

**ELECTION MONITORING AND DEMOCRACY STUDIES CENTER**



**REPUBLIC OF AZERBAIJAN**

**PRESIDENTIAL ELECTIONS**

**9 October 2013**

**PRELIMINARY STATEMENT  
ON THE FINDINGS OF ELECTION MONITORING**

**10 OCTOBER, BAKU**

## **I. EXECUTIVE SUMMARY**

Election Monitoring and Democracy Studies Center (EMDS) is non-partisan non-governmental organization working towards development of electoral system, civil society and democracy in Azerbaijan.

EMDS conducted long-term and short-term observation of the 9 October 2013 Presidential Elections in Azerbaijan in cooperation with the International Cooperation of Volunteers (ICV) Public Union and produced two interim reports on the results of the long-term observation. EMDS and ICV organized long-term observation with support of 32 observers and short-term observation in cooperation with 794 observers. Observation of the Election Day was carried out in 769 polling randomly selected polling stations across the country through Statistically Based Observation.

EMDS believes that all stages of the 9 October Presidential Elections — political environment prior to the elections, legal framework, voting and vote tabulation — should be assessed separately against the Constitution of the Republic of Azerbaijan and its commitments before the international community.

The long-term observation of the organization showed that no improvement in freedom to assembly and association, as well as freedom of expression and media was made during the elections. On the contrary, politically motivated arrests and persecutions has increased since beginning of 2013.

Amendments to the Election Code adopted in the last 5 years created legal restrictions for executing number of electoral actions and failed to take into account recommendations of the Venice Commission of the Council of Europe. Particularly, particularly suggestions on ensuring independence of election commissions and preventing unauthorized intervention in electoral processes.

Signature collection process during the first stage of election — nomination and registration of candidates was accompanied with abuse of administrative resources. In some cases, media, observers and representatives of candidates were denied access to participate in the process of verification of collected signatures. For example, representatives of candidates Ilgar Mammadov, Fuad Aliyev, Ahmad Oruj and Ali Aliyev were not able to participate in signature verification process.

During the second stage of the election, political activities, discussions and overall public interest in election were significantly higher in comparison with 2008 presidential election. However, none of the TV companies operating in the country offered airtime to candidates and their representatives to present their election platforms, as well as to discuss local and national level issues. With the exception of the Public TV, positions and views of presidential candidates were not covered by any TV company.

EMDS noted few violations during the opening of polling stations on the Election Day. However, the voting process was marred with serious violations (multiple voting, bringing voters to polling stations in groups, voters whose name are not on the list allowed to vote and ballot-box stuffing) similar to ones occurred in previous elections. Observers cooperating with EMDS report that in more than 100 polling stations voting results were not accurately reflected on the protocol and copy of protocols were not displayed in front of building.

Along with representatives of candidates, observers, who protested against occurred violations and requested to observe the process of vote counting, also faced serious pressure on the Election Day.

EMDS believes that political environment prior to the election and violations recorded during all stages of the election led to lack of equal competition opportunities and the 9 October 2013 Presidential Elections was marred with violation of national legislation of the Republic of Azerbaijan and international standards, therefore cannot be considered free and democratic.

## **II. INTRODUCTION**

The Election Monitoring and Democracy Study Center (EMDS) is a non-partisan, nongovernmental organization focused on promoting free and fair elections and development of democracy and civil society in Azerbaijan. EMDS was founded on 1 December 2008 by founders and members of Election Monitoring Center (EMC), the registration of which was annulled by the Court on the basis of illegal claims of Ministry of Justice on 14 May 2008. In 2009, EMDS applied for state registration to the Ministry of Justice, but was denied registration. As a violation of the right to freedom of association, the organization appealed the decision to the Court. After the national courts refused to satisfy the claims of EMDS, the organization applied to the European Court of Human Rights.

Members of EMDS (either as EMC or EMDS) have observed 12 elections (including repeat and by-elections to the parliament, referenda, as well as, parliamentary, presidential and municipal elections) in the Republic of Azerbaijan. In total over 13,000 volunteer observers were trained in more than 600 trainings, and legal and technical assistance was provided for accreditation of volunteers with the election commissions. EMDS conducts monitoring of all stages of elections including but not limited to the long-term observation.

During period between elections, EMDS carried out civic forums, town-hall meetings with voters and public discussions to increase citizen participation. The organization also put forth number of legal initiatives producing opinions, draft laws and amendments to the law with regard to electoral system and the Election Code<sup>1</sup>.

EMDS is a member of the European Network of Election Monitoring Organizations (ENEMO), which unites 22 national NGOs from 17 OSCE member-states, Eastern Partnership Civil Society Forum, Network of Parliament Monitoring Organizations (PMO) and European Platform for Democratic Elections (EPDE).

The organization carries out its election monitoring activities in accordance with the guiding principles developed by the OSCE Office for Democratic Institutions and Human Rights, the Venice Commission of the Council of Europe and US National Democratic Institute (NDI).

EMDS activities were implemented with the financial and technical support of USAID, the Delegation of the European Union in Azerbaijan, National Democratic Institute, the OSCE office in Baku, German Marshall Fund, US National Endowment for Democracy, Friedrich Ebert Foundation and the Embassies of the UK, US and Canada.

EMDS cooperates with the International Cooperation of Volunteers Public Union in long-term and short-term observation of the 9 October 2013 Presidential Elections. Monitoring of the 2013 Presidential Election by VIC and EMDS is financially supported by the USAID, US National Democratic Institute (NDI), the OSCE office in Baku, US National Endowment for Democracy (NED) and International Research and Exchange Council (IREX).

EMDS would like to thank all election participants who devoted their time to meet with the organization and all observers who worked hard to safeguard the election.

## **III. SITUATION PRIOR TO ELECTIONS**

Elections and the referendum held in the country following the 2008 Presidential Elections, which was held in an environment lacking alternatives, have raised tensions among opposing political forces in the country. The referendum resulted in lifting two term limit for presidency of same person leading to strengthening de-facto single-party system in the country.

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<sup>1</sup> [http://smdt.az/index.php?option=com\\_content&view=article&id=1277&Itemid=710&lang=az](http://smdt.az/index.php?option=com_content&view=article&id=1277&Itemid=710&lang=az)

Situation of political freedoms did not improve in the pre-election period. On the contrary, politically motivated arrests and prosecutions increased. On 23 January 2013, mass demonstrations of citizens protesting against local executive authority took place. 12 persons, arrested as a result of demonstrations of citizens protesting against local executive authority on 23 January 2013, including Ilgar Mammadov, chairman of the Republican Alternative (REAL) movement, and Tofiq Yagublu, deputy-chairman of the Musavat party, were arrested in connection with the event. Despite 7 months since their arrest, investigation of the case has not been completed yet.

In March 2013, as result of search conducted by the Ministry of National Security and Office of Prosecutor General, 7 members of NIDA citizen movement — Mammad Azizov, Bakhtiyar Guliyev, Shahin Novruzlu, Rashad Hasanov, Rashadat Akhundov, Uzeyir Mammadli and Zaur Gurbanli, which was very critical of the government, were arrested. On 12 September, additional charges of organization of a mass disorders accompanied with violence, breaking, arsons, destruction of property, application of fire-arms, explosives, and also rendering of armed resistance to representative of authority, or participation in such disorders were put forward by the office of prosecutor. National human rights defenders and lawyers believes that such major charges are highly politically motivated and related to their political and social activism.

On 11 March 2013, the president approved amendments to “the law on Non-Governmental Organizations (Public Unions and Foundations)”, “the law on Grants”, “the law on Religious Faith” and the Code of Administrative Offenses further restricting financing NGOs without state registration and complicating the process of giving and receiving donations. Financial penalties for failing to register grants were dramatically increased surpassing the overall budgets of many NGOs.

On 17 September, Parviz Hashimli, reporter of "Bizim Yol" and editor-in-chief of the Moderator internet portal, as well as chairman of Center for Protection of Political and Civil Rights, was detained by the Ministry of National Security (MNS) in connection with illegal possession and smuggling of fire arms. Following Hashimli's arrest, during which reportedly excessive physical force was used, search was conducted in his house and work place. In his statement to the media, his lawyer mentioned that officers of the MNS attempted to force Hashimli, who was sentenced to two month of pre-trial arrest, testify against opposition leaders.

On 27 September, Hilal Mammadov, editor-in-chief of Tolisho Sado newspaper and human rights defender was sentenced to 5 years in prison by the Court. Local human rights organizations believe that arrest of both journalists, which was accompanied with violation of due process, are politically motivated and aimed at silencing critical voices opposing the regime.

On 2 October, Mehman Huseynov, photo-reporter of the Institute of Reporters' Freedom and Security (IRFS) and social-media activists, was brought to the Prosecutor General Office and questioned for 5 hours. Spokesperson of the Prosecutor General Office stated that Huseynov was questioned in connection with information with criminal character posted on social media, while Huseynov himself noted that he was warned about satiric videos about presidential candidates that he designs and shares on social media.

#### **IV. LEGAL FRAMEWORK AND PREPARATION TO THE ELECTION DAY**

##### ***a) The Election Code***

With the amendments to the Election Code adopted in June 2008, the election period was shortened from 120 days to 75 days and registration deposit, the alternative for registration of candidates<sup>1</sup> was eliminated. As result of adopted amendments, provision allowing candidates to be registered by providing money deposit in case of insufficient number of signatures collected during the

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<sup>1</sup>[http://smdt.az/images/files/file/sechki\\_qanununun\\_tekminleshdirilmesi/emcs%20opinion.pdf](http://smdt.az/images/files/file/sechki_qanununun_tekminleshdirilmesi/emcs%20opinion.pdf)

nomination period was eliminated. According to current legislation, candidates are required to provide 40, 000 signatures while At least 50 signatures should be collected from the territory of at least 60 constituencies.

On 18 June 2010, in the run-up to the Parliamentary Elections, the parliament adopted new series of amendments and additions to the Election Code bringing down the election period from 75 days to 60 days and reducing pre-election campaigning period to 23 days. As mentioned by one of the candidates, Jamil Hasanli, "within 21 days, it's physically impossible to cover all these regions," compressing election campaigning in such short time does not allow for meaningful political debate among candidates to take place. Moreover, new amendments eliminated the provision stipulating allocation of funds to candidates from state budget. However, EMDS's study shows that allocation of funds from state budget to candidates and campaign groups during elections and referendum is wide-spread practice among members of the OSCE and the Council of Europe in transition period<sup>1</sup>.

#### ***b) Functioning of Election Commissions***

No progress was noted in situation of voter lists, one of the major issues in preparation of election commissions for the Election Day. Although, the CEC's web-site and the Constituency Election Commission offers platforms for verification of voter lists, several complaints were received from voters. However, during verification of voter lists, it was discovered that names of numerous persons, who left the country or changed their permanent place of residence, were removed from the list, while it was impossible to check whether opportunities for these people to participate in elections were created in other countries or new places of residence.

The CEC and other election commissions failed to ensure transparency and impartiality in their functioning during the 9 October 2013 Presidential Elections.

#### ***c) Nomination and registration of candidates***

Nomination and registration of candidates started on 10 August and completed on 9 September. According to the CEC's information for 15 September, 21 candidates received signature collection forms and 14 of them returned filled forms. Only 10 candidates, who presented filled signature forms, were registered by the CEC, while candidacy of 4 persons were rejected.

During the process of signature collection in favor of presidential candidates, violations occurred in previous elections were recorded again. The organizations received credible information about abuse of administrative resources, mainly in favor of candidate of ruling New Azerbaijan Party (YAP). Moreover, Identification Documents (IDs) of citizens working at organizations funded from state budget were collected and used for signature collection in favor of certain candidates against citizens' will.

#### ***d) Election campaigning***

Political activities, political discussions and public interest in overall election process during the 9 October 2013 Presidential Elections significantly increased in comparison with 2008 presidential elections. However, none of the TV companies operating in the country offered airtime to candidates and their representatives to present their election platforms, as well as to discuss local and national level issues. With the exception of the Public TV, positions and views of presidential candidates were not covered by any TV company.

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The last two stages of the upcoming presidential election were accompanied with pressure against socio-political activists, harassment and intimidation of opposition members, including members of National Council of Democratic Forces. Political prosecutions and arrests started in early 2013, continued throughout the election period.

Long-term observers also noted abuse of administrative resources in organizing meeting with voters for presidential candidates Ilham Aliyev, Gudrat Hasanguliyev and Hafiz Hajiyev by local executive authorities, while Jamil Hasanli and Iqbal Agazade's meetings with voters were interfered and prevented by police.

Overall, election campaigning materials were destroyed in 28 percent of monitored 97 election constituencies, while in 34 percent of monitored constituencies voters were forcibly brought to meetings with pro-governmental candidates by local executive authorities. 53 percent of observed constituencies did not have suitable indoor and outdoor venues for holding meetings and other mass assemblies.

#### *e) Accreditation of observers*

Accreditation of non-partisan domestic observers at the CEC was accompanied with some difficulties during the last days left for registration. The CEC attempted to refuse registration of 150 persons on the grounds of inaccurate documentation, lack of time and other baseless arguments. Registration of 41 persons supported by the EMDS, 39 persons from Democracy Learning public union and 38 persons representing Western Resource Center was delayed by the CEC.

Obstacles on the groundless basis were created for registration of non-partisan observers at the 33rd Khatai First ConEC, 125th Zangilan-Gubadli ConEC, 23rd Nasimi-Sabail ConEC, 20th Sabail ConEC, 63rd Sabirabad First ConEC, 91st Ujar ConEC and 118th Aghdam ConEC and at some occasions they faced intimidation.

## **V. THE ELECTION DAY OBSERVATION**

### *a) The Election Day observation methodology and dislocation*

EMDS conducted Statistically Based Observation (SBO) of the Election Day of the 9 October 2013 Presidential Elections in Azerbaijan reporting on layout of polling stations, processes of voting and vote tabulation.

SBO methodology is scientific approach based on nationally representative sample allowing for accurate, operative and impartial assessment of voting and vote tabulation against domestic legislation and international standards. The sample includes 769 polling stations from all 125 election constituencies covering 15% of all polling stations in the country.

In the last month, EMDS held 62 trainings for 978 persons in 12 regions of the country on non-partisan election observation, SBO methodology and the Election Day rules and provided 890 persons with legal and technical support for accreditation as observers. Overall, 561 persons were accredited at the Central Election Commission (CEC), while 226 persons were registered by the Constituency Election Commissions (ConECs). However, ConECs refused to provide 74 persons with accreditation on groundless basis. On the Election Day, the organization disseminated two press-releases on the results of the observation.

EMDS conducted its trainings based on training packages and materials developed by the US National Democratic Institute and the OSCE Office for Democratic Institutions and Human Rights.

On the Election Day, 769 short-term observers were deployed in all regions of the country and two press-releases on findings of monitoring were released.

The results of the Election Day monitoring are based on reports from randomly selected 769 polling stations across the country.

***b) Opening of polling stations***

Observers monitored layout and opening of polling stations starting from 6:50 AM. EMDS notes with regret that observers faced restrictions to carry out their duties in some polling stations. 19 observers were illegally prevented from conducting observation in 90th Aghdash ConEC, 97th Goranboy-Aghdam-Tartar ConeC, 112th Gakh ConEC, 121st Lachin ConEC and 124th Shusha-Aghdam-Khojali-Khojavand ConEC.

Observers report that preparations to voting were started from 7:00 AM in 92% polling stations across the country. However, number of registered voters were not announced in 19% of polling stations before voting started. Number of ballots received from the CEC were not announced in 17% polling stations, while in 26% of polling stations, members of election commission failed to announce number of people appealed for voting outside polling station.

***c) Voting***

EMDS noted serious violations and irregularities during the voting process in the 9 October 2013 Presidential Elections, which can significantly influence the fairness and results of elections:

<b>Occurred violation</b>	<b>% of Polling Stations countrywide</b>
<b>Voters permitted to vote without being sprayed ink</b>	38%
<b>Voters permitted to vote without being checked for ink</b>	45%
<b>Voters with ink mark allowed to vote</b>	17%
<b>Voters not listed on voter list allowed to vote</b>	42%
<b>Secrecy of voting violated</b>	44%
<b>Multiple voting</b>	38%
<b>Ballot-box stuffing</b>	32%
<b>Voters brought to vote in groups</b>	39%
<b>Voters are instructed to vote to specific candidate</b>	37%
<b>Eligible voters not allowed to vote</b>	17%
<b>Voters allowed to vote without signing voter list</b>	24%

***d) Vote counting***

Observers cooperating with EMDS report serious violations during the vote counting process which significantly influence the results. In 141 observed polling stations, results of voting were not accurately reflected on protocols, while transparency was not ensured during vote counting process in 81 polling stations.

Some precinct Election Commissions failed to guarantee transparency of their activities. Protocols were not displayed in front of polling stations in 205 cases, while observers were denied copy of protocol by 154 observed polling stations.

***e) Compiling protocols***

EMDS noted discrepancies between number of voters and number of votes received by candidates reflected on protocols in some polling stations and will publish its report on information from protocols in the later stage.

*f) Pressure against observers on the Election Day*

Following cases of pressure against observers were noted on the Election Day:

- Several days prior to the election, Aftandil Mammadov, Guba regional coordinator of EMDS, faced psychological pressure and intimidation and refused to cooperate with EMDS. On the Election Day, APA Information Agency published statement allegedly on his behalf falsely stating that EMDS recognized the CEC results in the Northern region of the country.
- Obstacles to activities of Jahangir Abdullayev, observer at the Precinct no.48 of the 52nd Guba ConEC, were created in an attempt to intimidate him.
- Sayad Gubadov was restricted to observe voting in Precinct no 21 of the 10th Binagadi ConEC through physical and physiological pressure.
- In Precinct no. 10 of the 7th Ordubad-Julfa ConEC, Nazim Mamudov was prevented from observing voting through physical and physiological pressure.
- Murad Kamran, observer deployed in Precinct no.46 of the 124th Shusha-Khojali-Khojavan ConEC faced physical and physiological pressure.
- Sadigli Rovshan, observer at the Precinct no. 38 of the 64th Sabirabad ConEC, expressed his discontent with the case of ballot-box stuffing that occurred in front of his eyes to the chair of the election commission. However, the chair of the commission disregarded his remarks and created conditions for such violations. When Sadigli attempted to record the violation on his phone, another person identifying himself as non-partisan observers took the phone from Sadigli with force and deleted all photos threatening him.
- Huseyn Jafarov faced pressure while observing voting in Precinct no.7 of the 2nd Sharur ConEC.
- Violence was used against Atabay Aghalarbayli, observer at the Precinct no. 26 of the 12th Garabagh-Binagadi-Yasamal ConEC.
- Observer Imran Hasanov was intimidated and removed from Precinct no. 29 of the 21st Nasimi ConEC.

Other cases of physical and psychological pressure against observers in attempt to prevent them from monitoring voting process were noted in Precinct no. 9 of the 33rd Khatai First ConEC, Precinct no. 19 of the 81st Beylagan ConEC, Precinct no. 4 of the 107th Gazakh ConEC and Precinct no.16 of the 121st Lachin ConEC.

## **VI. CONCLUSIONS AND RECOMMENDATIONS**

EMDS arrived at the following preliminary conclusions on the results of monitoring of the 9 October 2013 Presidential Elections:

- Situation prior to the 9 October 2013 Presidential Elections did not constitute necessary conditions for holding free and democratic elections, limitation of freedom of assembly and association remain unaddressed.
- The process of nomination and registration of candidates was accompanied with serious violations of law creating environment lacking alternatives



- Equal and competitive political conditions among opposing political forces were not ensured during the election campaigning period.
- Pressure and intimidation against election participants, particularly against candidates, voters and observers were noted during all stages of the election.
- Further restrictions to registration and election campaigning of candidates have taken place as result of adoption of amendments to the Election Code in the recent years. Recommendations of national and international organizations were addressed adequately.
- Serious violations and irregularities, such as multiple voting, ballot-box stuffing and ineligible persons voting took place on the Election Day, causing grave doubts about the lawfulness of voting results.
- Recorded violations of law and political situation prior to the elections did not allow for holding democratic elections, and the 9 October 2013 Presidential Elections took place in violation of national legislation of the Republic of Azerbaijan and international standards and cannot be considered free or fair.

EMDS offers following recommendations on the basis of the preliminary conclusions of the monitoring of the 9 October 2013 Presidential Elections:

- Election commissions should carry out a proper investigation of all complaints and violations that took place, and communicate to public its relevant decisions to hold liable all responsible persons who interfered in the election process.
- In order to address crisis of political freedoms in the country, the government should put forth genuine efforts to establish political trust between public and state.
- State bodies should demonstrate respect to and should promote human rights guaranteeing right to freedom of peaceful assembly, freedom of expression and freedom of association.
- The government should demonstrate political will to improve the Election Code on the basis of recommendations of domestic organizations and the Venice Commission of the Council of Europe.
- Election commissions should display efforts to ensure transparency of electoral processes in the future and necessary conditions for all citizens to observe elections should be established.

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EMDS Executive Board  
Baku, 10 October 2013