

## PRELIMINARY STATEMENT

### **of the Election Monitoring and Democracy Studies Center on the Results of Election Day Observation of the 23 December, 2009 Municipal Elections**

#### **I. SUMMARY**

Election Monitoring and Democracy Studies Center (EMDS) is an independent and impartial non-governmental organization working towards holding free and fair elections, development of civil society and democracy in Azerbaijan. EMDS considers that holding free and fair elections in Azerbaijan will contribute to development of citizens' welfare and protection of human rights in the country.

This statement has been made on the basis of information received by nonpartisan observers registered in election commissions in order to observe the 23 December municipal elections and cooperating with EMDS to observe the 23 December, 2009 municipal elections. The observers cooperating with EMDS conducted monitoring of 711 polling stations at 118 districts in the 23 December, 2009 municipal elections.

EMDS conducted long-term observation on preparation for elections, nomination and registration of the candidates, election campaign since official declaration of holding the 23 December, 2009 municipal elections<sup>1</sup>. In this stages EMDS conducted long term observation in 111 districts with the help of 96 independent observers in a national level.

EMDS regretfully mentions that active public-political discussions and broaden enlightenment of voters were not implemented during the holding of municipal elections in order to express a real will of the people of Azerbaijan and provide public interest in elections. One of the main reasons is the lack in protection of the freedom of assembly, speech and press in the country.

The process of nomination and registration of the candidates was observed with illegal intervention of local executive bodies to the election process in most election commissions. Fake obstacles were created in registration process of influential persons in a local level and representatives of oppositional political parties. EMDS considers that local executive powers and some district election commissions held special activity on behalf of registration of the members of ruling party – New Azerbaijan Party in more than half of the election commissions. With that end in view, the processes in limitation of alternative election capabilities of the voters, creation unsuitable environment for fair political rivalry and provision of the priority of ruling party in local executive bodies occurred in advance.

EMDS notes that the process of election campaign was observed with the lack of public discussions in a local and national level. Very few candidates held election campaign during the second stage (25 November – 22 December, 2009) and as a result, the candidates, political parties and voters were not involved to the election process and there was not broad public awareness.

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<sup>1</sup>First Report on long term observation in 25 November, 2009, and Second Report of EMDS was presented in 21 November, 2009. You can get both 2 documents asking for EMDS..

The observers cooperating with EMDS noted very few acts of violation of the law during the opening process of polling stations in a municipal election day. The opening process of polling stations was basically due to the rule.

During voting process EMDS determined serious violations of the law in most polling stations where the observation was conducted. Such violations of the law include multiple voting (one person in line several times), case of voters brought to the poll in special groups, the participation of the persons whose name was not existed in voters' list and ballot-box stuffing on themselves.

As it was in previous elections, EMDS observed the usage of administrative resources and pressures taken to persons participating in the election at the stage of preliminary work for the 23 December, 2009 municipal elections and election campaign.

Moreover, EMDS observed the case of fake exaggeration of information on voters turnout in some polling stations and having 17-18 percent of real level of voters turnout.

EMDS considers that according to the shortages and serious violations of the law existed in general election environment including election day, the 23 December, 2009 municipal elections was held with the observation of cases of the violation of the laws of the Republic of Azerbaijan and this elections can not considered free, democratic and fair election.

## **II. INTRODUCTION**

EMDS was created on 1 December, 2008 by the founders and members of Election Monitoring Center (EMC), after its registration was annuled. It should be noted that on 14 May, 2008 the Khatai district Court illegally revoked the registration of EMC on the basis of a claim of the Ministry of Justice of the Republic of Azerbaijan.

EMDS is an impartial and experienced non-governmental organization working towards holding free and fair elections, development of election system, creation of legal state and civil society.

EMDS (former EMC)'s members observed repeat parliament elections, the Referendum, parliamentary, presidential and municipal elections during 2001-2009. In sum, EMDS held 10 election monitorings. EMDS has trained more than 9.000 citizens and provided judicial-technical assistance for their accreditation with election commissions till the present time.

With the elections held in the country EMDS's representatives observed parliamentary, presidential and local elections in Albania, Belarus, Norway, Kirgizistan, Kazakhstan, Georgia, Germany, Turkey, Ukraine, Moldova, Afganistan, Kosova in the frame of the Office of Democratic Institutions and Human Rights of OSCE, ENEMO and other international missions.

EMDS is a member of the European Network of Election Monitoring Organizations (ENEMO) which covers 22 NGOs from 17 OSCE countries. More than 300 members and volunteers of EMDS participated in all events and election monitoring missions held in the frame of ENEMO.

EMDS provided judicial-technical assistance to the citizens of the country in order to observe 23 December, 2009 municipal elections as an individual. Nowadays, EMDS is providing judicial –technical assistance to 1422 citizens of the country in order to be registered in CEC and DEC as an individual observer, and is planing to provide with necessary methodical supplies as well.

EMDS began to hold long-term observation among 96 districts with regard to 111 districts from 118 districts in the country with the help of former long-term observers who were registered individually, after the official announcement of the 23 December, 2009 municipal elections's date. EMDS considers to hold long-term observation on all elections' process – nomination and registration of the candidates, election campaign, the specification of voters' list, counting of election day's voting and results of the voting, and investigation process of the appeals related to violation of the law during municipal elections.

**EMDS is national non governmental organization working towards the development of election system and protection of democratic values.**

EMDS held the program on the municipal elections with a financial-technical support of the British Government and the Canadian Embassy.

### III. PRE-ELECTION POLITICAL ENVIRONMENT

#### *a) Political processes*

According to the Election Code of the Republic of Azerbaijan, Central Election Commission announced the municipal elections 75 days prior to an election day. With that end in view, the 23 December, 2009 municipal elections officially began from 8 October, 2009.

EMDS considers that less number of candidates of political parties in the 23 December, 2009 municipal elections can influence to the election activity negatively. Meanwhile, the pressures<sup>2</sup> on the representatives of main oppositional political parties during nomination and registration process foster non-alternativism in an election campaign and restrict alternative choice opportunities of voters. The great number<sup>3</sup> of required documents on the registration of political parties as the candidates of political parties and political blocks influenced this number. As a result, the number of oppositional parties participating in the municipal elections consisted just 10 percent of overall number of the candidates.

According to the observation of the first and second stages of the municipal elections by EMDS, there have not been any improvements in the direction of increasing voter activeness and outreach. Meanwhile, the lack in provision of the candidates with financial allocations, restriction of public discussions and meetings during election campaign influenced negatively to the election campaign process.

#### *c) The situation of Human Rights and Civil Society*

There has not been any changes with the situation of human rights and civil society during municipal elections. The pressures and restriction taken to the activists and organizations of civil society before the elections were observed again.

December 15, 2009 the representatives of Resource Center “Democracy and Development of NGOs” encountered with the pressures by a group of teachers and students during holding of the survey in front of Nakhchivan State University in Nakhchivan city. Ilgar Nasibov and Vafadar Eyvazov who were injured, appealed to the police department, but their appeals were not considered. Moreover, they appealed to the city hospital in order to get the prove by medical examination, but their appeal was not considered and they were rejected from medical aid.

December 9, 2009 the Appeal Court didn't provide the complaint of the parents of young bloggers Adnan Hajizada and Emin Milli. Considering the complaint baselessly, the Judge support the force of the decision of the Sabail district Court. It should be noted that Adnan Hajizada and Emin Milli arrested after 8 June, 2009 incident in “Lebanese” restaurant were accused of hooliganism and intentional infliction of minor severe bodily harm. On 11 November, 2009 the Sabail district Court sentenced youth blogger, the coordinator of “OL” Youth Movement Adnan Hajizada to 2 years, and the founder of “Alumni Network” Youth Movement Emin Milli to 2 years and 6 months. Local and international community stressed that the reason of the arrest was their public activity.

The Ministry of Justice rejected the registration of an independent and local election monitoring organization - Election Monitoring and Democracy Studies Center (EMDS) on the eve of municipal elections. Though EMDS presented twice its documents to the Ministry of Justice in order to be registered in 2009, the Ministry sent back the documents without the execution with various pretexts. In spite of the

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<sup>2</sup> Look at First Interim Report on municipal elections of EMDS

<sup>3</sup> 50 Article of the Election Code, the intruction accepted by 7 June, 2006 order of Central Election Commission of the Republic of Azerbaijan

EMDS's appeal to the local courts on it, the court sentenced on behalf of the Ministry of Justice. December 17, 2009 Baku Appeal Court support the force of decision of Yasamal district Court. December 3, 2009 EMDS appealed to the Ministry of Justice in order to get a state registration for a third time.

November 18, 2009 the Ministry of Justice rejected the registration of "Center of Development of Television and Media"

#### **IV. PRE-ELECTION SITUATION**

##### **a) The activity of election commissions**

Central Election Commission (CEC) conducted its activity on preliminary work to the municipal elections in the frame of the period determined by the law. CEC adopted some instructions and election documents on preparation for the elections.

There were serious violations in the activity of election commissions in nomination and registration of the candidates, registration of the observers, the process of election campaign. The activity of CEC during registration of the observers and investigation of complaints was not adequate to the rule in some cases. So, the complaints were not considered and registration of the observers was delayed.

Though appeals of the persons willing to participate at the meeting of CEC were considered positively, these persons were invited to the meetings constantly and CEC did not manage its activities transparently.

Artificial obstacles were created in registration of the candidates and observers in District Electoral Commissions (DEC). Though the copy of DEC decision on registration of the candidates or rejection from the registration must be given in 24 hours period<sup>4</sup>, the copies were given 10 days later. The investigations of EMDS show that the main purpose was to delay the period of appeal in order to distract from the complaint to higher election commission affectedly. Though the documents of the persons willing to be an observer in DEC must be considered in 2 days<sup>5</sup>, they were reviewed in 7-8 days later in order to keep less number of observers.

##### **b) The nomination and registration of the candidates**

It should be noted that nomination and registration of the candidates started on 8 October, 2009 and completed on 23 November, 2009.

According to official information, 35 076 candidates were registered for 23 December, 2009 municipal elections. Districts Electoral Commissions rejected to register 3215 person's candidacy and as a result, 31 861 candidates were registered. These candidates intend to take 15 682 seats in 1718 municipal councils.

According to the party affiliation of the candidates, 17 688 persons represent New Azerbaijan Party (NAP) and 2460 persons were representatives of other 29 political parties.

11 331 persons participated in the elections as independent candidates. 382 candidates didn't mention their party affiliation.

As it is obvious, among political parties, members of NAP consist of vast majority of the candidates. In general, the candidates of NAP consist of 48 percent of registered candidates and 90 percent of the candidates who have a party affiliation.

EMDS regretfully notes that nomination of the candidates were observed with the violations of the law in comparison with the municipal elections held in 2004. According to observation of EMDS, the pressures

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<sup>4</sup> 60.2 Article of the Election Code

<sup>5</sup> 40.7 Article of the Election Code

were against the members of oppositional parties and influential persons in a local level. The documents of the representatives nominated to some districts were rejected with various excuses.

### **c) Election Campaign**

According to the Election Code of the Republic of Azerbaijan<sup>6</sup> the election campaign launched 28 days prior to an election day and was completed 24 hours prior to the election. The election campaign on the municipal elections has been launched since 25 November, 2009 and this process continued till 08.00, 22 December, 2009.

Only the political parties (political parties' blocks) which the candidates registered in more than half of the municipalities in the country get the right of using free air time in the holding of election campaign in the municipal elections. Other parties could not get the opportunity of getting this right as a result of the registration of the candidates of NAP in the process of nomination and registration of the candidates.

The candidates were not allocated funding from the state budget in order to conduct election campaign. So, low financed candidates could not conduct the election campaign.

According to the results of the election campaign, the discussions among the candidates, meetings with voters and political discussions among oppositional political parties were not conducted.

### **b) Voters lists**

EMDS determined the violation of law in displacement of the voters lists in the area of polling stations in any appropriate period considered in the law, lack of enrolment of the names and some information of voters to the voters lists.

### **d) Domestic and International observation**

According to the information received from the CEC, 50 000 local and international observers were registered in order to observe the municipal elections. 54 persons from observers represented international organizations and diplomatic corps of foreign countries.

## **V. ELECTION DAY OBSERVATION**

### **The deployment of the observers and reporting**

EMDS conducted trainings on the preparation for the election day for 1418 Azeris to conduct monitoring of the municipal elections at 711 randomly selected polling stations at 118 election districts by random selection on the country. 1291 of them cooperated with EMDS in order to conduct an observation in 711 polling stations at 118 election districts.

The trainings on the election day procedures, functions of observers, reporting/communication on an election day and nonpartisan observation were held. A total of 60 trainings were held for EMDS observers. Most of the observers were registered at the Central Election Commission, 156 observers were accredited at District Election Commission as citizens.

The observers reported on EMDS reporting form four times on the election day. Being received by EMDS General Information Center, the reports were analyzed and summarized.

The results of EMDS election day monitoring are based on the reports submitted from 711 polling stations with regard to 118 election districts (on 520 polling stations in a national level and 191 polling station on municipalities). (It reflects the preliminary results on the reports and the analysis will be continued)

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<sup>6</sup> 75.2 Article of the Election Code

## The methodology of election day observation

Election Day Observation of EMDS was conducted at 711 polling stations on the basis of the Statistically based Observation. The observers were deployed to the randomly selected polling stations. This tested methodology is used in order to conduct the observation in polling stations in a national level and get precise information on all polling stations of the republic.

EMDS determined polling stations selected via random selection 2 weeks prior to an election day with 2 stages – (1) 191 polling stations were selected on municipalities and (2) 520 polling stations were selected on a national representation by casting lots.

### 1. The observation in 191 polling stations on municipalities

EMDS appointed observers to all polling stations of 10 municipalities with regard to 1718 municipalities on the Republic in order to evaluate all sides and situation of election process. Locating in 10 regions, these municipalities provide EMDS with the opportunity of conduction general analysis on different political results, judicial character and turnout of the elections held in the regions.

The municipalities where EMDS observed all their polling stations are the followings:

Number	Region	The number of municipalities	The number of polling stations	The number of the candidates whose name existed in the ballot paper on an election day	The number of registered voters
1	Baku	Sabail	32	47	37108
2	Ganja	Nizami	48	42	139469
3	Sumgayit	Jorat	5	29	8654
4	Jalilabad	Jalilabad	14	27	35936
5	Goychay	Goychay	13	25	35192
6	Zagatala	Zagatala	11	30	19166
7	Mingachevir	Mingachevir	42	43	96715
8	Beylagan	Beylagan	9	32	16359
9	Sabirabad	Sabirabad	14	29	28452
10	Nakhchivan	Givrag	3	14	4182
<b>Total</b>	<b>10 regions</b>	<b>10 municipalities</b>	<b>211</b>	<b>318</b>	<b>421233</b>

The observers cooperating with EMDS held the observation of municipal elections on cases of opening of polling stations, voting, voters turnout, counting of the results of the voting and reflection them in the protocols of abovementioned municipalities.

According to information submitted till the end of an election day, voters turnout was about 17 percent in the municipal elections.

General analysis shows that serious violation of the law in polling stations on these municipalities were observed as it happened in other polling stations. For example, the evidence of multiple voting was observed in 53 polling stations with regard to 191 of them. The case of ballot-box stuffing were observed in 46 polling stations. (EMDS will continue the analysis of the reports on the polling stations after election day).

### 2. The observation in 520 polling stations on the national representation

EMDS deployed the observers in 520 polling stations out of 4813 polling stations in order to study and evaluate the characteristics and identification to the law of election process. These polling stations covered all 118 election districts where the elections held in the country.

### **a) The opening of polling stations**

The observers witnessed very few problems during the opening of polling stations. The polling stations were provided with necessary documents and information desks. However, the number of voters who appealed to vote outside of polling stations were not declared in 8 percent of polling stations.

### **b) Voting process**

The observers cooperating with EMDS observed that no restriction was taken in the participation of voters who have necessary documents during voting process (92 percent of polling stations). However, serious violation of the law influencing to the results of the elections during voting process were observed. For example, voters were allowed to vote without signing voters list and permitted to vote without checking for invisible of their finger. (in 23 percent of polling stations).

#### ***EMDS's summary of information on the violation of the law in voting process:***

- The cases of the participation of voters whose name did not appear in voters list were observed in 16 percent of polling stations where the observation was held.
- The cases of the violation of the secrecy of voting were observed in 17 percent of polling stations.
- The evidences of multiple voting (one person in line several times, proxy voting) were observed in 22 percent of polling stations.
- The evidences of ballot box stuffing were observed in 16 percent of polling stations.
- The cases of bringing voters to the polls in special group were observed in 15 percent of polling stations.
- The evidence of instruction of voters to vote for a specific candidate in 13 percent of polling stations.
- The cases of intervention of police and local executive powers to the election process were observed in 15.2 percent of polling stations.

### **c) Counting of votes**

The observers cooperating with EMDS encountered with the pressures during the counting of votes. So, the observers cooperating with EMDS were removed from 7 polling stations.

The cases of ballot boxes were not checked to be empty in front of people before it was sealed were observed in 3.1 percent of poll stations. Meanwhile, the counting process was held openly in only 95 percent of polling stations.

EMDS regrettably notes that the copies of protocols were not displaced outside the polling stations in 23.4 percent of polling stations. Furthermore, the copies of protocols were not given to the observers cooperating with EMDS in 20.4 percent of polling stations.

### **d) Voters turnout**

According to the reports of the observers cooperating with EMDS, the voters turnout was about 17 percent. However, the case of participation of the voters whose name was not existed in voters' list in these polling stations (16 percent) and participation of person in line several times (22.1 percent) must be taken into consideration. It proves that fake voters turnout is created in most polling stations where EMDS held an observation.

It should be noted that the numbers on these polling stations (31 – 32 percent) officially declared by CEC differ from the numbers presented by EMDS and it assumes the exaggeration of the numbers on voters turnout in lower election commissions.

**e) The pressures taken to the observers on an election day**

**The restrictions were taken to the activity of the observers cooperating with EMDS in some polling stations and the observers encountered with various pressures.**

**Information on the pressures taken to the observers:**

- The head of Precinct Election Commission (PEC) No.4 of Sabael election district No.29 Aliyeva Lala removed the observer Umudov Afgan from polling station. The main reason was shown that the stamp of district was not existed. However, it should be noted that the observer had got an accreditation card from CEC.
- The head of PEC No.13 of Nizami second district No.25 Musayev Polad illegally removed the observer Yusifov Ruslan from polling station. The main reason was shown that stamp of appropriate district was not existed in observer's card. It should be noted that the observer was registered in CEC.
- All observers were removed by force from polling stations after the closing of the voting in PECs No.1 and 2 of Sabirabad first district No.63.
- Threatening the voters and observers who came to the polling station, the representative of Yardimli district executive power Khaniyev Azer didn't permit them to enter the polling station in PEC No.4 of Yardimli-Masalli district No.72 after the opening of the voting.
- Taking Act form from the observer Gurbanov Ruslan who was drawing the Act about the case of ballot-box stuffing, the head of PEC No.15 of Surakhani district No.31 Shafiga Abdulov invited the police to the polling station. The police took the observer to Surakhani police department No.33. The Act form written by the observer was confiscated.
- The pressures were taken to the observer of PEC No.6 of Hajigabul-Kurdamir district No.58 Huseynov Islam by the head of PEC Rahim Aliyev and other members of the commission, because he drew the Act about the violation of the law which he observed.
- Oppositional candidates and observers were removed from the polling station by the police after the closing of the voting in PECs No. 19 and 43 of Beylagan election district No.81.
- The observer from PEC No.6 of Surakhani second district No.31 Gambarov Gambar were taken to the Police Department No.32 by the police invited by the head of appropriate PEC.
- The police stood in front of PEC No.40 of Imishli-Beylegan district No.80 during the opening of polling station and did not permit observers to enter the polling station.
- The head of PEC No.2 of Aghstafa district No.108 Elkhan Mammadov removed the member of the commission Adil Maharramov (the representative of Umid Party) who didn't consent with what he said and Ismayil Nazirli who drew the Act about it.

## **VI. THE RESULTS**

**EMDS came to the following results on all stages of the 23 December, 2009 Municipal Election and election day observation:**

- The process of the nomination and registration of the candidates on municipal elections was held with illegal intervention of local executive powers and these cases were basically observed with the pressures taken to the persons nominated from oppositional political parties. With that end in view, equal and fair participation of political parties in municipal elections was restricted;
- The restriction of human rights and the freedom of assembly, press and speech during municipal elections didn't permit to hold rival and free elections;
- Election campaign was weak conducted and oppositional political parties were not provided with holding political discussions among them;
- The transparency was not conducted in municipal elections and it was mainly observed with the restriction in the registration and activity of observers;
- The violations of the law – multiple voting, ballot-box stuffing and participation of the voters whose name was not existed in voters list were observed in most districts on the election day;
- The counting of the votes was not held openly and the presentation of the protocols to the observers was not provided in most polling stations.

**Summarizing the results on the observation of the 23 December, 2009 municipal elections, EMDS considers that these elections were observed with serious violations of the laws of the Republic of Azerbaijan and the elections can not be considered free, democratic and fair.**

## **VII. RECOMMENDATIONS**

**Based on the results of its monitoring of the 23 December, 2009 municipal elections, EMDS recommends the followings:**

- Central and District Election Commissions must provide the investigation of the appeals on violation of the law and presentation their decisions to public;
- Political government must ensure equal representation of all political rivals in public-political life of the country and respect for the rights of assembly, speech and press;
- Political government must present a political will in order to hold free and democratic elections and support the efforts of local and international organizations on improvement of the current Election Code;
- The accredited observers must be provided with normal condition in order to observe all election process.

**Board Members,  
Election Monitoring and Democracy Studies Center**

**24 December, 2009**

**Baku city, Azerbaijan Republic**

**EMDS is national non governmental organization working towards the development of election system and protection of democratic values.**