents received from the observers on the Election Day and after it show that in many cases the PEC chairmen themselves promoted the multiple voting.

For instance, in precinct number 2 of Nizami Second (Ganja) election district number 38, pupil of senior classes of the secondary school number 18 and their teachers threw many bulletins in ballot boxes and voted instead of other voters.

Anar Aliyev, an observer, noticed as one voter threw many bulletin in a ballot box in precincts number 16 and 17 of Khatai First election district number 33 but the PEC chairmen paid no attention to these facts. In precinct number 17 of Lenkaran election district number 73, the same soldiers voted twice. In precinct number 18 of the same district, the PEC secretary A.Farajov and the PEC member S.Jafarov protested against massive violations and refused to work.

In general, similar law violations were observed in precincts number 3, 5, 6, 11, 12, 16, 17, 18, 19, 20, 23, 24, 25, and 26 of Ordubad-Julfa election district number 7, in precincts number 1, 2, 6, 7, 8, 9, 20, 29, and 30 of Binagadi First election district number 8, in precincts number 14, 15, 17, and 24 of

Garadagh election district number 11, in precincts number 8, 9, 11, 12, and 14 of Yasamal First election district number 15, in precincts number 15, 17, and 18 of Narimanov Second election district number 20, in precincts number 4, 5, 7, 8, 9, 16, and 17 of Khatai First election district number 33, in precincts number 9, 10, 11, 16, 17, 18, 19, 20, and 22 of Khatai Second election district number 34, in precincts number 4, 6, 7, 8, 9, 10, 16, 20, 21, 23, and 27 of Kapaz Second (Ganja) election district number 40, in precincts number 6, 7, 12, 13, 17, 18, 19, 22, 23, 30, and 34 of Sumgait First election district number 41, in precincts number 4, 6, 7, 8, 9, 10, 11, 15, 17, and 18 of Sumgait Second election district number 42, in precincts number 4, 5, 7, 8, 10, 11, 12, and 13 of Yevlakh election district number 48, in precincts number 2, 3, 4, 5, and 6 of Salyan election district number 59, in precincts number 3, 4, 5, 9, 10, 12, 14, 15, 16, and 17 of Lenkaran City election district number 73, in precincts number 3, 4, 5, 6, 9, 10, 11, and 12 of Jalilabad election district number 67.

Voting by special groups:

The documents, received by the EMC, show that during municipality elections local executive powers organized special groups which voted in several precincts, as it was during the last president elections.

For example, observers Ildirim Gahramanov and Musa Ismayiov reported that Mushkunaz Mammadova and Zaur Davudov, members of the PEC number 6 of Yevlakh-Mingechevir election district number 49, ordered a group of people to go to houses of voters calling them to the precinct and promote their voting for “defined” candidates.

In Nakhchivan City election district number 4 voters were brought to precincts in groups by buses number 85 AA 108, 85 DM 364, 70 BA 219, and 70 BB 451. In Narimanov Second election district number 20, the same teachers of child houses number 309 and 389 voted in each of precincts number 3, 4, and 5. The same workers of the administration of houses number 54 and teachers of the secondary school number 200 voted in each of precincts number 16, 17, 18, and 19 of the above mentioned election district.

Ali Huseynov, an observer at precinct number 21 of Kapaz First (Ganja) election district number 39, reported as a group of refugees from Kalbajar region came to the precinct. They told observer that voted in 3 precincts until that time.

Similar prejudices were observed in precincts number 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of Julfa-Babak election district number 6, in precincts number 3, 5, 6, 7, 11, 12, 16, 17, 18, 23, 24, 25, and 26 of Ordubad-Julfa election district number 7, in precincts number 10, 11, 12, 15, 16, 17, 24, 25, 26, 27, and 28 of Nasimi First election district number 21, in precincts number 4, 5, 7, 8, 9, 10, 11, 15, 16, and 17 of Khatai First election district number 33, in precincts number 17, 18, 19, 20, 22, and 23 of Khatai Second election district number 34, in precincts number 15, 16, 17, 18, 19, 20, 21, and 22 of Nizami First (Ganja) election district number 37, in precincts number 2, 3, 4, 5, 12, 13, 14, 15, 16, 17, 19, and 22 of

Nizami Second election district number 38, in precincts number 2, 9, 10, 11, 14, 20, 22, 23, 24, and 25 of Kapaz First (Ganja) election district number 39, in precincts number 1, 2, 3, 6, 8, 9, 12, 15, 16, 20, 21, 22, and 24 of Kapaz Second election district number 40, in precincts number 6, 7, 12, 13, 17, 18, 19, 22, 23, 30, and 34 of Sumgait First election district number 41, in precincts number 4, 6, 7, 8, 9, 10, 11, 15, 17, and 18 of Sumgait Second election district number 42, in precincts number 3, 4, 5, 6, 7, 8, 12, 13, and 14 of Absheron election district number 45, in precincts number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, and 20 of Yevlakh election district number 48, in precincts number 4, 5, 6, 7, 9, 10, 11, 12, 15, 16, 17, 18, and 19 of Yevlakh-Mingechevir election district number 49, in precincts number 2, 3, 4, 8, 9, 15, 16, 17, 23, and 24 of Gusar election district number 51, in precincts number 1, 2, 3, 4, 6, 7, 10, 11, 17, and 18 of Khachmaz village election district number 56, in precincts number 1, 2, 3, 4, 5, 6, 7, 9, 10, 12, 13, and 14 of Salyan election district number 59, in precincts number 3, 4, 5, 9, 10, 12, 14, 16, and 17 of Lenkaran City election district number 73.

Prejudice of voting privacy:

Another prejudice observed on the Election Day relates to facts when the voting privacy was interrupted. For instance, in precinct number 4 of Jalilabad election district number 67, soldiers were filling bulletins outside the voting cabins.

As an observer Farid Mehdiyev reported from the precinct number 13 of Nizami First election district number 37, the PEC members gave voters bulletins which were cut earlier and the names of candidates had been already marked. Gunduz Hasanov, an observer, noted the chairman of PEC number 3 of Kapaz Second (Ganja) election district number 40 marking bulletins instead of voters.

Observations prove such prejudice in precincts number 7, 8, 9, 10, 15, 16, 17, 21, and 23 of Sharur-Sadarak election district number 1, in precincts number 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of Julfa-Babak election district number 6, in precincts number 3, 11, 12, 16, 17, 18, 23, 24, 25, and 26 of Ordubad-Julfa election district number 7, in precincts number 15, 16, 17, 26, 27, and 28 of Nasimi First election district number 21, in precincts number 1, 8, 17, and 22 of Khatai First election district number 33, in precincts number 5, 6, 7, 17, 18, 19, and 22 of Nizami First (Ganja) election district number 37, in precincts number 1, 2, 3, 6, 9, 12, 13, 15, 16, 20, 21, 22, 23, and 24 of Kapaz Second (Ganja) election district number 40, in precincts number 6, 7, 12, 13, 17, 18, 19, 22, and 23 of Sumgait First election district number 41, in precincts number 4, 6, 7, 8, 9, 10, 11, 15, 17, and 18 of Sumgait Second election district number 42, in precincts number 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, and 20 of Yevlakh election district number 48, in precincts number 9, 10, 12, 13, and 14 of Salyan election district number 59, in precincts number 5, 6, 9, 10, 11, and 12 of Jalilabad election district number 67, in precincts number 3, 4, 5, 9, 10, 12, 14, 16, and 17 of Lenkaran City election district number 73.

Interruptions by local executive powers and police:

It was observed numerous interruptions to the voting process at precincts by local executive powers and police on the Election Day. For instance, Ilham Valiyev, the chief of Sadarak Regional police department, called Hilal Aliyev, the chairman of the local representation of Azerbaijan Popular Front Party (reformer), to the police station and demanded that all members of PECs from this party had to come to work on the Election Day.

In precinct number 23 of Absheron election district number 45, the representative of executive power in Novkhani village, chairman of the municipality council, and the police interrupted the elections, expelling the observers and representatives of the candidates from the precinct. G.Naghiyev, a candidate to the municipality council, was violated by the police.

We should note, that similar accidents took place in precincts number 10, 11, 12, 13, 14, 15, and 16 of Julfa-Babak election district number 6, in precincts number 3, 5, 6, 7, 11, 12, 16, 17, 18, 23, 24, and 25 of Ordubad-Julfa election district number 7, in precincts number 10, 11, 12, 15, 16, 17, 24, 25, 26, 27, and 28 of Nasimi First election district number 21, in precincts number 8 and 16 of Khatai First election district number 33, in precincts number 19, 20, 21, and 22 of Nizami First (Ganja) election district number 37, in precincts number 12, 13, 14, 15, 16, and 22 of Nizami Second (Ganja) election district number 38, in precincts number 14, 20, 22, and 25 of Kapaz First (Ganja) election district number 39, in precincts number 12, 15, 16, 20, 21, and 22 of Kapaz Second (Ganja) election district number 40, in precincts number 13, 17, 18, 19, 22, 23, and 34 of Sumgait First election district number 41, in precincts number 9, 10, 11, 15, 17, and 18 of Sumgait Second election district number 42, in precincts number 3, 4, 5, 6, 7, 8, 12, 13, and 14 of Absheron election district number 45, in precincts number 7, 8, 9, 10, 14, 15, 19, 21, 22, 23, 27, 28, 29, and 30 of Mingechevir City election district number 47, in precincts number 4, 5, 6, 7, 10, 11, 12, 15, 18, 19, and 20 of Yevlakh election district number 48, in precincts number 7, 9, 10, 12, 15, 16, 17, 18, and 19 of Yevlakh-Mingechevir election district number 49, in precincts number 4, 8, 9, 15, 23, and 24 of Gusar election district number 51, in precincts number 6, 7, 10, 11, 17, and 18 of Khachmaz village election district number 56, in precincts number 4, 5, 6, 7, 10, 12, 13, and 14 of Salyan election district number 59, in precincts number 5, 6, 9, 10, 11, and 12 of Jalilabad election district number 67, in precincts number 5, 9, 10, 12, 14, 16, and 17 of Lenkaran City election district number 73.

Pressure on the will of voters:

Observers noted a number of facts concerning the pressure on the will of voters. Representatives of local executive powers, members of municipality councils and PECs were the actors in this process. For instance, a member of the parliament Agakerim Sharifov and representative of local executive power

Ildirim Huseynov were conducting propaganda among soldiers insisting to vote for “defined” candidates in precinct number 17 of Lenkaran City election district number 73.

Vusal Seyidov, an observer, reported that the chairman of the PEC number 24 of Kapaz Second election district number 40 demanded voters to fill bulletins near him, not in cabins.

Tural Abdullayev, an observer at precinct number 3 of Yevlakh election district number 48, reported that Matlab Safarov, chairman of the PEC and concurrently the chief of Yevlakh Gas Administration Department, entered the names of workers of the above mentioned organization in the voter lists and ordered them to vote for “defined” candidates.

Observers noticed similar violations in precincts number 10, 11, 12, 13, 14, 15, and 16 of Julfa-Babak election district number 6, in precincts number 3, 5, 6, 7, 11, 12, 16, 17, 18, 23, 24, and 25 of Ordubad-Julfa election district number 7, in precincts number 10, 11, 12, 15, 16, 17, 24, 25, 26, 27, and 28 of Nasimi First election district number 21, in precincts number 8 and 16 of Khatai First election district number 33, in precincts number 19, 20, 21, and 22 of Nizami First (Ganja) election district number 37, in precincts number 12, 13, 14, 15, 16, and 22 of Nizami Second election district number 38, in precincts number 14, 20, 22, and 25 of Kapaz First (Ganja) election district number 39, in precincts number 12, 15, 16, 20, 21, and 22 of Kapaz Second (Ganja) election district number 40, in precincts number 13, 17, 18, 19, 22, 23, and 34 of Sumgait First election district number 41, in precincts number 9, 10, 11, 15, 17, and 18 of Sumgait Second election district number 42, in precincts number 4, 5, 6, 7, 10, 11, 12, 15, 18, 19, and 20 Yevlakh election district number 48, in precincts number 7, 9, 10, 12, 15, 16, 17, 18, and 19 of Yevlakh-Mingechevir election district number 49, in precincts number 5, 6, 9, 10, 11, and 12 of Jalilabad election district number 67.

Counting of ballots and writing protocols:

Observations conducted on the Election Day points at numerous prejudices during counting of ballots and writing of protocols. In most election districts of the country the results were falsified for profit of the candidates defined earlier. In some places, members of election commissions had to sign white blank protocols. For example, an observer Bayramali Latifov reported that members of the PEC number 25 of Kapaz First (Ganja) election district number 39 got a list of candidates who should win and they falsified final protocols for profit of these candidates. In this precinct, after the voting had been completed and the counting started, a representative of Kapaz District executive power was inside the precinct.

Elkhan Abbasov, an observer, reported that in precinct number 23 of Masalli election district number 70 during the writing of final protocol the results were falsified for profit of candidate A.Ibrahimov, who got very few ballots.

Such violations were observed on the Election Day in precincts number 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 19, 20, 33, 34, 35, 36, 37, 38 in precincts number of Nakhchivan City election district number 4, in precincts number 10, 11, 12, 13, 14, 15, and 16 of Julfa-Babak election district number 6, in precincts number 3, 5, 6, 7, 11, 12, 16, 17, 18, 23, 24, and 25 of Ordubad-Julfa election district number 7, in precincts number 10, 11, 12, 15, 16, 17, 24, 25, 26, 27, and 28 of Nasimi First election district number 21, in precincts number 8 and 16 of Khatai First election district number 33, in precincts number 19, 20, 21, and 22 of Nizami First election district number 37, in precincts number 12, 13, 14, 15, 16, and 22 of Nizami Second election district number 38, in precincts number 14, 20, 22, and 25 of Kapaz First (Ganja) election district number 39, in precincts number 12, 15, 16, 20, 21, and 22 of Kapaz Second (Ganja) election district number 40, in precincts number 13, 17, 18, 19, 22, 23, and 34 of Sumgait First election district number 41, in precincts number 9, 10, 11, 15, 17, and 18 of Sumgait Second election district number 42, in precincts number 4, 5, 6, 7, 10, 11, 12, 15, 18, 19, and 20 Yevlakh election district number 48, in precincts number 7, 9, 10, 12, 15, 16, 17, 18, and 19 of Yevlakh-Mingechevir election district number 49, in precincts number 4, 5, 6, 7, 10, 12, 13, and 14 of Salyan election district number 59, in precincts number 5, 6, 9, 10, 11, and 12 of Jalilabad election district number 67, in precincts number 5, 9, 10, 12, 14, 16, 17 of Lenkaran City election district number 73.

Voter activity:

It was characteristic for all election districts where the observation was conducted that voter participation was very low and election commissions tried to extend the number of voters. For example, though in precinct number 3 of Nizami Second (Ganja) election district number 38 voted only 110 out of 1494 registered citizens, in final protocol was written that 747 citizens voted.

In precinct number 12 of Kapaz Second (Ganja) election district number 40 voted only 273 out of 1495 registered citizens but in final protocols were written that 619 citizens voted. In precinct number 3 of Jalilabad election district number 67 voted only 185 out of 1433 registered citizens but in final protocols were written that 607 citizens voted.

Vugar Jafarov, a secretary of the PEC number 12 of Yevlakh election district number 48, told observers that the DEC ordered to write in protocols as 50% of citizens from the list voted.

In general, observers counted about 8-12% of citizens from the list voting on the Election Day and this number is much lower than official results. In some precincts only 5-6% of citizens voted. Despite this, in most precincts the number of citizens, who voted, was extended and written in protocols.

Pressure and restrictions for activity of observers:

On the Election Day, it was observed pressure and restrictions for activity of observers. Thus, in some precincts were not created sufficient conditions for observation of the voting process, and the observers were withdrawn from most precincts during counting of ballots. Another fact is that most PECs refused to give observers copies of protocols on the voting results.

For instance, an observer Dovlat Asgarov was withdrawn from precinct number 24 of Nakhchivan City election district number 4 when the counting began.

The police violated and withdrew Vagif Allahverdiyev, an observer, from precinct number 22 of Nizami First (Ganja) election district number 37. When another observer Khalid Bayramov noticed numerous prejudices during the counting at precinct number 8 of Yevlakh election district number 48, he was threatened to be beaten.

In general, the activity of observers was restricted in precincts number 1, 3, 4, 7, 8, 11, 12, and 16 of Sharur-Sadarak election district number 1, in precincts number 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 19, 20, 33, 34, 35, 36, 37, and 38 of Nakhchivan City election district number 4, in precincts number 10, 11, 12, 13, 14, 15, and 16 of Julfa-Babak election district number 6, in precincts number 3, 5, 6, 7, 11, 12, 16, 17, 18, 23, 24, and 25 of Ordubad-Julfa election district number 7, in precincts number 5, 6, 7, 12, 13, 14, 15, 18, 19, 20, and 21 of Binagadi First election district number 8, in precincts number 1, 2, 4, 7, 8, 15, 16, 17, and 21 of Binagadi Second election district number 9, in precincts number 15, 16, 17, and 19 of Azizbayov First election district number 13, in precincts number 13, 19, 20, 21, and 22 of Yasamal Third election district number 17, in precincts number 8, 24, 26, and 27 of Nasimi First election district number 21, in precincts number 17, 19, 20, 21, and 22 of Nasimi Second election district number 22, in precincts number 3, 4, 5, 10, 11, 26, and 27 of Kapaz Second (Ganja) election district number 40, in precincts number 9, 10, 11, 15, 17, and 18 of Sumgait Second election district number 42, in precincts number 4, 5, 6, 7, 10, 11, 12, 15, 18, 19, and 20 of Yevlakh election district number 48, in precincts number 7, 9, 10, 12, 15, 16, 17, 18, and 19 of Yevlakh-Mingechevir election district number 49, in precincts number 4, 5, 6, 7, 10, 12, 13, and 14 of Salyan election district number 59, in precincts number 5, 6, 9, 10, 11, and 12 of Jalilabad election district number 67.

During counting of ballots and writing of protocols, observers were withdrawn from most precincts of the country.

IV. ATTACHEMENT

TABLE
of voter activity and prejudices observed during municipality elections
in 38 election districts of Azerbaijan Republic

DEC	Number of PECs in which conducted the observation	Voters brought to precincts in special groups	Multiple voting	Interruption by local executive powers and police	Pressure on the will of voters	Falsification of results	Voter activity observed
1	19	X	X	X	X	X	6-7 %
4	28	X	X	X	X	X	8-9 %
6	17	X	X	X	X	X	8-11 %
7	24	X	X	X	X	X	9-11 %
8	11	-	X	-	X	X	6-7 %
9	19	-	-	X	X	-	8-11 %
13	18	X	X	X	X	X	5-6 %
17	11	-	-	-	-	X	5-6 %
18	18	X	-	-	-	-	6-7 %
20	23	X	X	X	-	X	8-9 %
22	14	X	X	X	X	X	5-6 %
29	16	-	X	X	-	-	8-10 %
33	18	-	-	-	X	X	10-12 %
34	12	-	X	-	-	X	9-10 %
35	13	-	-	-	X	X	6-7 %
36	16	-	-	-	-	X	8-10 %
37	17	X	X	X	X	X	5-6 %
38	18	X	X	X	X	X	6-7 %
39	12	X	X	X	X	X	9-10 %
40	22	X	X	X	X	X	10-12 %
41	12	X	X	X	X	X	8-10 %
42	14	X	X	X	X	X	8-10 %
43	15	X	X	X	X	X	10-12 %
44	13	X	X	X	X	X	6-7 %
45	19	X	X	X	X	X	8-10 %
48	24	X	X	X	X	X	5-6 %
49	17	X	X	X	X	X	5-6 %
59	15	X	X	X	X	X	7-8 %
67	14	X	X	X	X	X	9-10 %
68	11	X	X	X	X	X	8-10 %
69	14	X	X	X	X	X	6-7 %
70	16	X	X	X	X	X	8-10 %
71	12	X	X	X	X	X	5-6 %
73	19	X	X	X	X	X	9-10 %
75	18	X	X	X	X	X	6-7 %
76	17	X	X	X	X	X	9-10 %
77	11	X	X	X	X	X	6-7 %
90	17	X	X	X	X	X	8-9 %

Total: 624 PECs

Explanation: PEC – Precinct Election Commission

DEC – District Election Commission

X – Prejudices observed

-- - Prejudices were not observed

V. RESULTS AND RECOMMENDATIONS

Long term monitoring upon the municipality elections conducted in Azerbaijan Republic on December 17, 2004 as well as observations on the Election Day – upon the voting process, counting of ballots and multiplying official results, give the EMC a right to state its opinion concerning all stages of the election process. The EMC started preparing to the municipality elections since beginning of 2004 and conducted monitoring as soon as the elections had been officially arranged. The monitoring process has been completed after the official results were announced.

The municipality elections conducted on December 17, 2004 was the first elections to institutions of local governance after the Azerbaijan Republic joined the Council of Europe and this fact was important from the point of relevance to international standards and as the state implemented legal-political obligations accepted in Council of Europe. Unfortunately, though Azerbaijan was obliged to accept democratic electoral legislation and conduct democratic elections, it did not follow the obligations.

Recommendations of different public-political organizations, including the Venice Commission of the Council of Europe and OSCE/ODIHR, made at the end of 2003 and beginning of 2004, were not taken into accordance. The elections were conducted according to the legislation which did not gain public confidence and was imperfect. 2 main issues were not included in the Electoral Code – forming election commissions equally by representatives of ruling and oppositional parties, and unrestricted monitoring opportunities upon the election process.

The first stage of municipality elections – nomination and registration of candidates was administered with numerous law violations. While the pre-election campaign candidates did not get feasibility at state owned television, radio, and press.

Wide spread prejudices observed on the Election day relate to problems with voter lists, multiple voting, voting by special groups, and interruption to the election process by local executive powers and police. Such prejudices violated the election laws on organization and conduction of the voting.

Domestic observers noticed as in most precincts were filled and thrown into ballot boxes many bulletins for candidates, who were protected by local executive powers and PEC chairmen did nothing to prevent this process. Even more, observers who stated prejudices were pressured.

The activity of chairmen and secretaries of PECs on the Election Day on organization of the voting, counting of ballots, and stating the election results were followed with numerous law violations. Such violations may be explained by unawareness on procedures and their intentional prejudice. Thus, some PEC chairmen did not pay any attention at remarks on organization of the polling station, the place of ballot boxes, use of mobile ballot boxes, and incorrect counting and this way violated the legislation.

Based on prejudices taken place on the eve of elections and on the Election Day, the EMC states that during municipality elections conducted on December 17, 2004 the Constitution of Azerbaijan Republic, the Electoral Code and other legislative acts were violated. The EMC considers that executive power controlled and interrupted in elections and members of municipality councils were not elected but appointed.

Analyzing the above mentioned the EMC considers:

Law violations were observed at all stages of election campaign including the Election Day.

Election commissions are not neutral and independent; they function under the control of executive power.

Voter participation in these elections was very low and this tends to generate serious problems for democratic processes.

Municipality elections were conducted in non-democratic environment and followed with numerous prejudices. Elections, followed with massive violations, may not be considered as legal.

Municipality elections conducted on December 17, 2004 were not free and fair, and do not suit to democratic standards.

The EMC considers necessary to realize underlined below measures on development of election system and perfection of electoral legislation:

Results of municipality elections conducted on December 17, 2004 and prejudices should be legally investigated.

Government should take an obligation to cooperate with political parties, NGOs, and international institutions for conducting next elections democratically. The government should demonstrate a will and implement principal measures for implementation of electoral reforms and conduction of democratic elections.

Authorities should make necessary changes to the Electoral Code and other laws for impartiality of election commissions and restricted monitoring opportunities for domestic observers.

The EMC suggests making below mentioned changes to electoral legislation:

Election commissions should be formed basing on new principles taking into accordance equal representation of main political sides reflecting the society.

Voter lists should be composed basing on actual residence of voters. Voter lists should be composed and checked only by precinct election commissions and local executive powers should not participate in this process anyway.

Soldiers and prisoners should not be entered in voter lists and should not vote during municipality elections. In military bases and prisons, should not be formed election precincts.

Article 2.4 of the law “On Non-Governmental Organizations (public unions and foundations)” stating that NGOs getting grants from foreign physical or juridical persons as well as those getting financial donations from local physical or juridical persons more than 30% of their budget may not observe elections, should be annulated. Observers should not be asked to give photos for observer cards.

Nomination and registration procedures for candidates to municipality and parliament elections should be simplified

The EMC considers realization of above mentioned suggestions may create broad opportunities for conduction of free and fair elections in Azerbaijan.

The Board of Directors