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THE INFLUENCE OF THE AMENDMENTS TO THE ELECTORAL CODE OF AZERBAIJAN ON THE OPPOSITION PARTIES

Abstract: *The purpose of this study is the examination of the Electoral Code of Azerbaijan, to show how it affects the conduct of the elections and their results. The principal results of this research show how the Azerbaijani authorities have built the Electoral Code in a way that maximizes their power at the expense of the opposition. On top of that, it is possible to state that the authorities deliberately ignored the opinions of authoritative figures and created favorable conditions for them, ignoring the opposition.*

Emphasizing these conclusions, it should be noted that as a result of the changes in the Electoral Code, an atmosphere has been created in Azerbaijan where the opposition has an absolute distrust of the current government. There are no fair elections, and there are serious loopholes where even struggling has become meaningless.

Keywords: *Azerbaijan, Electoral Code, Venice Commission, proposal, opposition.*

Introduction

The Electoral Code is one of the most important pillars of any state, which, originating from the legal norm of the Constitution, provides opportunities to hold this or that state election, to set deadlines, to appeal, and so on. In general, the Electoral Code contains the Code of Electoral Conduct, which aims to promote "conditions conducive to free and fair elections", which create an atmosphere of tolerance, free political propaganda, and open public debate¹. One can single out the International Covenant on Civil and Political Rights², in particular Article 19.1, which guarantees the right of "everyone" to "have an opinion without interference". Article 19.2 defines the right to freedom of expression, which includes "the freedom to seek, receive and impart information and ideas of all kinds". The right to freedom of opinion and expression is a "central pillar of democratic societies,

¹ Official website, "The Electoral Code of Conduct", last modified June 20, 2020, <https://www.elections.org.za/pw/Parties-And-Candidates/The-Electoral-Code-Of-Conduct>

² "International Covenant on Civil and Political Rights", Entry into force 23 March 1976, General Assembly resolution no. 2200A

and a guarantor of free and fair electoral processes, and meaningful and representative public and political discourse”³.

The Electoral Code regulates the interrelationships between local self-government bodies, the parliament, the president, including the principle of registration of candidates, participation in elections, the process of a referendum, and other legal norms. The Code clearly defines the classical constitutional principles of suffrage: direct suffrage, equal, universal free, secret, and the frequency of elections. It also has general guarantees for correct voting, such as the respect of human rights, stability of suffrage and procedural guarantees, which includes the organization of elections, an effective system of appeals and observation by an impartial body⁴.

At different times, elections have played their role and had importance in different countries of the world, through which they have elected both a leader and made different decisions. In general, the ruling elites in the English-speaking world began to revise their electoral laws in the late eighteenth and early nineteenth centuries⁵. It also must be stated that researchers have long argued that electoral laws directly transfer preferences into results, and they have used the election results to identify the social bases of parties. Elections, in turn, are a complex system that can also have a negative impact. This negative impact is reflected in electoral fraud, such as ballot-box stuffing, double voting, and pressure on voters, etc. Polling station operation, tallying procedures, as well as the opportunities generated by voter registration usually makes political parties have multiple illegitimate votes cast in support of the desired candidate. As a result, it can cause damage to the number of sociologically minded views of politics⁶.

The electoral systems (codes) cannot be changed freely; they must be based on the principles of democracy. Today, it is of paramount importance for democratic countries to turn the so-called democracy into an active legal and political institution, which must be demonstrated by the existence of a free and fair state and

³ United Nations Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression” Doc. A/HRC/26/30, July 2, 2014, 10, <http://undocs.org/A/HRC/26/30>

⁴ European commission for democracy through law, Electoral law, (Strasbourg: Council of Europe and Venice Commission, 2013), 6, <https://www.venice.coe.int/webforms/documents/?pdf=CDL-EL%282013%29006-e>

⁵ Karen Offen, *International Encyclopedia of the Social & Behavioral Sciences* (UK: Pergamon, 2001), p. 34

⁶ Fabrice Lehoucq, *Electoral Fraud: Causes, Types, and Consequences*, Review in advance, no. 6, (February 2003), 233.

local self-government bodies that hold the trust of the people⁷. Elections are even more important because they are directly related to the stability, development and statehood of the state. Therefore, the establishment of electoral legislation, the electoral system and its subsequent improvement is one of the key preconditions for the establishment of representative institutions of democracy and effective, unhindered operation. However, if elections are being held in unreformed systems, their results range from nonexistent to partial credibility⁸.

An electoral system that is fairly elected plays a paramount role in the institutional decisions of any democracy. The specific choice of each electoral system has a significant impact on the future politics of a country; electoral systems usually stay quite stable as political interests consolidate and respond to stimuli.

The laws of the Electoral Code are often cited as a key factor in determining the success of an election, as it is the observance of those laws that forms both a stable domestic policy and a basis for refraining from further political manipulation. The electoral system of the whole world pays little attention to external models, rarely asks for the expert advice of self-governing specialists, and in the end adopts the system that they perceive to be perceptible⁹. In other words, the states, particularly the CIS countries, which are on the path to democracy, must at least take into account the reform package of the Electoral Code of such countries which have brought their state a step closer to democracy. It is not acceptable to make changes to the Electoral Code self-willingly, without taking into account professional opinions. The Electoral Code is the legal instrument that realizes the redistribution of relations between the borders of the authorities, the formation of new political roles, and other factors.

However, as experience shows, the amendments to the Electoral Code are applied with a completely different perception, particularly in the Republic of Azerbaijan.

The Electoral Code of the Republic of Azerbaijan consists of 7 sections, 246 articles¹⁰. In total, 21 amendments were made to the Electoral Code of Azerbaijan

⁷ Nona Harut'yunyan, "Əntrakan ərənsdrut'jan ardi himnaharcərə ew zargacman mitumneri Hajastani Hanrapetu t'yunum", Erewan, 2018, 8 [Nona Harutyunyan, Current issues of electoral legislation and development trends in the Republic of Armenia, Yerevan, 2018]:

⁸Lehoucq, *Electoral Fraud: Causes, Types, and Consequences*, 236.

⁹ Giovanni Sartori, *The Importance of Electoral Systems* (London: Palgrave Macmillan, 1994), 28.

¹⁰ Azərbaycan Respublikasının, Azərbaycan Respublikasının Seçki Məcəlləsi, 2003, last modified March 24, 2021, <http://www.e-qanun.az/code/17>

during 2003-2018¹¹. The first amendment to the Electoral Code was made after İlham Aliyev came to power in 2003, on November 11¹², and the last one in 2018, on December 18¹³, in total 21 changes.

The study is based on amendments to articles related to the opposition, candidate registration requirements, the electoral commission, and all articles that are directly related to showing the overall domestic political picture from a legal point of view. Reports, opinions and recommendations made by international organizations, in particular the Venice Commission (hereinafter referred to as the VC), the OSCE, including the Office for Democratic Institutions and Human Rights (hereinafter referred to as the ODIHR), will be key ones.

Throughout 2005, amendments to the Electoral Code were made during 3 different periods (March 4¹⁴, June 14¹⁵, June 28¹⁶ and December 23¹⁷). The total number of amended articles is 56, but before coming to the changes made in the original articles, let us refer to the ODIHR 2004 Joint proposals on electoral legislation and electoral governance in Azerbaijan¹⁸.

In the section "Proposed Amendments to the Electoral Code" of the document prepared by the above-mentioned two institutions, several important observations are made on the issues of the Electoral Code of Azerbaijan and their amendments.

¹¹ "İzbeəfacelni kodek's" Azərbaijanskoi Respubliki, Azərbaycan, 2020, stf. 1 ["Electoral Code" of the Republic of Azerbaijan, Azerbaijan, 2020, p. 1.]

¹² Azərbaycan Respublikasının Milli Məclisi qərar, Azərbaycan Respublikasının Seçki Məcəlləsinə dəyişiklik edilməsi haqqında Azərbaycan Respublikasının qanunu № 516-IIQD, 2003, last modified March 24, 2021, <http://www.e-qanun.az/framework/2570>

¹³ Azərbaycan Respublikasının Milli Məclisi qərar, Azərbaycan Respublikasının Seçki Məcəlləsinə dəyişiklik edilməsi haqqında Azərbaycan Respublikasının qanunu № 1397-VQD, 2018, last modified March 24, 2021, <http://www.e-qanun.az/framework/41184>
<http://www.e-qanun.az/framework/2570>

¹⁴ Azərbaycan Respublikasının Qanunu, Fövqəladə vəziyyət haqqında № 856-IIQD, 2005, last modified March 24, 2021, <http://www.e-qanun.az/framework/9494>

¹⁵ Azərbaycan Respublikasının Qanunu, Azərbaycan Respublikasının bəzi qanunvericilik aktlarında dəyişikliklər və əlavələr edilməsi haqqında № 938-IIQD, 2005, last modified March 24, 2021, <http://www.e-qanun.az/framework/10418>

¹⁶ Azərbaycan Respublikasının Qanunu, Azərbaycan Respublikasının Seçki Məcəlləsinə əlavələr və dəyişikliklər edilməsi haqqında № 957-IIQD, 2005, last modified March 24, 2021, <http://www.e-qanun.az/framework/10426>

¹⁷ Azərbaycan Respublikasının Milli Məclisi qərar, 23 dekabr 2005-ci il tarixli 35-IIIQD nömrəli Azərbaycan Respublikasının Qanunu, 2005, 1, last modified March 24, 2021, <http://www.e-qanun.az/framework/13703>

¹⁸ Venice Commission and the OSCE/ODIHR, Joint recommendations on the electoral law and the electoral administration in Azerbaijan Recommendation of 2004, CDL-AD(2004)016rev, Introduce in OSCE/ODIHR 1 of June 2004, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2004\)016rev-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2004)016rev-e)

It is noted that the Electoral Code is still very complicated and contains repetitions. The latter created difficulties for candidates, political parties, observers, election officials, and those who wished to get acquainted with it or file a complaint. Moreover, it was mentioned; "This reduces the transparency of the legislation; it contradicts the right of citizens to know the law clearly"¹⁹.

Great importance is also given to other important members of the Electoral Commission of Azerbaijan, in particular to the fact that the Electoral Code gives great authority to the chairman of the electoral commission. Therefore, it would be preferable to appoint presidents from various political parties, which, in its turn, will increase trust in the work of the commissions. In addition, it was stated that the decisions of the commissions require a quorum of two-thirds, with a two-thirds majority. This will require a high level of consensus to make the commissions effective²⁰. Moreover, the Electoral Code should present an understandable and translucent procedure for the nomination and selection of all commission representatives. As for the term of office of the Commissioners, the ODIHR noted that the term of office of the latter should be reviewed, which was 5 years, arguing that it is too long. Regarding the holding of early local elections in 2011, the Deputy Chairman of the People's Front Party of Azerbaijan Fouad Gehremanli noted that municipalities have low status and that they have no real authority. Moreover, he added that there are no conditions for holding fair elections in the country. Electoral commissions are under the control of the authorities, holding rallies are prohibited, and the opposition is not allowed to appear on television²¹.

The document also referred to the registration of candidates running in the elections. It was noted that the registration process for candidates should be significantly improved. The Electoral Code must shed light on the reasons for rejecting candidates in the presidential election. The number of signatures (45,000) required for the registration of presidential candidates should be reduced²².

In Azerbaijan, joint proposals on electoral law and electoral governance also refer to Article 86 of the Electoral Code, stating that it should be amended to clearly regulate demonstrations and open-air rallies. Of course, we must also take

¹⁹ Ibid

²⁰ Venice Commission and the OSCE/ODIHR, Joint recommendations on the electoral law and the electoral administration in Azerbaijan Recommendation of 2004

²¹ Faik Medjid, V Azejbajiane idyöt pödgötövka k viböräm samöupravleniya v 330 munic`ipalitetax, last modified March 25, 2021, <https://www.kavkaz-uzel.eu/articles/-195757/>, [Preparations for local self-government elections in 330 municipalities are underway in Azerbaijan, Caucasian Knot, November 14, 2011]

²² Ibid

into account the fact that the lack of 268,106 votes near the second place indicates that the opposition Musavat party has been enjoying the trust of citizens since 2003 (If we do not take into account that during the 2003 presidential elections a large number decided not to run in 2008. on August 2. The main reasons for not participating were the number of electoral violations), but did not run in this presidential election. Their reasons for not participating in the elections were the lack of freedom of assembly and the imprisonment of journalists, as well as the lack of a consistent position with international organizations on the elections²³. Moreover, election commissions were to be given special powers to offer local governments the right to provide polling stations for all competitors under the same conditions. It was important that the VC and ODIHR addressed the issue of free airtime for candidates. It was mentioned that Article 194 of the Code sets a 5% threshold, which is necessary to release presidential candidates from the obligation to pay for free airtime and pavilion. The threshold should be lowered to 3%, in accordance with the 3% threshold set for parliamentary elections (Article 161 1 Article 230). It is proposed to demand 3% of valid votes instead of the number of voters in the respective constituency²⁴.

The official document also refers to the observers who are an important component of the elections. It was stated that if some NGOs receive foreign state funding, it should not prohibit their appointment as observers. This clause called for an amendment to the Law on Public Organizations and Foundations. After the VC and ODIHR also called for "the Code to stipulate that observers have the right to enter election commissions after completing all election tasks from Election Day until." "This increases the transparency of the work of the commissions, especially the CEC, in the crucial days before the final results are announced"²⁵. Moreover, valuing the amendments to the Electoral Code, the call for organizations was to ensure a simple procedure for registering individual observers.

In 2004, VC and ODIHR in the recommendations called for "the authorities to take steps as soon as possible to turn the state-run television station into an independent public service broadcaster with balanced reporting, including coverage

²³ News website, "İsa Qəmbər: İndiki halda seçkilərə qatılmamaq daha uyğundur", August 4, 2008, last modified March 25, 2021, http://www.turan.az/login_az.php?doc=%2Fhome-3%2Fturanne1%2Fpublic_html%2Fnews%2F2008%2Fsubsc%2Fpolitics_8_az.htm&anc=51498&pb=politics&op=exit

²⁴ Venice Commission and the OSCE/ODIHR, Joint recommendations on the electoral law and the electoral administration in Azerbaijan Recommendation of 2004

²⁵ Ibid, p. 5.

of the activities of leaders during elections"²⁶. In addition, they noted that during the elections (before the start of the campaign) the CEC should establish an independent media council with a professional, non-partisan staff, with a clear mandate to oversee the campaign through the media.

In the package of the above-mentioned proposals, we presented the key points that were essentially related to the election process in Azerbaijan. It was obvious that in 2004 according to the package of proposals, priority should be given to reviewing the Electoral Code to ensure that pro-government members do not dominate election commissions, and NGOs with international funding are allowed to appoint election observers. It should be stated that twenty opposition parties united in the Alliance for the Progress of Azerbaijan have announced that they will boycott the upcoming local elections. In particular, they stated that they had information that a list of candidates had been prepared, which included mayors and members, who are mainly members of the New Azerbaijan party or independent candidates supporting the so-called ruling party. The opposition representatives of the bloc also mentioned that in these conditions the results of the elections will be falsified and that they do not find it expedient to participate in the local elections. However, we will represent the extent to which the Azerbaijani government has made targeted changes in a summary. According to VC 2006 June 12 report²⁷, Azerbaijan has not implemented reforms in a number of areas:

AREA I: Subparagraph (c) states: "One of the remaining shortcomings of the Electoral Code of Azerbaijan is the fact that, according to international observers, the conduct of election commissions continued to be strongly in favor of the government, thus undermining trust in the independence of the electoral administration"²⁸. In other words, Azerbaijani authorities directly ignored the recommendations made in 2004 regarding the new composition of the commission being composed of representatives from different political parties, in order to increase public trust in the work of the commissions.

AREA II: Referring to Azerbaijan in 2006 report, the VC noted that the latter did not implement the 2004 Recommendations on reducing the signature requirements raised by the VC and ODIHR²⁹. This refers to the reduction of the number of 45,000 signatures required for the registration of presidential candidates.

²⁶ Ibid, p. 8.

²⁷ Venice Commission, "Report on electoral law and electoral administration in Europe", CDL-AD(2006)018, June 12, 2006, [https://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDCD-AD\(2006\)018-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDCD-AD(2006)018-e)

²⁸ Ibid, p. 9.

²⁹ Ibid. p. 18

AREA III: Another violation reported by the VC was the non-inclusion of NGOs as observers in the elections. Therefore, several local non-governmental organizations have been banned from conducting election observation missions, but by a last-minute decision, the ban was temporarily lifted only for 2004 local elections³⁰. The 2006 report noted that the lack of local observers, as well as the fact that the number of international observers was too low, made election fraud possible.

It should be noted that in addition to the above-mentioned directions, the VC addressed remarks and non-fulfillment of the recommendations to Azerbaijan and also registered a number of other omissions, violations, and non-fulfillment of the proposals. The non-implementation of the other proposals in the above-mentioned directions was distinguished by the fact that they were directly related to the elections and their conduct. It was more important to show how Azerbaijani authorities made it difficult to register candidates, particularly opposition figures, as well as other cases of non-prevention of election violations.

Representatives of the People's Front of Azerbaijan, Musavat and the Democratic Party of Azerbaijan expressed their dissatisfaction with the amendments to the Electoral Code. Arif Hacıyev, former deputy chairman of the Musavat party, referring to the change in the composition of the election commission, stated: "The authorities do not want to abandon the principle of forming election commissions at all levels"³¹. Continuing to insist that the commission should also include members of opposition parties.

It should be noted that despite all the efforts, Azerbaijan made changes in the Electoral Code that did not follow either the logic of the proposals of the VC or the demands of the opposition.

Some changes have been made in Azerbaijan since 2005, but compared to the changes of June 2³² and December 16³³ of 2008 they are not of major significance.

³⁰ Ibid. p. 27.

³¹ Gefai Dadaşev, "Oppozic'iya Azejbajana trebuyet p'rovidēnia svobodnix vib'rov". R'ia, <https://ria.ru/20050618/40545054.html>, [Geray Ddashev, Azerbaijan's opposition demands free elections, R'ia, June 6, 2005]

³² Azērbaycan Respublikasının Milli Mēclisi qērar, Polis haqqında Azērbaycan Respublikasının Qanununa, Azērbaycan Respublikasının 1999-cu il 7 dekabr tarixli 768-IQ nōmrēli Qanunu ilē tēdīq edilmiş Gōmrūk orqanlarında xidmēt haqqında Əsasnamēyē vē Prokurorluq orqanlarında qulluq keçmē haqqında № 611-IIIQD, 2008, 1, last modified March 24, 2021, <http://www.e-qanun.az/framework/4363>

³³ Azērbaycan Respublikasının Milli Mēclisi qērar, Azērbaycan Respublikasının Seçki Məcəllēsina əlavələr vē dəyişikliklər edilməsi haqqında № 739-IIIQD, Azērbaycan, 2008, 1, last modified March 24, 2021, <http://www.e-qanun.az/framework/16259>

The Venice Commission, in its “Opinion on the draft law on amendments to the Electoral Code of the Republic of Azerbaijan in 2008”³⁴, referred to the previous amendments to the Electoral Code.

Giving great importance to the conduct of elections and the protection of candidates' rights in this package of proposals, the VC referred to the reduced time of the election campaign and electoral processes. In this regard, the document states that most of the changes were related to the reduction of the official campaign duration by almost half. The official start of the campaign period has been decreased to 28 days from 60. Moreover, the deadline for announcing elections has been reduced from 120 to 75 days, and the deadline for organizing constituencies has been reduced from 115 days to 70 days before the start of voting³⁵.

These changes have their negative consequences. These consequences have negatively affected the rights of voters. If identical circumstances for providing information to voters were restricted some weeks earlier from Election Day, then the right of voters to get notice has been remarkably restricted. The reduction of the start of the official campaign period was also negative. This meant that voters, as well as candidates, particularly opposition candidates, did not have enough time to familiarize citizens with their election programs.

The VC also noted that Article 181.1³⁶ of the Electoral Code had been amended: “To reduce the number of signatures required for the presidential election from 45,000 to 40,000”. However, it was suggested that Article 181.2 be amended to allow every voter to submit signatures to only 1 probable candidate. Unfortunately, this proposal was ignored by the Azerbaijani authorities.

The document also refers to the coverage of election campaigns on television and radio. Article 77.1³⁷, which was also amended, contains a problematic point, which states that the election campaign will be conducted through state television and radio broadcasting organizations. The VC had a negative interpretation of this, noting, “News and political coverage, forums or articles on radio and state television must respect the principle of juridical equality. Biased coverage or

³⁴ Venice Commission and the OSCE/ODIHR, Joint opinion on the draft law on amendments and changes to the electoral code of the republic of Azerbaijan of 2008

³⁵ Venice Commission and the OSCE/ODIHR, Joint opinion on the draft law on amendments and changes to the electoral code of the republic of Azerbaijan of 2008

³⁶ Azərbaycan Respublikasının, Azərbaycan Respublikasının seçki məəcəlləsi, Bölmə 6, Maddə 181.1, 2003, last modified March 25, 2021, <http://www.e-qanun.az/code/17>

³⁷ Azərbaycan Respublikasının, Azərbaycan Respublikasının seçki məəcəlləsi, Bölmə 2, Maddə 77.1, 2003, last modified March 24, 2021, <http://www.e-qanun.az/code/17>

treatment in state-funded media should be prohibited, and immediate action is required from the authorities in the event of any breach"³⁸. In this regard, the leader of the Liberal Party Lale Shovket noted that elections in Azerbaijan, in the absence of a democratic atmosphere, cannot be free and fair, if "the free press is pressured, leading journalists are detained, political prisoners are imprisoned, freedom of assembly is restricted, the Electoral Code is introduced. There are reactive changes, the government has monopolies in the election commissions"³⁹.

Amendments to the Electoral Code of Azerbaijan consist of the inclusion of new articles, in particular 11-1⁴⁰ (prevention of illegal interference in the conduct of elections (referendum)), 47.5-1 (procedure for excluding citizens from the voter list), 73-1⁴¹ (refusal of a candidate to run for office), 170.3⁴² (Failure of elections in a single-mandate constituency or invalidation of elections). All of these articles were approved by the Venice Commission, with a few exceptions.

Let us state that the above-mentioned new articles have nothing to do with facilitating the registration of an opposition candidate, protecting their rights, and eliminating election violations. Taking into account the above remarks, which have not been revised or have been partially revised, we can say that changes have been made, but they are more aimed at limiting the opposition and providing even more favorable conditions for the government.

To get an overview of the extent to which the Azerbaijani authorities have pursued this or that proposal or point of view on the Electoral Code by amending the articles, let us present the amendments or omissions of the Code from 2008 to 2018, as well as insufficient changes and omissions.

Despite the efforts of international organizations to try to improve the Electoral Code in Azerbaijan as much as possible, we should note that Article 23.1, the term of office of the members of the Central Electoral Commission (hereinafter referred to as the CEC), has not been amended. The members of the commission

³⁸ Venice Commission and the OSCE/ODIHR, Joint opinion on the draft law on amendments and changes to the electoral code of the republic of Azerbaijan of 2008

³⁹ *Öpozic`iya v Azejbajfane zayavlyayet ö nelegalnix predstoyaşix prezidentskix viberöv*, last modified April 21, 2021, <https://www.kavkaz-uzel.eu/articles/143272/>, [Faik Medjid, Opposition in Azerbaijan claims the illegitimacy of the upcoming presidential elections, Caucasian Knot, September 5, 2008]

⁴⁰ Azərbaycan Respublikasının, Azərbaycan Respublikasının seçki məcəlləsi, Bölmə 1, Maddə 11-1, 2003, last modified April 21, 2021, <http://www.e-qanun.az/code/17>,

⁴¹ Azərbaycan Respublikasının, Azərbaycan Respublikasının seçki məcəlləsi, Bölmə 12, 73-1 Maddə, 2003, last modified March 24, 2021, <http://www.e-qanun.az/code/17>,

⁴² Ibid, chapter 27, 170.3

continue to hold office for 5 years⁴³. In the election of CEC members, the distribution of balanced seats between the government and the opposition has also remained unchanged. According to Article 24.1, there are 18 CEC members elected by the Milli Mejlis. Article 24.3 defines the issue of election of CEC members, according to which 6 members are nominated by deputies from the majority political parties in the Milli Mejlis, the other 6 members are elected regardless of their political party affiliation. As for the last six members, they are elected from the political minority parties in the Milli Mejlis⁴⁴. Article 28.2⁴⁵, the proposal of the Electoral Commission to increase the quorum of decisions, has also not been revised. The VC suggested that decisions should require a quorum of two-thirds, with a two-thirds majority that would require a high level of consensus to make the commissions work. It turns out that the Electoral Commission, in order to ensure a quorum, proposes to clearly define the mandatory presence of two-thirds, i.e. 12 members of the commission, and not according to the current members.

It can be concluded from the above that the Azerbaijani authorities ignored all the proposals and opinions on the CEC. It should be noted that the inclusion of the opposition in the commission, with proportional distribution of seats, would give the opposition a great opportunity to restrain the government, in particular to prevent electoral violations and to hold elections on equal terms. Moreover, shortening the term of office of the commission members would also play a role in the conduction of elections, the registration of electoral violations, and, if necessary, the holding of by-elections. Despite the fact that the VC and the ODIHR in 2004 and 2008 adopted documents, it was stated that Azerbaijan had not implemented the necessary changes regarding the reforms in the legal framework of the Central Electoral Commission and stressed their importance.

Note that the above articles were not the only ones that were not changed. Article 86⁴⁶ has not been amended by the Electoral Code, the conditions for conducting pre-election campaigns through mass events. Already in 2004, the VC referred to that article, noting that the latter should be changed in order to clearly regulate demonstrations and outdoor gatherings. Moreover, election commissions were to be given special powers to propose to local governments to provide polling

⁴³ Azərbaycan Respublikasının, Azərbaycan Respublikasının seçki məəcəlləsi, Bölmə 3, 23.1 Maddə, 2003, last modified March 24, 2021, <http://www.e-qanun.az/code/17>

⁴⁴ Ibid, 24.3

⁴⁵ Azərbaycan Respublikasının, Azərbaycan Respublikasının seçki məəcəlləsi, Bölmə 4, 28.2 Maddə, 2003, last modified March 24, 2021, <http://www.e-qanun.az/code/17>

⁴⁶ Azərbaycan Respublikasının, Azərbaycan Respublikasının seçki məəcəlləsi, E-qanun, Bölmə 13, Maddə 86, 2003, last modified March 24, 2021, <http://www.e-qanun.az/code/17>

stations under the same conditions for all competitors. However, in the case of Article 23.1 as well as in Article 86, Azerbaijan ignored the recommendations of international organizations. Article 86.3 of the Electoral Code provides a statement on the holding of rallies in areas of state or community ownership, but this article also does not specify the conduct of rallies and open-air rallies. There are only conditions for allocating the territory to the persons belonging to this or that political party of the precinct, and all these events are carried out by the Electoral Commission. Moreover, not only is there no balanced distribution of seats among the ruling opposition parties, but it will also be difficult to find at least two members of opposition committees.

In this context, it would be appropriate to refer to Article 75.2 of the Electoral Code of Azerbaijan, which is the period of the election campaign. Still in 2008 in its opinion on the draft law on amendments to the Electoral Code of the Republic of Azerbaijan, the VC stated that changing the official start of the campaign period from 60 to 28 days would negatively impact the rights of voters, which would restrict the right of voters to receive information, and they called for the reconsideration of this approach. However, in 2008 As a result of the June 2 amendments, the revision of this article decreased the campaign start time before the voting day, bringing it down to 23 days⁴⁷. Moreover, in 2010, as a result of the relevant amendments of June 18, the deadline for announcing elections (referendum) in Article 8.1 was reduced from 75 to 60 days, and already the same article was again amended in 2018, stating the deadline for announcing elections should be 60 days before the voting day⁴⁸. This article was amended again, according to which: "The decision (order) to hold elections (referendum) is officially announced at least 60 days before the voting day"⁴⁹.

In addition, the opposition parties Musavat and Hope have stated they will not run in the by-elections. The "Muslim Unity" movement also joined the boycott of the elections, stating that the boycott of the elections is due to the fact that the country does not have a transparent electoral system or fair courts. The announcement states: "Unfortunately, the country does not have a transparent

⁴⁷ Ibid, 75.2

⁴⁸ Azərbaycan Respublikasının, Azərbaycan Respublikasının seçki məəcəlləsi, Bölmə 1, Maddə 8.1, 2003, last modified March 24, 2021, <http://www.e-qanun.az/code/17>

⁴⁹ Azərbaycan Respublikasının Milli Məclisi qərar, Azərbaycan Respublikasının Seçki Məcəlləsində dəyişiklik edilməsi haqqında № 1397-VQD, Azərbaycan, 2018, 1, last modified March 24, 2021, <http://www.e-qanun.az/framework/41184>

system of fair judicial elections. For many years, our people have been suffering from the injustice of the courts, election fraud and illegal arrests"⁵⁰.

It can be concluded from the above that as a result of the amendments to the previous articles, as well as the amendments to these articles, an attempt was made to exclude the opposition from the election campaign as much as possible. By shortening the deadlines for announcing elections before the start of the voting day, the latter are deprived of full participation in the elections and are unable to prepare for the elections on time. In this regard, in 2015, a number of Azerbaijani parties stated that they will not run in the elections. In particular, neither the Democratic Party of Azerbaijan nor the National Council of Democratic Forces participated in the parliamentary elections of 2015. At the same time, he stated that half of the conditions necessary for free and fair elections in the country were not met, which is why they refused to participate in the elections⁵¹. A number of parties called for a boycott of the elections, including some parties of the Freedom 2015 bloc. This fact, of course, could not but affect the future activities of the alliance. Thus, the leader of the Freedom Party Ahmed Oruj stated that there is no transparent environment in the country to participate in the elections and refused to participate in the elections. He added that the latter asked the government to discuss these issues, but did not receive a positive answer⁵².

It should be noted that the last amendment to Article 8.1 in 2018 left the requirement almost the same. It was clearly stated that the deadline for announcing elections was changed from 75 to 60. What prevents the government from announcing the elections exactly 60 or even sooner, 50 days before, which was implemented in the 2010 amendments? Nothing, in fact. It turns out that the Azerbaijani authorities do not intend to improve the position of the opposition in the Electoral Code, to give them the opportunity to run at least on equal terms in the local, presidential and Milli Mejlis elections. Additionally, in 2018, International observers recorded 63 cases of tension at polling stations, including 20 attempts to influence voters who came to the polls, and 9 cases of intimidation. Unauthorized persons were found in 78 polling stations; 19 incidents in polling

⁵⁰ News Website, "Müsəlman Birliyi" hərəkatı prezident seçkilərini boykot edəcək", Mart 27, 2018, last modified March 23, 2021, <https://www.meydan.tv/ru/article/muselman-birliyi-herekatı-prezident-seckilerini-boykot-edecek/>,

⁵¹ News Website, "What to expect from the parliamentary elections in Azerbaijan?", October 30, 2015, last modified March 20, 2021, https://www.bbc.com/russian/international/2015/10/151030_azeri_parliament_elections

⁵² News Website, "Seçkinin əsas müzakirə mövzusu – boykot", September 23, 2015, last modified March 24, 2021, https://musavat.com/news/siyaset/sechkinin-esas-muzakire-movzusu-boykot_293854.html

stations to intervene or direct the process. More than a quarter of the observers reported significant procedural errors or omissions⁵³.

Conclusion

In summarizing the impact of the amendments to the Electoral Code of Azerbaijan on the opposition forces, it can be concluded that the opposition is deprived of competing with the government on equal terms. First, taking into account the fact that the opposition in Azerbaijan was deprived of membership in the Central Electoral Commission, which in its turn created unequal and uncontrollable conditions of the election process for the opposition. Moreover, the CEC, being the most important structure for both the organization and conduction of elections, was in fact governed by independent candidates nominated by the government, which made the CEC's impartiality highly unlikely. Citing the official start of the campaign period, the announcement of the elections and the negative decisions to reduce the number of constituencies, it should be noted that these had a significant impact on the opposition. Those negative consequences were reflected in the organization and conduct of the elections. Sometimes the elections were held ahead of schedule^{54,55}, due to which the latter did not have time to properly prepare for the elections. ODIHR, OSCE, and the VC are among the authoritative international organizations which in their reports, referred to the shortcomings of the Electoral Code of Azerbaijan, the weakening of the opposition and reforms. Of course, there have been positive changes in the amendments to the Electoral Code, in particular 11-1 (prevention of illegal interference in the conduction of elections (referendum)), 47.5-1 (the procedure for excluding citizens from the voter list) and other articles, but they are counterbalanced by changes in their volume and nature, and they contradict the logic of positive change.

Thus, the government of the Republic of Azerbaijan still has a lot of work to do to improve the Electoral Code. It is difficult to say to what extent the Aliyev regime is ready or willing to hold free, fair and equal elections. However, one thing is obvious: the opposition in Azerbaijan is deprived of the principles of equality, freedom and justice.

⁵³ International election observation, "Statement of preliminary findings and conclusions", November 7, 2010, 12, <https://www.osce.org/files/f/documents/4/9/73524.pdf>

⁵⁴ İlham Əliyev, "Növbədənənar Azərbaycan Respublikası Prezidenti seçkilərinin elan edilməsi haqqında Azərbaycan Respublikası Prezidentinin Sərəncamı Act, February 05, 2018", in Public Website of the President of Azerbaijan (Azərbaycan: Azərbaycan Prezidentinin Rəsmi internet sahifəsi), <https://president.az/articles/26943>

⁵⁵ Azərbaycan Respublikası Mərkəzi Seçki Komissiyasının, "Səsvərmənin ümumi yekunlarına dair Mərkəzi seçki komissiyasının Protokolu", Azərbaycan, 2011