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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

REPORT

**ON THE MEETINGS BETWEEN
THE REPRESENTATIVES OF THE AUTHORITIES
OF THE REPUBLIC OF AZERBAIJAN,
THE VENICE COMMISSION,
OSCE/ODIHR AND IFES
ON POSSIBLE CHANGES TO THE ELECTORAL CODE
OF THE REPUBLIC OF AZERBAIJAN**

Baku, 11–12 April 2007

Strasbourg, 30 May 2007

**This document has been classified restricted at the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

I. Introduction

On 7 May 2006 the Venice Commission received a request from the authorities of the Republic of Azerbaijan to continue the work on the improvement of the Election Code (ECA).

On 7 December 2006 the Venice Commission organised a meeting with Mr. S. Aliyev, Head of the Legal Department of the Presidential Administration on the Election Code of Azerbaijan. The authorities were invited to introduce amendments based on the discussion in Strasbourg. The Venice Commission and the OSCE/ODIHR received the updated draft in March 2007.

II. Meeting on 11–12 April in Baku

The representatives of the authorities and of the Venice Commission ODIHR and IFES decided to meet in Baku on 11 – 12 April to discuss the amended text. The meeting was attended by:

1) Representatives of the authorities:

- Mr Shahin Aliyev, Presidential Administration, Legal Department;
- Mr Safa Mirzaev, Secretariat of the Milli Majlis;
- Mr Mazahir Panahov, Chairman of the Central Electoral Commission;

2) OSCE/ODIHR:

- Mr Jessie Pilgrim, ODIHR expert;
- Mr Jonathan Stonestreet, OSCE/ODIHR;

3) Venice Commission:

- Mr Aivars Endzins, Member of the Commission for Latvia;
- Mr Peter Paczolay, Member of the Commission for Hungary;
- Mr Serguei Kouznetsov, Administrative officer, Venice Commission Secretariat;

4) IFES:

- Mr Daniel Blessington, Head of Office in Baku.

The working group agreed on the following:

1) The role of the executive Committees

The participants agreed that one of the biggest problems during previous elections was the interference of the executive bodies in regions in the work of the Election Commissions both on the level of constituencies and precincts. Previous recommendations of OSCE/ODIHR and the Venice Commission included this issue and therefore supplementary safeguards against the interference of these bodies with the work of the electoral commissions should be added to the draft law.

After discussion it was agreed that Article 11 of the Code would be amended with clear references to the provisions of Criminal and Administrative codes.

2) "Inking"

Inking procedures were introduced by a presidential decree before the 2005 parliamentary elections. The current text of the Election Code does not include any provisions on "inking".

The proposed new provisions on inking of voters' fingers seem to be in line with the recommendations of OSCE, the Council of Europe and European standards in general (Articles 102 and 104.6).

3) Envelopes

In order to simplify the counting process, it was agreed that the provisions for the use of envelopes could be removed from the Code. Relevant provisions were deleted in Articles 42, 100, 102, 104, 105, 106 and 107.

4) Complaints and appeals

After a long discussion the participants agreed on the creation of special sub-commissions on complaints and appeals at the level of the CEC and constituency commissions. These bodies would be investigating the facts of violations of electoral rights and give recommendations to the electoral commissions on the possible decisions to take. Such sub-commissions would exist at the level of constituency commissions and at the Central Electoral Commission. The practical issues such as the composition of the sub-commissions and practical aspects of their work would need further consideration.

5) Other issues discussed

- a) Voting procedures for the military personnel;
- b) Official end of pre-election campaign;
- c) Accuracy of voters' lists;
- d) Checking the signatures in support of a candidate for the Presidency (it was decided to delete article 181.4 and to amend the procedure of checking the signatures).

The discussion on the **composition of the electoral commissions, the regulation of the electronic media (Articles 22 – 23 of the Code and amendments proposed in the project) in election campaigns, quorum needed for a decision in the commissions, and candidate deregistration provisions** was postponed until the next meeting (May 2007).

III. Meeting on 30 May 2007 in Strasbourg

The meeting was attended by:

- 1) Representatives of the authorities:
 - Mr Shahin Aliyev, Presidential Administration, Legal Department;
 - Mr Safa Mirzaev, Secretariat of the Milli Majlis;
 - Mr Mazahir Panahov, Chairman of the Central Electoral Commission;
- 2) OSCE/ODIHR:
 - Mr Jessie Pilgrim, expert;
 - Mr Jonathan Stonestreet, OSCE/ODIHR.
- 3) Venice Commission:
 - Mr Pierre Garrone, Head of division of elections and referendums;
 - Mr Serguei Kouznetsov, Administrative officer.
- 4) IFES:
 - Mr Daniel Blessington, Head of Office in Baku.

The participants agreed to review the text as amended after the meeting in Baku on 11 – 12 April 2007. The following issues were improved in the new version of the draft:

- a) articles on responsibility of public officials in case of interference with the electoral process;
- b) the provision for the end of electoral campaign in the media were modified in line with the recommendations of the Venice Commission and OSCE/ODIHR;
- c) representatives of public authorities would not have a possibility to be part of any bodies dealing directly with the electoral process;

- d) proposals for specific bodies dealing with complaints and appeals were introduced (final decision on their composition and powers would have to be decided after an exchange of views with different political parties and civil society before 15 September 2007).

The representatives of the authorities agreed to:

- a) review the articles on de-registration of candidates in the sense of recommendations of the Venice Commission and OSCE/ODIHR;
- b) to adopt additional measures to ensure that the voters' lists are up-dated in time;
- c) the Central Electoral Commission would adopt additional instructions on the participation of candidate representatives in the work of the precincts.

IV. A formal agreement was reached on the following future steps

- 1) The revised version of the amendments discussed is to be sent to CDL before August.
- 2) A round table on a specific election issue or issues, such as complaints and appeals and the composition of election commissions, will be organised in Baku before 15 September 2007. This seminar will be co-organised by the Central Electoral Commission, the Venice Commission, OSCE/ODIHR and IFES. These activities will be attended by the representatives of the authorities, political parties and NGOs. Similar activities on problematic provisions of the Code could be organised before September 2007.
- 3) The Presidential administration and the representatives of the Milli Majlis agree that the draft law must be submitted to the Parliament no later than its autumn session.