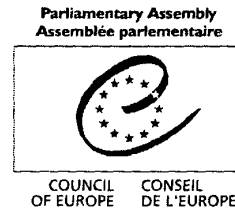


Parliamentary Assembly Assemblée parlementaire



Doc. 10751
29 November 2005

Ad hoc Committee to observe the parliamentary elections in Azerbaijan (6 November 2005)

Report
Bureau of the Assembly
Rapporteur: Mr Leo Platvoet, Netherlands Group of the Unified European Left

The Parliamentary Elections in Azerbaijan on 6 November 2005 did not meet a number of Council of Europe commitments and standards for democratic Elections. While there were improvements in some respects during the pre-election period, shortcomings were evident with regard to key aspects of the process such as voter registration, and continued restrictions on the freedom of assembly, a fundamental right, marred the campaign period. Voting was generally calm, but the Election Day process deteriorated progressively during the counting and, in particular, the tabulation of the votes. High level state authorities expressed the political will to improve the overall election process, as reflected in two presidential decrees. However incoherent implementation by executive authorities, most notably with regard to provisions prohibiting interference by the authorities in the election campaign, or the abuse of administrative resources in favour of certain candidates, undermined the effectiveness of these decrees.

I. Introduction

1. Following an invitation by the Minister of Foreign Affairs of Azerbaijan the Bureau of the Assembly decided on 20 June 2005, to set up an ad hoc Committee to observe the Parliamentary Elections in Azerbaijan to be held on 6 November 2005, and on 5 September appointed Mr Leo Platvoet as the Chairperson and rapporteur of this Ad Hoc Committee.

2. On 4 October 2004 a co-operation agreement was signed between the Parliamentary Assembly and the European Commission for Democracy through Law ("Venice Commission"). In conformity with article 15 of the agreement – "When the Bureau of the Assembly decides to observe an election in a country in which electoral legislation was previously examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly's election observation mission as legal adviser" –, the Bureau of the Assembly invited an expert from the Venice Commission to join the ad hoc Committee as advisor.

3. Based on proposals by the political groups in the Assembly, the ad hoc Committee was composed as follows:

Socialist Group (SOC)

Ms Elvira CORTAJARENA	Spain
Mr Andreas GROSS	Switzerland
Mr Michael HAGBERG	Sweden
Mrs Jelena HOFFMANN	Germany
Mr Jean-Marie LE GUEN	France
Mr Tony LLOYD	United Kingdom
Mr Miloš MELČÁK	Czech Republic
Mr Neven MIMICA	Croatia
Ms Carina OHLSSON	Sweden
Mr Leonid SLUTSKY	Russian Federation
Lord John TOMLINSON	United Kingdom
Ms Marianne TRITZ	Germany
Ms Gaby VERMOT-MANGOLD	Switzerland

Group of the European People's Party (EPP/CD)

Mr Pedro AGRAMUNT	Spain
Mr Jean-Guy BRANGER	France
Mr Adolfo FERNÁNDEZ AGUILAR	Spain
Mr Renzo GUBERT	Italy
Mr Andreas HERKEL	Estonia
Ms Halide INCEKARA	Turkey
Mr Oskars KASTĒNS	Latvia
Mr Peter LETZGUS	Germany
Mr Göran LINDBLAD	Sweden
Mr José MENDES BOTA	Portugal
Ms Ljiljana MILIČEVIĆ	Bosnia & Herzegovina
Mr Julio PADILLA	Spain
Mr Gabino PUCHE	Spain
Mr Andrea RIGONI	Italy
Mr Jan RZYMELKA	Poland
Mr Egidijus VAREIKIS	Lithuania
Ms Rosmarie ZAPFL-HELBLING	Switzerland

Alliance of Liberals and Democrats for Europe (ALDE)

Ms Helena BARGHOLTZ	Sweden
Mr José Igancio CHUECA	Spain
Mr Bernard MARQUET	Monaco
Ms Hanne SEVERINSEN	Denmark
Mr Gábor SZALAY	Hungary
Mr Paul WILLE	Belgium

European Democrat Group (EDG)

Mr Toomas ALATALU	Estonia
Mr Mevlüt ÇAVUŞOĞLU	Turkey
Mr Tomáš JIRSA	Czech Republic
Mr Morten MESSERSCHMIDT	Denmark
Mr Robert WALTER	United Kingdom

Group of the Unified European Left (UEL)

Mr Doros CHRISTODOULIDES	Cyprus
Mr Leo PLATVOET	Netherlands
Mr Anatoliy RAKHANSKY	Ukraine

Venice Commission

Mr Peter PACZOLAY
Mr Sergei KOUZNETSOV

Hungary
Administrator

Secretariat

Mr Vladimir DRONOV, Head of Secretariat, Interparliamentary Co-operation and Election Observation Unit, Senior Advisor to the President of the Assembly
Mr Bas KLEIN, Deputy to the Head of Secretariat
Mr Angus MACDONALD, Press Officer
Ms Farida JAMAL, Principal Administrative Assistant
Ms Anita DYSERINCK, Assistant

4. The ad hoc Committee acted as part of the International Election Observation Mission (IEOM) which also included the election observation missions of the parliamentary assemblies of the OSCE and NATO, the European Parliament and the election observation mission of the Organisation for Co-operation and Security in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

5. The ad hoc Committee met in Baku from 4 to 7 November 2005 and held, *inter alia*, meetings with representatives of the main parties participating in these elections, the Chairman of the CEC, the Director of the Department of Legislation and Legal Expertise of the Office of the President of Azerbaijan, the Head of the election observation mission of the OSCE/ODIHR and his staff, representatives of the international community in Baku, as well as representatives of the civil society and mass media. The programme of the meetings of the ad hoc Committee appears in Appendix 1.

6. On Election Day the ad hoc Committee was split into 25 teams which observed the elections in and around Baku, Jabrayil, Gubadli, Absheron, Sabail, Garadagh, Sumgait, Guba, Shamakhi, Shaki, Ganja, Kurdamir, Salyan, Lankaran and Nakhchivan.

7. In order to draw up an assessment of the electoral campaign, as well as the political climate in the run-up to the elections, the Bureau sent a pre-electoral mission to Azerbaijan from 11 to 13 October 2005. The pre-electoral delegation, which was composed of one representative from each Political Group in the Assembly, consisted of Mr Leo Platvoet (Netherlands, UEL), Mr Andreas Gross (Switzerland, SOC), Mr Andres Herkel (Estonia, EPP/CD), Ms Hanne Severinsen (Denmark, ALDE) and Mevlüt Çavuşoğlu (Turkey, EDG). In Baku the pre-electoral delegation met with, *inter alia*, representatives of political parties participating in these elections, the President of Azerbaijan, the Speaker of the Parliament, the Chairman of the CEC, the Minister of the Interior, the Chairman of the Constitutional Court, the Deputy Head of the OSCE/ODIHR Election Observation Mission, members of the international community in Azerbaijan, as well as representatives of the mass media and civil society. The statement issued by the pre-electoral delegation at the end of their stay appears in Appendix 2.

8. The IEOM unanimously concluded that the Parliamentary Elections in Azerbaijan on 6 November 2005, did not meet a number of Council of Europe and OSCE commitments and other international standards for democratic Elections, despite improvements in some respects during the pre-electoral period.

9. The ad hoc Committee wishes to thank the Parliament of Azerbaijan, the OSCE/ODIHR election Observation Mission and the Special Representative of the Secretary General of the Council of Europe in Azerbaijan for their co-operation and support provided to the ad hoc Committee and its pre-election mission.

II. Political and legal context

10. The 2005 Parliamentary Elections in Azerbaijan took place against the backdrop of marked economic growth as a result of the increase in oil revenues and the opening of the Baku-Tbilisi-Ceyhan oil pipeline. However this has not yet been followed by a similar development for a democratic society in Azerbaijan. Previous elections have until now failed to meet Council of Europe commitments and standards for democratic elections. The 2005 Parliamentary Elections in Azerbaijan were therefore a

crucial opportunity for the Azerbaijani authorities and political establishment to show that they have the will and ability to organise democratic elections that are in line with Council of Europe standards and commitments that Azerbaijan itself subscribed to when joining the Council of Europe. This was highlighted by Resolution 1456 (2005) on the Functioning of Democratic Institutions in Azerbaijan which was adopted by the Assembly on 22 June 2005 which stated : *"It hopes that the forthcoming parliamentary elections will be held in a democratic and transparent manner, so as to cast no doubt over the credentials of the new delegation"*.

11. Azerbaijan is a Presidential republic, where broad executive power is invested in the President of the Republic. The unicameral Parliament of Azerbaijan, Milli Majlis, which does not exercise oversight of the activities of the government, consists of 125 members. These Parliamentary elections were the first elections organised after the 2002 Constitutional amendment that eliminated the proportional list element of the elections. As a result, all 125 members of Parliament are now elected in single mandate constituencies according to the *"first past the post"* system.

12. The Parliamentary Elections in Azerbaijan are governed by the Constitution, the Election Code, the Law on Freedom of Assembly, the Law on Radio and TV broadcasting, as well as provisions in other laws. The Election Code has been amended several times, most recently on 28 June 2005. Regrettably, most recommendations made jointly by the Venice Commission and the OSCE/ODIHR were not, or only partially, addressed in these amendments.

13. The amended Election Law has improved the provisions for transparency of the election process, the requirements for impartiality by all election commissions and the detailed rights and duties of officials and stakeholders in the election process.

14. The ad hoc Committee regrets that recommendations by PACE and the Venice Commission for provisions that would have ensured a balanced composition of the election commissions at all levels were not adopted by the outgoing parliament. This remained a serious shortcoming in the Election Code. In addition, the Law on Freedom of Assembly gives local executive authorities considerable discretion to restrict and ban election rallies and other campaign events, in contradiction to the principle of freedom of assembly. Provisions in the Election code regarding appeals and complaint procedures proved to be ambiguous.

15. The election law of Azerbaijan does not foresee the possibility of voting abroad. While recognising that a single mandate election system poses a considerable problem for the organisation of out of country voting, the fact a sizable part of the Azerbaijani population resides abroad meant that a part of the Azerbaijani electorate was *de facto* disfranchised during these elections.

16. A significant number of voters in Azerbaijan, are internally displaced persons (IDPs) from Nagorno-Karabakh or adjacent territories not under control of the Azerbaijani government. These IDPs voted in 9 constituencies "in exile" with special polling stations located all over Azerbaijan. The registration of IDP voters and the organisation of their voting represented a considerable challenge for the election administration.

17. On 11 May the President of Azerbaijan issued a decree "On the improvement of Election Practices", restating the basic principles of conduct by all election officials and electoral stakeholders for the holding of democratic elections. These provisions, *inter alia*, specifically forbid the interference of officials in the election process in favour of one candidate or the other. Unfortunately, while widely welcomed by the international community, this decree seemed to be largely ignored at regional and local level in Azerbaijan. On 25 October 2005, the President issued a second decree acknowledging "mistakes and deficiencies in the sphere of elections". It identified continued shortcomings in the election process, including problems with the distribution of voter's cards – put in place as a mechanism to prevent double voting – and interference in the election process by local executive authorities. In this decree the President proposed, *inter alia*, to introduce the use of invisible ink to mark the voters' fingers as a safeguard against multiple voting – a proposal of the pre-electoral delegation- , the lifting of the ban of NGOs that receive more than 30% of their funding from foreign sources from observing the elections, and improved guidelines on complaint procedures. In addition the decree called upon the local executive authorities to create equal conditions for freedom of assembly, and reiterated that administrative and criminal sanctions would be applied to those officials found guilty of irregularities during the elections and campaign period. While welcoming the tenet of the second Presidential decree, and the proposals contained therein, the ad hoc committee regrets that it was made at too late a stage to be fully effective in addressing the shortcomings noted during these elections.

18 The involvement of business interests in the elections was a point of concern, especially in the light of the absence of proper provisions regarding financial disclosure and transparency of campaign finances for candidates and parties competing in the elections.

III. Election Administration

19. The Parliamentary Elections were administered by a three-tiered election administration consisting of the Central Election Commission (CEC), 125 Constituency Elections Commissions (ConECs) and 5,053 Precinct Election Commissions (PECs). Of these 9 ConECs and 487 PECs subordinated to them were reserved for IDP voters and located in areas where these IDPs moved to after the 1991 hostilities between Armenia and Azerbaijan.

20. In accordance with the transitional provisions of the Election Code, the Chairperson of every election commission, including the CEC, was nominated by the ruling parliamentary majority, and pro-government parties enjoyed a decision-making majority in the commissions at all levels. The ad hoc Committee regrets that recommendations by the Parliamentary Assembly, as well as the Venice Commission and OSCE/ODIHR, which would have provided for a more balanced election administration, were not implemented. The unbalanced composition of the election commissions seriously undermined the confidence of the public and electoral stakeholders in the unbiased functioning of the election administration.

21. The CEC held regular meetings which were open to the public and met most of the legal deadlines for the technical preparations as stipulated in the Election Code. However, the processing of complaints and appeals, as well as the uniform implementation of the election code by lower level election commissions, proved to be problematic. After the Presidential Decree of 25 October, which called for improved guidelines for the complaints and appeals process, the Venice Commission provided an expert who assisted the CEC in the drafting of these guidelines, but again this decision was taken too late to be fully effective as a remedy against the shortcomings noted in this respect.

22. The organisation of voting by the military was problematic. The Election Code stipulates that the military should vote in regular polling stations and that only in exceptional circumstances special military polling stations can be created. However, special military polling stations were created as a rule rather than as an exception. In addition the CEC delegated the organisation and conduct of the military voting to the Ministry of Defence which resulted overall in a non-transparent voting process of the military.

23. The ad hoc Committee welcomed the extensive voter education effort that was conducted by the CEC, with the assistance of the international community, including the Council of Europe.

IV. Candidate and Voter Registration

24. The candidate registration process was largely trouble free, and originally led to the registration of more than 2,063 candidates out of 2,148 applicants for the 125 single mandate constituencies, creating the opportunity for real debate and genuine competition for the public vote on Election Day. This registration process was a marked improvement over previous elections and was welcomed by the ad hoc committee.

25. Several candidates from the ruling YAP party originally registered themselves for the same mandate in a significant number of constituencies. Although a considerable number of them withdrew in favour of the officially supported YAP candidate before Election Day, their candidatures considerably widened the scope of the political debate in the pre-electoral period.

26. A large number of candidates, 476 in total, withdrew their candidacy before the legal deadline of 26 October. In addition 41 candidates were deregistered by the Court of Appeal or had their candidatures cancelled by the CEC. Observers received numerous allegations that undue pressure was exerted on candidates to withdraw in many constituencies. Such undue, and illegal, pressure included threats of criminal prosecution, tax investigations and closures of businesses owned by candidates and their families. Moreover, many candidates deregistered by the Court of Appeals, often on allegations of bribing voters, alleged that the petitions against them were politically motivated, and that the last minute

nature of these cases did not allow them sufficient time for a proper appeal before Election Day. The ad hoc Committee would like to stress that, if proven true, such cases of undue pressure are contrary to democratic principles and standards and are in violation of the right to stand for elections as enshrined in the Constitution of Azerbaijan.

27. The accuracy of the voters' list remained a point of concern during the pre-election period. The voters' list was prepared by the local executive authorities and the deadline by which voters could request to be entered on the voters' list, or update the information pertaining to them, expired on 1 October 2005. Few voters appeared to have taken this opportunity, but it should be noted that public scrutiny of the voters' list was hindered by the absence of addresses on the published voters' list.

28. After the deadline expired by which the voters' list could be changed by the election commissions, voters who wanted to be entered on the voters list, or update their information, needed a court order to do so. These court orders could be obtained until the end of Election Day. Judging from the number of persons that were added to the voters' list on Election Day, the ad hoc Committee has the impression that this court procedure worked relatively efficiently in the large cities in Azerbaijan, although it seems doubtful that the same efficiency could be achieved in rural areas.

29. Citizens residing outside Azerbaijan, but not registered with a diplomatic representation of Azerbaijan, remained on the voters' list in accordance with the Election Code. This is an issue of some concern, given the apparent lack of accuracy of the voters' list and the opportunity this could give for multiple voting on Election Day.

30. The Election Code stipulates that a voters' cards is given to each voter, as proof of inclusion in the voters' list; and as a mechanism to avoid multiple voting. However, the distribution of the voters' cards proved to be problematic and there was no proper audit of these cards, making their use as a mechanism to prevent multiple voting questionable and raising the possibility of disfranchisement of a part of the Azerbaijani electorate. The pre-electoral delegation therefore strongly recommended to the Azerbaijani authorities the use of putting ink on voters' fingers as a way of preventing multiple voting. The Presidential Decree of 25 October, citing problems with the distribution of the voters' cards, instructed the CEC to introduce the marking of voters' fingers with invisible ink during these elections. Moreover the CEC agreed to abolish, for these elections, the requirement for voters to present a voters' card in order to vote.

V. Pre-election period

31. The political climate remains charged and contentious in Azerbaijan. Attempts by the international community in Azerbaijan to set up a dialogue between the government and opposition parties failed when the parties could not agree on a venue for their meeting. Moreover, the widely-held belief that the opposition parties were planning to stage a campaign of protest and civil obedience after Election Day in order to achieve a change of power in a similar manner to as what happened in Tbilisi and Kyiv - although unlikely given the weak and fragmented nature of the opposition - led to a considerable hardening of the relationship between government and opposition parties, and an increasingly polarised campaign environment.

32. The restriction on freedom of assembly, an unalienable human right in a democracy, was an issue of great concern during these elections. The government had, in contradiction to this principle, greatly limited the number of venues, especially in Baku, where political rallies could be held. Unauthorised rallies organised by the opposition were met with a disproportionate reaction by the authorities. The disproportionate violence and brutality, bordering on outright cruelty, displayed by the police when breaking up unauthorised rallies was strongly condemned by the pre-electoral delegation. At the same time, the pre-electoral delegation called on the opposition parties to focus on the electoral debate and to refrain from seeking violent confrontations with the authorities.

33. The campaign was marred by the interference of local executive authorities in the election process and the abuse of administrative resources by local officials in favour of one candidate or the other. Moreover, many candidates and campaign activists were harassed in the course of their campaign activities, and numerous cases of detention of opposition candidates, and their campaign staff, were observed during the pre-electoral period. A number of reports were received by observers of intimidation and coercion of school staff and persons working in institutions dependent on state funding, to vote for selected candidates. The ad hoc Committee would like to stress that such practices have no place in a democratic society.

34. In the regions opposition rallies were taking place under close surveillance of the police, and in a number of cases, authorised rallies were obstructed or dispersed, further undermining the principle of freedom of assembly during these elections.

35. The Presidential Decrees of 11 May and 25 October acknowledged many of the shortcomings observed in the pre-electoral period and provided instructions to local executive bodies to ensure that these elections would take place in compliance with the Election Code and accepted standards for democratic elections. However, lack of implementation undermined these stated objectives.

36. The opposition parties in general focussed their campaign rhetoric on allegations that the governing party was going to rig the elections instead of focussing on political issues, creating an atmosphere of resentment and mistrust. The initial refusal of the authorities to introduce the inking of voters' fingers - a recommendation of the international community taken up by the opposition - added to their arguments and undermined public confidence in the fairness of the election process.

VI. Media

37. Television is the main source of information in Azerbaijan. The printed media have little coverage outside urban areas and most newspapers have a limited circulation.

38. The election law stipulates that political parties, and blocs with candidates registered in more than 60 constituencies, are entitled to free broadcast time and print space, under equal conditions, in the state funded media. The state funded media did adhere to these legal requirements, offering the candidates the opportunity, albeit not always equal, to make their views heard among the electorate. The organisation of regular debates has been a welcome development in this respect.

39. Overly restrictive interpretation of the media regulations by the CEC, including the requirement that candidates pay for airtime as paid advertisements when they are interviewed on news programmes, limited the possibility of candidates, especially those not belonging to a political bloc or party, to disseminate their views among the electorate.

40. The State-funded broadcaster AzTV showed clear bias in its news and current affairs programmes in favour of the ruling party and largely ignored opposition activities, thus failing to meet its legal obligation to create equal access for all election candidates. Public TV (ITV) showed a similar pattern of favouritism but provided more information regarding the opposition's activities than AzTV. The private channels Lider TV, Space TV and AT were similarly biased in favour of the ruling party.

41. The privately owned ANS Channel was the only one to provide a more balanced coverage of the election campaign, although its coverage is less than that of the other nationwide channels. ANS reported administrative difficulties regarding its licence during the campaign, which was a point of concern for the ad hoc Committee.

42. The printed media provided a plurality of views, but were often biased in their reporting in favour of one party or the other.

VII. Election day - Vote count and tabulation

43. On Election Day, in general the voting took place in a calm manner with the voting positively assessed by international observers in 83% of the polling stations visited. Irregularities and serious violations were, regrettably, also observed including ballot stuffing, attempts to influence voters and local executive officials interfering in the voting process.

44. Despite the late introduction of the inking of voters' fingers, all polling stations had received the necessary material in time and the inking procedure was generally applied satisfactorily in the majority of polling stations. In addition, the inking procedure was in general well accepted as a necessary procedure by the Azerbaijani voters. International observers noted that in 13 % of the polling stations the inking procedure, and especially the checking of ink on voters' fingers, was not or not consistently applied. While this may be related to the fact that the inking procedure was introduced after the polling station commission members were trained, it diminished in those cases the effectiveness of the inking procedure as a mechanism against multiple voting.

45. In a considerable number of places multiple polling stations were located in the same physical space, which frequently resulted in overcrowding and limited the transparency of the vote for observers, party representatives and polling commission members. In addition, polling stations were often inadequate for disabled or elderly voters.

46. The conduct of the election process deteriorated significantly during the vote count and tabulation. International observers assessed that in 43% of the cases the proceedings during the vote count was bad, or very bad, to the extent that it undermined the confidence in the accuracy of the results announced. Tampering with the final protocols was observed in 15% of the polling stations observed, while final protocols were completed with pencil in another 15% of the cases. Moreover, observers and party representatives were intimidated in 17% of the polling stations and unauthorised persons were directing the counting process in 14% of the vote counts observed. In addition the tabulation at constituency level was assessed as bad or very bad in 31% of the ConECs visited.

VIII. Conclusions and recommendations

47. The Parliamentary Elections in Azerbaijan on 6 November 2005 did not meet a number of Council of Europe commitments and standards for democratic Elections. While there were improvements in some respects during the pre-election period, shortcomings were evident with regard to key aspects of the process such as voter registration, and continued restrictions on freedom of assembly, a fundamental right, marred the campaign period. Voting was generally calm, but the Election Day process deteriorated progressively during the counting and, in particular, the tabulation of the votes. High level state authorities expressed the political will to improve the overall election process, as reflected in two presidential decrees. However, incoherent implementation by executive authorities, most notably with regard to provisions prohibiting interference by the authorities in the election campaign, or the abuse of administrative resources in favour of certain candidates, undermined the effectiveness of these decrees.

48. The extent of the irregularities and violations during the tabulation and counting process were such that it undermined faith in the accuracy of the preliminary results, and consequently public confidence in the fairness of the election process.

49. The credibility of these elections now depends on the complaints and appeals process and the manner in which the authorities and the CEC will investigate and address the irregularities and violations reported. The ad hoc Committee therefore calls upon the Azerbaijani authorities to fully investigate all irregularities reported to it and respond to complaints and appeals that are lodged with it within the deadlines as set out in the Election Code. Administrative and criminal proceedings should be started, as foreseen in the Election Code, where violations are found. The results should be annulled, and reruns ordered, in those constituencies where irregularities are found to have affected the outcome of these elections. Your rapporteur sees the first reactions of the Azerbaijani authorities, who annulled the results in a number of constituencies and started criminal proceedings against various persons suspected of committing offences against the election Code, as a hopeful sign, but insists that this should not be limited to a few isolated cases. In this respect it is important to reiterate the expectations of the Assembly regarding the fairness of these elections as stated in Resolution 1456 (2005) adopted on 22 June 2005

50. The incoming Parliament should, without delay, adopt the remainder of the recommendations made with regard to the Election Code by the Parliamentary Assembly and the joint Venice Commission/ODIHR opinion, especially where it concerns the composition of the election commissions.

51. Taking into account the overall positive assessment of the inking procedure, and its wide acceptance by the Azerbaijani electorate, the inking of voters' fingers should be introduced in the Electoral Code as part of the voting procedure, at least until the system of voting cards has been properly implemented and proven effective during a future national election.

52. Freedom of assembly is an unalienable human right and an essential component of a democratic society. The infringements on the principle of freedom of assembly as witnessed during the pre-electoral period are unacceptable in this respect. The Law on Freedom of Assembly should be amended so that local executive authorities can no longer place any undue restrictions on the holding of peaceful rallies.

53. The ad hoc Committee calls on the Azerbaijani authorities to work with the Council of Europe on the drafting of a Code of Ethics for the police forces in order to avoid a repetition of the disproportionate reaction, and brutality, of the police forces when maintaining public order, as witnessed during the pre-electoral period.

54. The ongoing antagonism and polarisation between opposition and governing parties is hindering the democratic development of Azerbaijan. The ad hoc Committee calls on both opposition and ruling parties to respect the trust and responsibility placed invested in them by the Azerbaijani electorate and to co-operate with the international community in their attempts to facilitate dialogue between them.

55. The ad hoc Committee would suggest to the Bureau to consider a post election mission to Azerbaijan in early 2006 to discuss the findings of the ad hoc Committee, as well as the action undertaken by the Azerbaijani authorities to address the shortcomings noted.

APPENDIX I

27 October 2005.

BRIEFING FOR PARLIAMENTARY DELEGATIONS OF THE OSCE, COUNCIL OF EUROPE,
EUROPEAN PARLIAMENT AND NATO
4-5 November 2005

Hotel Hyatt, Baku, Azerbaijan

DRAFT PROGRAMME

FRIDAY, 4 November

Simultaneous interpretation:
ENG /FR/Russian

13:30-14:00 Registration, Accreditations and Handover of Material

14:00 Welcome
Greeting and Introduction of Speakers

President Alcee L. Hastings
Head of the IEOM
Spec. Rep. of the OSCE CiO OSCE PA

Ambassador Geert-Hinrich Ahrens
Head of EOM

Mr Leo Platvoet
Head of Delegation
PACE

Mrs Marie Anne Isler Béguin
Head of Delegation
European Parliament

Mr Michael Clapham
British Parliament
NATO PA

14:30 Briefing by International Organizations
OSCE Presence
Ambassador Maurizio Pavesi
Head of OSCE Office in Baku

14:40 *Council of Europe*
Mr Mats Lindberg
Special Representative of the CoE Secretary General

14:45 *EC*
Mr Wolfgang Sporrer
Coordinator of Europa House, Baku

14:50 Central Election Commission
Mr Mazahir Panahov
Chairman of the CEC

15:05 Department of Legislation and Legal Expertise
Office of the President
Mr Shahin Aliyev
Director

15:20 Coffee break

Political Parties

15:40 Azadliq
Mr. Isa Gambar
Chairman
Musavat Party

16:00
Mr Ali Kerimli
Chairman
Azerbaijan Popular Front Party

16:20
Mr Sardar Jalaloglu
Chairman
Azerbaijan Democratic Party (ADP)

16:40
Mr Etibar Mamedov
Chairman
Azerbaijan National Independence
Party (ANIP)

Mr Eldar Namazov

17:00
Mr. Ali Akhmedov
Executive Secretary

17:20 YAP

17:40 Coffee break

18:00 Overview of Parliamentary Elections and Political Context
Ambassador Geert-Hinrich Ahrens
Head of EOM

18:10 Electoral System - Methodology of Observation
Mr Harald Jepsen
Deputy Head of EOM

18:20 Political background
Ms Raphaelle Mathey
Political Analyst

18:30 Media monitoring
Mr Rasto Kuzel
Media Analyst

18:45 Legal background and the election law
Mr Edward Soden-Bird
Legal Analyst

18:55 Election administration, voting and counting procedures
Mr Riccardo Chelleri
Election Analyst

19:15 Gender issues
 Ms Edeltraud Gatterer
 Gender Expert

19:20 Deployment and logistics

 Ms Kerstin Dokter
 LTO Co-ordinator

 Ms Tiina Ehrnrooth
 PA Liaison Officer

 Mr Robert Lech
 Logistics Officer

 Ms Malgosia Falecka
 Finance Officer

20.00 End of briefing

SATURDAY 5 November

Simultaneous interpretation:
ENG /FR/Russian

9:00	Political Parties	Ms Lala Shovket Chairperson Liberal Party Leader Chairperson of National Unity Movement
9:20		Mr Asim Mollazadeh Chairman Democratic Reform Party
9:40	Non Party/Independent Candidates	Mr Ilgar Mamedov
10:00		Mr. Sabit Bagirov
10:20		Mr Dadash Alishov
10:40	Coffee Break	
10:55	Role of Media in the 2005 Elections Panel discussion with media analysts and journalists	Mr Rasto Kuzel Chairman Media Analyst Mr Ismail Omarov Head of Public TV Mr Seyfulla Mustafayev Vice-president of ANS TV Ms Rushana Huseynova Chief editor of Bakinskies Vedomosti daily (widow of Elmar Huseynov) Mr Aynulla Fatullayev Chief editor of Realni Azerbaijan Mr Arif Aliyev Chief editor of Gun Newspaper

11:50	NGOs	Mr Anar Mammadli EMC
12:00		Mr Eldar Zeynalov Azerbaijan Human Right Centre
12:10		Ms Matilda Bogner Human Rights Watch
12:20	Other International Observers	Mr Daniel Blessington IFES
12:30	End of briefing	
	Departure of the PA Teams deployed outside Baku:	
	Meeting with Drivers and Interpreters in the lobby	
13:30	Teams staying in Hotel Hyatt Regency (Late check out at 13:00???)	
	Teams staying in Hotel Hyatt Park (Late check out at 13:00 possible???)	
14:00- 15:00	Regional Briefing and Deployment Plan OSCE/ODIHR Long Term Observers (LTOs)	
	Briefing for Observers deployed to Baku and to nearby regions	
	Meeting with Drivers and Interpreters	

APPENDIX II

Press release

Parliamentary elections in Azerbaijan offer an opportunity that should not be missed

Strasbourg, 14.10.2005 - According to the pre-electoral mission of the Parliamentary Assembly of the Council of Europe (PACE), the forthcoming parliamentary elections in Azerbaijan on 6 November 2005 are a crucial opportunity for the Azerbaijani authorities to show that they have the political will and ability to organise democratic elections in line with Council of Europe standards and commitments that Azerbaijan itself subscribed to when joining the organisation. This is a chance Azerbaijan cannot afford to miss.

The pre-electoral mission welcomed several positive developments in comparison to previous elections in Azerbaijan. The largely trouble-free candidate registration process has led to a large number of candidates being able to register for these elections, which creates an opportunity for real debate and a genuine competition for the public vote on election day. Furthermore, despite the overly restrictive interpretation by the Central Electoral Commission (CEC) of media regulations governing these elections, all candidates seem to have access, albeit not always equal, to the public and private mass media to make their views heard among the electorate.

These positive developments notwithstanding, several issues remain of great concern. The pre-electoral mission especially regrets that a number of recommendations made by the Council of Europe and its Parliamentary Assembly, notably regarding a balanced composition of the electoral bodies at all levels and the dialogue and confidence-building measures between opposition and governing parties, were not implemented by the Azerbaijani authorities. This is a missed opportunity as these recommendations were made in the best interest of Azerbaijan to raise the confidence of the public and electoral stakeholders in the election process and to ensure the democratic conduct of these elections. Any serious irregularities on election day as a result of not implementing these recommendations could be construed as a lack of political will on behalf of the authorities to organise genuinely democratic elections in line with Council of Europe standards.

The distribution of the voter's cards, introduced as a measure to prevent multiple voting in lieu of the inking procedure recommended by OSCE/ODIHR, has proved to be problematic and a proper audit trail for these cards is lacking. Therefore, the effectiveness of the voter's cards as a mechanism to prevent multiple voting is questionable. This is especially of concern taking into account the large number of Azerbaijani citizens residing abroad who still remain on the voter's lists.

Freedom of assembly is an inalienable human right and an essential component of democratic elections. It is the role and obligation of the authorities, including the police forces, to facilitate the holding of peaceful public rallies and not to prevent them. At the same time, opposition parties should focus on the electoral debate and not provoke violent confrontations with the authorities. The disproportionate violence and brutality, bordering on outright cruelty, displayed by the police forces while breaking up public rallies in recent weeks is unacceptable in a democratic society and can only be condemned. In this respect it should be stressed that the authorities, and specifically the Minister of the Interior, are directly responsible for the behaviour of the police forces under their command.

Democratic elections demand a level playing field between the candidates. The abuse of administrative resources, the interference of the authorities in the election campaign, as well as the campaigning of local and regional officials on behalf of one candidate or the other undermine a level playing field and run counter to the electoral code of Azerbaijan.

Despite these concerns, the pre-electoral delegation is convinced that it is not too late for the authorities to make corrective measures and show their commitment to holding truly democratic elections. It would therefore like to make the following concrete recommendations:

- The Presidential Decree of 11 May 2005, which was widely welcomed by the international community but largely ignored by the Azerbaijani authorities on the local and regional level, should be implemented without restrictions, especially the provisions prohibiting the abuse of administrative resources, the interference of local authorities in the election process and officials campaigning in favour of one candidate or the other.

- The CEC should without delay decree the introduction of the inking procedure for the elections on 6 November 2005. The rapid introduction of the inking procedure will help compensate for the questionable effectiveness of the voter's card as a mechanism to prevent multiple voting on election day.
- The authorities should abolish restrictions on the holding of peaceful public rallies and the Minister of the Interior, as well as the President of the Republic, should publicly instruct the police forces to show maximum restraint while maintaining public order during these rallies. Investigations should be started in cases of alleged police brutality and, if violations are found, perpetrators should be prosecuted.
- A considerable number of complaints of alleged violations of the election law have already been referred by the CEC to the Public Prosecutor for investigation. In order to increase the confidence of the public and electoral stakeholders in the election process the Public Prosecutor should open formal investigations without delay and where violations are found perpetrators should be prosecuted according to the fullest extent of the law of Azerbaijan.

The pre-electoral delegation would like to reiterate the support of the Assembly for the democratic development of Azerbaijan. The Parliamentary Assembly will therefore deploy its largest mission ever to observe the parliamentary elections on 6 November 2005.

The pre-electoral mission of the Parliamentary Assembly visited Azerbaijan from 11 to 13 October 2005 in order to assess the political climate and preparations in the run up to the parliamentary elections in Azerbaijan on 6 November 2005. The pre-electoral mission, which is composed of a representative of each of the five political groups in the Assembly, consisted of:

- Leo Platvoet (Netherlands, UEL), head of delegation
- Andreas Gross (Switzerland, SOC)
- Andres Herkel (Estonia, EPP/CD)
- Hanne Severinsen (Denmark, ALDE)
- Mevlüt Çavuşoğlu (Turkey, EDG)

Contact: Vladimir Dronov (Mob: +33 663 49 37 92; e-mail: vladimir.dronov@coe.int) or Bas Klein (Mob: +33 662 26 54 89; e-mail: bas.klein@coe.int)

APPENDIX III

Press release

INTERNATIONAL ELECTION OBSERVATION MISSION

PRESS RELEASE

Elections in Azerbaijan did not meet international standards despite some improvements

BAKU, 07.11.2005 – The 6 November parliamentary elections in Azerbaijan did not meet a number of OSCE commitments and Council of Europe standards for democratic elections. While there were improvements in some respects during the pre-election period, uncertainty was evident with regard to key aspects of the process such as voter registration, and continued restrictions on the freedom of assembly, a fundamental right, marred the campaign period.

Voting was generally calm, but the election day process deteriorated progressively during the counting and, in particular, the tabulation of the votes, concluded the International Election Observation Mission in a preliminary statement released today in Baku. The mission deployed 665 observers from 42 countries for the election, visiting more than half of all polling stations in the country.

"The shortcomings that were observed, particularly during election day, have led us to conclude that the elections did not meet Azerbaijan's international commitments on elections. It pains me to report that progress noted in the pre-election period was undermined by significant deficiencies in the count", said Alcee L. Hastings, President of the OSCE Parliamentary Assembly and the Special Co-ordinator for the short-term observers.

Despite an inclusive candidate registration, which provided for a competitive election in most constituencies and enhanced voter choice, interference from executive authorities and media bias favoring incumbents resulted in a failure to provide equitable conditions for all candidates during the campaign period. At times, civil and political rights were infringed upon and there was harassment and intimidation of some candidates and their supporters. The complaints and appeals process overall did not provide redress for these shortcomings.

The Head of the delegation from the Parliamentary Assembly of the Council of Europe, Leo Platvoet, said: "The Council of Europe is the guardian *par excellence* of democratic principles. These were not fully respected in this election."

Shortcomings of the elections included interference of local authorities, disproportionate use of force to thwart rallies, arbitrary detentions, restrictive interpretations of campaign provisions, unbalanced composition of election commissions and the failure of those commissions to effectively address a number of issues.

Improvements were noted regarding allocation of free airtime on state-funded media to candidates, the possibility to hold numerous rallies, inking of voters' fingers to prevent fraud, a voter education campaign, distribution of new identification documents, the reinstating of a candidate who was wrongfully denied registration and transparency in the work of many election commissions.

Marie Anne Isler Beguin, Head of the European Parliament delegation added: "I welcome the inking of voters' fingers for this election, which despite the late decision to introduce this measure, was a credible attempt to guard against possible multiple voting."

"The role of domestic observers is crucial in any election in order to promote transparency and increase confidence in the voting process", said Michael Clapham, Head of the NATO Parliamentary Assembly delegation. "It was encouraging to see so many local observers present in polling stations but this was undermined by consistent reports that many faced problems, including intimidation, being expelled from polling stations and not receiving protocols and other information."

Ref. 594a05

On election day, observers assessed voting negatively in 13 per cent of polling stations visited. Observers witnessed attempts to influence voter choices, unauthorized persons interfering in, or directing, the process, as well as cases of ballot stuffing. Inking procedures, in particular the checking of voters' fingers for traces of ink, were not followed in 11 per cent of polling stations visited, with several polling stations not applying the procedure at all. There were observations of domestic observers and even members of polling station commissions being expelled from polling stations.

The observers assessed the ballot counting as bad or very bad in 43 per cent of counts observed. They noted a wide range of serious violations, including tampering with result protocols, intimidation of observers, and unauthorized persons directing the process.

Ambassador Geert-Hinrich Ahrens, Head of the OSCE/ODIHR's long-term observation mission, concluded: "Having read the presidential decree of 11 May, I had very much hoped for a better election and consequently a more positive assessment of the International Election Observation Mission. Unfortunately, the results of our observation made this impossible."

A final report will be released approximately six weeks after the completion of the electoral process.

For further information contact:

Urdur Gunnarsdottir, OSCE/ODIHR: +48 603 683 122, +994 50 393 6988,
urdur.gunnarsdottir@odihr.pl

Andreas Baker, OSCE Parliamentary Assembly: +45 6010 8030, +994 50 587 0553,
andreas.baker@oscepa.dk

Angus Macdonald, Council of Europe Parliamentary Assembly: +33 630 496 820, +994 50 574 9058
Angus.Macdonald@coe.int

Thomas Grunert, European Parliament: +32 475 35 1948, tgrunert@europarl.eu.int

Roberta Calorio, NATO Parliamentary Assembly: +32 2 513 2865, rcalorio@nato-pa.int

