

PROPOSAL OF LAW

on

“Amendments to the Election Code of the Republic of Azerbaijan”

1) Article 1. Main Definitions Used in the Election Code

To amend Article 1.1.18 as follows:

“Observation – thoroughly watching all processes from the starting of the elections (referendum) to the announcement of the election (referendum) results, gathering and assessment of information, and preparation of expert opinion”.

2) Article 1. Main Definitions Used in the Election Code

To add paragraphs 33 and 34 to Article 1.1 as follows:

“1.1.33. Majority political party (bloc of political parties) in power – political party (bloc of political parties), the representatives of which constitute majority in the legislative and local self-government bodies;

1.1.34. Minority political party (bloc of political parties) in power – political parties (bloc of political parties), either the representatives of which constitute minority in the legislative and local self-government bodies or which are not represented in these bodies.”

3) Article 4. Universal Suffrage

To replace the terms “**Citizens**” in Article 4.1 and “**citizen**” in Article 4.3 with the terms “**Voters**” and “**voter**” respectively.

4) Article 5. Direct Suffrage

To amend Article 5 as follows:

1“5.1. Persons shall vote individually and directly for a candidate during elections, and for or against issues brought to a referendum.

5.2. Voting in place of other persons shall be prohibited. Persons voting in place of others or providing conditions for this or drawing others into this on the Election Day shall be subjected to liability stipulated in either the Criminal Code or the Code on Administrative Offences of the Republic of Azerbaijan.”

5) Article 6. Secrecy of Voting

To amend Article 6 as follows:

Voting during elections and referenda shall be secret. Interference in secrecy of expression of voters’ will in any form or attempt to this or creating conditions for this shall be strictly prohibited and constitute criminal responsibility.

Election Monitoring and Democracy Studies Center

Note: Accordingly, Article 159.4 of the Criminal Code of the Republic of Azerbaijan should be considered Article 159.5 and the term “in Articles 159.1-159.3” in this Article should be replaced with the term “in Articles 159.1-159.4”. It is proposed to add Article 159.4 in the following text:
“159.4. Interference in secrecy of expression of voters’ will in any form, attempt to this or creating conditions for this;”

6) Article 7-1. Circumstances Precluding Conduct of Elections and Referenda

To amend Article 7.1 as follows:

“Elections or referendum shall not be conducted when martial law or state of emergency is applied in more than 25 percent of the territory of the Republic of Azerbaijan, as well as, during the period of 3 months after termination of the martial law or state of emergency.”

7) Article 8. Timeframe for Announcement of Elections (Referendum)

To amend Article 8.1 as follows:

“Except the cases stipulated in the Constitution of the Republic of Azerbaijan, elections (referendum) shall be announced at least 100 days prior to the Voting Day.”

8) Article 11-1. Prevention of Unlawful Interference in the Process of Elections (Referendum)

To remove the term “Unlawful” in Article 11-1.1.

9) Article 16. Cases of Citizens’ Non-Participation in Voting

To add Article 16.7 with the following meaning:

“16.7. Persons in temporary military service, convicts in penitentiaries and persons about whom there is no court verdict in force but who are under arrest shall not participate in voting in the elections to Milli Majlis and municipal elections.”

10) Article 17. Principles of Functioning of Election (Referendum) Bodies

To add the term “**bloc of political parties**” after the term “**political party**” in Article 17.6.4:

“17.6.4. Must not let any actions directed to or which can be understood as supporting any particular candidate, political party, bloc of political parties or referendum campaign group”.

11) To remove Article 17.6.17:

“17.6.17. Must take all possible measures to ensure voters’ participation in elections (referendum)”.

12) Article 19. General Rules for Organization of Activities of Election Commissions

Election Monitoring and Democracy Studies Center

To amend Article 19 as follows:

“19.3. Chairperson, Deputy Chairperson and two Secretaries of each election commission determined by this Code shall be elected through open voting in the first meeting of the election commission. The oldest member of the election commission shall chair its first meeting until the Chairperson of the commission is elected; Deputy Chairperson or the older Secretary shall chair any meeting where the Chairperson is absent. Except for the Central Election Commission, the posts of Chairperson, Deputy Chairperson and Secretaries in the other election commissions shall be equally divided between the subjects that have the right to nominate candidates for membership in the election commissions – majority political party (bloc of political parties) in power and minority political party/parties (bloc of political parties) in power. Chairperson, Deputy Chairperson and each of the two Secretaries of election commission shall represent different political forces.

The posts of Chairperson and one of the Secretaries of the Central Election Commission, the posts of Chairperson and one of the Secretaries in the constituency election commissions with odd numbers, as well as, the post of Chairperson in the precinct election commissions with odd numbers shall be allotted to the majority political party (bloc of political parties) in power, while the posts of Deputy Chairperson and one of the Secretaries (in precinct election commissions – the Secretary) shall be allocated to the minority political party (bloc of political parties) in power.

The posts of Deputy Chairperson and one of the Secretaries of the Central Election Commission, the posts of Chairperson and one of the Secretaries in the constituency election commissions with even numbers and the post of Chairperson in the precinct election commissions with even numbers shall be allotted to the minority political party (bloc of political parties) in power, while the posts of Deputy Chairperson and one of the Secretaries (in precinct election commissions – the Secretary) in such constituency and precinct election commissions shall be allocated to the majority political party (bloc of political parties) in power.

In the commissions, the posts allotted to minority political party (bloc of political parties) in power shall be given, on an equal basis and by a draw, to the political parties (blocs of political parties) which have had registered parliamentary candidates in at least 43 election constituencies and received more than 3% of valid votes in the last elections to Milli Majlis. In case of absence of a minority political party (bloc of political parties) which has received more than 3% of valid votes in the last elections to Milli Majlis, these posts shall be divided between minority political parties (blocs of political parties) in Milli Majlis, in proportion to the number of seats received by their representatives in the last elections to Milli Majlis.”

13) To remove Article 19.7 (it is not appropriate for the election commission, which is a collegial body)

“For the purpose of replacing a member of the election commission with decisive voting right in cases specified in Article 19.6 of this Code, substitutive members, nominated on the same conditions as the main members, shall be appointed (elected) to election commissions.”

14) Article 22. Status of a Member of Election Commission

Election Monitoring and Democracy Studies Center

To add the following expression **“as well as employees of the institutions, enterprises and organizations financed from the state budget (except precinct election commissions)”** after the **“elected members or officials of state bodies or municipalities”** in **Article 22.4.2**.

15) In Article 22.8, to remove the following words:

“...who work in municipal positions indicated in Article 36.3 of this Code, as well as, in organizations, departments and institutions financed from the state budget...”

16) Article 24. The Rule of Formation of the Central Election Commission

To replace number **“18”** with number **“16”** in **Article 24.1**.

17) To amend Article 24.2 as follows:

“Candidates to the Central Election Commission shall be nominated by the subjects determined in this Code and their membership in the Commission shall be approved by Milli Majlis.”

18) To amend Article 24.3 as follows:

“8 of the members of the Central Election Commission shall be elected upon nomination by the majority political party (bloc of political parties) in power; the other 8 members – upon nomination by the minority political party/parties (bloc of political parties) in power. Nominees of the majority political party (bloc of political parties) in power are determined at their conference. Seats allotted to the minority political party (bloc of political parties) in power shall be determined, on an equal basis and by a draw, among the political parties (blocs of political parties) which have had registered parliamentary candidates in at least 43 election constituencies and received more than 3% of valid votes in the last elections to Milli Majlis. In case of absence of a minority political party (bloc of political parties) which has received more than 3% of valid votes in the last elections to Milli Majlis, these seats shall be divided between minority political parties (blocs of political parties) in Milli Majlis, in proportion to the number of seats received by their representatives in the last elections to Milli Majlis. In this process, firstly, seats shall be allotted in accordance with the whole numbers; the remaining seats shall be determined by a draw between the subjects with fraction digits.”

19) In Article 24.4, to add the words “lawyer, who does not work and has not worked during the last 2 years at any organization financed from the state budget” after the term **“higher-educated”**.

20) Article 27. Guarantees for the activity of members of the Central Election Commission

To amend Article 27.1 as follows:

“27.1. Chairperson, deputy chair, secretary and members of the Central Election Commission shall receive salary from the state budget during their office term. Any member of the Central Election Commission cannot hold any other post or undertake any other paid activity during their office term.

Election Monitoring and Democracy Studies Center

After retirement, a person who has served as chairperson, deputy chair, secretary or member of the Central Election Commission shall receive a pension in the amount of 80% the salary of a functioning member of the Central Election Commission.”

21) Article 28. Organization of the Activity of the Central Election Commission

To amend Article 28.1 as follows:

“Decisions of the Central Election Commission shall be adopted by open voting as follows: if 10 members of the Central Election Commission are present at the meeting – by a majority of at least 6 members; if 11 members are present – by a majority of at least 7 members; if 12 members are present – by a majority of at least 8 members; if 13 members are present – by a majority of at least 9 members; if 14 members are present – by a majority of at least 10 members; if 15-16 members are present – by a majority of at least 12 members.”

22) Article 30. Organization of Constituency Election Commissions

In Article 30.1, to replace number “60” with number “80”.

23) To amend Article 30.2 as follows:

“Constituency Election Commission shall consist of 8 members. Members of the Constituency Election Commission are appointed by decision of the Central Election Commission from among the candidates nominated in accordance with rule established in this Code.”

24) To amend Article 30.3 as follows:

“4 of the members of the Constituency Election Commission shall be nominated by the majority political party (bloc of political parties) in power; the other 4 members – by the minority political party/parties (bloc of political parties) in power. In Constituency Election Commission, the seats allotted to the minority political party (bloc of political parties) in power shall be determined, on an equal basis and by a draw, among the political parties (blocs of political parties) which have had registered parliamentary candidates in at least 43 election constituencies and received more than 3% of valid votes in the last elections to Milli Majlis. In case of absence of a minority political party (bloc of political parties) which has received more than 3% of valid votes in the last elections to Milli Majlis, these seats shall be divided between minority political parties (blocs of political parties) in Milli Majlis, in proportion to the number of seats received by their representatives in the last elections to Milli Majlis. Distribution of the nominees of minority political parties per constituencies shall be determined by a draw among them.

25) Article 31. Duties of Constituency Election Commissions

To add the following in Article 31.1.3:

“registers observers who wish to conduct observation in the constituency election commission and/or its election precincts and provides them with the necessary documents determined by the Central Election Commission;”

26) To add the following in Article 31.1.14:

“...creates conditions for observers to monitor the activity of the State Computerized Information System.”

27) Article 33. Guarantees for the Activity of Members of Constituency Election Commission

To amend Article 33.1 as follows:

“Chairperson, deputy chair, secretary and members of the Constituency Election Commission shall receive salary from the state budget during their office term.”

28) Article 34. Organization of the Work of Constituency Election Commission

To amend Article 34.3 as follows:

“Decisions of constituency election commission shall be adopted by simple majority of votes of the commission members stipulated in Article 30.2 of this Code.”

29) Article 35. Establishment of Election (Referendum) Precincts

To remove the following sentence from Article 35.5:

1“In exceptional cases, such polling stations shall be created by the commanders of the military units, in accordance with the decision of the relevant Constituency Election Commission, at least 5 days prior to the Voting Day.”

30) To remove the following sentence from Article 35.5:

“Military servants of the border troops and military servants located in the areas of military conflict, as well as, military servants serving under special regime in the cases established by the Central Election Commission, shall vote in election precincts created within their military units.”

31) To remove the following sentence from Article 35.5:

“The decision on military servants serving under the conditions of special regime shall be made by the Central Election Commission at least 5 days prior to the Voting Day.”

32) Article 36. Formation of Precinct Election Commissions

To amend Article 36.2 as follows:

“3 of the members of the Precinct Election Commission shall be nominated by the majority political party (bloc of political parties) in power; the other 3 members – by the minority political party/parties (bloc of political parties) in power. In Precinct Election Commission, the seats allotted to the minority

Election Monitoring and Democracy Studies Center

political party (bloc of political parties) in power shall be determined, on an equal basis and by a draw, among the political parties (blocs of political parties) which have had registered parliamentary candidates in at least 43 election constituencies and received more than 3% of valid votes in the last elections to Milli Majlis. In case of absence of a minority political party (bloc of political parties) which has received more than 3% of valid votes in the last elections to Milli Majlis, these seats shall be divided between minority political parties (blocs of political parties) in Milli Majlis, in proportion to the number of seats received by their representatives in the last elections to Milli Majlis. Distribution of the nominees of minority political parties per precincts shall be determined by a draw among them.

33) To remove Article 36.3 :

1

2“No more than 2 members of a Precinct Election Commission can be in municipal service.”

34) In Article 36.4, to replace number “40” with number “60”.

35) To remove Article 36.7:

“In the cases indicated in Articles 35.4 and 35.5 of this Code, in precincts located in impassable places where the number of voters is less than 100 but more than 50, Precinct Election Commission shall be formed by open voting at a general meeting of voters. In such cases, the composition of the Precinct Election Commission shall be approved by the Constituency Election Commission.”

36) Article 39. Organization of the Work of Precinct Election Commission

To amend Article 39.3 as follows:

“Decisions of Precinct Election Commission are adopted by simple majority of votes.”

37) Article 40. Transparency in the Activity of Election Commissions

1

2In Article 40.2, to add “**observers and journalists**” after the following words: “**Members of election commissions, candidates registered within the relevant constituency and their authorized representatives/agents, agents of referendum campaigning groups, and representatives of political parties and blocs of political parties...**”

38) In Article 40.3, to add “except for observers” after the words “Persons mentioned in Article 40.2 of this Code”.

39) In Article 40.5, to put a comma after the words “working in the field of elections” and add “democracy and protection of human rights”.

40) To amend Article 40.6 as follows:

Election Monitoring and Democracy Studies Center

“Political parties, blocs of political parties, and non-governmental organizations which intend to conduct observation in all stages of the elections or referendum in election commissions existing in the entire territory of the Republic of Azerbaijan shall get accredited by the Central Election Commission of the Republic of Azerbaijan. For this purpose, such organizations shall apply to the Central Election Commission at least 5 days prior to the Voting Day. The application shall include copies, certified by notary, of the Regulations and certificate of state registration of the political party or non-governmental organization, and establishment documents of the bloc of political parties, where applicable. Persons conducting observation on behalf of a political party, bloc of political parties or non-governmental organization which has been accredited by the Central Election Commission shall not be required to individually register as observers at the election commissions. Such persons shall carry out election observation with the badges issued for them by the political party, bloc of political parties or non-governmental organization which has been accredited by the Central Election Commission.

Persons who intend to individually conduct observation in the entire territory of the Republic of Azerbaijan can submit their application for observation to the Central Election Commission from the date of announcement of the elections until 5 days prior to the Voting Day. The application shall indicate the observer’s surname, forename, patronymic, residence address, and series and number of ID card. Decision on each application shall be made within 3 days from the date of submission. Application for observation can be rejected only if the information provided in the application is not authentic. If the Central Election Commission does not allow conducting observation, complaint about such decision of the Central Election Commission can be submitted to the court of appellate instance. In the case the observation is allowed, the observer shall be provided with a badge prepared in accordance with the rules established by the Central Election Commission.”

141) To remove the following sentence in Article 40.7:

“...if necessary, the name of the referendum campaign group or names and legal addresses of the non-governmental organization, political party or bloc of political parties.”

42) To amend Article 40.8 as follows:

“Representatives of the mass media/journalists shall have the right to participate, take photos and conduct audio and video recording in the meetings of election commissions as well as in the course of the work regarding election documents, preparation for voting, the voting process, counting of votes and entering voting results in the computers.”

43) To amend Article 40.12 as follows:

“The persons mentioned in Article 40.2 of this Code, observers, including international observers and representatives of the mass media/journalists, may observe implementation of election activities, determining of voting results and election (referendum) outcomes, completion of protocols on voting results and election (referendum) outcomes, and counting and recounting of votes in all election commissions. During observation, they can use photo and video cameras, audio recorders and other such technological means.”

44) To remove Article 40.13:

“Only the observers, who have obtained specific permission by being registered with the Central Election Commission, in accordance with the rules defined by the Central Election Commission for getting this right, shall have the right to observe meetings of the election commission until the Voting Day. This right should be indicated on the badge provided by the Central Election Commission. Such observers shall be identified by the Central Election Commission by the means of drawing lots, with the condition that each of the subjects stipulated in Article 40.5 of this Code shall have one observer with such right (for each election commission separately) and that the number of such observers for each commission shall not exceed 10. No specific permission shall be required to observe a meeting of an election commission on the Voting Day.”

45) To amend Article 40.14 as follows:

“Unrestricted access to all election precincts, without exception, should be ensured for all election commission members, persons specified in Article 40.2 of this Code as well as observers, including international observers and representatives of the mass media/journalists.”

46) To amend Article 40.15 as follows:

“On the Voting Day, every authorized person in the polling station, including members of the Precinct Election Commission, persons specified in Article 40.2 of this Code and mass media representatives/journalists, should have a badge of a specific form determined by law to allow for establishing their status, which displays their surname, forename, patronymic and position. This badge shall be valid only if supported by ID card.”

47) To amend Article 40.16 as follows:

“An observer should have a badge, indicating his/her surname, forename, patronymic, residence address, the election commission (commissions) he/she is assigned to, and the name of the subject whose interests he/she represents. This badge shall be valid only if it is supported by ID card or other substitute document. Advance information about an observer’s visit is not required.”

48) To add the following sentence in Article 40.17:

“On the Voting Day, persons other than the subjects who have the right to observe the election process shall not be allowed to stay at the polling station after voting.”

49) To add 18th and 19th paragraphs in Article 40 with the following meaning:

Election Monitoring and Democracy Studies Center

“Article 40.18. Uninterrupted coverage of the process of voting and counting of votes on TV and radio shall be organized”.

“Article 40.19. Officials of government bodies and municipal structures, as well as, state servants shall not be allowed to act as observers”.

50) Article 41. Principles of Observation

To amend Article 41.1 as follows:

“Article 41.1. Observation shall be conducted by the subjects specified in Article 40 of this Code without any restriction and/or condition and be based on the following principles”.

51) To amend Article 41.1.4 as follows:

“Article 41.1.4. Observation results shall be based on facts and create legal consequences.”

52) Article 42. Rights and Obligations of Observers

To amend Article 42.2.2 as follows:

“To be present in the voting room of the relevant election precinct and computer room of the State Computerized Information System at any time on the Election Day and to take photos, conduct audio and video recording and carry out online transmission by any technological means; (Information obtained by observers through such technological means during the observation is legally-obtained information and shall be considered as evidence by the higher election commissions and courts)”

53) In Article 42.2.1, to put a comma after the words “to become familiar” and add “if there is any suspicion, to request the voter’s ID card in order to determine his/her place of registration”.

54) In Article 42.2.3, to add “putting ballots into the ballot box” after the words “giving ballot papers to voters”.

55) In Article 42.2.7, to amend the words “in circumstances ensuring observation and from a certain distance” as follows: “in circumstances ensuring observation and from a clearly visible close distance”.

56) In Article 42.2.7, to replace the words “to receive and become familiar” with the words “become familiar”.

57) In Article 42.2.9, to put a full stop after the words “(the election commission should verify copies of the above-mentioned documents at the request of observer)” and add sentences with the following meaning:

Election Monitoring and Democracy Studies Center

“An act about this, which indicates date and time of issuance, shall be compiled in two copies. The act shall be signed by the person who received a copy of the protocol and by the chairman or secretary of the commission and shall bear the seal of the commission”.

58) To add 12th and 13th paragraphs in Article 42.2 with the following meaning:

“42.2.12. To take photos, conduct audio and video recording and carry out their online transmission by any technological means;”

“42.2.13. To carry out other activities within the subject-matter of observation.”

59) To remove Article 42.3.10:

“42.3.10. from responding to voters’ questions (except for the questions concerning the observer’s status)”.

60) To amend Article 42.4 as follows:

“The registration of an observer not complying with the requirements specified in Article 42.3 of this Code can be cancelled by the relevant court upon application of the election commission that registered the observer only if sound evidences are presented. It is prohibited to expel an observer from election precinct without decision of the court”.

61) Article 43. Representatives of the Mass Media

To amend Article 43.1 as follows:

“Representatives of the mass media/journalists may cover meetings of all election commissions, observe the voting process, take photos, conduct audio and video recording and carry out live broadcasting and online transmission by various technological means, familiarize themselves with election commissions’ protocols and decisions on voting results and election outcomes, and photocopy or obtain, free of charge, one copy of the relevant election commission’s decision, protocol and any other attached document. Additional copies of such documents may be purchased for a fee set by the Central Election Commission.”

62) International (Foreign) Observers

To amend Article 44.2 as follows:

“Following official publication of the decision on holding elections, initiations may be sent by Milli Majlis, relevant executive bodies, the Central Election Commission, political parties (blocs of political parties), non-governmental organizations and registered candidates. Representatives of international and inter-state organizations, as well as, non-governmental organizations and political parties of foreign states, and foreign physical persons can act as foreign observers.”

63) To amend Article 44.11 as follows:

Election Monitoring and Democracy Studies Center

“44.11. Registration of an international observer can be cancelled by the court upon application of the Central Election Commission in case he/she violates laws or international legal norms.”

64) Article 46. Compilation of Voter Lists

To add 16th paragraph in Article 46 with the following meaning:

“46.16. Precinct election commissions shall create conditions for subjects participating in the elections (political parties, blocs of political parties, referendum campaigning groups, and candidates), as well as, for NGOs and individuals carrying out election observation mission, to examine accuracy of the voter lists and immediately make the necessary corrections if any errors are found out in the voter lists.”

65) Article 47. Rules for Inclusion in and Exclusion from the Voter List

To amend Article 47.6 as follows:

“Persons with no valid court indictment and subject to imprisonment shall be included in the voter lists upon information presented to the relevant precinct election commission by the administration of investigative isolation facilities. Such information shall include all the data provided in the person’s identification card or substitute document. In the case of elections to Milli Majlis and municipalities, military servants, persons in penitentiaries, and persons with no valid court indictment and subject to imprisonment shall not be included in the voter lists of election precincts where they are not permanently registered and shall not be allowed to vote at such precincts.”

66) Article 48. Public Display of Voter Lists

To add 3rd paragraph to Article 48 with the following meaning:

“48.3. Political parties (blocs of political parties), referendum campaigning groups, candidates and non-governmental organizations can obtain copies of voter lists at least 10 days prior to the Voting Day and check their accuracy address-by-address. Their notes on inaccuracies in the voter lists shall be checked and the necessary corrections shall be made by the relevant precinct election commission within one day after submission of such information.”

67) Article 57. Rules for Collecting Signatures in Support of Candidates

In Article 57.1, to add “with the exception of political parties” after the words “state bodies, municipalities”.

68) To replace the number “65” with the number “90”, and the number 40 with the number 70

“58.1 To register nominated candidates, the authorized representatives of the candidates, political parties or a bloc of political parties shall submit the following documents to the relevant Constituency Election Commission at the most 90 days and at least by 18.00 70 days prior to the Voting Day.”

69) To add 5th paragraph in Article 58.

“58.5 A bank document on transfer of voluntary registration deposit at the amount of 3% of the relevant election fund’s threshold to the account of the election commission carrying out the registration can be presented to the relevant election commission when submitting the election documents for registration of a candidate. Cases of return of the registration deposit by the election commission shall be determined by Article 60.5 of this Code.”

70) Article 59. Checking, by the Election Commissions, the Accuracy of Information in the Signature Sheets and Documents Submitted by Candidates, Political Parties and Blocs of Political Parties

In Article 59.2, to replace the number “50” with the number “70”.

71) Article 60. Registration of a Candidate

To add a 5th paragraph in Article 60 with the following meaning.

“60.5. If a candidate is not registered, the managing body of a political party (block of political parties) that nominated the candidate can apply to the relevant election commission within 3 days after receipt of a copy of the refusal on registration a candidate for registration, provided for non-return of the registration deposit. In such case, the relevant election commission registers the candidate within 2 days. In all other cases, the registration deposit shall be returned to the relevant candidate, the political party or block of political parties that nominated a candidate within 3 days after the election commissions makes decision on registration or refusal of registration. If the candidate is elected as President, deputy to the Milli Majlis, President or a municipal councilor, or collects at least 3% of votes the registration deposit shall be returned by the relevant election commission to the nominated person, within 3 days after the election outcomes are officially published.”

72) Article 66. Submission of Documents for registration of a Referendum Campaign Group

In Article 66.2 to replace the number “45” with the number “70”

“66.2 The authorized representative of a referendum campaign group shall have to submit the following documents to the relevant election commission 45 days prior to Election Day by 18:00 for the registration of the referendum campaign group.”

73) Article 73. Referendum Campaign Group’s Relinquishing of its Status

To add the following phrase to the last sentence **in Article 73-1.2.**

“73-1.2 ...and in this case registration deposit shall not be reimbursed.”

74) Article 75. The Period of Election Campaigning

In Article 75.2 to replace number “28” with number “60”.

75) Article 77. Basic Duties of the Mass Media during Election Campaigning Period

In Article 77.1, to add “and other TV and radio channels financed from the state budget” after the words “Public TV and radio companies”.

76) To remove the last sentence from Article 77.1:

“No election campaign is conducted through TV and radio companies that belong to the state”.

77) To amend Article 77.2 as follows:

“TV and radio companies as well as publications specified in Article 77.1. of this Code, which air programs or are distributed in half of the territory of the Republic of Azerbaijan or more, shall be obliged to create conditions for election campaigning for the candidates registered for Presidential Election, for the political parties or blocs of political parties with registered candidates in at least 43 election constituencies for elections to Milli Majlis or municipalities, and for the referendum campaigning groups with 40.000 or more members. On the basis of a document submitted by the relevant executive body, the Central Election Commission shall publish the list of the mentioned TV and radio companies and publications 75 days prior to the Voting Day.”

78) To amend the last sentence in Article 77.3 as follows:

“On the basis of a document submitted by the relevant executive body, the list of TV and radio companies and publications shall be published by the relevant constituency election commission 75 days prior to the Voting Day.”

79) Article 78. Conducting Election Campaigning in Mass Media on Paid Basis

To amend Article 78.3 as follows:

“78.3. Regardless of their type of property, the relevant TV and radio companies and publications, besides sending notification on the possibilities for allocating airtime and print-space to the registered candidates, political parties, blocs of political parties, referendum campaign groups, the Central Election Commission and constituency election commission, shall announce and publish in their Internet sites the information on their rates of charge 75 days prior to the Voting Day.”

80) To amend Article 78.4 as follows:

“78.4. If private TV and radio companies and publications have not declared their willingness to participate in the campaigning process and have not announced their rates of charge 75 days prior to the Voting Day, they cannot broadcast or publish campaigning materials. Private TV and radio companies and publications which do not intend to participate in the campaigning process may not be forced to publish election campaigning materials. If such materials are published by private TV and radio companies and publications which have declared their intention to participate in the campaigning

Election Monitoring and Democracy Studies Center

process and have announced their rates of charge, then the conditions for publishing should be equal for all candidates, political parties, and referendum campaign groups (this does not apply to the publications specified in Article 85.4 of this Code).”

81) Article 80. Rules for Allocating Free Airtime on TV and Radio for Election Campaigning

To amend Article 80.1 as follows:

“80.1. Registered presidential candidates, political parties or blocs of political parties with registered candidates for elections to Milli Majlis or municipalities in at least 43 election constituencies, and referendum campaigning groups with 40.000 or more members shall have the right to free airtime for election campaigning in the channels of TV and radio companies specified in Article 77.2 of this Code.”

82) To amend Article 80.5 as follows:

“80.5. The total volume of free airtime for election campaigning allocated by each TV and radio channel of the TV and radio companies specified in Article 77.2 of this Code should be no less than 6 hours per week. The total volume of free airtime for election campaigning allocated by the TV and radio companies specified in Article 77.3 of this Code should be no less than 3 hours per week on each TV and radio channel. The allocated free airtime should be within the time when most viewers can watch it (between 20:00 – 22:00). Broadcast of election campaigning materials on TV and radio cannot be considered as advertisement, stipulated in the Law on TV and Radio Broadcasting, and the rules on advertisement cannot be applied to this process.”

83) To add one sentence to Article 80.6 with the following meaning:

“These subjects may use the allocated free airtime at their own discretion (speech, video clip, announcement, etc).”

84) Article 81. Rules for Allocating Paid Airtime for Conducting Election Campaigning on TV and Radio

To amend Article 81.2 as follows:

“TV and Radio companies specified in Article 77.1 of this Code should keep extra airtime in reserve for paid election campaigning. Candidates for municipal elections and referendum campaigning groups with less than 20.000 members may not use such airtime. Regardless of their type of property, in all TV and radio companies, the highest rate of charge per minute of airtime for election campaigning cannot be more than the lowest rate of charge applied to commercial advertisements during the day. This principle also applies to print media. The amount and terms of payment should be equal for all registered candidates, political parties, blocs of political parties, and referendum campaign groups, and the information on this should be announced, published and put in the Internet site of the relevant company 75 days prior to the Voting Day. The total volume of airtime reserved for paid campaigning by each TV and radio company may not be less than and more than twice the total volume of free airtime allocated in accordance with Article 80.5 of this Code.”

85) To add a sentence to Article 81.6 with the following meaning:

“According to the requirements of the Code of Administrative Penalties, broadcast of TV and radio companies which do not obey these rules is stopped for 7 days by court decision.”

86) To remove Article 81.11:

“Paid air time for election campaigning on TV and radio shall be allocated in conformity with the laws on advertisement.”

87) Rules for Conducting Unpaid Election Campaigning in Print Media

In the second sentence of **Article 83.6**, to replace the words “**not later than 35 days after the official publication of the decision on holding elections**” with the words “**75 days prior to the Voting Day**”.

88) Article 84. Rules for Paid Election Campaigning in Print Media

In the second sentence of **Article 84.1**, to replace the words “**not later than 35 days after the official publication of the decision on holding elections**” with the words “**75 days prior to the Voting Day**”.

89) Article 86. Rules for Election Campaigning through Mass Actions

To amend Article 86.1 as follows:

“Upon the wish of registered candidates, political parties, blocs of political parties, and referendum campaigning groups, the activities stipulated in Article 86.1 of this Code may be carried out in city squares, open areas, parks, and other public places where voters go. The relevant executive authorities shall be responsible and take necessary measures for assuring the security of the people during mass election campaigning actions. In no case, such measures can restrict the freedom of peaceful assembly.”

90) In article 86.5, to replace the words “**buildings and equipment considered as cultural facilities**” with the words “**historical monuments**”.

91) Article 87. Rules for Production and Distribution of Printed, Audiovisual and Other Election Campaign Materials

In **Article 87.6**, to replace “**30 days**” with “**65 days**”.

92) To amend Article 87.7 as follows:

Election Monitoring and Democracy Studies Center

“In addition to the places specified in Article 87.6 of this Code, election campaign materials can be distributed in/on any private property, including private cars, as well as in public transport, subway, trains, airplanes, aerostats, train stations, airports and other places on contractual basis.”

93) In Article 87.8, to remove the term “or cultural”.

94) Article 88. Preventing the Cases of Abuse during Election Campaigning

To add 6th Paragraph to Article 88.4 with the following meaning:

“88.4.6. From the date of official publication of the decision on holding elections until the Voting Day, renovation and pavement of streets and roads, refurbishment and repair of apartment buildings and public yards, and any other similar activities that may affect voters; (if there are such necessary works planned for the election year in advance, they should be implemented either before starting of the election process or after the elections)”

95) Article 98. Voting Room

To add a sentence to Article 98.1 with the following meaning:

“Only one polling station can be located in one building.”

96) Article 99. Election Ballot Papers

To add a sentence to Article 99.2 with the following meaning:

“Color pictures of the candidates are put in front of their names.”

97) To remove Article 99.8:

“99.8. In exceptional cases, pursuant to Articles 35.4 and 35.6 of this Code, Precinct Election Commissions shall be allowed to produce election documents, including ballot papers, if technical facilities are available, in the ships sailing on the Voting Day and in the election precincts created outside the Republic of Azerbaijan. Decision on the production of election documents, with indication of appropriate number of copies, shall be made by the relevant precinct election commission in agreement with the Central Election Commission.”

98) Article 100. Voting Protocols of Election Commissions

To remove Article 100.10:

“100.10. According to Articles 35.4 and 35.6 of this Code, in exceptional cases and if technical facilities are available, precinct election commissions shall be allowed to produce the protocols in the ships sailing on the Voting Day and in the election precincts organized outside the Republic of Azerbaijan.”

99) Article 101. De-registration Card for Voting

To add a sentence to Article 101.6 with the following meaning:

“Information, per precincts and constituencies, on the number of voters who received de-registration cards shall be published on the official website of the Central Election Commission 24 hours prior to the Voting Day.”

100) Article 109. Publication of Voting and Election Results

To amend Article 109.2 as follows:

“Within 20 days after the Voting Day, the Central Election Commission shall publish all the information from the protocols of the constituency election commissions. Such information shall be put also on the website of the Central Election Commission.”

101) In Article 109.5, to replace the words “6 months” with the words “2 months”.

102) Article 110. Use of the State Computerized Information System during the Elections (Referendum)

To add a text with the following meaning in Article 110.1:

“Data on the voting process and voting results is managed through the State Computerized Information System during the Voting Day. The Central Election Commission shall regularly and uninterruptedly disseminate figures of the State Computerized Information System through state TV and radio channels as well as other electronic means of information (e.g. Internet) during the day.”

103) Article 112. Filing Complaints on Actions (Inaction) and Decisions that Violate Citizens’ Rights to Vote

In Article 112.1, to replace the number “3” with the number “7”

“112.1. Voters, candidates, registered candidates, political parties, blocs of political parties, referendum campaign groups, agents of registered candidates, political parties, blocs of political parties, referendum campaign groups, observers, and election commissions may file complaints about decisions and actions (lack of actions) which violate citizens’ right to vote within 7 days of the date the decision is published or made, or the date actions (lack of actions) occurred, or the interested person is informed about it.”

104) To add a text with the following meaning in Article 112.3:

“Courts shall review the complaints about decisions of election commissions within 3 days (if a shorter period is not stipulated in this Code). Decisions of the courts can be appealed at the court of higher instance within 3 days. Courts should immediately appraise the complaints submitted on the Voting Day and after voting and reply to the applicant within 24 hours. Term of consideration of the

Election Monitoring and Democracy Studies Center

complaints for which thorough investigation is needed may be extended in accordance with the procedure specified in this Code.”

105) In Article 112-1.1, to amend the sentence “Members of commission with legal education may be included in these groups” as follows:

“Members of commission with higher legal education shall be included in these groups.”

106) Article 115. Liability for Violation of Citizens’ Election Rights

To amend Article 115.1.16 as follows:

“115.1.16. those who have falsified election documents, have produced and presented fake documents (including ballot stuffing), have deliberately miscounted votes, have compiled the final protocol on the election results outside the building of the precinct election commission, have closed the election precinct before compiling the final protocol, have intentionally not presented or published the election results, or have incompletely published the election results;”

107) Article 122. Adoption of a Decision on Holding a Referendum

To amend Article 122.2 as follows:

“122.2. At least 300.000 citizens of the Republic of Azerbaijan with active suffrage may apply to the President of the Republic of Azerbaijan or Milli Majlis of the Republic of Azerbaijan with a proposal concerning adoption of a decision to hold a referendum. In this case, the proposal is sent to the Constitutional Court of the Republic of Azerbaijan and if the Constitutional Court makes a decision on conformity of the proposal to the Constitution of the Republic of Azerbaijan, a referendum shall be set within 4 months.”

108) Article 130. Transparency in Using Referendum Funds

To remove Article 130.2:

“If a referendum campaigning group has less than 20.000 members, the information stipulated in Article 130.1 of this Code shall be published in the procedure determined by the Central Election Commission.”

109) Article 138. Completion of Referendum

In Article 138.1, to replace number “25” with number “10”.

110) Article 139. Invalidity of Referendum and Invalidation of Referendum Results

In Article 139.1, to replace “25%” with “50%”.

Election Monitoring and Democracy Studies Center

111) To amend Article 139.2.1 as follows:

“139.2.1. if voting results are considered invalid or when they are cancelled in more than 1/4 of the referendum precincts, provided that the number of registered voters in such election precincts exceeds 1/5 of all voters registered in the constituency;”

112) Article 155. Special Requirements for Conduct of Election Campaigning in Mass Media during Elections to Milli Majlis

To remove the following sentence from Article 155.2:

“Rules for conduct of such events shall be defined by the Central Election Commission.”

113) Article 170. Invalidity or Invalidation of Elections in Single-Mandate Constituencies

To amend Article 170.2.2 as follows:

“170.2.2. during the elections in a single-mandate constituency, if the number of election precincts where voting results are considered invalid or where they are cancelled is more than 1/4 of all precincts in that constituency, provided that the number of registered voters in such election precincts exceeds 1/5 of all voters registered in the constituency;”

114) Article 171. Verification and Approval of the Results of Elections to Milli Majlis

In Article 171.2, to replace number “20” with number “10”.

115) Article 173. Registration of MPs Elected to Milli Majlis

In Article 173.1, to replace number “60” with number “30”.

116) Article 181. Collection of Signatures in Support of Presidential Candidates

To remove Article 181.2:

181.2. “One voter may sign in support of only one candidate.”

117) Article 204. Invalidation of the Results of Presidential Election

To amend Article 204.1.1 as follows:

“204.1.1. if voting results are considered invalid or when they are cancelled in more than 1/4 of election precincts, provided that the number of registered voters in such election precincts exceeds 1/5 of all voters registered in the constituency;”

118) Article 217. Postponement of Municipal Elections

In Article 217.2, to replace number “2” with number “3”.

119) Article 225. Election funds of Political Parties, Blocs of Political Parties and Candidates for Municipal Membership

To amend Article 225.1 as follows

“225.1. Election funds of candidates for Municipal membership shall be formed from the following financial resources.”

120) Article 236. Rules for Voting during Municipal Elections

To add 5th Paragraph in Article 236.1 with the following meaning:

“236.1.5. The candidate who has received the highest number of votes according to the election results shall be the Chairman of the municipality.”

121) Article 245. Filling in Vacancies of Municipal Members

To amend Article 245 as follows:

“If a member of a municipality dies during his/her term of office or if his/her term of office is terminated, based on the notification from the relevant constituency election commission and by the decision of the Central Election Commission, new elections shall be held. If a period of less than 6 months is left until expiration of the office term of municipal members, no new election shall be held.”

**Baku City, Republic of Azerbaijan
14 December 2009**