

**PRELIMINARY STATEMENT of the
STATISTICALLY BASED OBSERVATION
OF A CITIZEN GROUP OF OBSERVERS
On the Results of the Election Day Observation of the October 15, 2008 Presidential Election of
the Republic of Azerbaijan**

I. SUMMARY

This report reflects the observations of over 1,500 accredited nonpartisan observers comprised of concerned citizens who have come together to monitor the October 15 presidential election in Azerbaijan. Prior to election day, 83 observers monitored the pre-election period. Election day observers were deployed to a representative random sample of polling stations. The information in this report also has been compiled from reports by members of election commissions, voters, candidates or their representatives, which have been verified by third party sources when necessary. Please refer to the “Initial Opinion” from September 20 and the “Second Interim Report” from October 10 for more information.

No election can be viewed in isolation of the context in which it takes place, and an accurate assessment should take all stages into consideration. These include: conditions set up by the legal framework for the elections; the pre-election period before and during the campaign; the voting process; the casting of ballots; the tabulation of results; the investigation and resolution of complaints; and the conditions surrounding the formation of a new government.

The 2008 presidential election has not observed serious improvements in the election preparation period with regard to protection of citizens’ freedom of assembly, freedom of speech and freedom of the press. Unfortunately, changes to the election code were limited in scope and did not address the recommendations of the Venice Commission of the Council of Europe. As a result of the political environment under which the elections were conducted, voters had limited choices and the campaign had little political diversity.

On election day, reports were received from observers at over 700 polling stations in 123 District Election Commissions (DECs). Overall, while there were some serious incidents, observers witnessed problems at relatively few polling stations on election day. Limited problems were reported during the opening of polling stations. Observers witnessed relatively few problems at polling stations during the voting process, but at some, serious incidents were observed. Problems reported included multiple voting, individuals being brought in groups to polling stations, people permitted to vote whose name did not appear on the voters list, and ballot stuffing.

Observers witnessed only limited problems during the counting of votes, and at more than 90 percent of polling stations, the vote count was accurately reflected on the protocol. Observers determined that the process by which protocols from individual polling stations were added together (tabulation) was conducted without significant problems.

Despite being accredited by the Central Election Commission (CEC), observers came under severe intimidation. These incidents were particularly high among university students in Baku and Jalilabad and observers in Khachmaz. As a result of this intimidation, more than 120 observers decided not to take part in the observation effort.

While there have been improvements in the conduct of the formal process on election day, the larger problems of the electoral environment mean that the October 15, 2008 election did not fully meet international standards and cannot be considered free or democratic.

II. ELECTORAL AND POLITICAL ENVIRONMENT

Legal Framework and Election Legislation

On June 2, 2008 the Parliament of Azerbaijan adopted changes and amendments to the election code. Some of these changes have had a positive impact on the election environment. Included in the amendments were a reduction in the number of signatures required to register a candidate from 45,000 to 40,000, a simplification of the compilation of voter lists and their distribution to precincts, the abolishment of ballot-paper envelopes, and legalization of the use of ultra-violet lamps and invisible ink.

Other changes made for a more limited campaign and restricted the access of voters to candidates. These included amendments that shortened the election period from 120 to 75 days, reduced the campaign period from 60 to 28 days, prohibited campaigning on the state TV channels, and restricted the display of pre-election campaign materials on buildings and other public places.

Unfortunately, these amendments did not consider the recommendations from the Council of Europe's Venice Commission and from the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR). These involved changes to the composition of the election commission to ensure its independence, improvement of the procedures for complaint submission and investigation, and clear punishments for individuals who intervene in the process.

Political Environment

The observers were concerned with the political environment which surrounds the election, recognizing that the environment under which the elections are conducted will contribute significantly to its outcome and as such, the mandate of the elected individual to represent the will of the people. Citing changes in the Election Code and the law on Freedom of Assembly, some political parties, including the Musavat Party, Liberal Party, Azerbaijan National Independence Party, Azerbaijan Democratic Party, Popular Front Party, as well as the Public Forum For the Sake of Azerbaijan, refused to participate at the presidential election.

There were no serious improvements over previous election periods with regards to protecting citizens' freedom of assembly, freedom of speech, and freedom of press.

III. PRE-ELECTION ENVIRONMENT

Administration of Election Commissions

An improvement in the administration of election commissions has been noted. However, some district and precinct election commissions were slow to organize their work at the beginning of the election period. The restrictions with regard to accreditation of local observers in CEC and DECs, noted in previous years, were not been observed this year. The CEC provided registration to local observers and representatives of the candidates and to representatives of political parties who acted as councilors during the election. However, according to the information received by nonpartisan observers, some district election commissions presented obstacles to the accreditation of local observers.

The CEC did not provide responses to complaints about the misuse of air time by candidates in the pre-election period, and in some cases the violations were not addressed by the CEC.

The expansion of duties of the Press Group within the CEC to investigate applications of and complaints about pre-election campaign addressed to the CEC was concerning. According to Article 74.5 of the Election Code, the CEC Expert Group ensures the observance of rules on pre-election campaigning identified by the Law. But according to the CEC's instructions, the Press Group not only ensures observance of the rules on pre-election campaigning through mass media but also considers complaints about pre-election campaign. This could be seen as a restriction of the Expert Group's authority and an abuse of authority by the Press Group.

Voter Lists

According to Article 48 of the Election Code, voters lists must be displayed publicly and voters should be given a chance to verify their information at least 35 days prior to the election (September 10). Voters were also given the opportunity to check their names through the CEC's Information Center website. Some of the nonpartisan observers monitoring the verification of voter lists observed that the voter verification mechanism had significantly improved compared to previous years. There remain some concerns about the accountability of this process at the level of relevant district election commissions, local executive authorities and municipalities.

Nomination and Registration of Candidates

The process of nominating candidates, collecting signatures and registering candidates went smoothly in general. However, several serious irregularities and violations were observed. These violations mainly consisted of interventions by the local executive authorities and other budgetary organizations into the signature collecting process in ways favoring the incumbent candidate. Voters were forced to sign their names in support of a particular candidate by local executive powers and voters' IDs were forcibly collected to be used to support specific candidates.

Another observed shortcoming was the lack of transparency in the nomination process. In some cases the CEC rejected the participation of observers, representatives of candidates, and journalists to observe the signature counting process. In addition, the rejection of the Green Party Chairman Mais Gulaliyev's registration raised concerns about the transparency of the signature counting process as his representative was not allowed to observe the counting process.

Domestic Observation

Three months before the start of the election period, a national nonpartisan observation organization, the Election Monitoring Center, had its registration revoked by a decision of the Ministry of Justice. Despite the organization's appeal to the Supreme Court, the organization's registration had not been reinstated before the election. The ability of citizens to form organizations and monitor their elections is a right recognized by international agreements to which Azerbaijan is a signatory.

The Campaign Environment

The political discourse that occurred before the 2003 presidential and 2005 parliamentary elections was not observed. The primary reason for this appears to be the decision by the major opposition parties to boycott the election. Another factor seems to be that registered candidates were slow to arrange political meetings or discussions with voters during the campaign period and the campaign in general was being carried out in silence. In addition, some of the observers noted that local executive authorities did not allow public campaign events in the regions.

Some of the nonpartisan observers reported that election forums were limited in Baku and the regions. After the presidential campaign started, several political parties boycotting the election reported not being allowed to conduct peaceful protest actions in Baku by the Baku City Executive Authority.

As in previous elections, there were reports of misuse of administrative resources in the pre-election campaign and intimidation of voters. Examples of state officials demanding that employees vote for the incumbent president were observed throughout the country.

Moreover, unequal opportunities for candidates were persistent throughout the campaign. During the pre-election process, national TV-channels broadly covered the presidential candidate and incumbent head of state Ilham Aliyev, and broadcast his speeches and appearances. News connected with Ilham Aliyev's presidential functions had been highlighted extensively in the daily press. Ilham Aliyev had therefore been provided more air time and press coverage than other presidential candidates.

IV. ELECTION DAY OBSERVATION

Overall, while there were some serious incidents, accredited nonpartisan observers witnessed problems with the formal electoral process at relatively few polling stations on election day.

Election Day Methodology

Election day observation was conducted on the basis of parallel vote tabulation (PVT) methodology. This statistical methodology deploys observers to a randomly selected polling stations representative of the whole country. This tested methodology has been used around the world to help protect the rights of voters and promote credible elections.

Deployment of Observers

In preparation for election day, 1,836 Azerbaijani citizens were trained to serve as observers at a total of 840 polling stations. Two rounds of training were conducted for all observers and they were trained on election day procedures, observation functions and nonpartisanship. Most observers were accredited at DEC's. Six hundred were registered at the CEC on their own initiative (Election Code 40.4 and 40.5).

In advance of election day, observers who were also students of Baku State University, Medical University, International University, and Pedagogical University were subject to intimidation by university officials. Similar incidents involving intimidation of university students occurred in Jalilabad and Ganja. Students were ordered not to serve as observers. In Khachmaz, a large number of observers decided on the eve of the election not to observe due to intimidation. The same occurred in Aghjabedi.

These election day findings are based on reports from approximately 80 percent of sampled polling stations.

Opening of Polling Stations

Observers witnessed very few problems during the opening of polling stations. For example, 98.7 percent of polling stations were set up so voters could mark their ballot in secret. At 99.4 percent of polling stations, ballot boxes were shown to be empty by the PEC before being sealed. Similarly, at 97.5 percent of polling stations the number of ballot papers was announced by the PEC prior to the start of voting.

Voting Process

Observers witnessed few problems at most polling stations during the voting process. However, there were serious incidents in some polling stations. For example, voters without proper identification were turned away and not permitted to vote at 96.4 percent of polling stations while voters who had signed the voter list at 95.2 percent of polling stations were allowed to vote.

However, observers witnessed incidents of multiple voting at 13.4 percent of polling stations. This problem was most severe in Imishli-Beyligan (30.2 percent) and Ganja (24.8 percent) areas. At 13.2 percent of polling stations there were cases of individuals being brought to vote in special groups. In the Imishli-Beyligan (39.5 percent) and Ganja (21.9 percent) areas this problem was most common. Furthermore, at 16.3 percent of polling stations people were permitted to vote whose names did not appear on the voters list. This issue was most prevalent in the Nachivan (26.8 percent) and Ganja (19.0 percent) areas.

Counting of Votes

Observers witnessed limited problems during the counting of votes. For example, the seals on the ballot boxes were examined before the ballot boxes were opened at 99.1 percent of polling stations. Importantly, the vote count was accurately reflected on the protocol at 93.6 percent of polling stations. However, in the Beyligan area, 16 percent of protocols did not accurately reflect the vote count.

Of some concern, however, at 9.3 percent of polling stations a copy of the protocol was not posted outside of the polling station. At 25.8 percent of polling stations in the Nachivan region, the protocol was not posted. Similarly, at 20.0 percent of polling stations in Shirvan and 15.0 percent of polling stations in Beyligan, protocols were not posted. At 7.0 percent of polling stations observers were not given a copy of the protocol.

Adding Together of Protocols (Tabulation)

Observers independently determined that the protocols from individual polling stations were added together without significant problems. Figures calculated independently by accredited non-partisan observers based on official vote counts from sampled polling stations closely match the preliminary figures announced by the CEC.

Candidate	CEC Percentage (at 04h30)	Independent Estimates	Difference
Aga-Zade Igbal	2.8	2.9	0.1
Aliyev Fuad	0.7	0.9	0.2
Aliyev Ilham	89.0	89.1	0.1
Alibayli Gulamhuseyn Surkhay	2.2	2.4	0.2
Haciyev Hafiz	0.6	0.7	0.1
Hasanguliyev Gudrat	2.2	2.0	0.2
Mustafayev Fazil Gazanfar	2.4	1.9	0.5

This data suggests that there was little human error or tampering in the preparation of the final protocol.

Voter Turnout

Based on reports from observers, national voter turnout was 67.9 percent. The preliminary official figure released by the CEC was 75.6 percent. This difference suggests that the official figure may be somewhat inflated. Furthermore, in 27 polling stations voter turnout was over 95 percent.

Pressure against Observers on Election Day

On election day, 86 accredited and trained non-partisan domestic observer assigned to 43 polling stations were no longer willing to serve as observers due to intimidation. These teams were predominantly based in the Khachmaz area. Ten critical incidents were reported on election day of accredited non-partisan observers not being permitted to observe on election day.

V. CONCLUSIONS

- The pre-election environment was not conducive to a competitive and fair election.
- The campaign had little political discourse.
- Following the 2005 parliamentary elections, conditions for freedom of assembly, freedom of press, and freedom of association, have not improved.
- During the election process, harassment and intimidation occurred against voters and observers.
- Some changes to the election code were welcome but the main recommendations from international and domestic organizations were not taken into account.
- In comparison to previous elections, the tabulation process improved in this election.

VI. RECOMMENDATIONS

- The government of Azerbaijan should undertake efforts to promote political trust between citizens and their government.
- The government should create conditions in which all political contestants have equitable opportunity to participate.
- Citizens and government institutions should demonstrate respect for civil and human rights through adherence to freedom of association, assembly and media.
- Amendments to the election code should be introduced to improve the election commission composition based on a parity principle, as recommended by Venice Commission.
- While improvements have been made, further steps should be taken to ensure protocols are posted at polling stations and provided to observers.
- Accredited domestic observers should be guaranteed the right to observe all aspects of the electoral process free of harassment.
- Election commissions should investigate complaints of violations immediately and make their findings and decisions public.

This report was compiled by accredited nonpartisan observers Anar Mammadli, Bashir Suleymanli, Suliddin Askerov, and Ulviyya Tahmazli.

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