

OPINION

of Election Monitoring and Democracy Studies Center on the draft law on amendments and changes to the Election Code

On 9 June 2010 the draft law on “Amendments and Changes to the Election Code” was introduced in Milli Majlis by a group of MPs from the New Azerbaijan Party (YAP). The draft law proposes amendments and changes to the timeframe for announcement of elections, organization of the constituency election commissions, registration of candidates, election funds of candidates and other areas.

Election Monitoring and Democracy Studies Center (EMDS) notes with concern that the draft law is proposed by YAP at a time when less than 3 months are left to the next parliamentary elections and the draft law was included in the parliament agenda without any public discussions in the country, as well as without consulting with the Council of Europe’s Venice Commission, OSCE Office for Democratic Institutions and Human Rights.

EMDS stresses that YAP representatives introduced the draft law without explaining the need for those amendments and changes and the public needs were not studied while preparing the draft law.

EMDS notes that among the introduced proposals the abolishment of the provision on allocation of the state funds to the registered candidates for election campaigning and reduction of election period from 75 to 60 days will negatively affect election process in the country and emphasizes a need to share its opinion on those amendments and changes with the public.

EMDS’ researches show that allocation of the state funds to candidates or referendum campaign groups during all the elections and referendums held in Azerbaijan is also a very common practice for the OSCE and Council of Europe states, especially for states which are in period of transition to democracy. Abandoning this experience in the period of the parliamentary elections may lead to unequal competition environment among candidates. EMDS reminds that funding candidates from the state budget serves to avoid non-transparent influence of business groups and is considered a part of a comprehensive election system. Besides, if holding election campaigns at candidates’ own expenses or with external funding is legalized in Azerbaijan, where corruption rate is extremely high and economic rights and freedoms are not fulfilled, the competition environment in the election process will decline and pre-election campaigning will be under influence of different financial groups.

Reduction of the term of organizing and holding elections to 60 days includes decreasing all terms of the election process such as nomination and registration of candidates; and pre-election campaign.

EMDS notes that this provision of the draft law is not the best practice for parliamentary and municipal elections held in the majoritarian system, except the presidential elections. Quite opposite, in the country like Azerbaijan, where the main political freedoms, especially freedom of assembly, freedom of association, freedom of speech and media access are restricted such a proposal will decrease the level of the equal competition opportunities among the political parties during the election process, since opportunities of independent and opposition political powers to interact with and address to electorate are usually restricted.

EMDS notes that election commissions and potential participants of elections – political parties, civil groups and candidates are not ready to organize election campaign within the time limit that the draft law will provide. In this regard, the constituency election commissions may face serious problems with respect to organization of elections, clarification of voters' list, registration of candidates and observers, investigation of election complaints. At the same time, based on the results of 23 December 2009 Municipal Elections, EMDS concludes that the current level of CEC competence and qualification does not allow to carry out the electoral actions within a short period of time.

EMDS hopes that the draft law proposed to Milli Majlis of the Republic of Azerbaijan will not be discussed in the parliament without studying the public opinion and consulting with the international organizations which cooperate with the Republic of Azerbaijan and will be removed from the parliament agenda soon. However, EMDS stresses a need to improve the Election Code of the Republic of Azerbaijan in accordance with the international standards, and emphasizes a significance of holding discussions among the local NGOs, political parties, relevant bodies of Council of Europe and OSCE.

It is noteworthy that the Working Group created within the EMDS has prepared the draft law on the “Amendments and Changes to the Election Code” and submitted it to Milli Majlis on 31 May 2010. In EMDS' draft law the election period is 100 days, while pre-election campaign period is 60 days.

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