



Office for Democratic Institutions and Human Rights

# REPUBLIC OF AZERBAIJAN

EARLY PARLIAMENTARY ELECTIONS

9 February 2020

ODIHR NEEDS ASSESSMENT MISSION REPORT

19-21 December 2019



Warsaw  
26 December 2019

## TABLE OF CONTENTS

<b>I. INTRODUCTION .....</b>	<b>3</b>
<b>II. EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>III. FINDINGS.....</b>	<b>5</b>
A. BACKGROUND AND POLITICAL CONTEXT .....	5
B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK .....	6
C. ELECTION ADMINISTRATION .....	7
D. VOTER REGISTRATION.....	8
E. CANDIDATE NOMINATION AND REGISTRATION .....	8
F. ELECTION CAMPAIGN .....	9
G. CAMPAIGN FINANCE.....	10
H. MEDIA.....	10
I. COMPLAINTS AND APPEALS .....	11
J. ELECTION OBSERVATION .....	12
<b>IV. CONCLUSION AND RECOMMENDATION .....</b>	<b>12</b>
<b>ANNEX: LIST OF MEETINGS .....</b>	<b>14</b>

**REPUBLIC OF AZERBAIJAN**  
**EARLY PARLIAMENTARY ELECTIONS**  
**9 February 2020**  
**ODIHR Needs Assessment Mission Report**

## **I. INTRODUCTION**

Following an invitation from the Government of the Republic of Azerbaijan to observe the 9 February 2020 early parliamentary elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 19 to 21 December 2019. The NAM included Alexey Gromov, ODIHR Senior Election Adviser, and Radivoje Grujić, ODIHR Election Adviser. The ODIHR NAM was joined by Tim Knoblau, Programme and Administrative Officer of the OSCE Parliamentary Assembly.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM recommends whether to deploy an ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and the election administration, as well as representatives of political parties, media, civil society and international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs, including its Delegation to the OSCE, for their assistance in organizing the visit. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and for sharing their views.

## **II. EXECUTIVE SUMMARY**

On 5 December, following an appeal of the parliament, and after the consent of the Constitutional Court, the president announced early parliamentary elections to be held on 9 February 2020. Members of the parliament are elected by a simple majority from 125 single-mandate constituencies for a five-year term. Size of more than half of constituencies deviates from the average by more than what is prescribed by the law.

Parliamentary elections are primarily regulated by the Constitution and the Election Code. There have been no recent changes to the electoral legislation that address previous ODIHR recommendations, including those related to freedoms of assembly and expression, as well as to the impartiality of election administration, candidate registration, media environment, and with regard to the conduct of election day procedures. The authorities underlined the country's commitment to conduct elections in line with the principles of openness, transparency and fairness.

The elections will be administered by three levels of commissions, comprising the Central Election Commission (CEC), 125 Constituency Election Commissions (ConECs) and some 5,575 Precinct Election Commissions (PECs). The CEC is appointed by the parliament. For all commissions, one third of members should represent each the parliamentary majority, minority, and independent deputies. While this formula is foreseen by law to guarantee balance and impartiality of election administration, many ODIHR NAM interlocutors opined that in practice it does not provide for these, given that both minority and independent deputies vote in support of the ruling party.

All citizens who are 18 or older by election day have the right to vote, except those recognized as incapable by a court decision. ODIHR previously recommended that restrictions on voting rights of persons with intellectual and psychosocial disabilities should be removed. Voter registration is

passive and the CEC maintains an integrated nationwide voter list. According to the CEC, there are currently some 5.2 million registered voters. Several ODIHR NAM interlocutors raised concerns about the accuracy of the voter lists noting the discrepancy in the data from the CEC and State Statistics Committee of almost 2 million of citizens of voting age, and the lack of public information to explain the gap.

Eligible voters who are at least 25 years of age, without dual citizenship or obligations before other states, and without a prior conviction for a serious crime, can stand for parliament. Candidates can be self-nominated as well as nominated by a political party, a coalition of parties, or a group of voters. At the time of the ODIHR NAM, 802 nominations were already submitted, and 447 candidates were registered. Potential candidates are required to support their nomination with signatures of 450 voters. Many ODIHR NAM interlocutors expressed serious concerns about the impartiality of the candidate registration process, in particular regarding the signature verification procedures. Several opposition parties and movements publicly declared that they would boycott these elections.

The campaign starts 23 days prior to election day and last until 24 hours before election day. Campaign events can be held only at specifically assigned venues throughout the country, indoor and outdoor, determined by municipal authorities, upon the request of ConECs. The campaign is expected to be conducted through meetings with citizens, but also by disseminating printed materials, as well as through social media and the Internet. Many ODIHR NAM interlocutors stated that, although guaranteed by the Constitution, fundamental freedoms of assembly and expression are severely limited by the legal framework and its restrictive application, pointing to systematic harassment and criminal prosecution of those who express critical views of the government.

Campaign finance legislation does not envisage direct public funding of the campaign, sets limits for private donations and expenditures and obliges candidates to report on their campaign finances. The CEC is tasked with overseeing the campaign finance. Many prior ODIHR and Council of Europe's recommendations related to campaign finance, including in respect of independence of oversight body, lack of effective sanctions and more pro-active monitoring of campaign finance, are still to be addressed.

Although freedoms of expression and the media, and the right of access to information are guaranteed by the Constitution, defamation remains a criminal offence, also applicable to the online content, with a penalty of up to two years in prison. Television is widely considered to be the main source of political information, while the use of social media and the Internet for this purpose continues to increase. The Election Code provides for free and paid airtime on public television and radio, but only for candidates nominated by parties or blocs that registered more than 60 candidates. While many ODIHR NAM interlocutors expressed lack of trust in media independence and pointed to a lack of balanced and fair political coverage in media, some noted certain efforts by public broadcaster in balancing its political programmes.

Decisions of election commissions can be appealed by broad range of electoral stakeholders to the higher election commission and further to the courts of appeals and to the Supreme Court as the last instance. Decisions and actions of the CEC can be appealed to the Baku Court of Appeal and, in turn, to the Supreme Court. A number of ODIHR NAM interlocutors raised concerns about effectiveness of legal redress provided by election administration and courts, expressed a lack of confidence in the independence of the judiciary and noted that growing pressure on lawyers defending political rights may lead to limitations in protection of suffrage rights.

The Election Code provides for citizen and international election observation, in line with OSCE commitments. Citizens can register with the CEC or ConECs to observe individually, or as representatives of candidates, political parties or civil society organizations. Several organizations plan to conduct election observation and voter awareness campaigns, and to provide free legal aid during elections. Several civil society organizations informed the ODIHR NAM that their observation activities already started while others expect that such activities will be heavily limited due to restrictive legal provisions related to receiving funding, but also due to practical impediments faced by observers during election day from the election administration.

Almost all ODIHR NAM interlocutors emphasized the value of an ODIHR election observation activity for these elections. Representatives of state institutions stressed the political will to organize elections transparently, in a free and fair atmosphere, and welcomed observation by ODIHR. Based on various findings outlined in this report, a number of issues would benefit from specific attention. These include implementation of electoral legislation, the effectiveness and impartiality of the election administration, candidate registration, the conduct of the campaign and respect of fundamental freedoms, media coverage of the elections, the administration of election day procedures, including the vote count and tabulation of results, and adjudication of election related complaints.

Based on the findings of this report, and despite outstanding issues with regard to the respect of fundamental freedoms, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) for the upcoming early parliamentary elections. In addition to a core team of experts, the ODIHR NAM recommends the secondment by OSCE participating States of 30 long-term observers to follow the electoral process countrywide, as well as 350 short-term observers for the observation of election day procedures. In line with the ODIHR's standard methodology, the EOM would include a media monitoring element.

### III. FINDINGS

#### A. BACKGROUND AND POLITICAL CONTEXT

Azerbaijan has a presidential system with the executive branch exercising wide authority relative to the parliament. The president appoints and chairs the Cabinet of Ministers, and appoints the executive authorities at central and regional level, as well as the Vice Presidents. The president also proposes the judges of the Constitutional Court, Supreme Court, Economic Court and other courts, as well as the Prosecutor General to be appointed by the parliament.

In the outgoing parliament the ruling New Azerbaijan Party (YAP) held 65 out of 125 seats. Twelve more seats were held by parties that formally constituted the parliamentary opposition but largely supported YAP, and 38 seats were held by members elected as independent candidates, who usually voted in line with the ruling party.<sup>1</sup> Women are underrepresented in public life, holding 20 seats in the outgoing parliament, 2 out of 15 posts of a chairperson of state committees and no ministerial posts.<sup>2</sup>

---

<sup>1</sup> See [stenograms](#) of the parliament. Other parliamentary parties include: Civil Solidarity Party (two deputies), Azerbaijan Social Democratic Party, Civil Unity Party, Democratic Enlightenment Party, Great Structure Party, Motherland Party, National Revival Party, Party of Democratic Reforms, Social Welfare Party, United Azerbaijan Popular Front Party, and Unity Party with one deputy each. Ten seats were vacant before the dissolution of the parliament.

<sup>2</sup> See also UN Committee on the Discrimination against Women (CEDAW) [Concluding Observations on the fifth periodic report of Azerbaijan](#) (12 March 2015), CEDAW/C/AZE/CO/5, paragraphs 26-27.

On 2 December, upon the initiative of YAP, the parliament appealed to the president to dissolve the parliament. On 5 December, after Constitutional Court confirmed the grounds for calling early elections, the president dissolved parliament and set early parliamentary elections on 9 February.<sup>3</sup> The parliament in its appeal to the president justified early elections with the need to harmonize legislative work with the pace of economic, judicial and social reforms set by the president.

The authorities stated to the ODIHR NAM that there is a political will to organize elections in free and fair atmosphere, and expressed their readiness for full co-operation with ODIHR, should it decide to deploy an election observation activity. Some ODIHR NAM interlocutors questioned the legality of calling for early elections, stating that the justification is not in line with the Constitution. They also expressed serious concerns regarding respect of fundamental rights and freedoms in Azerbaijan.<sup>4</sup> Some opposition parties informed the ODIHR NAM that they decided to boycott the elections due to the restrictive environment, while several parties condition their participation to inclusiveness of candidate registration process, free access to media, and freedom of assembly during the campaign. Several international organizations have also raised concerns over the human rights situation and ability to participate in political life in Azerbaijan.<sup>5</sup>

The authorities noted that the early parliamentary elections will take place in the context of ongoing conflict with Armenia. They stated that the situation complicates the administration of elections, in particular the organization of voting for large numbers of internally displaced persons (IDPs).

ODIHR has previously observed 10 elections in Azerbaijan. The most recent ODIHR Election Observation Mission deployed for the 11 April 2018 early presidential election concluded that the election “took place within a restrictive political environment and under a legal framework that curtails fundamental rights and freedoms, which are pre-requisites for genuine democratic elections. Against this background and in the absence of pluralism, including in the media, this election lacked genuine competition. Other candidates refrained from directly challenging or criticizing the incumbent, and distinction was not made between his campaign and official activities. At the same time, authorities were co-operative and international observers were able to operate freely in the pre-election period. The election administration was well-resourced and prepared the election efficiently. On election day, international observers reported widespread disregard for mandatory procedures, lack of transparency, and numerous serious irregularities, such as ballot box stuffing”.<sup>6</sup>

## **B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK**

Members of the parliament (MPs) are elected by a simple majority from 125 single-mandate constituencies for a five-year term. The Election Code stipulates that the number of voters registered in each constituency should not deviate by more than 5 per cent, and in exceptional circumstances by no more than 10 per cent from the average number of voters per constituency. According to data from the Central Election Commission (CEC) website, deviations exceeding these limits currently occur in more than half of constituencies.<sup>7</sup> While ODIHR previously recommended that the boundaries of

---

<sup>3</sup> Regular term for the parliamentary elections was 1 November 2020.

<sup>4</sup> According to international human rights bodies and civil society organizations, there is a large number of political prisoners in Azerbaijan. See, for example, UN Human Rights Council’s [Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan](#) (20 February 2017).

<sup>5</sup> See, for example, UN Human Rights Committee [Concluding observations on the fourth periodic report of Azerbaijan](#) (16 November 2016), CCPR/C/AZE/CO/4, paragraph 42. See also 2019 [report](#) of the Commissioner for Human Rights of the Council of Europe.

<sup>6</sup> See all previous [ODIHR election-related reports on Azerbaijan](#).

<sup>7</sup> See the [CEC information on electoral constituencies](#).

constituencies be revised in order to ensure the equality of the vote, there have been no revision of boundaries since the last elections.

Parliamentary elections are primarily regulated by the Constitution and the Election Code (last amended in February 2019).<sup>8</sup> Since the last election, there have been no changes to the Election Code and other relevant laws that address previous ODIHR recommendations, including those related to freedoms of assembly and expression, as well as to the impartiality of election administration, candidate registration, media environment, and with regard to the conduct of election day procedures. Many ODIHR NAM interlocutors shared their concerns on legal restrictions to freedoms of assembly, expression and association that are pre-requisite for democratic elections. Azerbaijan is party to major international and regional instruments related to the holding of democratic elections.<sup>9</sup>

### C. ELECTION ADMINISTRATION

The election administration is three-tiered, comprising the CEC, 125 Constituency Election Commissions (ConECs) and some 5,575 Precinct Election Commissions (PECs). Several ConECs are specifically tasked with facilitating voting for IDPs, with polling stations under their jurisdiction located throughout the country.<sup>10</sup>

The election commissions are permanent bodies appointed for a five-year term. While 18 members of the CEC are elected by parliament, ConECs are appointed by the CEC (9 members each), and PECs (6 members each) by the relevant ConECs.<sup>11</sup> According to the Election Code, the composition of all election commissions reflects the representation of political forces in the parliament: three equal quotas are reserved for members nominated by the parliamentary majority, the parliamentary minority (defined as the other political parties represented in the parliament), and parliamentarians elected as independent candidates. While this formula is foreseen by law to guarantee balance and impartiality of election administration, many ODIHR NAM interlocutors opined that in practice it does not provide for these, given that both opposition and independent MPs support ruling party. Moreover, by law, chairpersons of all commissions represent the parliamentary majority.

Three out of seventeen current members of the CEC are women, including one of the two CEC secretaries. According to the CEC, at the ConEC and PEC levels 17 and 37 per cent of members, respectively, are women, who are chairpersons of 2 and 25 per cent of corresponding commissions.

The CEC is responsible for the overall conduct of the elections, including the maintenance of the nationwide voter list and the review of complaints against ConEC decisions. It is also in charge of

---

<sup>8</sup> Other relevant laws include the Law on Freedom of Assembly, the Law on Radio and Television Broadcasting, the Law on Political Parties, the Law on Non-Governmental Organizations, the Law on State Registration and the State Register of Legal Entities, the Law on Access to Information, relevant provisions of the Criminal Code, the Code of Administrative Procedures and the Civil Procedures Code, as well as regulations of the CEC.

<sup>9</sup> Including the 1966 International Covenant on Civil and Political Rights, 1979 Convention for Elimination of All Forms of Discrimination against Women, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 2003 Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities, and the 2002 Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States. Azerbaijan is also a member of the Council of Europe's Venice Commission and Group of States against corruption (GRECO).

<sup>10</sup> The CEC informed the ODIHR NAM that it is making necessary arrangements to ensure voting rights of IDPs. This includes establishing some 523 polling stations for them. Additionally, a number of special polling stations will be established in military units, prisons, hospitals and other locations.

<sup>11</sup> Parties and blocs of parties that register candidates in more than 60 constituencies may appoint a member with consultative rights to each commission. A candidate registered in a constituency may appoint a member with consultative rights to the ConEC and PECs within that constituency.

campaign finance and media oversight during the campaign. The ConECs are responsible for candidate registration. The CEC informed the ODIHR NAM that preparations for the elections are ongoing according to the electoral calendar, including training of election officials and dissemination of voter information materials. The CEC website provides a range of election-related information to the public. As in previous elections, 1,000 web cameras will be installed at polling stations around the country, with a stated aim to enhance transparency of the process. Specific efforts have been undertaken to facilitate voting for persons with disabilities, including enhancing accessibility of polling stations and provision of ballot papers in braille format.

The CEC noted to the ODIHR NAM its commitment to conduct elections in a professional and effective manner, stating that it is well resourced and prepared for this duty despite the elections being called early and administered partly concurrently with the local elections.<sup>12</sup> The CEC stated that its activities would be undertaken in a transparent manner by providing access to its sessions and publishing information on its website. Many ODIHR NAM interlocutors expressed doubts in the independence and impartiality of election administration, particularly in respect of the administration of candidate registration, resolution of complaints and appeals, and election day procedures.

#### **D. VOTER REGISTRATION**

All citizens who are 18 or older by election day have the right to vote, except those recognized as incapable by a court decision. ODIHR previously recommended that restrictions on voting rights of persons with intellectual and psychosocial disabilities be removed.<sup>13</sup> Unlike in presidential elections, voters who are abroad on election day are not entitled to vote. Voter registration is based on extracts of local residency data provided to the CEC who maintains an integrated nationwide voter list. Voter lists are updated by the PECs annually on 30 May and again no later than 25 days before the election day. For these elections, the extracts from voter lists will be posted for public scrutiny from 5 January at PECs, and the CEC plans to finalize voter lists by 15 January. From this date until and including on election day, voters can be added to supplementary voter lists at the PECs upon presenting a proof of residency. Citizens are able to check their registration at any time through the CEC website, by telephone, or in person at the PECs.

According to the CEC, there are currently some 5.2 million registered voters. However, several ODIHR NAM interlocutors raised concerns about the accuracy of the voter lists noting the discrepancy in the data from the CEC on the number of registered voters and from the State Statistics Committee on the number of citizens of the voting age, with the latter being almost 2 million higher, and the lack of public information to explain the gap.

#### **E. CANDIDATE NOMINATION AND REGISTRATION**

Eligible voters who are at least 25 years of age, without dual citizenship or obligations before other states, and without a prior conviction for a serious crime, can stand for parliament. The Election Code lists categories of officials who must resign from their position prior to registering as a candidate, including professional military personnel, judges, government and religious officials. A

---

<sup>12</sup> On 23 December, local elections were held in Azerbaijan. The CEC stated it invited 14 international organizations to observe local elections, to increase transparency. ODIHR was not invited to observe the local elections.

<sup>13</sup> The authorities informed the ODIHR NAM that this recommendation is being discussed and will be considered in the next parliament's convocation. See also The UN Committee on the Rights of Persons with Disabilities (CRPD) "[Concluding Observations on the initial report of Azerbaijan](#)" (12 May 2014), CRPD/C/AZE/CO/1, paragraph 45.



candidate may stand in only one constituency but does not have to be registered to vote in that constituency. Candidates can be self-nominated or nominated by a registered political party, a coalition of parties, or a group of voters. By the time of the ODIHR NAM, 802 nominations had been already submitted, and 447 candidates were registered.

Candidate registration started on 6 December and will last until 10 January 2020. Each prospective candidate must submit at least 450 valid supporting signatures of voters registered in the constituency to their respective ConEC, which are tasked to examine the signatures and other nominating documents. Unlike in presidential elections, voters can sign to support more than one candidate in the constituency of their residence. Many ODIHR NAM interlocutors expressed serious concerns about the impartiality of ConECs during candidate registration process, in particular regarding the signature verification procedures, which, in their view, may serve to selectively eliminate prospective candidates. In June 2015, the European Court of Human Rights (ECtHR) ruled that procedures for verifying supporting signatures did not provide sufficient procedural safeguards against arbitrariness.<sup>14</sup> Several ODIHR NAM interlocutors noted that some political leaders are still prevented from standing in the elections due to non-expunged criminal record, despite the ruling of the ECtHR.<sup>15</sup>

There are no legal requirements to promote women candidates, and many ODIHR NAM interlocutors shared a view that more efforts should be made to increase the number of women in the parliament and political life. The CEDAW Committee has expressed concern that temporary special measures were under-utilized in efforts to address the under-representation of women in public and political life.<sup>16</sup>

## F. ELECTION CAMPAIGN

By law, the campaign period starts 23 days prior to election day and lasts until 24 hours before the election day. Campaign events can be held only at specifically assigned venues throughout the country, indoor and outdoor, determined by municipal authorities, upon the request of the ConECs. Some political parties informed the ODIHR NAM that they plan active nationwide campaign for their candidates, primarily through meetings with citizens and door-to-door canvassing, but also by disseminating materials, including in social media and the Internet. The campaign is expected to focus on the ongoing reforms, national identity, security and regional relations. Some opposition parties met with by the ODIHR NAM noted their plans to boycott the elections.

Many ODIHR NAM interlocutors stated that the fundamental freedom of assembly is not respected by the authorities, noting that the last authorized political rally was held in Baku in January 2019. According to ODIHR NAM interlocutors, on the event of unauthorized rally of the opposition on 19 October in Baku, authorities used physical force to disperse it, arresting many activists and opposition leaders. They also stated that, although guaranteed by the Constitution, fundamental freedoms of assembly, association and movement are severely limited by the legal framework and its implementation, pointing to systematic harassment and criminal prosecution of those who express critical views of the government.<sup>17</sup> The leader of the Azerbaijan Popular Front Party remains unable to travel abroad having not been issued a passport since 2005.

---

<sup>14</sup> See, for example, [Tahirov v. Azerbaijan](#), App no 31953/11 (ECtHR, 11 June 2015).

<sup>15</sup> On 25 September 2019, the Committee of Ministers of the Council of Europe, examining the execution of the judgments in the *Ilgar Mammadov group v. Azerbaijan*, [required](#) Azerbaijan “rapidly to eliminate all the remaining negative consequences of the criminal charges brought against each of the applicants, principally by ensuring that the convictions are quashed and deleted from their criminal records”.

<sup>16</sup> See CEDAW [Concluding Observations on the fifth periodic report of Azerbaijan](#), para. 18.

<sup>17</sup> In addition, see also the UN Human Rights Committee “[Concluding observations on the fourth periodic report of Azerbaijan](#)” (16 November 2016), CCPR/C/AZE/CO/4, paragraphs 38, 40 and 42.

## G. CAMPAIGN FINANCE

The Election Code regulates campaign finance and provides that parties and candidates can fund their campaigns from their own resources and donations from individuals and legal entities. There is no public funding of the election campaign. Candidates are obliged to open a dedicated bank account for all campaign finance transactions. Parties and blocs of parties that register more than 60 candidates may establish a unified campaign account for all candidates. Each candidate can spend maximum AZN 500,000 (some EUR 265,000), with contribution limits set at AZN 3,000 for individuals, and AZN 50,000 for legal entities.<sup>18</sup> Foreign, state, charitable and anonymous donations are prohibited.

The CEC is tasked with overseeing the campaign finance. Candidates should report to the CEC on their campaign finance three times: an initial report at the time of registration, an interim report between 10 and 20 days prior to election day, and a final report no later than 10 days after the publication of the final election results. Candidate campaign finances are not subject to an audit at any stage of the election process.<sup>19</sup> The Council of Europe's GRECO has reported that a number of its recommendations to enhance campaign finance have not been fully addressed, including in respect of the time period for reporting, harmonization with party financing laws, independence of oversight body, lack of effective sanctions and more pro-active monitoring of campaign finance.<sup>20</sup>

## H. MEDIA

Although freedoms of expression and media, and the right of access to information are guaranteed in the Constitution, defamation remains a criminal offence, also applicable to the online content, with a penalty of up to two years in prison. ODIHR has previously recommended that criminal defamation provisions be repealed in favour of civil sanctions. In March 2017, the Law on Information, Information Provision and Protection of Information was amended, granting right to the Ministry of Transportation, Communications and High Technologies to block websites of media outlets because of their content, without prior court decision. At the moment, according to ODIHR NAM interlocutors, a number of news websites are blocked, and online activists are increasingly exposed to detention and intimidation.<sup>21</sup> The honour and dignity of the president are protected by Criminal Law and Constitution.

The OSCE Representative on Freedom of the Media (RFoM) and the UN Human Rights Committee have expressed their concerns in respect of restrictive measures detrimental to journalists' freedom and safety and extensive restrictions on freedom of expression in practice.<sup>22</sup> The Council of Europe's Commissioner for Human Rights has recently noted that "no progress has been made with regard to protecting freedom of expression in Azerbaijan. The Commissioner remains particularly concerned about the lack of pluralism in the country's media and arbitrary interferences with media

---

<sup>18</sup> EUR 1 equals approximately AZN 1.89 (Azerbaijani *Manat*).

<sup>19</sup> The Law on Political Parties additionally obliges political parties to submit their annual financial reports by 1 April every year to the CEC which should make these reports public.

<sup>20</sup> See GRECO [Second Addendum to the Second Compliance Report on Azerbaijan](#), 24 March 2017.

<sup>21</sup> See, for example [statement](#) of the OSCE RFoM from 22 January 2019.

<sup>22</sup> See, for example, statements of the OSCE RFoM from [22 February 2019](#), and [12 January 2018](#) and the UN Human Rights Committee "[Concluding observations on the fourth periodic report of Azerbaijan](#)" (16 November 2016), CCPR/C/AZE/CO/4, paragraph 36.

freedom”.<sup>23</sup> On 22 October, the OSCE RFoM deplored the obstruction of the work of journalists covering public protests and called on authorities to ensure safe working conditions.<sup>24</sup>

Television (TV) is widely considered to be the main source of political information. Online media, including internet-based TV, as well as social networks, continue to be increasingly used as sources of political information, particularly in urban areas. There are 12 nationwide TV channels, including the national public broadcaster (ITV). While many ODIHR NAM interlocutors expressed lack of trust in media independence and pointed to a lack of balanced and fair political coverage by the media, some noted certain efforts by ITV in balancing its political programmes.

The Law on Television and Radio Broadcasting stipulates that all broadcasters should be impartial, comprehensive and accurate in their programmes. The Election Code regulates the conduct of media during elections, obliging the public broadcaster and state-funded newspapers to create equal conditions for candidates. It further provides that political parties and blocs with candidates in at least 60 constituencies are eligible for three hours per week of free airtime on the public broadcaster and free space in state-funded newspapers. This time will be equally divided among registered candidates and will be used either for debates among them or for their individual presentations. Media outlets are obliged to inform the CEC if they intend to offer paid airtime to candidates, and to publish the conditions and price list for these services.<sup>25</sup> While it is possible to purchase political advertising, most parties stated that they would not make use of this option due to high costs, and that instead would use social networks and online media, which are more affordable and can impact more voters.

The National Television and Radio Council (NTRC) regulates broadcast media and the CEC oversees compliance of media campaign coverage with the law through the establishment of a media working group. According to the NTRC, they are permanently monitoring all electronic broadcasters, including for compliance with general media and advertisement regulations. If violations are registered, the media working group may request the NTRC to issue a warning to the media outlet. After three warnings, the broadcasting license can be withdrawn upon a court decision.

## I. COMPLAINTS AND APPEALS

Complaints and appeals can be filed by voters, candidates, political parties and blocs, their representatives, as well as by observers and election commissions. Decisions of election commissions can be appealed to the higher election commission, followed by the courts of appeal, with the Supreme Court as the last instance. Complaints related to action or inaction of the CEC related to candidate registration can be lodged directly to the respective court of appeal, based on the residency of the plaintiff. Other complaints against the CEC decisions can be lodged to the Baku Court of Appeal. Complaints and appeals submitted more than 30 days before election day should be decided within 3 days, while those submitted within 30 days before election day should be decided within 2 days. Complaints submitted on election day must be decided upon immediately.

The Election Code provides for the creation of expert groups within the CEC and ConECs to handle complaints and report to the respective commission. The CEC determines the rules for composing expert groups. Many ODIHR NAM interlocutors expressed concern that, in practice, these groups usually do not include independent experts but rather reflect the partisan interests of commission

---

<sup>23</sup> See [report](#) of the Commissioner for Human Rights of the Council of Europe following her visit to Azerbaijan from 8 to 12 July 2019.

<sup>24</sup> See OSCE RFoM [statement](#) from 22 October 2019.

<sup>25</sup> See [CEC information from 19 December](#) on media that will allocate free airtime.

members. The CEC informed the ODIHR NAM that the work of the expert groups would be open to all interested parties, including citizen and international observers. Both the CEC and Baku Court of Appeal also noted that they would undertake training of ConECs and judges on the handling of potential complaints. Many interlocutors that the ODIHR NAM met with expressed lack of confidence in the ability of the relevant institutions to provide effective remedy, particularly in cases concerning candidate registration.<sup>26</sup>

A number of civil society organizations and opposition parties met with by the ODIHR NAM expressed a lack of confidence in the independence of the judiciary and concerns about breaches of due process. They also noted that recently the lawyers who take cases of political nature are facing disbarment from the Bar Association, which, in practice, may press lawyers not to take election-related cases, leading to further restrictions in protection of suffrage rights in front of judiciary.

## J. ELECTION OBSERVATION

The Election Code provides for citizen and international election observation, in line with OSCE commitments. Citizens can register to observe individually, or as representatives of candidates, political parties or civil society organizations. By law, the CEC accredits all international observers as well as domestic observers who may observe in any polling station throughout the country. In addition, ConECs accredit citizens who wish to observe in polling stations under their jurisdiction.<sup>27</sup>

Several civil society organizations informed the ODIHR NAM that their observation activities already started while others shared their plans to conduct election observation, voter awareness campaigns, and to provide free legal aid during the election process. Some organizations informed the ODIHR NAM that although they intend to conduct election observation, these activities would be heavily limited due to restrictive legal provisions related to receiving funding, but also due to the extended practice of election commissions impeding meaningful observation, both at polling stations and at ConECs.

## IV. CONCLUSION AND RECOMMENDATION

Almost all ODIHR NAM interlocutors emphasized the value of an ODIHR election observation activity for this election. Representatives of state institutions stressed the political will to organize elections transparently, in a free and fair atmosphere, and welcomed observation by ODIHR. Based on various findings outlined in this report, a number of issues would benefit from specific attention. These include implementation of electoral legislation, the effectiveness and impartiality of the election administration, candidate registration, the conduct of the campaign and respect of fundamental freedoms, media coverage of the elections, the administration of election day procedures, including the vote count and tabulation of results, and adjudication of election related complaints.

Based on the findings of this report, and despite outstanding issues with regard to the respect of fundamental freedoms, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) for the upcoming early parliamentary elections. In addition to a core team of experts, the ODIHR NAM recommends the secondment by OSCE participating States of 30 long-term observers to follow the electoral process countrywide, as well as 350 short-term observers for

<sup>26</sup> According to Parliamentary Assembly of Council of Europe, out of 120 judgments related to Azerbaijan that are partially or fully pending implementation, 28 are directly related to elections. See the PACE Resolution on [“The functioning of democratic institutions in Azerbaijan”](#) (11 October 2017), paragraph 7.

<sup>27</sup> The deadline for accreditation by the CEC is 10 days before election day, and by the ConECs – 5 days.

the observation of election day procedures. In line with the ODIHR's standard methodology, the EOM would include a media monitoring element.

## **ANNEX: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

Farah Ajalova, Deputy Head, Human Rights and Democracy Department  
Nurchin Aliyev, First Secretary, Human Rights and Democracy Department  
Sabuhi Gasimov, Second Secretary, Human Rights and Democracy Department

### **Parliamentary Committee for Legal Policy and State Building**

Ali Huseynov, Chairperson  
Chingiz Ganizade, Member  
Azay Guliyev, Member  
Malahat Ibrahimgizi, Member  
Elshan Musayev, Member

### **Baku Court of Appeal**

Iman Nagiyev, Chairperson

### **Central Election Commission**

Mazahir Panahov, Chairperson  
Rovzat Gasimov, Deputy Chairperson  
Rashid Yusifbayli, Head of International Relations Department  
Arifa Mukhtarova, Secretary  
Mikayil Rahimov, Secretary  
Shahin Asadli, Head of Media and Public Relations Department

### **National Television and Radio Council**

Nushiravan Maharramov, Chairperson  
Asaf Hajiyeu, Head of Administration  
Fazil Novruzov, Assistant to Chairperson, International Relations

### **Political Parties and Movements**

Elshan Musayev, Azerbaijan Democratic Enlightenment Party  
Ali Kerimli, Chairperson, Azerbaijan Popular Front Party  
Fazail Ibrahimli, Civil Solidarity Party  
Asim Mollazade, Democratic Reforms Party  
Fazil Mustafa, Great Creation Party  
Fazail Agamali, Motherland Party  
Arif Hajili, Chairperson, Musavat Party  
Gultekin Hajibeyli, National Council of Democratic Forces  
Faraj Guliyev, National Revival Movement Party  
Siyavush Novruzov, New Azerbaijan Party  
Turqut Gambar, N!DA Movement  
Gudrat Hasanguliyev, Popular Front Party of Whole Azerbaijan  
Erkin Gedirli, Secretary for Foreign Relations, REAL Movement  
Elchin Hagverdiyev, REAL Movement  
Tahir Karimli, Vahdat (Unity) Party

### **Media**

Rovshan Hajibayli, Azadliq newspaper  
Balakishi Gasimov, General Director, ITV  
Murad Huseynov, Deputy General Director, ITV

Faiq Qurbatov, Head of Administration, ITV  
Sevinc Vaqifqizi, Meydan TV  
Khadija Ismayilova, Investigative journalist, OCCPR  
Mehman Aliyev, Turan News Agency

### **Civil Society**

Maharram Zulfugarli, Association for Civil Society Development in Azerbaijan  
Vugar Bayramov, Centre for Economic and Social Development  
Mireli Huseynov, Democracy Learning Public Association  
Mammad Mammadzade, Election Monitoring and Democracy Studies Centre  
Bashir Suleymanli, Institute for Citizens Rights  
Hafiz Hasanov, Law and Development Public Association  
Alasgar Mammadli, Media Lawyer

### **International Community**

Milan Lajčiak, Ambassador, Embassy of Slovakia  
Alexander Bayerl, Ambassador, Embassy of Austria  
Bert Schoofs, Ambassador, Embassy of Belgium  
Anna Obretencheva, Third Secretary, Embassy of Bulgaria  
Anđelko Vujatović, First Secretary, Embassy of Croatia  
Daniel Putik, Deputy Head of Mission, Embassy of Czech Republic  
Andreas Hohlt, First Secretary, Embassy of Germany  
Umberto Boeri, Deputy Head of Mission, Embassy of Italy  
Akбота Mussabayeva, First Secretary, Embassy of Kazakhstan  
Andrejus Gajosinskas, First Secretary, Embassy of Lithuania  
Zumreta Jahic, Deputy Head of Mission, Embassy of Netherlands  
Bernardo Ribeiro da Cunha, Chargé d'affaires a.i, Embassy of Portugal  
Sergey Azarov, First Secretary, Embassy of Russian Federation  
Christian Kamill, Chargé d'affaires a.i, Embassy of Sweden  
Muriel Peneveyre, Ambassador, Embassy of Switzerland  
Dilyor Hajimuradov, Assistant, Embassy of Tajikistan  
Erkan Ozaral, Ambassador, Embassy of Turkey  
Barish Saygın, Deputy Head of Mission, Embassy of Turkey  
Ovezgeldi Cumanazarov, Chargé d'affaires a.i, Embassy of Turkmenistan  
Olexandr Senchenko, Counsellor, Embassy of Ukraine  
Sanan Suleymanov, Political and Projects Officer, Embassy of the United Kingdom  
Yushin Choi, Political Officer, Embassy of the United States of America  
Kestutis Jankaukas, Ambassador, Delegation of the European Union to Azerbaijan  
Denis Danilidis, First Counsellor, Delegation of the European Union to Azerbaijan  
Kyrylo Boicheniuk, Deputy Head, Council of Europe Office in Baku