

ELECTION MONITORING AND DEMOCRACY STUDIES CENTER



FINAL REPORT

**Results of the Monitoring of the Municipal Election held in the Republic of
Azerbaijan on December 23, 2009**

Baku - March, 2010



It is noteworthy that EMDS programs on preparation of observers and voter education with regard to 23 December, 2009 Municipal Election were implemented with the financial-technical support of the governments of the United Kingdom and Canada, US National Democratic Institute (NDI).



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I. SUMMARY

Election Monitoring and Democracy Studies Center (EMDS) is an independent, impartial, non-governmental organization working for holding free and fair elections and development of civil society and democracy in Azerbaijan. EMDS believes that holding free and fair elections in Azerbaijan will contribute to the development of democratic traditions, enhancement of citizens' welfare, and protection of human rights in the country.

EMDS started conducting of its Long-term Observation from the Central Election Commission's official announcement of the decision on holding the third Municipal Election in the Republic of Azerbaijan which covered the process of nominating candidates to municipalities, registration, and election campaigning process.¹ EMDS carried out its Long-term Observation with its 96 individually-registered observers in 111 election constituencies (districts) nationwide.

EMDS cooperated with 1291 independent observers, registered with the Central and constituency election commissions in order to observe the municipal election held on December 23, 2009. After the Election Day- on December 24, 2009, EMDS made a Preliminary Statement on Results of the Municipal Election based on information submitted by observers. It is noteworthy that EMDS observed the Municipal Election in 711 election precincts of 118 election constituencies of the country. EMDS choose these precincts randomly through blind selection way, out of 4767 election precincts.

EMDS believes that while evaluating the results of December 23, 2009 Municipal Election, it is important to take into special consideration issues such as pre-election political environment, the situation in the field of legislation, free participation in election, voting process, and counting of votes.

EMDS regrets that during the period of December 23, 2009 Municipal Election, serious progress did not occur in the field of freedom of expression and media, freedom of peaceful assembly, improvement of the election legislation, providing opportunities for free political activity, and thus, public-political environment was not democratic.

EMDS regrets that during both the period of preparations for the election and the election campaigning period, violations of law that had occurred in the previous elections – such as, abuse of administrative resources and pressures on opposition political activists – were again observed.

On the Municipal Election day, observers cooperating with EMDS generally noted high-level technical preparedness and conformity with the requirements of law in the organization of election precincts. However, in majority of the precincts where observation was conducted, serious violations of law were noted during the process of voting. These violations included multiple voting by one person, bringing groups of voters to the polling station, voting by the persons whose names were not on the voter lists, and ballot stuffing.

In **21.1 percent** of the observed precincts, observers of EMDS noted that voting results of the Municipal Election were not accurately reflected in the final protocols. In **27.9 percent** of the observed precincts, protocols on voting results were not publicized in front of the polling station after counting votes. At the same time, in **42.4 percent** of the observed precincts, copies of final protocols were not given to observers.

¹ The Decision of the Central Election Commission of October 7, 2009

EMDS states that the official information about voter turnout on the Municipal Election Day was artificially exaggerated and voter turnout was accompanied by such violations of law as multiple voting by one person, voting by persons whose names were not in the voter lists, and ballot stuffing.

EMDS notes that on the day of Municipal Election, constituency election commissions and the Central Election Commission did not grant the complaints about violations of election rights submitted by candidates and independent observers. Moreover, majority of the complaints about violation of election rights on the Election Day were not adequately responded by the constituency election commissions. As a result, the right of voters to apply to the relevant election commissions about violation of their election rights was restricted.

EMDS considers that during the process of December 23, 2009 Municipal Election, voters were not thoroughly informed and accordingly, the voters turn out was not high. At the same time, all stages of the Municipal Election were accompanied by severe violations of law and this process cannot be considered free, fair, and democratic since it did not reflect the entire will of the voters.

In order to overcome tensions in political relations, which emerged as a result of December 23, 2009 Municipal Election, EMDS considers it necessary for the political authorities to take serious measures for creating confidence between confronting political sides. EMDS believes that such measures should be accompanied by giving support to the legal initiatives of local and international organizations for improvement and democratization of the Election Code as well as putting efforts towards creating a dialogue between the state and the citizens.

II. INTRODUCTION

Election Monitoring and Democracy Studies Center (EMDS) is an independent non-governmental organization working for holding free and fair elections, and development of civil society and democracy in Azerbaijan.

EMDS was created on December 1, 2008, by the founders and members of the Election Monitoring Center (EMC), the registration of which had been annulled. It is noteworthy that on May 14, 2008, Khatai District Court of Baku City terminated registration of EMC on the basis of an illegal claim of the Ministry of Justice of the Republic of Azerbaijan.

During 2001-2010, founders and members of EMDS participated in election observation programs concerning referendum, presidential, municipal and parliamentary elections, including repeat and by-elections to the Parliament. Besides, within observation missions of the European Network of Election Monitoring Organizations (ENEMO) and OSCE Office of Democratic Institutions and Human Rights (OSCE/ODIHR), members of EMDS observed presidential, parliamentary elections, and referenda held in Albania, Belarus, Turkey, Ukraine, Georgia, Kyrgyzstan, Kazakhstan, Kosovo, and Afghanistan.

After the official announcement of December 23, 2009 Municipal Election, EMDS started implementation of its Long-term Observation of the process of nominating candidates and registration as well as election campaigning period. EMDS carried out its Long-term Observation with 96 individually-registered observers in 111 out of 118 election districts (constituencies) nationwide. Long-term Observation was conducted from October 22, 2008 to

December 22, 2009. EMDS prepared 2 (two) Interim Reports on the results of its observation carried out during this period.²

For the purpose of voter education concerning the Municipal Election, EMDS organized Civic Forums in 8 (eight) regions of the country. In these Forums, EMDS rendered legal aid to voters on importance of municipalities, current responsibilities as well as election rules.

With regard to the preparations for monitoring on the Municipal Election day, EMDS provided legal-technical assistance to 1442 individuals and helped them to get registered with the Central Election Commission and constituency election commissions as election observers. EMDS organized 65 trainings countrywide for the registered 1418 election observers and 1291 of them acted as short-term observers on the Election Day in 711 election precincts located in 118 election constituencies.

Majority of the observers were accredited with constituency election commissions and more than 600 observers were accredited on an individual initiative by the Central Election Commission.

Observers were given the necessary information about the rules of Election Day, functions of the observers, and impartial observation. They were also provided with Guidebook on Election Day Rules, Manual on the Rules of Observation, and observation forms and instructions.

After the Election Day, the information given by the observers was verified by comparing it with the Observation Forms and Acts on Violations of Law, submitted by them as well as the protocols of election precincts on voting results.

In this Report, the experts of EMDS analyzed all stages of the Election Day – organization and opening of election precincts, voting, counting of votes, and voter turnout – on the basis of 659 Observation Forms, 951 Acts on Violations of Law and 417 Final Protocols of election precincts received from 711 randomly-chosen precincts in 118 election constituencies (some observation documents were not used because of being incomplete).

With regard to December 23, 2009 Municipal Election, EMDS conducted pre-election and Election Day monitoring with its 14 staff members, 10 regional representatives, 60 election constituency coordinators, and 1291 observers.

It is noteworthy that EMDS programs on preparation of observers and voter education with regard to 23 December, 2009 Municipal Election, were implemented with the financial-technical support of the US National Democratic Institute (NDI) and the governments of the UK and Canada.

III. PRE-ELECTION POLITICAL ENVIRONMENT

On the eve of December 23, 2009 Municipal Election, serious steps were not taken towards overcoming the existing deficiencies in the field of human rights and democratization, such as freedom of expression and media, freedom of peaceful assembly and association.

² EMDS's First Interim Report on Long-term Observation was publicized on November 25, 2009; second – on

December 21, 2009; the Preliminary Statement on the Results of the Election- December 24, 2009. All three documents are available at <http://emds-smdt.blogspot.com/>

a) **Political Process**

During the period of December 23, 2009 Municipal Election, no regular and hot political debates were occurred. The main opposition representatives and political forces weakly participated in the election process. As a result of the pressure by local executive authorities, a very few number of opposition party representatives were registered during the process of nomination and registration of the candidates. In some cases, they were forced to withdraw their candidacy.

EMDS believes that the fact that reputable political parties had a few representatives for December 23, 2009 Municipal Election, made a negative impact on voter turnout and competition between confronting political parties. Accordingly, in comparison with the 2004 Municipal Election, the election campaigning period was conducted in an uncompetitive environment. Regrettably, the political power did not take possible and necessary measures in order to overcome this situation, and increase the voter turnout. For instance, the huge number of document requirements for the registration of political parties in Municipal Election as representatives of political parties or blocs of political parties, made an impact on their numbers.³ It is noteworthy that under the relevant law, political parties should submit a notarized copy of the charter, the decision of the meeting of the management body of the political party on nominating candidates and the protocol of the relevant meeting, the decision of the meeting of the management body of the political party on nominating authorized representatives, and other these kind of documents to constituency election commissions.

As a result, registration of reputable political party representatives, who have been active during the elections held last 5 (five) years, in the election on behalf of parties were restricted. There were no attempts to overcome these bureaucratic difficulties. Furthermore, the fact that there were pressures on the candidates who submitted their documents for registration of their candidacy to the constituency election commissions and non-allocation of financial aid to the registered candidates, led to reduction of the number of candidates. Observations of EMDS revealed that financial insufficiency also made a negative impact on election campaigning.

The lack of legal-political reforms that might help establishment of independent and strong municipalities, had also a negative effect on political activeness in the municipal election. According to independent experts, the amendment to Article 146 of the Constitution of the Republic of Azerbaijan stipulating “*submission of report to the Parliament by municipalities*”, adopted by the Referendum of March, 18, 2009, more restricted safeguards for independence of municipalities.

The monitoring of all stages of the Municipal Election by EMDS, including the election campaigning period and voting results on the Election Day, showed that this election was held in an uncompetitive and “no-alternative” environment and accompanied by restriction of citizens’ opportunities of choice between opposing parties and candidates.

After October 15, 2008 Presidential Election, the authorities did not take serious steps for alleviating tense relations with opposing political forces, which aggravated during the election period, and creating citizen-state dialogue in the country. At the same time, it did not show strong a political will towards considering recommendations of reputable local and international organizations for overcoming deficiencies in the election system, concerning formation of election commissions on the basis of equal representation of political parties, submission of complaints about the decisions violating election rights, improvement of the procedure on

³ Article 50 of the Election Code of the Republic of Azerbaijan, Instruction approved by the decision of the Central Election Commission of June 7, 2006

considering complaints and others. Thus, EMDS regrettably notes that the Municipal Election of December 23, 2009 was held without making any attempts for overcoming the lack of confidence in the fairness of the election system, which increased in recent years, and conducting public debates for improvement of the national election legislation.

b) Scheduling Election

On October 7, 2009, in accordance with the Election Code, the Central Election Commission of the Republic of Azerbaijan scheduled the Municipal Election 75 days prior to the Election Day.⁴ After announcing the Election Day, timing of all further process was fulfilled under the requirements of the legislation. It should be noted that the Central Election Commission is in charge of scheduling the Municipal Election and approving the election results.

c) Situation in the field of Human Rights and Civil Society

No significant progress occurred with regard to protection of human rights and development of civil society on the eve of December 23, 2009 Municipal Election. On the contrary, pressures and restrictions towards civil society organizations and activists more increased.

On December 15, 2009, Ilgar Nasibov and Vafadar Eyvazov, members of the Resource Center “Democracy and Development of NGOs” were physically attacked by a group of professors and students while taking survey in front of Nakhchivan State University. Although injured Ilgar Nasibov and Vafadar Eyvazov applied to the police department, the police did not consider their complaints. Furthermore, they also applied to the city hospital for the medical expertise, however, their applications were not considered and they were refused to be provided with a medical help.

On December 9, 2009, the Baku Appellate Court did not grant the appeal of the parents of Adnan Hajizade and Emin Milli, young bloggers. The judge upheld the decision of the Sabail District Court by stating that the appeal was groundless. It is noteworthy that Adnan Hajizade and Emin Milli are convicted for hooliganism and deliberate causing of less serious harm to health for the event happened at “Lebanon” restaurant on July 8, 2009. On November 11, 2009, the Sabail District Court sentenced Adnan Hajizade, young blogger and coordinator of “OL” youth movement for two-years, and Emin Milli, also young blogger and founder of “Alumni Network” Youth Movement for 2.6 years of imprisonment. Local and international community made statements that young bloggers were imprisoned for their public activity.

On the eve of December 23, 2009 Municipal Election, no measures were done to release persons, who local human rights organizations consider political prisoners, including Ruslan Bashirli, the chairman of “Yeni Fikir” (New Idea) Youth Movement, Ganimat Zahid, the chief editor of “Azadliq” (Freedom) newspaper and Eynulla Fatullayev.

On December 29, 2009, the heroin was found from the shoes and back inside of the jacket of imprisoned Eynulla Fatullayev, chief editor of “Gundelik Azerbaijan” (Daily Azerbaijan) newspaper. It was during the time period when the case of Eynulla Fatullayev was under consideration at the European Court of Human Rights. It is noteworthy that Eynulla Fatullayev was detained since April, 2007 and convicted for 8.6 years of imprisonment for the crimes of call for terror, inciting ethnic hatred, and deviation from the tax payment. Local and international community expressed for many times that these accusations were groundless.

⁴ Article 8.1 of the Election Code of the Republic of Azerbaijan

On the eve of the Municipal Election, the Ministry of Justice refused to register Election Monitoring and Democracy Study Center (EMDS), an independent election monitoring organization in Azerbaijan. Although EMDS submitted its documents to the Ministry of Justice for registration for the second time in 2009, the court returned the documents with different pretexts without taking them into consideration. EMDS applied to national courts regarding this issue, however, the courts held on the favor of the Ministry of Justice. On December 17, 2009, the Baku Appellate Court (presiding judge Jamila Safiyeva) again issued a decision on the Ministry's favor.

IV. LEGAL ENVIRONMENT

Election System

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

Elections and referendum in Azerbaijan are held by the Central, Constituency, and Precinct election commissions. 1/3 of the members of the election commissions represent majority party in the Parliament, 1/3 represent independent (non-party) members of the Parliament and the remaining 1/3 represent parties that are in minority in the Parliament. One of two commission members representing independent MPs is appointed by agreement with the majority party, the other one – with the minority parties in the Parliament.

Constitution of the Republic of Azerbaijan and Election Code regulate the rules on holding municipal elections in the territory of the country. Prior to December 23, 2009 Municipal Election, many of the municipalities in Azerbaijan were merged under the Decree of the President of 14 April 2009. After this Decree, the number of municipalities was reduced from 2757 to 1718. The election to the municipalities that are going to expire their office term in 2011, also was conducted in this election. It should be noted that on October 6, 2006, there was held an extraordinary repeat and by election to those municipalities.

In Azerbaijan, municipal elections are held in the 118 out of 125 existing election constituencies. As the territory which covered by the remaining constituencies is under occupation of military forces of the Republic of Armenia, no election was held in those seven constituencies. Accordingly, participation of internally displaced persons (IDPs) was not possible in formation of municipalities. There were 4816 election precincts during December 23, 2009 Municipal Election.

V. OPERATION OF ELECTION COMMISSIONS

a) Preparation for the Election Day and Public Awareness

The Central Election Commission (CEC) implemented its functions and approved the necessary documents within the time period established by law regarding preparations for December 23, 2009 Municipal Election. The CEC also ensured registration of authorized representatives of campaigning groups, authorizes persons, and observers. However, it was observed that the CEC did not consider some applications within the time period prescribed by law, regarding registration of local observers. For instance, 12 local observers cooperating with EMDS filed an application with the CEC on October 9, 2009. But they could obtain their observation cards not during 3 days, only 11 days later, on October 20, 2009. Failure in responding applications to the

CEC within the time established by law created difficulties for observers to observe the meetings of election commissions.

The monitoring of EMDS of the Election Day preparation held in 96 election constituencies in the country shows that as it was the case in the Referendum, there were shortcomings in the activity of constituency and precinct election commissions in this field. According to the observations, in most cases, some constituency and precinct election commissions did not operate during working days and thus, violations of law were observed.⁵

The CEC published some documents on the Election Day rules and promotion of election law, and ensured distribution of them through lower election commissions.

Public enlightenment about the Municipal Election through TV, radio and print media was held weak. Although the starting date for the Municipal election was scheduled on October 8, 2009, video materials on the Municipal Election, prepared by the CEC were broadcast on Public TV only few days before the Election Day.

Local NGOs organized few public discussions on the authorities of municipalities and importance of the Municipal Election in Baku and other big cities of the country. The Central Election Commission adopted 19 instructions on December 23, 2009 with regard to the preparations for the Municipal Election.

b) Situation of Voter Lists

According to the Election Code,⁶ for the purpose of voters' familiarization and update of the voter lists, the lists must be posted in the election precincts at least 35 days before the Election Day (in this case, until November 18, 2009).

According to the information given by observers cooperating with EMDS, in majority of the election precincts, voter lists were publicized 35 days before the Election Day. At the same time, the search system in the website of Elections Information Center functioning within the CEC was active during this period.

Observers cooperating with EMDS during the election period observed the process of updating of voter lists in randomly selected 30 election precincts out of 4767 ones. Observers revealed that voter lists were not placed in the 19 out of 30 election precincts within the time period established by law. For instance, no voter lists were publicized in the precincts # 1, 2, 3, 6, and 7 of the 1st Sabirabad election constituency # 63 until November 23; precincts # 10, 11 of the 1st Surakhani election constituency # 30 until November 21; precincts # 35, 36, 37, 38, 39, 40 of the 2nd Sabirabad election constituency # 64 until November 25.

EMDS also revealed that in some election precincts voter lists were not updated after October 15, 2008 Presidential Election. For instance, although voters Vahid Sevindik Mammadov and Hamar Bahman Pashayeva deregistered from the election precinct # 19 of Mingachevir-Yevlakh election constituency # 49, both of their names were included into the voter lists of both election precincts.

⁵ Article 33.1 and 38.1 of the Election Code, Article 179.1 of the Labor Code

⁶ Article 48.1 of the Election Code

c) Complaints and Applications

As soon as the election was officially started under the legislation⁷, the Expert Group, composing of 9 persons was established under the Central Election Commission.

The Expert Group received a lot of number of complaints during all stages of the Municipal Election, held on December 23, 2009. However, the Expert Group considered very few of them and some complaints were even denied to be received by the Central Election Commission. For instance, Umid Party, a party that could not get its 103 candidates registered, applied to the CEC on 26 and 28 November 2009. But the Expert Group of the CEC considered only 21 of the applications and issued favorable decisions about 11 of them. However, they denied the fact that the remaining 82 applications were received by the CEC.

It should be noted that the authorized representatives of Umid Party complained to the Baku Appellate Court against the illegal actions and inactions of the CEC. However, the court did not grant any claim.

In some cases, the Expert Group of the CEC returned the complaints without consideration. For instance, the application of Musavat Party of October 9, 2009 was returned without any consideration. The Expert Group motivated it that there was no election law violation in this application, in fact citizens' right to freedom of assembly was violated. According to the law, the Expert Group should issue a reasoned decision on every complaint. If during the investigation of the complaint there is any allegation for criminal offence, they should inform the prosecution bodies about it.⁸

Some complaints lodged with the Expert Group were returned due to the reason of time passage. The study of EMDS shows that the cases regarding passage of time mostly happen in the stage of nomination of candidates and registration. In this stage, by misusing the insufficiency of public awareness, the constituency election commissions stated the time of the issuing decision three days in advance. For this reason, the candidates missed the statutory time to appeal to the upper election commissions.⁹

Furthermore, according to the law, the Expert Group composing of three persons is established in constituency election commissions.¹⁰ However, on the contrary, constituency election commissions did not generally consider election complaints in the Municipal Election. For instance, the complaint of the observer Taleh Shukurzade to the Barda city election constituency # 93 dated December 25, 2009; the complaint of Fazil Mikayilov to the Yevlakh-Mingechevir election constituency # 49 dated December 25, 2009; the complaint of the observer Elnur Aliyev to the Bilesuvar election constituency # 66 dated December 24, 2009 were not responded. It should be noted that constituency election commissions should give a receipt to the complainants about receiving complaints, however, in practice it was not followed.¹¹

⁷ Article 112-1.1 of the Election Code

⁸ Article 112.4 of the Election Code

⁹ Article 112 of the Election Code

¹⁰ Article 112-1.1 of the Election Code

¹¹ Article 112-1.5.2 of the Election Code and Article 3.1 of the Instruction of the Central Election Commission, approved by the decision # 11/53-2 dated of August 12, 2008 on Filing complaints and applications to constituency

VI. NOMINATION AND REGISTRATION OF THE CANDIDATES

a) Procedure of the Registration of Candidacy

According to the Election Code, citizens of the Republic of Azerbaijan who are 21 years or older on the Election Day (including the Election Day), and who live permanently in the relevant election constituency, may be elected as municipality members.¹² According to Article 53 and 54 of the Election Code, candidacy to the municipality membership may be nominated individually or by the political party and bloc of political parties. Nomination of candidates are done in accordance with relevant articles of the Election Code as well as two instructions, approved by the decisions #27/107 and 28/107 of the Central Election Commission of June 7, 2006.¹³

Bureaucratic obstacles existing in the Election Code and those instructions did not allow for numerous citizens to be nominated by the political party which they belonged. It should be noted that under the relevant law, political parties should submit a notarized copy of the charter, the decision of the meeting of the management body of the political party on nominating candidates and the protocol of the relevant meeting, the decision of the meeting of the management body of the political party on nominating authorized representatives, and other these kind of documents to constituency election commissions.

b) Signature Collection Process

According to the Election Code, every nominated citizen should collect the following number of signatures in order to be registered as a candidate for municipality membership in the relevant election constituency:¹⁴

- 150 signatures for a territory with a population of more than 99,999 people;
- 100 signatures for a territory with a population of more than 49,999 people;
- 75 signatures for a territory with a population of more than 19,999 people;
- 50 signatures for a territory with a population of more than 9,999 people;
- 30 signatures for a territory with a population of more than 4,999 people;
- 15 signatures for a territory with a population of less than 4,999 people.

It is noteworthy that voters have the right to sign for the support of several candidates in the Municipal Election.

During the stage of nomination and registration of candidates in the Municipal Election held on December 23, 2009, observers of EMDS noted pressures against members of opposition parties, voters who were their supporters, and independent candidates by representatives of local executive authorities. For instance, copies of the signature list of Vagif Hajiyev, who gave his candidacy to the municipality membership in Salyan as a member of Classic Popular Front Party, were illegally given from the constituency election commission to the head of the executive authority of the region. By the instruction of the head of the executive authority, the following persons giving their signatures for his support- Gulnaz Nazim Safarova, Sevil Karim

procedure

¹² Article 212 of the Election Code

¹³ Both instructions are available at www.cec.gov.az

¹⁴ Article 215.1 of the Election Code

Khurshudova, Shalala Abbas Huseynova- were subject to pressure. They were forced to withdraw their signatures by threatening to be removed from their work at the state entities.

Several candidates were not registered due to the reason that the signatures that they were collected looked similar. For instance, the candidacy of Gulshen Arshad Aliyeva, nominated for Fizuli election constituency # 84, Boyuk Behmenli Municipality, illegally was not registered by the head of the relevant Constituency Election Commission reasoning that there were similarities in the signature list. It is noteworthy that there were contradiction between the decision adopted by the constituency members and the annexed table. It was also clear from the documents submitted personally by Gulshen Aliyeva to EMDS that her candidacy illegally was not registered.

c) Registered Candidates

It should be noted that the process of nomination and registration of the candidates started on October 8, 2009 and continued until November 23, 2009.

31,861 candidates were registered for the Municipal Election held December 23, 2009. These candidates were competing for 15,682 municipality membership covering 1718 municipalities. It should be noted that candidacy of 35,076 persons regarding the Municipal Election was approved. Constituency election commissions refused to register the candidacy of 3215 persons.

Candidacy of 14, 647 registered persons were nominated by them individually and other 147 by initiative groups. New Azerbaijan Party nominated 15,388 persons whereas other 17 political parties nominated 1679 candidates. 11,331 independent candidates were involved in the election. 382 candidates did not state their party membership.

The party membership of the registered candidates on the Municipal Election held on December 23, 2009 was as follows:

- New Azerbaijan Party – 17688
- National Independence Party – 35
- Ana Vetən (Motherland) Party- 292
- Citizens Solidarity Party - 306
- Musavat (Equality) Party – 130
- Democratic Azerbaijan World Party – 134
- Green Party -3
- Umid (Hope) Party - 348
- Communist Party – 74
- National Democrat Party – 1
- AVP – 16
- DSP – 1
- Social Welfare Party - 164
- Liberal Party - 5
- Social Democrat Party - 2
- National Front Party - 38
- Vehdet Party - 8
- Liberal Democrat Party - 4
- Democrat Party - 26
- Adalat (Justice) Party - 28
- MVP - 2

- Muasir Musavat (Modern Equality) Party - 31
- Taraqqi (Progress) Party – 1
- DISP - 75
- Butov (Entire) Azerbaijan Popular Front Party - 264
- Boyuk Qurulush (Big Establishment) Party – 381
- Citizens Union Party - 17
- Classic Popular Front Party - 39
- Citizen and Development Party - 25
- National Democrat Party - 10

d) Information on Violations of Law

Long-term observers of EMDS observed numerous violations of law and pressures in the Municipal Election held on December 23, 2009 on the stage of nomination and registration of candidates. Such pressures were mainly made by local executive authorities:

- On November 14, Alim Hasanov, a member of Democrat Party, a candidate to Sarvan village municipality from Salyan election constituency, was pressured to withdraw his candidacy, by Alipanah Agalarov, a representative of the village executive authority.
- On November 19, Balamirze Fatiyev, a member of Popular Front Party, a candidate to Kurkendi village municipality from the 1st Sabirabad election constituency # 63, was suggested to give his candidacy as independent person not from the party. When Fatiyev refused to do so, his candidacy was not registered.
- Yusif Karamali Gambarov and Nabug Hasan Ibrahimov, candidates to Musakuch village municipality from the Masalli city election constituency # 70, nominated by Musavat Party, were pressured to withdraw their candidacy, by Shamsaddin Teymurov, a representative of Musakuch village executive authority.
- On November 12, Faig Nuriyev, a member of Democrat Party, nominated to Garajala village municipality from Salyan-Neftchala election constituency #60, was pressured by Elyoldash Huseynov, a representative of the village executive authority.
- Maharram Khudayev, a member of Democrat Party and registered candidate to Ashagi Nokhudlu village municipality from Salyan-Neftchala election constituency #60 and his father were threatened by Kamran Samadov, a representative of the village executive authority for not withdrawing his candidacy.
- On November 9, Elkhan Aliguliyev, a candidate, nominated by Musavat Party to Galagayin municipality from Sabirabad 1st election constituency # 63 was pressured at his home to withdraw his candidacy, by Zulfali Musayev, a representative of the village executive authority.
- Yadulla Eyvazov, a candidate nominated by Citizen and Development Party to Tazakand municipality and Ilham Salayev, a candidate nominated to Abshabad village municipality from Jalilabad election constituency # 67, were pressured by executive representative and village police.

- Chingiz Hashimov and his son Yaver Hashimov, municipality candidates in Masalli were pressured by Gazanfar Agayev, the head of the executive authority of the district. This fact was also confirmed by Ahad Abiyev, a member of the Parliament, representing New Azerbaijan Party, elected from that district.
- Nazim Babayev, an inhabitant of Askipara village, Habil Ahmadov, an inhabitant of Huseynli village, nominated from Umid Party to Tartar election constituency # 95 were pressured and threatened by the relevant village representative and police to forcibly write an application to the relevant constituency about withdrawing their candidacy.

VII. PRE-ELECTION CAMPAIGN IN MUNICIPAL ELECTION

According to the Election Code of the Republic of Azerbaijan, election campaigning period starts 28 days prior to the Election Day and stops 24 hours before starting of the voting.¹⁵ Election campaigning period with regard to the Municipal Election started on November 25, 2009 and lasted till 08:00 a.m. on December 22, 2009.

Under the Election Code, municipality campaigning is conducted through mass media, periodical press, in-print materials, audio-visual and other campaign materials, and holding public events. The Election Code also regulates rules of conducting election (referendum) campaigning on paid and free of charge bases.

a) Conduct of Election Campaigning in Media

According to the Election Code, in municipal elections, political parties or blocs of political parties with candidates, registered in more than half of the municipalities has the right to free airtime on TV during the election campaigning period.¹⁶ This requirement obligates for registration of political party candidates in at least 860 out of 1718 municipalities. Only New Azerbaijan Party (NAP), the party in power could get this opportunity in the Municipal Election held on December 23, 2009. However, NAP did not use this opportunity. As 55 % of the registered candidates were NAP members, in fact they were competing in many municipalities between one another. In some regions, the representatives of the executive authorities even made pressure on NAP representatives about withdrawing their candidacy.

As in the other stages of the December 23, 2009 Municipal Election, the candidates did not hold public meetings with their voters also in this stage. In this regard, EMDS observed that election campaigning was very weak in comparison with 2004 Municipal Election. No political discussions occurred between competing candidates in this stage. Election campaigning was held under non-competitive way and accordingly, voters' alternative opportunities of choices were restricted.

EMDS considers that there were two reasons for weak election campaigning:

The first reason was pressures on opposition political party representatives in the stage of nomination and registration of candidates as well as non-registration of them. Thus, the election was held with single participation of political party in power in an uncompetitive way.

The second reason was non-allocation of funds from the state budget to registered candidates for election campaigning. The Central Election Commission stated that that allocation of funds to

¹⁵ Article 75.2 of the Election Code

¹⁶ Article 80.1 of the Election Code

municipal elections was not actually defined by the Ministry of Finance. Lack of funds did not allow for financially dependent candidates to organize their election campaigning.

b) Violations of Law in Election Campaigning Stage

The observers cooperating with EMDS noted the following violations of law during the campaigning period:

- On November 24, 2009, the flag and posters of New Azerbaijan Party and stand stating “New Azerbaijan Party- a party of yesterday and today” were placed in the precinct # 2 of the Tovuz election constituency # 105.
- Hasan Isgandarov, an inhabitant of Nuydu village of Shamakhi, the head of local department of New Azerbaijan Party nominated his candidacy from Shamakhi election constituency # 85. According to Hasan Isgandarov, some days later, the representatives of the Shamakhi Executive Authority invited him and ordered him to withdraw his candidacy.
- Although on December 13, 2009 Maharram Khudaverdi Khudayev, a member of Azerbaijan Democrat Party, registered candidate to Garachala village municipality from Salyan-Neftchala election constituency # 60, stuck his campaigning posters, he had to withdraw his candidacy after pressures on his father and close relatives.
- On December 15, 2009 Karim Agarzayev, nominated by Musavat Party to Garachala village municipality from Salyan-Neftchala election constituency # 60, was pressured by Aliyoldash Huseynov, the representative of Garachala executive authority in order not to hold campaigning.
- There were pressures to Musavat Party members whose candidacy was registered, by the relevant police in Ganja. Employees of Housing Departments were assigned to find the candidates who were out of the city for some reasons and to take them to administrative bodies.
- On December 11, 2009 Natig Isayev, a member of New Azerbaijan Party, registered candidate to Arbatan village municipality from Salyan election constituency # 59 was invited by Zahid Ismayilov, a police officer to the office of Akif Safarov, a representative of village executive authority and ordered to withdraw his candidacy. He was told that the names of 11 candidates, who were supposed to be elected to Arbatan municipality, were already known. Ilyas Ismayilov, an independent candidate to Arbatan municipality was also pressured by the same persons to withdraw his candidacy.
- Although Ahmadaga Aliaga Abilov, a member of New Azerbaijan Party, registered candidate to Galagayin village municipality from Sabirabad 1st election constituency # 63 was pressured by representatives of local executive authorities and Mastali Alipasha Nuriyev, the head of the constituency commission, he did not withdraw his candidacy. On December 18, 2009, the head of the constituency commission called Abdulaga Mahmudov, an observer in the precinct # 15 to the relevant constituency and took his observer card and illegally liquidated it. It should be noted that the registration of the observer can only be liquidated by courts.¹⁷
- Ilgar Mustafayev, a candidate nominated by Musavat Party to Dashsalahli municipality from Gazakh election constituency # 107 was tempted by the representative of local executive authority to withdraw his candidacy.

¹⁷ Article 42.4 of the Election Code

- On December 17, 2009 the police officer stood in front of the building of Sabirabad 1st election constituency # 63 and did not allow persons who applied to get registered as observers and candidates who wanted to get into the constituency. The police told citizens that bulletins were taken from the Central Election Commission and now they were being counted in the constituency. It is noteworthy that under Article 99.6 of the Election Code, the bulletins should be sent to the constituencies on December 19, 2009.

VIII. ELECTION DAY

a) Observation Methodology and Deployment of Observers

EMDS conducted trainings for 1418 Azerbaijani citizens to prepare them for conducting observation in 711 election precincts on the Election Day. 1291 of these trainees were involved in observation of the election in 711 precincts of 118 constituencies.

The observers were informed about Election Day rules, functions of observers, and independent and impartial observation. They were provided with Guidebook on Election Day Rules, Manual on Rules of Observation, as well as observation forms and instructions (Report form, Act form, and Form on voter turnout). According to Articles 40.4 and 40.5 of the Election Code, observers received accreditation on their individual initiative; majority of them were accredited in constituency election commissions, more than 600 observers – in the Central Election Commission.

The observers submitted to the General Information Center their information about opening of polling stations, voting process, counting of votes, and voter turnout five times during the day. 30 operators working at the General Information Center entered the information received from the observers to computer databases in accordance with a special methodology. The Expert Group composing of three lawyers operated on the Election Day. The Expert Group provided a legal aid to observers on voting process and vote counting.

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

The results of the Election Day observation are based on the reports submitted from 94% of randomly-chosen election precincts in 118 election constituencies countrywide. EMDS divided the information received from 118 election constituencies between 10 indicative regional observation zones. (Regional observation zones and the list of election constituencies included in each zone is presented in Appendix 1)

In this Report, the experts of EMDS analyzed all stages of the Election Day – organization and opening of election precincts, voting, counting of votes, and voter turnout – on the basis of 659 Observation Forms, 951 Acts on Violations of Law and 417 Final Protocols of election precincts received from 711 randomly-chosen precincts in 118 election constituencies (some observation documents were not used because of being incomplete).

b) Results of the Election Day Observation

Observers noted serious violations of law in precincts on the Election Day in the Municipal Election. In general, a small number of precincts observed election rules during the process of voting and counting of votes on the Election Day.

c) Opening and Organization of Election Precincts

The analyses of the reports of observers cooperating with EMDS show that problems were noted in a small number of election precincts at the time of opening. Majority of the observed election precincts started their work in accordance with the rules established by law. For example, 97.1 percent of the election precincts where EMDS conducted observation started their work from 08:00 a.m. and were provided with all necessary documents.

General situation on organization of election precincts observed:

- 99% of the election precincts were provided with invisible ink, ultraviolet light, and batteries;
- In 96.2% of the election precincts, election boxes were shown to people that they were empty before voting started.
- In 92% of the election precincts, the number of election ballots as well as in 93% of the election precincts, the number of registered voters in the precincts were announced before voting started.
- In 89.6% of the election precincts, the number of applications for voting outside of the precincts was announced before voting started.
- In 99.1% of the election precincts the voting process started at 8.00 am as prescribed by law.

d) Voting Process

During the voting process, observers cooperating with EMDS noted less number of problems that had occurred in previous elections. For example, in majority of the observed election precincts, voters who had necessary documents participated in voting without any restrictions (in 92.1% of the election precincts) and voters were not allowed to vote without signing voter lists (in 90% of the election precincts).

Nevertheless, observers witnessed certain violations of law concerning rules of organizing the voting process. For instance, in 20.9% of the observed election precincts, voters were allowed to vote without marking their fingers with invisible ink. Also, in 11.2% of the observed election precincts, voters whose fingers had already been marked with ink, were allowed to vote. According to the requirements of the Election Code, fingers of the voters are marked with invisible ink before voting. This prevents from multiple voting of one person.

Serious violations of law were observed in the election precincts where EMDS conducted observation and such violations negatively affected legitimacy of the voting results.

EMDS divided these violations into the following groups in terms of their number and nature:

- **In 13.1% of the observed election precincts, persons whose names were not in the voter lists were allowed to vote.**

According to the Election Code, every voter is supposed to vote in the election precinct created in the territory where he/she is officially registered. As an exception, the voter can cancel registration in his/her precinct and showing the cancellation document and vote in another precinct.

However, as in the case of previous elections, on December 23, 2009 Municipal Election, this rule was not correctly implemented in some election precincts, where persons whose names were not in the voter lists (and who were not registered in the territory of the relevant precinct) were allowed to vote without showing any document about cancellation of registration in another precinct.

• **In 24.9% of the observed election precincts, multiple voting by one voter (one person's voting more than once) was noted.**

According to the law, one voter has only one vote and can participate in voting only once. However, as noted in the previous elections, on December 23, 2009 Municipal Election, serious violations of law concerning one person's voting more than once were observed in some precincts.

• **In 19.1% of the observed election precincts, ballot stuffing (putting bunches of forged ballots into the ballot box) was noted.**

In majority of cases, such violations of law were committed with the participation and/or under the patronage of members of precinct election commissions. These violations directly affect voting results and cast doubt on voting results in the relevant election precincts. At the same time, according to the Criminal Code of Azerbaijan, such violations lead to criminal liability.¹⁸

• **In 14.5% of the observed election precincts, the cases of bringing groups of voters to the polling stations were observed.**

According to the Election Code, every voter should participate in the voting process voluntarily and no voter can be forced or instigated to vote. However, as it was the case in the previous elections held in Azerbaijan, on December 23, 2009 Municipal Election, it was observed that mainly local executive authorities organized bringing of voter groups to the election precincts on the Election Day. According to the investigations by EMDS, this process was mainly aimed at artificially increasing voter turnout.

• **In 14% of the observed election precincts, secrecy of voting was violated.**

According to the observations, in some election precincts, voters marked ballot papers outside the polling booth and members of the precinct election commissions did not follow the rules on secrecy of voting and allowed voters to mark ballot papers in an open (public) area of the precinct.

Information received from the observers on the Election Day shows that bringing of voters to polling stations in groups during the voting process largely happened in Beylagan (41.2%), Ganja (25.4%), and Nakhchivan (20%). Cases of multiple voting by one person were mostly observed in Beylagan (47.1%), Ganja (38.6%), Goychay (26.4%), and Sabirabad (32.7%). Ballot stuffing more commonly occurred in Sabirabad (50.9%), Beylagan (20.6%), Baku (16%), Goychay (15.1%), and Jalilabad (14%).

e) Vote Counting

On the Election Day, observers cooperating with EMDS observed serious violations of law at the starting of the process of counting of votes. These violations were mainly removal of observers from precincts, inaccurate drafting of protocols, and drafting of protocols in constituencies instead of election precincts. In December 23, 2009 Municipal Election, removal of observers from precincts were more observed. For instance, observers were removed from the precincts as soon as the voting process started in the precinct # 24 of Hajigabul-Kurdemir constituency # 58,

¹⁸ Article 161.2 of the Criminal Code

precinct # 16 of Salyan-Neftchala constituency # 60, precinct # 5 of Sabirabad 1st constituency # 63.

During counting of votes and tabulation of voting results, observers noted the same kind of violations of law that had been observed in the previous elections. For instance, in **78.9%** of the observed precincts, tabulation of voting results was not correctly reflected in the final protocols. In these precincts, observers found that members of precinct election commissions made mistakes while preparing the protocols.

Moreover, in **14%** of the observed election precincts, voting results shown in the final protocols of the precincts were different from the results officially announced by the Central Election Commission. This contradiction mainly was in paragraph 10 of the protocol, specifically with regard to number of valid votes.

In December 23, 2009 Municipal Election, observers also noted the following cases regarding vote counting process that restricted voters' and observers' right to receive information on voting results:

- (a) In 27.9% of the observed election precincts, copies of final protocols were not posted in front of the precincts;
- (b) In 42.4% of the observed election precincts, copies of final protocols were not given to the observers.

f) Voter Turnout

As in the Parliamentary and Presidential elections, no voter turnout was needed for the Municipal elections to be considered valid. However, in December 23, 2009 Municipal Election, observers cooperating with EMDS noted the following violations of law committed by members of election commissions and representatives of local executive bodies for the purpose of artificially ensuring voter turnout on the Election Day:

- (a) Allowing persons whose names were not in the voter lists to vote (in 17.6% of the observed election precincts);**
- (b) Multiple voting by one person (in 24.9% of the observed election precincts);**
- (c) Ballot stuffing (in 19.1% of the observed election precincts).**

Besides, having analyzed observer reports and official information of the Central Election Commission on voter turnout in election precincts, EMDS has come to the following results:

- (a) In 470 out of 711 election precincts, observers noted violations of law which seriously affected creation of voter turnout. In addition, while observers determined **20-28%** voter turnout in these precincts, the Central Election Commission's official figures about voter turnout in them was **30-36 %**.
- (b) In 241 out of 711 election precincts, observers noted violations of law which did not seriously influence voter turnout. At the same time, whereas **19%** voter turnout was observed in these election precincts, according to the Central Election Commission's official figures, it was **28%**.

It is worth noting that for the purpose of studying voter turnout, EMDS instructed its observers to calculate the number of voters who leave the polling booth and put ballot papers in the ballot box inside the election precinct. Considering the observed significant violations of law which led to artificial creation of voter turnout, the last official figure announced by the Central Election

Commission (32.4%) creates serious doubts. Thus, the nature of the occurred violations of law show that the official figure about the national-level voter turnout declared by the Central Election Commission (32.4%) was either artificially created or exaggerated with regard to many election precincts.

It is noteworthy that on December 23, 2009, the third Municipal Election was held in the Republic of Azerbaijan. In comparison with the first Municipal Election, the voter turnout in this election was significantly reduced. For instance, according to official information, in December 12, 1999 Municipal Election, 52.6% out of 4.312.265 voters included into the voter list attended the election.

EMDS believes that the low turnout in December 23, 2009 Municipal Election was due to lack of competition in the election process, low believe in fairness of the election process, low reputation of municipalities as institution and lack of reforms for increasing independence of municipalities.

g) Information on Violations of Law

In terms of their nature, the violations of law observed during the Municipal Election are traditional violations in the election system of Azerbaijan, which had been observed in the previous elections too. Such violations of law cast doubts on the official results concerning Election Day voting, counting of votes, and voter turnout.

Observers' reports (examples):

- Lala Aliyeva, the head of the election precinct # 4 of the Sabail Election Constituency # 29 removed Afgan Umudov, an observer from the precinct. She reasoned it that it supposed to be a stamp of the relevant constituency on the observer card. It should be noted that the observer was registered with the Central Election Commission. If a person is registered with the Central Election Commission as an observer, he/she has the right to observe elections in any precinct of Azerbaijan without any restriction.
- Abdulrazag Abbasov, the head of the Ujar Constituency Election Commission # 91 and Nadir Mirzeyev, deputy to the head of executive authority told observers of the precincts of the relevant constituency to try not to see everything, otherwise, it would not be good for them.
- As soon as the voting was over, all observers were forcibly removed from the precincts # 1 and 2 of the Sabirabad 1st election constituency # 63.
- On December 23, 2009 at 8.00am, when the voting process started, Azer Khaniyev, the representative of Yardimli region executive authority stood in front of the precinct # 4 of Yardimli-Masalli election constituency # 72 and did not allow voters and observers to enter by threatening them.
- Polad Musayev, the head of the election precinct # 13 of the Nizami election constituency # 25 illegally removed Ruslan Yusifov, an observer from the precinct. He reasoned it that it supposed to be a stamp of the relevant constituency on the observer card. It is noteworthy that the observer was registered with the Central Election Commission. If a person is registered with the Central Election Commission as an observer, he/she has the right to observe elections in any precinct of Azerbaijan without any restriction.

- Shafiga Abdulova, the head of the election precinct # 15 of the Surakhani 2nd election constituency # 31 attempted to take the act form from Ruslan Gurbanov, an observer who noted there ballot staffing done by the commission member. When she failed to do so, she invited police officer named Tamerlan to the precinct. The police officer took the observer to the Police Department # 33 and the observer's act form was taken from him.
- Islam Huseynov, an observer in the precinct election commission # 6 of the Hajigabul-Kurdemir election constituency # 58 was threatened by Rahim Aliyev, the head of the precinct and other members of the commission for preparing act on violations of law.
- When the voting process was over, opposition candidates and observers were removed from the precincts # 19 and 43 of Beylagan election constituency # 81 located in Tezekend village, with the assistance of police.
- Gambar Gambarov, an observer in the precinct # 6 of the Surakhani 2nd election constituency #31 was illegally taken to the Police Department # 32 by the police officer invited by the head of the relevant precinct.
- When the precinct # 40 of the Imishli-Beylagan election constituency # 80 opened, there was a police officer in front of the precinct and he did not allow observers to the precinct for one hour.
- When the voting process was over, Elkhan Mammadov, the head of the precinct election commission # 2 of the Agstafa election constituency # 108 removed Adil Mammadov, the commission member (a representative of Umid Party) who did not agree with him and Ismayil Nazirli, who prepared an act on violations of law.

IX. OFFICIAL RESULTS AND POST-ELECTION SITUATION

a) Complaints after municipal elections

In comparison with two previous elections (October 15, 2008 Presidential Election and March 18, 2009 Referendum), after December 23, 2009 Municipal Election, there were more applications and complaints to the Central Election Commission. It should be noted that mainly candidates and observers complained against election law violations.

Another difference of December 23, 2009 Municipal Election was complaints submitted by the candidates of New Azerbaijan Party, the party in power. For instance, when the election results were publicized, Arif Mammadov, a candidate nominated by New Azerbaijan Party to Sabirabad region Gurizma municipality, said that although his name was stated as a winner on the protocol of the precinct, in fact Eyvaz Farzaliyev, a representative of Gurizma village executive authority, succeed to remove his name from the list of winners. Arif Mammadov also mentioned that Eyvaz Farzaliyev had already submitted the names of 13 members, who were going to be elected to the Gurizma municipality, to the Sabirabad region executive authority two month prior to the Election Day.

The majority of the complaints filed to the Central Election Commission was about inaccurate filling of the protocols and ballot staffing in the precinct election commissions. After the Election Day, people who were against the election results in the country, especially candidates filed complaints to the constituency election commissions. However EMDS's observations show

that those complaints were neither accurately investigated in the constituency election commissions nor considered at all. Unfortunately, there were also serious shortcomings with regard to investigation of the complaints filed with the Central Election Commission. The Central Election Commission considered only very few number of complaints, majority of the complaints were denied to be received by the Commission. Some applications were not investigated due to the reason of time passage.

The Central Election Commission did not fully inform public about complaints investigated. At the same time, there were appeals to the Baku Appellate Court against the decisions of the Central Election Commission. For instance, the representatives of Musavat Party filed 5 (five) appeals to the Appellate Court. However, none of them were granted.

Candidates, whose complaints were not considered, held demonstrations at different forms after the Election Day. On January 5, 2009, approximately 150 protesters from Sabirabad region held demonstration in front of the Central Election Commission requesting investigation of complaints. Although the police destroyed the gathering, protesters also held demonstration in front of the Presidential Apparatus. Majority of the protesters from Sabirabad was members of New Azerbaijan Party, the party in power.

In addition to Sabirabad, five candidates to Tovuz region Ibrahimhajili village municipality from New Azerbaijan Party protested against the election results. They stated that although their names were included as winners into the protocols, information placed on the web site of the Central Election Commission was vice versa. Furthermore, there were also protests against the election results in Imishli, Gazakh, Salyan, and Neftchala.

Observers cooperating with EMDS applied to the constituency election commissions regarding violations of law on the Election Day as stated below:

- On December 25, 2009 Taleh Shurkurzade, an observer complained to the relevant constituency against Elkhan Abbasov, a member of the precinct election commission #4 of the Barda city election constituency # 93 for interfering in the election process and putting forged ballot.
- On December 25, 2009 Fazil Mikayilov, an observer complained to the relevant constituency for ballot staffing by the members of the Precinct Election Commission # 37 of the Yevlakh-Mingachevir election constituency # 49.
- On December 25, 2009 Elnur Aliyev, an observer complained to the relevant constituency for failure in providing a copy of the protocol by the head of the Precinct Election Commission # 25 of the Bilasuvar election constituency # 66
- On December 25, 2009 Elnur Guliyev, an observer complained to the relevant constituency for failure in providing a copy of the protocol on the Election Day by the head of the Precinct Election Commission # 36 of Astara election constituency # 77.
- On December 24, 2009 Vusal Babayev, an observer complained to the relevant constituency for failure in providing a copy of the protocol and violation of election secrecy by the Precinct Election Commission # 9 of Gakh election constituency # 112.

- On December 25, 2009 Sarkan Agabalayev, an observer complained to the relevant constituency for failure in providing a copy of the protocol by the Precinct Election Commission # 5 of Zagatala-Balaken election constituency # 111.
- On December 25, 2009 Ramil Goyushov, an observer complained to the relevant constituency for failure in providing a copy of the protocol and ballot staffing during the election by the Precinct Election Commission # 28 of Tovuz-Gazakh-Agstafa election constituency # 106.
- On December 25, 2009 Majid Agayar Mehraliyev, an observer complained to the relevant constituency for failure in providing a copy of the protocol by Zarifa Talibova, the head of the Precinct Election Commission # 1 of Sabirabad 1st election constituency # 63.
- On December 25, 2009 Yashar Abushov, an observer complained to the relevant constituency for failure in providing a copy of the protocol by the Precinct Election Commission # 40 of Sabirabad 2nd election constituency # 64.
- On December 25, 2009 Aligulu Gahramanov, an observer complained to the relevant constituency for failure in providing a copy of the protocol by the Precinct Election Commission # 45 of Saatli-Sabirabad-Kurdemir election constituency # 65.
- On December 25, 2009 Gulaga Mahmudov, an observer complained to the relevant constituency for failure in providing a copy of the protocol by the Precinct Election Commission # 4 of Sabirabad 2nd election constituency # 64.
- On December 25, 2009 Elkhon Gafarov, an observer complained to the relevant constituency for failure in providing a copy of the protocol by the Precinct Election Commission # 5 of Sabirabad 1st election constituency # 63.
- On December 25, 2009 Movsum Asgarov, an observer complained to the relevant constituency for failure in providing a copy of the protocol by the Precinct Election Commission # 2 of Sabirabad 1st election constituency # 63.

b) Official Results

In its meeting held on January 11, 2010, the Central Election Commission made a decision # 6/41 on “Concluding December 23, 2009 Municipal Election and Announcing its Results”. The decision stated that the Central Election Commission approved the final protocol on voting results and December 23, 2009 Municipal Election was concluded. By this decision, the Central Election Commission announced that the election in 1718 municipalities was over.

According to the Protocol on general election results of the Central Election Commission, 32.04% of 4 612 727 voters registered in the country, i.e. 1 478 186 voters, participated in voting on the Municipal Election. At the same time, the Central Election Commission adopted a decision on announcing invalid the election results in 33 election precincts and 9 municipalities, and taking into account forming the municipality members with all staff in 1709 municipalities where the election results were officially approved. The Central Election Commission also delivered a decision on announcing the list of elected municipality members.

The heads of the Gobustan-Khizi-Guba constituency election commission # 50 and Yardimli-Masalli constituency election commission # 72 were found to be ineligible for their positions for

serious violations committed during election preparation and conduct process. For the same grounds, Masalli city constituency election commission # 70 and Imishli-Beylagan constituency election commission # 80 were terminated.

The decision of the Central Election Commission states that some parts of the investigated materials were submitted to the General Prosecutors Office of the Republic of Azerbaijan for consideration. The Central Election Commission stated the cases of illegal interference in the election process occurred in the Goranboy-Naftalan constituency election commission # 96 by Musa Musayev, the head of Naftalan city executive authority. By the decree of the President of January 22, 2010, Musa Musayev was removed from his position.

c) Situation after Municipal Elections

At the press conference of the Observation Mission of the Congress of Local and Regional Authorities of the Council of Europe, observing December 23, 2009 Municipal Election, Jean Claude Frekon, French, co-reporter on Azerbaijan stated that the election practically was held in peaceful environment. *“Election precincts were better equipped in comparison with previous elections and opportunities for conducting observation were also provided. Unlike previous elections, in this election, the cases on multiple voting by one person for all family members and multiple entrance to the same election cabins at the same time were significantly reduced. The main element that created a problem was non-knowledge of Latin alphabet by representatives of aged people. In those cases, the commission members or relatives had to help them.”* Gaya Doganoglu, the head of the representative stated in the statement on election results that the Municipal Election was organized in line with Council of Europe standards regarding mechanism of election practice and held peacefully, transparent, and democratic. In addition to the statement on high-level running of the Municipal Election, the Representative group also stated some shortcomings in vote counting in some precincts. Observation group composed of eleven persons from eight countries observed the Municipal Election in more than 100 precincts.

After the official announcement of the Municipal Election of December 23, 2009, the Public Union on “Democracy Studies” and “For the Sake of Civil Society” Independent Consulting and Assistance Center made statements on conducting observation of the election. “Assistance Association for Development of Civil Society” and “ELS” Independent Research Center, were registered with the Central Election Commission in order to conduct an exit poll. In their preliminary statements after the Election Day, the Public Union on “Democracy Studies” and “For the Sake of Civil Society” Independent Consulting and Assistance Center stated that some violations of law happened on the Election Day.

By jointly conducting an exit poll with “ELS” Independent Research Center, “Assistance Association for Development of Civil Society” stated that the voter turnout was 32.6%. Only the Public Union on “Democracy Studies” and “For the Sake of Civil Society” Independent Consulting and Assistance Center publicized their financial sources, out of the organizations that held observation and exit poll.

After the Election Day, Musavat Party noted in its publicized statement that December 23, 2009 Municipal Election was not held in line with the standards ensuring formation of real municipal system expressing the public will. The statement said that “The Government did not take into account the reforms on increasing the functions of municipalities, creation of municipalities in

Baku and other big cities, election of the head of municipalities directly by citizens, changing of the rules for forming of election commissions, suggested by democratic forces and recommended by some international organizations.”

d) Political Situation

After December 23, 2009 Municipal Election, the political crisis emerged as a result of elections held recent years (October 15, 2003, November 6, 2005, October 15, 2008, and March 18, 2009) more deepened in the areas of human rights, democracy as well as state-citizen relationship. The Municipal Election was not accompanied by creation of a state-citizen dialogue; on the contrary, the relations between the government and other political forces, which are the main participants of political processes in the country, became tenser. This election also showed continuation of attempts by political power to establish uncompetitive and no-alternative environment in a national election system and thus, to form one-party system. It also resulted in the strengthening of the positions of the political majority in municipalities.

December 23, 2009 Municipal Election was conducted with weak initiatives of civil society organizations and political parties in fighting crisis and insufficiency of skills in this area.

EMDS regretfully states the results of December 23, 2009 Municipal Election was not accompanied by serious and professional evaluation by international organizations which Azerbaijan joined. Specifically, the principles on transparency and impartiality were not followed by the Congress of Local and Regional Authorities of the Council of Europe in its international observation activity.

X. CONCLUSIONS AND RECOMMENDATIONS

Having analyzed the information submitted by observers with regard to all stages of December 23, 2009 Municipal Election in the Republic of Azerbaijan, including the Election Day, EMDS came to the following conclusions:

- Pre-election political environment in the country did not ensure normal conditions for holding free and fair elections. Substantial measures were not taken to provide participation of all political forces in the Election. Especially, reforms that would guarantee freedom of peaceful assembly, opportunities for political activity, and freedom of expression and media were not implemented.
- In general, recommendations of OSCE/ODIHR and Venice Commission of the Council of Europe were not taken into consideration. On the contrary, last amendments to the Election Code, made on June 2, 2008, limited legal opportunities for holding free and fair elections in the country, and did not create confidence in the election process. After adoption of these amendments, new needs for formation of improved legal basis for a democratic election system emerged.
- On the eve of the Municipal Election and during the election process, visible technical improvements were observed in the work of the Central Election Commission. Especially, efforts demonstrated by the Central Election Commission with regard to accreditation of local observers can be emphasized. However, election commissions did not respond adequately to gross violations of law that occurred in all stages of the election process. It was observed that precinct and district election commissions largely functioned under direct or indirect control of local executive authorities on the Election Day, as it was common to the previous elections.

- Although the voter lists were compiled on the basis of old data, the work of Election Information Center of the Central Election Commission regarding clarifying the voter lists in this area can be considered a success case.

- Serious discrimination was observed in the process of nomination and registration of candidates to municipality membership. It should be noted that there was no obstacle for registration of the members of New Azerbaijan Party, the party in power. On the contrary, there were numerous artificial obstacles for registration of oppositional political party members by the head of election constituencies and local executive authorities. There were some cases about pressures by representatives of local executive authorities.

- During the election campaigning period, there were gross violations of law that did not seriously affect election results. These violations were mainly connected with participation of representatives of local executive authorities in the election campaign of New Azerbaijan Party members and abuse of administrative resources.

- The campaigning period was not accompanied organization of public-political debates between registered candidates with the participation of broad segments of the population. Besides, registration of very few oppositional party representatives led to weak, uncompetitive and “no-alternative” environment.

- On the Election Day, massive violations of law that could affect election results took place in the process of voting, counting of votes, and tabulation of voting results. Such as certain violations of law, which had been observed in the previous elections, were noted in a number of precincts in this election. They included bringing groups of voters to the polling stations by local executive authorities for the purpose of increasing voter turnout, ballot stuffing, multiple voting by one person, falsification of voting results, and other violations.

- Official information about voter turnout on the Election Day created serious doubts. Figures about voter turnout were artificially exaggerated in majority of election precincts.

- Protocols on voting results were changed after the Election Day in some election precincts. However, it is difficult to determine whether this process happened at the level of constituency election commissions or the Central Election Commission.

- Ensuring of transparency in the election process was mainly limited. In majority of cases, transparency was not provided in the process of checking signature lists for nomination of candidates at the Central Election Commission. At the end of the Election Day, protocols on voting results were not publicized in a number of election precincts. Furthermore, the election process was accompanied by pressures on independent observers and this revealed existing legal-political limitations concerning election transparency.

- During the period following the Election Day, complaints concerning the election results were submitted to the Central Election Commission and courts.

By summarizing the results of its monitoring of December 23, 2009 Municipal Election, EMDS came to the following Final Opinion:

- Municipal Election held in the Republic of Azerbaijan on December 23, 2009 was not free, fair, and democratic. Analysis of all stages of the Election, especially election campaigning period and results of voting on the Election Day, shows that this Election was held in an

uncompetitive environment with lack of alternatives and thus, did not reflect true will of the Azerbaijani people.

- State bodies of the Republic of Azerbaijan, especially political authorities, could not show political will for holding this Election freely, fairly and democratically.

Based on the results of its monitoring of December 23, 2009 Municipal Election, EMDS recommends the following:

- In order to overcome violations of law observed in the Municipal Election and improve election practice in the country, fundamental measures should be taken;
- In order to avoid deepening of political polarization in the society, the present political power should implement activities aimed at creating mutual confidence between main confronting political sides and create opportunities for political institutes in the country to participate in the process of state administration;
- All persons violating election rights, especially representatives of local executive authorities, should be held liable and punished;
- Legal initiatives of local and international organizations towards improvement and democratization of the Election Code (including last amendments to the Code made on June 2, 2008) should be supported;
- Composition of the election commissions should be formed on the basis of equal representation of major political forces, in accordance with the principle of parity;
- Democratic and improved rules should be established with regard to submission and consideration of complaints about violation of election rights;
- Public debates on evaluation of election results, gaps in the Election Code and other laws as well as mechanisms for submission and investigation of complaints should be organized.

**Executive Board,
Election Monitoring and Democracy Studies Center**

XI. APPENDIX

Appendix #1

THE LIST

of Regional observation zones and election constituencies

No	Region observation zone of EMDS	Number of election constituencies
1	Baku	Election Constituency # 8- 36
2	Ganja	Election Constituency # 37-40, 96-108
3	Sumgayit	Election Constituency # 41-45, 50-56
4	Mingachevir	Election Constituency # 47- 49, 93-95
5	Sheki	Election Constituency # 109-117
6	Beylagan	Election Constituency # 79-84
7	Sabirabad	Election Constituency # 46, 57-65
8	Goychay	Election Constituency # 85- 92
9	Jalilabad	Election Constituency # 66-78
10	Nakhchivan	Election Constituency # 1-7

Note: Since internally displaced persons (IDPs) did not participate in this Election, the election constituencies where they are registered was not stated in the table.

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