



THE FOUNDATION FOR DEMOCRATIC ADVANCEMENT

Azerbaijan Electoral fairness research

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Recent Political History of Azerbaijan

Almost Azerbaijan was in Persia Territory, before Iran and Russia wars in 19th century. During Median and Persian rule, many [Caucasian Albanians](#) adopted [Zoroastrianism](#) and then switched to [Christianity](#) prior to coming of Muslim [Arabs](#) and more importantly Muslim Turks. The Turkic tribes are believed to have arrived as small bands of [ghazis](#) whose conquests led to the [Turkification](#) of the population as largely native Caucasian and Iranian tribes adopted the Turkic language of the Oghuz and converted to Islam over a period of several hundred years.^[1]

The first major war began in 1803 between Iran and Russia in Caucasus area. Following Iranian defeat by Russia, Qajar Persia was forced to sign the [Treaty of Gulistan](#) in 1813, which acknowledged the loss of the territory to Russia. Local khanates were either abolished (like in Baku or Ganja) or accepted Russian patronage. [Another Russo-Persian war in 1826–28](#) resulted in another crushing defeat for the Iranian army. The Russians dictated another final settlement as per the [Treaty of Turkmenchay](#), which resulted in the [Qajars](#) of Persia ceding Caucasian territories in 1828. The treaty established the current borders of Azerbaijan and Iran as the rule of local khans ended. In the Russian controlled territories, two provinces were established that later constituted the bulk of the modern Republic – Elisavetpol ([Ganja](#)) province in the west, and [Shamakha](#) province in the east.

At the collapse of the [Russian Empire](#) in 1917, an independent republic was proclaimed in Ganja on May 28, 1918 following an abortive attempt to establish a federal [Transcaucasian Republic](#) with [Armenia](#) and [Georgia](#). This was the first Democratic Republic established in the Islamic World. In Baku, however, a coalition of [Bolsheviks](#), [Dashnaks](#) and [Mensheviks](#) fought against a Turkish-Islamic army led by [Nuru Pasha](#). This coalition known as the "[Baku Commune](#)" also inspired or tacitly condoned the massacres of local Muslims by well-armed Dashnak-Armenian forces. This coalition, however, collapsed and was replaced by a British-controlled government known as [Central Caspian Dictatorship](#) in July, 1918. British forces under General [Dunsterville](#) occupied Baku and helped the mainly Dashnak-Armenian forces to defend the capital. However, Baku fell on September 15, 1918 and an Azeri-Ottoman army entered the capital, causing British forces and much of the Armenian population to flee. The [Ottoman Empire](#), however, capitulated on October 30, 1918 and the British occupational force re-entered Baku.

Azerbaijan was proclaimed a secular republic and its first parliament opened on December 5, 1918. British administration initially did not recognize the Republic but tacitly cooperated with it. By mid-1919 the situation in Azerbaijan had more or less stabilized, and British forces left in August, 1919. However by early 1920, advancing Bolshevik forces, victorious in [Russian Civil War](#), started to pose a great threat to young republic, which also engaged in a conflict with Armenia over the [Karabakh](#). Azerbaijan received *de facto* recognition by the Allies as an independent nation in January 1920 at the Versailles [Paris Peace Conference](#). The republic was governed by five cabinets, all formed by a coalition of the [Musavat](#) and other parties including the Socialist Bloc, the Independents, the Liberals, the Social-Democratic Party [Hummat](#) (or Endeavor) Party and the Conservative [Ittihad](#) (Union) Party. The premier in the first three cabinets was [Fatali Khan Khoyski](#); in the last two, [Nasib Yusifbeyli](#). The president of the parliament, [Alimardan Topchubashev](#), was recognized as the head of state. In this capacity he represented Azerbaijan at the Versailles [Paris Peace Conference](#) in 1919.

Aided by Azeri dissidents in the Republican government, the [Red Army](#) invaded Azerbaijan on April 28, 1920. The bulk of the newly formed [Azerbaijani army](#) was engaged in putting down an Armenian revolt that had just broken out in Karabakh. The Azeris did not surrender their brief independence of

1918–20 quickly or easily. As many as 20,000 died resisting what was effectively a Russian reconquest. [42] However, it has to be noticed that the installation of the [Azerbaijan Soviet Socialist Republic](#) was made easier by the fact that there was a certain popular support for Bolshevik ideology in Azerbaijan, in particular among the industrial workers in Baku. [43] The same day a Soviet government was formed under [Nariman Narimanov](#). Before the year was over, the same fate had befallen [Armenia](#), and, in March 1921, Georgia as well.

On September 8, 1991, the [first nation-wide presidential elections](#), in which Mutalibov was the only running candidate, were held in Azerbaijan. While the elections were neither free nor fair by international standards, Mutalibov formally became the elected president of Azerbaijan. The adoption of the [Declaration of Independence](#) by the [Supreme Soviet of Azerbaijan SSR](#) on October 18, 1991 was followed by a dissolution of the [Azerbaijani Communist Party](#). However, its former members, including President [Ayaz Mutalibov](#), retained their political posts.

In December, 1991 in a nationwide referendum, Azerbaijani voters approved the Declaration of Independence adopted by the Supreme Council; with the dissolution of the Soviet Union, Azerbaijan is recognized as independent state. From 1993, Azerbaijan political power is concentrated in Aliyev family.

Election in Azerbaijan:

People can vote in election to choose : President, Majlis (Parliament) members, ,Mayors

Azerbaijan presidential election, 2003

Summary of the 15 October 2003 Azerbaijan presidential [election results](#)

Candidates and nominating parties	Votes	%
İlham Aliyev — New Azerbaijan Party	2,438,787	76.8
İsa Qambar — Equality Party	372,385	14.0
Lalə Şövkət Hacıyeva — National Unity	100,558	3.6
Etibar Mammadov — Azerbaijan National Independence Party	62,401	2.9
İlyas İsmayılov — Justice Party	24,926	1.0
Sabir Rüstamxanlı — Civic Solidarity Party	23,730	0.8
Qüdrat Hasanquliyev — Azerbaijan Popular Front Party	13,624	0.5
Hafiz Hacıyev — Modern Equality Party	9,990	0.3
Total (turnout 71.5%)	3,046,401	

Source: Central Election Commission

After the [presidential elections](#) of October 15, 2003, an official release of the Central Election Committee (CEC) gave [İsa Gambar](#) — leader of the largest opposition bloc, [Bizim Azərbaycan](#) ("Our Azerbaijan") — 14% percent of the electorate and the second place in election. Third, with 3.6%, came [Lalə Shevket](#), leader of the National Unity Movement, the first woman to run in presidential election in Azerbaijan. Nevertheless, the [OSCE](#), [6] the [Council of Europe](#), [Human Rights Watch](#) [7] and other international organizations, as well as local independent political and [NGOs](#) voiced concern about observed vote rigging and a badly flawed counting process.

Several independent local and international organizations that had been observing and monitoring the election directly or indirectly declared [İsa Gambar](#) winner in the 15 October election. Another view shared by many international organisations is that in reality a second tour of voting should have taken place between the two opposition candidates [İsa Gambar](#) and [Lalə Shevket](#).

^ [Human Rights Watch](#) commented on [these elections](#): "Human Rights Watch research found that

the government has heavily intervened in the campaigning process in favor of Prime Minister Ilham Aliev, son of current President Heidar Aliev. The government has stacked the Central Election Commission and local election commission with its supporters, and banned local non-governmental organizations from monitoring the vote. As the elections draw nearer, government officials have openly sided with the campaign of Ilham Aliev, constantly obstructing opposition rallies and attempting to limit public participation in opposition events. In some cases, local officials have closed all the roads into town during opposition rallies, or have extended working and school hours—on one occasion, even declaring Sunday a workday—to prevent participation in opposition rallies." [7]

In addition to criticism by [Human Rights Watch](#), several Azerbaijani journalists, including [Eynulla Fatullayev](#) and [Elmar Huseynov](#), have been persecuted or been killed for their criticism of the government.

Constitution:

Article 81. Implementation of legislative power

Legislative power in the Azerbaijan Republic is implemented by Milli Majlis of the Azerbaijan Republic.

Article 82. Number of deputies in Milli Majlis of the Azerbaijan Republic

Milli Majlis of the Azerbaijan Republic consists of 125 deputies.

Article 83. Procedure of elections of deputies of Milli Majlis of the Azerbaijan Republic

Deputies of Milli Majlis of the Azerbaijan Republic are elected based on majority and proportional voting systems and general, equal and direct elections by way of free, individual and secret voting.

1. Laws and regulation on equality of political content of media and broadcasters

Main Research Findings:

Public media and broadcasters must be impartial. There are very comprehensive and direct laws supporting the impartiality of public media and broadcasters.

Azerbaijan state allows foreign media.

Propaganda must not promote racial, national, religious and social discord and animosity.

Private media and broadcasters not required to be impartial.

Journalists and media companies must support the government against terrorism and the Armenian occupation of the Karabakh enclave, avoiding obscenity and rebellious incitements against the government, protecting the constitutional rights of the Azerbaijani people, reporting fraud and crimes, and supporting the constitutional institutions.

Research Excerpts:

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasis high relevance:

Constitution:

Article 50. Freedom of information

I. Everyone is free to look for, acquire, transfer, prepare and distribute information.

II. **Freedom of mass media is guaranteed. State censorship in mass media, including press is prohibited.**

Anti-censorship Decree of 1998:

Promote free and open information. *Hayat*, *Khalg Gazeti*, *Bakinskii Rabochii*, the weekly English newspaper, ANS, Azertag, BBC Azerbaijan, the Media Press Agency, Internews Azerbaijan, Azerbaijan Broadcasting Agency, Azerbaijan State TV, and foreign media are all entitled to open and free news.

Journalists and media companies must pass the screening tests of the Information Ministry, Ministry of Culture, and other governmental authorities. This includes paying fees and posting bonds, supporting the government against terrorism and the Armenian occupation of the Karabakh enclave, avoiding obscenity and rebellious incitements against the government, protecting the constitutional rights of the Azerbaijani people, reporting fraud and crimes, and supporting the constitutional institutions.

Public Broadcast law:

GENERAL PROVISIONS

Article 1. Purpose of public TV-radio broadcasting

Purpose of public TV-radio broadcasting (hereinafter referred to as "public broadcasting") is to ensure the general interests of population of Azerbaijan Republic - of the entire society as well as of its different groups - in social, scientific, cultural, educational, entertaining and other fields; to prepare

accurate and balanced information aimed at reflection of freedom of speech and thought, and of different views and opinions, and based on respect for human dignity, rights and freedoms, national moral values and values common to all mankind, ethical rules and norms of behaviour; to disseminate this information in a way corresponding to modern technical and high quality standards.

Article 2. Basic definitions

2.0. The terms used for the purposes of the present Law shall mean as follows:

2.0.1. **public broadcasting** - broadcasting of TV-radio programmes transmitted in open form by means of electromagnetic waves, satellite communication, cable network or by other terrestrial technical facilities in all the territory of Azerbaijan Republic, received by general public and aimed at interests of everyone individually and of the society as a whole; [Public broadcaster includes private broadcasters]

Article 4. Principles of public broadcasting

4.0. Public broadcasting shall be performed on basis of the following principles:

- 4.0.1. independence;
- 4.0.2. objectivity, impartiality and accuracy of information;
- 4.0.3. pluralism and tolerance;
- 4.0.4. estrangement from clear political interests;
- 4.0.5. conciliation and ensuring of general interests;
- 4.0.6. development of national self-consciousness;
- 4.0.7. universality;
- 4.0.8. diversity;
- 4.0.9. distinction from others.

CHAPTER II

Organisation of Public Broadcasting

Article 5. Legal status of the public broadcaster

5.1. The public broadcaster shall be a legal entity.

5.2. The public broadcaster shall be funded by subscription fee, unless another procedure is provided for in the present Law.

5.3. The public broadcaster shall be the founder of its programs and the owner of its property.

5.4. The public broadcaster shall have the right to own, use and dispose of its property and the latter shall be used only for the purposes of public broadcasting;

5.5. The public broadcaster shall supervise over efficient use of property and shall bear responsibility for its preservation.

5.6. The property of the public broadcaster may not be privatised or, with the exception of cases specified in the present Law, be sold.

5.7. The public broadcaster shall itself define the form and content of its programmes (broadcasts) and bear the responsibility for the programs it disseminates.

5.8. The title of the public broadcaster shall be "Azerbaijan National TV and Radio Broadcasts Company".

5.9. Azerbaijan National TV and Radio Broadcasts Company shall operate on the basis of the present Law and the Statute prepared in accordance with the requirements of the present Law and subject to State registration.

Article 8. Duties of the public broadcaster

8.0. The public broadcaster shall have the following duties:

8.0.1. to ensure the right of citizens to receive impartial and balanced information on important events taken place in the country and in the world, activities of the State bodies, municipalities, political parties, public associations, religious and commercial organisations;

- 8.0.2. to ensure the interests of citizens by means of cultural and educational, informational and entertainment programmes which preserve and develop national moral values and values common to all mankind;
- 8.0.3. to record the performances, feature films, documentaries, cartoons, serials, works of arts based on works of Azerbaijani and the world's authors, which are examples of high mastery as well as to record the most important events of our history and culture and preserve them for the future generations in gold fund of the public broadcaster.
- 8.0.4. to create equal possibilities for everybody to freely express their thoughts on the air.
- 8.0.5. to ensure the right of reply of citizens;
- 8.0.6. to ensure the objectivity, impartiality and accuracy of information;
- 8.0.7. not to broadcast the programmes propagating obscene materials, violence, cruelty, religious and racial discrimination;
- 8.0.8. to respect the privacy, dignity and honour of citizens;
- 8.0.9. to keep the professional ethics during the broadcasting.

Article 9. Air-time for third parties

- 9.1. The public broadcaster may, on the basis of a contract, allot the paid air-time to third parties.
- 9.4. The third parties which have been allotted air-time under the present Law, shall be responsible for the programmes they disseminate.

Article 16. Requirements to programmes of public broadcasting

- 16.1. While preparing the programmes in order to fulfil the purposes determined by the present Law, the public broadcaster shall take into account different trends in political convictions, religious and philosophical views, public opinion existing in the society, as well as equality of rights of all citizens of the country.
- 16.2. Programmes shall reflect the whole diversity of the national moral values, traditions and customs, culture and art.
- 16.3. One-sided preference to or propaganda of political views in programmes of public broadcasting shall be prohibited. Different points of views, approaches to problems, comments and analysis shall be presented on alternative grounds and in the form of discussions in accordance with principles of pluralism and tolerance.
- 16.4. Attention to creation of new and original TV-radio products, transmission of feature films, television serials and performances shall be increased.
- 16.5. There shall be created conditions for demonstrating to viewers the world's best serials, feature films, documentaries and cartoons translated into Azerbaijan language.
- 16.6. The preference shall be given to dissemination of cinemas, TV-video and radio products produced in Azerbaijan.
- 16.7. The content, source and reliability of information used in programmes shall be examined as thoroughly as possible.
- 16.8. The programmes shall be transmitted on the entire territory of the country. "The entire territory of the country" shall mean at least 98% of territory of the country for TV programmes and at least 98% of territory of the country for radio programmes.
- 16.9. Information in news programmes shall be comprehensive, objective and independent, prepared in accordance with different views existed in society and the comments shall be clearly distinguished from information.
- 16.10. The quotation and fragments from programmes of the country's other broadcasters may be placed in programmes of the public broadcaster free of charge, on the condition that length of these quotations and fragments do not exceed 90 seconds, and the source shall be indicated by showing its logo.

CHAPTER IV

Management of public broadcasting

Article 20. Exercising the competence of the public broadcaster

20.1. Competence of the public broadcaster laid down in the present Law shall be exercised by the Broadcasting Council, the Board of Governors and the Director General.

21.2. The Director General and his / her deputies, members of the Broadcasting Council and the Board of Governors may not be members of any political party.

Article 21. Formation of the Broadcasting Council

21.1. Candidates for membership of the Broadcasting Council shall be nominated by non-governmental organisations not engaged in political activity, creative and civil associations as well as by the Azerbaijan Confederation of Trade Unions and the Azerbaijan Academy of Sciences and elected through a competition.

Funding of public broadcasting

Article 30. Sources of funding of public broadcasting

30.1. The public broadcaster shall be funded by the following sources:

30.1.1. the incomes from the subscription fee unless another procedure is provided for in this Law;

30.1.2. the sponsorship;

30.1.3. the donations by natural persons and legal entities;

30.1.4. the incomes from advertising;

30.1.5. the incomes from selling of audio and audiovisual programmes;

30.1.6. the incomes from selling of serials, performances, feature films, documentaries, cartoons and other films produced by the public broadcaster;

30.1.7. the incomes from organisation of concerts and shows;

30.1.8. other sources not forbidden by the legislation of Azerbaijan Republic.

30.2. Until the entry into force of Article 31 of the present Law, the means from the State budget shall be allocated in amount necessary for fulfilling the purposes of public broadcasting, uninterrupted functioning and perspective development, taking account of the incomes from other sources.

30.3. The funding from the State budget shall not constitute ground for interference by the State authorities in public broadcasting.

CHAPTER VI Responsibility for Violation of provisions of the Present Law

Article 32. Protection of rights of subscribers

32.1. Every person has the right to submit to the public broadcaster his / her wishes and suggestions.

32.2. The Director General shall examine the wishes and suggestions received, take measures if necessary, and periodically, but not later than in three months, publish the report in mass media about the measures taken.

32.3. The public broadcaster shall comply with the requirements on disproof, rectification or reply laid down in the legislation on mass media with regard to providing citizens with false information, degrading their honour and dignity, and inflicting harm to their business positions.

32.4. Every person who submitted complaint against violation of his / her rights during public broadcasting may obtain the video or audio copy of the same program at his / her own expense.

Law on Political Parties:

Political parties have the right to disseminate information about their activities, to popularize their ideas, aims and programmes, to establish mass media, and to hold meetings, demonstrations and other mass arrangements within the procedure defined by law.

Election Code:

Article 77. Basic Duties of Mass Media during the Pre-Election Campaign

77.1. Public Television and radio companies or periodicals that are founded by state bodies and organizations, or funded by the state budget, **shall create equal conditions for registered candidates, political parties and blocs of political parties to conduct their election campaign**, and for referendum campaign groups with 20 thousand members or more to conduct their pre-referendum campaign for/ against issues to be discussed through a referendum, using funds allocated from the government budget. The TV and radio companies and periodicals mentioned above may not campaign for or against the registered candidates, political parties and bloc of political parties, or issues to be discussed through a referendum on their own initiative. No election campaign is conducted by the TV and Radio companies that belong to the state.

77.2. The TV and radio companies and periodicals mentioned in Article 77.1. of this Code, which air programming or are distributed in half of the territory of the Republic of Azerbaijan or more, **shall be obliged to create conditions for pre-election campaigning for registered candidates for Presidential elections**, for political parties or blocs of political parties with registered candidates in more than 60 single mandate election constituencies or in more than a half of all municipalities, and for referendum campaign groups with 40,000 or more members. The Central Election Commission shall publish the list of TV and radio companies and periodicals mentioned above, on the basis of a document submitted by the relevant executive authority IFES Unofficial Translation. August 2008 85 body no later than 20 days after the official publishing of the decision to hold elections.

77.3. TV and radio companies that air in less than half of the territory of the Republic of Azerbaijan, as well as the relevant branches of TV and radio companies mentioned in Article 77.2 of this Code and periodicals mentioned in Article 77.1. of this Code which are distributed in less than half of the territory of The Republic of Azerbaijan, may create conditions for election campaigning within the territory of the relevant administrative unit for candidates registered in a single mandate constituency, referendum campaign groups that have 20,000 or more members, and political parties or blocs of political parties whose candidates have been registered in more than 1/3 of all municipalities. The list of TV and radio companies and periodicals shall be published by the relevant Constituency Election Commission on the basis of a document submitted by the relevant executive authority body within 35 days of the official publishing of the decision to hold elections.

77.4. TV and radio companies or periodicals not considered by Article 77.1 of this Code, that are founded by municipal institutions, shall have to create equal conditions for referendum campaign with 2,000 or more members, and registered candidates in the relevant municipality who are covered by the relevant constituency to conduct their election campaign. They shall have to create equal conditions for the registered candidate, political parties or blocs of political parties, and referendum campaign groups who are campaigning in the territory of the relevant municipality. If such TV and radio companies and periodicals do not at all participate in campaign activities, they may refuse to publish any materials or to allocate airtime.

Article 78. Common Terms of Pre-election Campaigning Using Mass Media on a Paid Basis

78.1. The TV and radio companies and periodicals mentioned in articles 77.1 and 77.4 of this Code shall have the right to allocate paid airtime and print-space for registered candidates, registered candidates of political parties or blocs of political parties, and referendum campaign groups, on a contractual basis.

78.2. The amount and terms of payment should be equal for the relevant registered candidates, political

parties or blocs of political parties, and referendum campaign groups.

78.3. Within at least 35 days of the official publishing of the decision to hold elections, the relevant TV and radio companies and periodicals shall publish information on the rate of charge and the notification on the possibilities for allocating airtime and print-space sent to the registered candidates, political parties, blocs of political parties, IFES Unofficial Translation. August 2008 86
referendum campaign groups, the Central Election Commission, and the Constituency Election Commission.

78.4. Private TV and radio companies and periodicals may refuse to publish pre-election campaign material. Private TV and radio companies and periodicals may not be forced to publish pre-election campaign materials. If such materials are published, then the conditions for publishing should be equal for all candidates, political parties, and referendum campaign groups (this does not apply to the periodicals provided for in Article 85.4 of this Code).

Article 79. Registration of the Cost and Volume of Print-Space in Periodicals or Airtime in Mass Media Allocated for Pre-Election Campaign

79.1. The TV and radio companies and periodicals allocating free or paid airtime or print-space for registered candidates, political parties, and referendum campaign groups, should register the cost and volume of the allocated print-space and airtime in the form determined by the Central Election Commission. Records on the cost and volume of print-space and airtime allocated should be provided to the election commission which carries out registration of the above-mentioned candidates or groups, at least 5 days prior to Election Day, and at most 5 days after Election Day.

79.2. The registered candidates, political parties, blocs of political parties, and referendum campaign groups are obliged to submit the documents approving consent of payment for paid airtime and print-space upon the inquiry of the relevant election commission.

Article 80. Rules for Allocating Free Airtime on TV and Radio for Pre-election Campaigning

80.1. The following shall have the right to free airtime of TV and radio companies for election campaigning, in accordance with Article 77.2 of this Code:

- Presidential candidates;
- Political parties or blocs of political parties with candidates registered in more than 60 single-mandate election constituencies, or in more than half of all municipalities; and
- Referendum campaign groups with 40,000 or more members.

80.2. The following shall have the right to free TV and radio airtime companies for pre-election campaigning, in accordance with Article 77.3 of this Code: IFES Unofficial Translation. August 2008 87

- Candidates registered in single-mandate constituencies;
- Referendum campaign groups with 20,000 or more members; and
- Political parties or blocs of political parties with candidates registered in more than 1/3 of all municipalities.

80.3. Candidates for membership of a municipality and referendum campaign groups with 2,000 or more members, shall have the right to free airtime for election campaigning from TV and radio companies, in accordance with Article 77.4 of this Code.

80.4. Within a week after the commencement of the period set forth in Article 75 of this Code, a lottery shall be held to divide the free airtime allocated according to Article 80.7 of this Code, on the basis of applications submitted by registered candidates, political parties, and blocs of political parties.

80.5. The total volume of free airtime for election campaigning allocated by the TV and radio companies referenced in Article 77.2 of this Code should be no less than 3 hours a week for pre-election campaigning. The total volume of the free airtime for election campaigning allocated by the TV and radio companies referred to in Article 77.3 of this Code, should be no less than 1 hour and 30

minutes a. If the total airtime of those broadcasting companies is less than 2 hours during a day, the mentioned airtime should not be less than $\frac{1}{4}$ of the total programming time. The allocated free airtime should be within the time when most viewers can watch it.

80.6. The free airtime provided by broadcasting companies shall be divided on equal terms and amounts among the registered candidates, political parties, blocs of political parties and referendum campaign groups.

80.7. The date and time of airing pre-election materials shall be determined by a lottery conducted by the relevant election commission in the presence of representatives of the relevant TV and radio companies. The information on the time and place of the draw shall be officially published. The persons mentioned in the Articles 40.2 and 40.4 of this Code have the right to participate in the draw. The results of the lottery shall be formalized by a protocol. The table of division of airtime determined by the lottery should be published in the periodicals mentioned in the Articles 77.2 and 77.3 of this Code.

80.8. Expenses of TV and Radio companies from allocating free airtime to candidates, political parties, blocs of political parties, and referendum campaign groups, shall be reimbursed from the state budget.
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Article 81. Conditions for Allocation of Paid Airtime for Conducting Election Campaigns on TV and Radio

81.1. Election campaigning on TV and Radio stations not considered by Articles 77.1 and 77.4 of this Code shall begin in accordance with a contract signed with the relevant TV and Radio companies.

81.2. TV and Radio companies considered by Article 77.1 of this Code should keep extra airtime in reserve for paid election campaigning. Candidates for membership of a municipality and referendum campaign groups with 20,000 members or more, may not use such airtime. The amount and terms of payment should be equal for all registered candidates, political parties, blocs of political parties, and referendum campaign groups, and relevant information about such airtime should be published at the latest within 35 days of the official publication of the decision determining the Election Day. The total volume of airtime reserved for paid campaigning by each TV and Radio company may not be less than or twice the total volume of free airtime allocated in conformity with Article 80.5 of this Code.

81.3. Norms of usage of airtime reserved for paid purposes for each registered candidate, political party, bloc of political parties, or referendum campaign groups shall be defined by dividing the total amount of reserved airtime by the total number of registered candidates.

81.4. Airtime mentioned in Article 81.2 of this Code should be presented by TV and Radio companies within the period mentioned in Article 80.4 of this Code. The time and date of election campaign materials to be aired shall be determined by the TV and Radio companies, on the basis of the results of a lottery conducted in the presence of the authorized representatives of candidates, political parties, blocs of political parties, and referendum campaign groups who received relevant notification. The lottery should be conducted within the period determined by Article 80.4 of this Code. Airtime shall be presented on the basis of a contract signed after the lottery.

81.5. If a registered candidate, political party, bloc of political parties, or referendum campaign group refuses to use airtime after the lottery, they should inform the relevant TV and Radio companies about this decision 2 days prior to the broadcasting day. TV and Radio companies shall decide themselves on how to use the vacant airtime for purposes other than election campaigning.

81.6. Allocation of and charging for airtime of TV and Radio companies not considered by Articles 77.1 and 77.4 of this Code, for registered candidates, political parties, blocs of political parties, and referendum campaign groups, shall be performed conducted on an equal basis and under equal conditions. TV and Radio companies that do not observe these requirements and the requirements of Article 78.2 of IFES Unofficial Translation. August 2008 89

this Code may not allocate airtime for election campaigning for registered candidates, political parties, blocs of political parties, or referendum campaign groups.

81.7. The contract on allocation of paid airtime should consider the following:

81.7.1. the method of election campaigning;

81.7.2. airtime date and time;

81.7.3. length of the airtime to be provided, and the terms and amount of payment; and

81.7.4. an act on the use of airtime, indicating the list of programs, name of the program and its broadcasting time, to be drawn up after the conclusion of an agreement indicating the form and conditions of participation of a leading journalist.

81.8. A registered candidate, political party, bloc of political parties, or referendum campaign group should submit the payment order for transfer of the full amount of money for airtime to the relevant bank at least 48 hours prior to the broadcasting day. The relevant bank should transfer money immediately receiving the payment order. The bank transfer should not take more than two banking days.

81.9. Payment for airtime should be made from the election fund of a registered candidate, political party, or bloc of political parties and from the pre-election financial fund (hereafter referred to as election fund) of referendum campaign groups.

81.10. If registered candidates, political party, bloc of political parties, or referendum campaign group violate the conditions set by this Code when using paid airtime, the relevant TV and Radio companies may appeal to the court for termination of the contract on allocation of airtime. TV and Radio companies shall not have the right to use the resulting vacant time for election campaign purposes after termination of the contract.

81.11. Paid air time for election campaigning on TV and radio shall be allocated in conformity with the legislation on advertisement.

Article 82. Requirements for Broadcasting of Election Campaign Programs via TV and Radio

82.1. Paid air time for election campaigning on TV and radio shall be allocated in conformity with the legislation on advertisement.

82.2. It shall be prohibited to interrupt election campaign programs of a registered candidate, political party, bloc of political parties, or referendum campaign groups, transmitted by TV and Radio IFES Unofficial Translation. August 2008 90

companies mentioned in Article 77.1 of this Code, with broadcasting of other TV or Radio programs.

82.3. Information on election campaigning activities of registered candidates, political parties, blocs of political parties and referendum campaign groups should be announced, as a rule, at the beginning of the telecast which is broadcasted without any comments. The registered candidates, political parties, blocs of political parties, and referendum campaign groups shall not pay for airtime spent on such information. In such cases, none of the registered candidates, political parties, blocs of political parties, or referendum campaign groups should be given preference when reporting election campaigning.

82.4. Election campaign telecasts or radiocasts shall be video/audio taped. They shall be maintained by TV and Radio companies for 12 months from the day they have been aired. TV and Radio companies should preserve reports on the allocation of free and paid airtime for 5 years starting from Election Day.

Article 83. Terms for Pre-election Campaigning through Periodicals on a Free Basis

83.1. In order to conduct unpaid pre-election campaigning, presidential candidates, political parties or blocs of political parties with registered candidates in more than 60 single mandate election constituencies or in more than a half of all municipalities, and referendum campaign groups with 40,000 or more members, shall be entitled to relevant space for free advertising in periodicals issued at least once a week, mentioned in Article 77.2 of this Code.

83.2 In order to conduct unpaid pre-election campaigning, candidates registered for single-mandate constituencies and referendum campaign groups with 20,000 or more members, as well as political parties or blocs of political parties whose candidates have been registered in more than 1/3 of all municipalities, shall be entitled to relevant space for free advertising in periodicals issued at least once a week, mentioned in Article 77.3 of this Code.

83.3. In order to conduct unpaid pre-election campaigning, candidates for municipal elections and referendum campaign groups with 2,000 or more members shall be entitled to relevant space for free advertising in periodicals issued at least once a week, mentioned in Article 77.4 of this Code.

83.4. Within a week of the beginning of the period set forth in Article 75 of this Code, a lottery shall be conducted, in the manner determined by the Central Election Commission, among registered candidates, political parties, blocs of political parties, or referendum campaign IFES Unofficial Translation. August 2008 91

groups, on the basis of their applications for the use of free publication space.

83.5. Editorial offices of the periodicals indicated in Article 77.1 of this Code shall allocate special pages in their periodicals for free publication.

83.6. The total weekly amount of free space allocated by editorial offices of each periodical indicated in Article 77.1 of this Code to the registered candidates, political parties, blocs of political parties, and referendum campaign groups, shall constitute at least 10% of the general volume of print-space for the period indicated in Article 75 of this Code. The editorial office of the publication shall announce the general volume of free publication space provided for pre-referendum campaigning at least 35 days after the publication of the decision setting the Election Day. Periodicals shall allocate an equal amount of print-space for registered candidates, political parties, blocs of political parties and referendum campaign groups.

83.7. Allocation of the general amount of free print-space in the periodicals indicated in Articles 77.2 and 77.3, shall be determined by dividing this general amount by the total number of registered candidates, political parties, blocs of political parties, and referendum campaign groups which are entitled to free publication space for pre-election campaigning in those periodicals.

83.8. Dates for free publication of pre-election campaign materials of registered candidates, political parties, blocs of political parties and referendum campaign groups shall be identified by a draw in the presence of the interested parties. The draw shall be conducted on the date of commencement of the period set forth in Article 75 of this Code. Members of the relevant election commission, as well as persons mentioned in Articles 40.2 and 40.4 of this Code, may participate in the draw process. Results of the draw shall be formalized by a protocol.

83.9. Periodicals' expenses for allocation of free print-space for registered candidates, political parties, blocs of political parties and referendum campaign groups, shall be reimbursed from the state budget.

Article 84. The Terms for Paid Pre-Election Campaign in Periodicals

84.1. The periodicals mentioned in the Article 77.1 of this Code shall be obliged to allocate paid space for pre-election campaigning of registered candidates, political parties, blocs of political parties, and referendum campaign groups. The basis, conditions, and cost of allocated space should be equal for all registered candidates, political parties, blocs of political parties, and referendum campaign groups, and should be published by the periodicals not later than 35 days after a decision to hold elections has been officially published. The total IFES Unofficial Translation. August 2008 92

amount of paid space allocated by the periodicals should not be less than total amount of free space allocated according to Article 83.6 of this Code.

84.2. For a certain price, every registered candidate, political party, bloc of political parties, and referendum campaign group may buy a space equal to the amount determined by dividing the total amount of space allocated by the total number of appropriately registered candidates and referendum campaign groups.

84.3. The periodicals that are not mentioned in the Articles 77.1 and 77.4 of this Code may publish campaign materials of the registered candidates, political parties, blocs of political parties, and referendum campaign groups according to the contract signed with them.

84.4. Periodicals, which are not mentioned in Articles 77.1 and 77.4 of this Code, shall be paid on an equal basis and under equal conditions for the cost of the amount of space offered to registered

candidates, political parties, blocs of political parties and referendum campaign groups. Periodicals that do not follow these rules and the requirements of Article 78.2 of this Code, may not allocate space for pre-election campaign materials of a registered candidate, political party, bloc of political parties, or referendum campaign group.

84.5. After the draw, registered candidates, political parties, blocs of political parties and referendum campaign groups shall pay the cost of the allocated space in periodicals based on the contract with editorial offices of those periodicals. A registered candidate, political party, bloc of political parties, or referendum campaign group should submit a payment order on full payment of the cost for allocated space to the relevant bank at least two days prior to the publication day. If these rules are violated, such a space may not be allocated by periodicals. The relevant bank should transfer money immediately after the receipt of a payment order, but not later than the next banking day. In such cases, the bank transfer may not take more than 2 banking days.

84.6. Expenses for allocated space by periodicals shall be paid from the election funds of the registered candidate, political party, bloc of political parties, or referendum campaign group.

84.7. Periodicals should provide the space indicated in the Article 84.2 of this Code within the period mentioned in the Article 75 of this Code.

84.8. The date of paid publication of pre-election campaign materials of a registered candidate, political party, bloc of political parties, or referendum campaign group shall be determined by the lottery conducted by the periodicals, on the basis of written requests of their authorized representatives and with participation of interested persons. The lottery shall be conducted on the day when the period defined by the Article 75 of this Code begins. Members of the relevant election commissions, as well as persons mentioned in the Articles 40 IFES Unofficial Translation. August 2008 93 and 40.4 of this Code, shall have the right to be present during lottery. An official protocol shall be made on the results of the lottery.

Constitution:

Article 47. Freedom of thought and speech

I. Everyone may enjoy freedom of thought and speech.

II. Nobody should be forced to promulgate his/her thoughts and convictions or to renounce his/her thoughts and convictions.

III. Propaganda provoking racial, national, religious and social discord and animosity is prohibited.

2. Laws and regulations on equality of candidate and party influence

Main Research Findings:

Registered political parties have equal right to free air time and print space.

Free air time and print space paid by state budget.

Free air time applies to TV and Radio programming distributed in more than half of territory.

Pre-election campaigning allowed 35 days before announcement of election.

Private companies may refuse to have free air time and/or print space, then the companies must not offer it to any candidates or parties.

Lottery used to divide free air time. State guarantees weekly time for free air time, and space in weekly periodicals.

Paid print space equal for registered parties and spaces determined by lottery.

Parties have freedom to organize marches, meetings, rallies, as long as the state is notified in advanced.

To be registered, party must have at least 1000 members.

Parties must conform to the Constitution and unity of the country.

Public media and broadcasters are impartial.

Private must broadcasters can be partial, but they must conform to the unity of country, principles of the Republic, and promote social peace.

Through access to state funds, registered parties are favoured over non-registered, and candidates and parties successful in election are favoured over candidates and parties unsuccessful in election.

Spending limits favour wealthy candidates and wealthy parties. Though parties are restricted in their financial support of presidential candidates—just \$317,985 USD)

Research Excerpts:

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasis high relevance:

Constitution:

Article 49. Freedom of meetings

I. Everyone has the right for meetings.

II. **Everyone has the right, having notified respective governmental bodies in advance, peacefully and without arms, meet with other people, organize meetings, demonstrations, processions, place pickets.**

Article 54. Right to take part in political life of society and state

I. Citizens of the Azerbaijan Republic have the right to take part in political life of society and state without restrictions.

II. Any citizen of the Azerbaijan Republic has the right himself to stand up to the attempt of rebellion against the state or state coup.

Article 55. Right to take part in governing the state

I. Citizens of the Azerbaijan Republic have the right to take part in governing the state. They may exercise said right themselves or through their representatives.

II. Citizens of the Azerbaijan Republic have the right to work in governmental bodies. Officials of state bodies are appointed from citizens of the Azerbaijan Republic. Foreign citizens and stateless citizens may be employed into state organizations in an established order.

Article 85. Requirements to candidates to the posts of deputies of Milli Majlis of the Azerbaijan Republic

I. Every citizen of the Azerbaijan Republic not younger than 25 may be elected the deputy of Milli Majlis of the Azerbaijan Republic in an established order.

II. Persons having double citizenship, those having obligations to other states, those working in the bodies of executive or judicial power, persons involved in other payable activity except scientific, pedagogical and creative activity, religious men, persons whose incapacity has been confirmed by law court, those condemned for grave crime, serving a sentence due to verdict of law court may not be elected the deputies of Milli Majlis of the Azerbaijan Republic.

Article 90. Immunity of deputies of Milli Majlis of the Azerbaijan Republic

I. A deputy of Milli Majlis of the Azerbaijan Republic enjoys immunity during the whole term of his powers. Except cases when the deputy may be caught in the act of crime, the deputy of Milli Majlis of the Azerbaijan Republic may not be called to criminal responsibility during the whole term of his/her authority, arrested, disciplinary measures may not be applied to him by law court, he may not be searched. The deputy of Milli Majlis of the Azerbaijan Republic may be arrested only if he/she has been caught at a place of crime. In such case the body which detained the deputy of Milli Majlis of the Azerbaijan Republic must immediately notify General Procurator of the Azerbaijan Republic about the fact.

II. Immunity of deputy of Milli Majlis of the Azerbaijan Republic might be stopped only by decision of Milli Majlis of the Azerbaijan Republic based on application of General Procurator of the Azerbaijan Republic.

Article 91. Prohibition on institution of proceedings against deputies of Milli Majlis of the Azerbaijan Republic

Deputies of Milli Majlis of the Azerbaijan Republic cannot be made responsible for their activity in Milli Majlis of the Azerbaijan Republic, voting in Milli Majlis of the Azerbaijan Republic and statements made in Milli Majlis of the Azerbaijan Republic. Without the deputies' consent, in connection with such cases, they are not obliged to give explanations and evidence.

Article 92. Organization of work of Milli Majlis of the Azerbaijan Republic

Milli Majlis of the Azerbaijan Republic determines procedure of its activity, elects its chairman and his deputies, organizes permanent and other commissions, establishes Counting Chamber.

Article 93. Acts of Milli Majlis of the Azerbaijan Republic

I. Milli Majlis of the Azerbaijan Republic accepts Constitutional laws and decrees regarding the questions of its competence.

II. Constitutional laws, laws and decrees are taken in Milli Majlis of the Azerbaijan Republic in an order specified in the present Constitution.

III. Deputies of Milli Majlis of the Azerbaijan Republic exercise their voting right personally.

IV. Specific orders to the bodies of executive power and law courts cannot be envisaged in laws and decrees of Milli Majlis of the Azerbaijan Republic.

Article 94. General rules established by Milli Majlis of the Azerbaijan Republic

I. Milli Majlis of the Azerbaijan Republic establishes general rules concerning the following matters:

- 1) use of rights and liberties of a person and citizen specified in the present Constitution, state guarantees of these rights and liberties;
- 2) elections of the President of the Azerbaijan Republic;
- 3) elections to Milli Majlis of the Azerbaijan Republic and status of deputies of Milli Majlis of the Azerbaijan Republic;
- 4) referendum;
- 5) judicial system and status of judges; procurator's office, the bar and notary's offices;
- 6) legal proceedings, execution of court verdicts;
- 7) elections to municipalities and status of municipalities;
- 8) state of emergency; martial law;
- 9) state awards;
- 10) status of physical persons and legal entities;
- 11) objects of civil law;
- 12) transactions, civil-legal agreements, representation and inheritance;
- 13) right of property, including legal regime of state, private and municipal property, right of intellectual property, other proprietary rights; liability right;
- 14) family relationships, including guardianship and trusteeship;
- 15) basis of financial activity—taxes, duties and charges;
- 16) labor relationships and social maintenance;
- 17) interpretation of crime and other violations of law; establishment of responsibility for these acts;
- 18) defence and military service;
- 19) governmental employment;
- 20) basis of security;
- 21) territorial arrangement; regime of state borders;
- 22) ratification and denunciation of international treaties;
- 23) communications and transport;
- 24) statistics; metrology and standards;
- 25) customs;
- 26) commerce and stock exchange activity;
- 27) banking business, accounting, insurance.

II. As per questions specified in paragraphs 2, 3, 4 of the present Article the laws are approved by majority of 83 votes, as per other questions—by majority of 63 votes.

III. The first part of the present Article might be supplemented with the Constitutional law.

Article 95. Competence of Milli Majlis of the Azerbaijan Republic

I. The following questions fall under the competence of Milli Majlis of the Azerbaijan Republic:

- 1) organization of work of Milli Majlis of the Azerbaijan Republic;
- 2) based on recommendation by the President of the Azerbaijan Republic establishment of diplomatic representations of the Azerbaijan Republic;
- 3) administrative-territorial division;
- 4) ratification and denunciation of international agreements;
- 5) based on recommendation by the President of the Azerbaijan Republic approval of state budget of the Azerbaijan Republic and control over its execution;
- 6) amnesty;
- 7) based on recommendation by the President of the Azerbaijan Republic approval of military doctrine of the Azerbaijan Republic;

- 8) in cases specified in the present Constitution approval of decrees of the President of the Azerbaijan Republic;
- 9) based on recommendation by the President of the Azerbaijan Republic giving consent for appointment of Prime-minister of the Azerbaijan Republic;
- 10) based on recommendation by the President of the Azerbaijan Republic appointment of judges of Constitutional Court of the Azerbaijan Republic, Supreme Court of the Azerbaijan Republic and Economic Court of the Azerbaijan Republic;
- 11) based on recommendation by the President of the Azerbaijan Republic giving consent for appointment and dismissal of General Procurator of the Azerbaijan Republic;
- 12) dismissal of the President of the Azerbaijan Republic by way of impeachment based on recommendation of Constitutional Court of the Azerbaijan Republic;
- 13) based on recommendation by the President of the Azerbaijan Republic dismissal of judges;
- 14) taking decision regarding a vote of confidence in the Cabinet of Ministers of the Azerbaijan Republic;
- 15) based on recommendation by the President of the Azerbaijan Republic appointment and dismissal of members of Administration Board of National Bank of the Azerbaijan Republic;
- 16) based on recommendation by the President of the Azerbaijan Republic giving consent for enlistment of Military Forces of the Azerbaijan Republic to operations other than their normal duties;
- 17) based on request of the President of the Azerbaijan Republic giving consent for announcement of war and conclusion of peace treaty;
- 18) announcement of referendum;
- 19) establishment of Auditor Chamber.

II. As per questions specified in paragraphs 1-5 of the present Article the laws are approved by majority of 63 votes, as per other questions decrees are approved in the same order if not specified otherwise by the present Constitution.

III. Decrees are also taken regarding other questions which due to the present Constitution fall under the competence of Milli Majlis of the Azerbaijan Republic.

Article 100. Requirements to candidates to the post of the President of the Azerbaijan Republic Citizen of the Azerbaijan Republic not younger than 35, permanently living on the territory of the Azerbaijan Republic longer than 10 years, possessing voting right, without previous conviction, having no liabilities in other states, with university degree, not having double citizenship may be elected the President of the Azerbaijan Republic.

Article 107. Dismissal of the President of the Azerbaijan Republic from his post

I. In case of grave crime done by the President of the Azerbaijan Republic the question of dismissal of the President may be submitted to Milli Majlis of the Azerbaijan Republic on initiative of Constitutional Court of the Azerbaijan Republic based on conclusions of Supreme Court of the Azerbaijan Republic presented within 30 days.

II. The President of the Azerbaijan Republic may be dismissed from his post by decree of Milli Majlis of the Azerbaijan Republic taken by majority of 95 votes of deputies. This decree is signed by the Chairman of Constitutional Court of the Azerbaijan Republic. If Constitutional Court of the Azerbaijan Republic fails to sign said decree within one week it shall not come into force.

III. Decree about dismissal of the President of the Azerbaijan Republic from his post must be accepted within 2 months from the date of application of Constitutional Court of the Azerbaijan Republic to Milli Majlis of the Azerbaijan Republic. If said decree is not taken within said term, then accusation against the President of the Azerbaijan Republic is considered rejected.

Law on Political Parties:

Chapter II

Principles of establishment and functioning of political parties

Article 3. Principles of establishment and functioning of political parties

Political parties shall be established and function on the basis of the principles of freedom of association, voluntariness, the equality of rights of their members, self-government, legality and publicity.

Article 4. Conditions for the establishment of political parties

Political parties shall be constituted upon the territorial criterion. Functioning of primary organizations, committees and other organizational structures of political parties in the State bodies of the Republic of Azerbaijan shall be prohibited.

The initiators of establishing a political party shall convene a constituent congress (conference) or general meeting, and adopt the charter and set up the leading bodies.

In order to get registered, at least the membership of 1000 citizens of the Republic of Azerbaijan in a political party shall be required.

The establishment and functioning of the political parties, which purpose or the method of operation is to overthrow or change forcibly the constitutional order of the Republic of Azerbaijan or to violate its territorial integrity, to advocate for war, violence and brutality, to instigate racial, national and religious hatred, to perpetrate other acts contradictory to the constitutional order of the Republic of Azerbaijan and incompatible with its international legal obligations shall be prohibited. The establishment and functioning of political parties of foreign States, as well as their branches and subsidiaries in the territory of the Republic of Azerbaijan shall not be allowed.

Opposition parties against the [New Azerbaijan Party](#) are allowed, but are widely considered to have no real chance of gaining power.

Major parties

- ♣ [New Azerbaijan Party](#)
- ♣ [Equality Party](#)
- ♣ [Azerbaijan Popular Front Party](#)
- ♣ [Azerbaijan Democratic Party](#)
- ♣ [Motherland Party](#)
- ♣ [Civic Solidarity Party](#)

Other parties

- ♣ [Alliance Party for the Sake of Azerbaijan](#)
- ♣ [Azerbaijan Communist Party](#)
- ♣ [Azerbaijan Communist Party \(on Platform of Marxism-Leninism\)](#)
- ♣ [Azerbaijan Democratic Party](#)
- ♣ [Azerbaijan Democratic Party](#)
- ♣ [Azerbaijan Greens' Party](#)
- ♣ [Azerbaijan Hope Party](#)
- ♣ [Azerbaijan Liberal Party](#)
- ♣ [Azerbaijan National Democrat Party](#)
- ♣ [Azerbaijan Social Democratic Party](#)
- ♣ [Azerbaijan Social Prosperity Party](#)
- ♣ [Civic Solidarity Party](#)
- ♣ [Civil Union Party](#)

- ✧ [Compatriot Party](#)
- ✧ [Democratic Azerbaijan's World](#)
- ✧ [Great Order Party](#)
- ✧ [Azerbaijan National Independence Party](#)
- ✧ [Azerbaijan Political Party of Democratic Reforms](#)
- ✧ [Justice Party](#)
- ✧ [Modern Equality Party](#)
- ✧ [Motherland Party](#)
- ✧ [National Unity](#)
- ✧ [Reformist Communist Party of Azerbaijan](#)
- ✧ [United Communist Party of Azerbaijan](#)
- ✧ [Virtue Party](#)
- ✧ [Whole Azerbaijan Popular Front Party](#)

Law on Political Parties:

Article 8. Membership in a political party

Political parties shall have registered membership.

Members of political parties shall be those citizens of the Republic of Azerbaijan who reached the age of 18, joined the party voluntarily, accepted its charter and programme, and possess legal capacity.

During the term of their office, presidents, vice-presidents and judges of all the courts of the Republic of Azerbaijan, The Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan, servicemen, employees of public prosecutor's office, justice, internal affairs, national security, border service, customs, finance, taxation, courier communication service bodies, State-owned press bodies, with the exception of auxiliary and technical staff, members, director general and deputy directors general of Broadcasting Council of Public Television and Radio

Broadcasting Company, members of the Management Board of Central Bank of the Republic of Azerbaijan, religious figures may not be members of political parties.

The persons enumerated in Paragraph 3 of this Article shall suspend their membership in political parties during the all period of their election, service or office.

Article 11. International relations of political parties

Political parties may join to international public (non-governmental) associations, maintain direct international relations, and conclude relevant agreements.

Political parties have the right to disseminate information about their activities, to popularize their ideas, aims and programmes, to establish mass media, and to hold meetings, demonstrations and other mass arrangements within the procedure defined by law.

Election Code:

Article 20. Allocation of Space for Election Commissions in the Mass Media

20.1. During the period of preparation and holding of elections, the broadcasting organizations mentioned in Article 77.2 of this Code shall provide the Central Election Commission with no less than 15 minutes of free air time per week for explanation of election (referendum) legislation, rules, time-frame for implementation of important election activities, the dissemination of information on the course of the election (referendum) campaign and to respond voters' questions. The broadcasting organizations mentioned in Article 77.3 of this Code shall provide no less than 10 minutes of free air time to Constituency Election Commissions for the same purpose.

20.2. Editorial offices of periodicals indicated in Article 77.1 of this Code that have at least one issue per week, should allocate a space of no less than one page of the weekly issue to the Central Election Commission for free, during the period of preparation and holding of elections.

20.3. Election commissions shall use the print-spaces allocated in periodicals to explain election

(referendum) legislation and answer voters' questions on referendum campaign groups, rules, the schedule of election activities, candidates, registered candidates, political parties, blocs of political parties, and the course of the election (referendum) campaign.

170 188.5. The refusal of a bloc of political parties to participate in elections shall not deprive political parties included in the bloc of rights to participate in elections. In such cases, it shall be required to re-nominate a presidential candidate and to implement other necessary election actions in conformity with this Code.

CHAPTER Thirty One. Preparation of Presidential Elections

Article 189. Specific Requirements for Conducting the Election Campaign through Mass Media during Presidential Elections

189.1. Participation of registered presidential candidates, political parties, and blocs of political parties in the pre-election campaign shall be regulated by Chapter Thirteen of this Code.

189.2. Free airtime allocated by TV and Radio companies shall be allotted for the registered presidential candidates to conduct debates, round tables, other campaigning activities. Rules for conduct of such events shall be defined by the Central Election Commission.

189.3. Airtime for the conduct of joint campaign activities on channels of TV and Radio stations mentioned in Article 77.2 of this Code shall be allocated for registered presidential candidates, calculated separately, and implemented. Registered presidential candidates should use such airtime on an equal basis. In such circumstances, the amount of free airtime used by each presidential candidate shall be determined separately.

189.4. The norm for using paid airtime allocated by the TV and radio companies specified in Article 77.1 of this Code shall be determined by dividing the total amount allocated by the total number of presidential candidates.

189.5. The volume of space allocated on paid-basis in periodicals specified in Article 84.1 of this Code shall be determined through dividing it by the total number of candidates. The latter may use this space after making the relevant payments.

189.6. Refusal of registered presidential candidates to participate in activities mentioned in Article 189.2 of this Code shall not result in an increase of free airtime allocated in conformity with Article 80.6 of this Code.

Article 190. Special Election Accounts during Presidential Elections

190.1. A presidential candidate or his/her authorized representative should open a special election account to form an election fund after he/she submits notification of a relevant decision on his/her nomination as a candidate by a political party or bloc of political parties to the Central Election Commission, but at least 5 days prior to the day of

IFES Unofficial Translation. August 2008 171 submission of notification for registration of candidates to the Central Election Commission.

190.2. A registered presidential candidate shall open a special election account on the basis of a document on his/her nomination received from the Central Election Commission, and documents mentioned in Articles 53 and 54 of this Code.

190.3. A presidential candidate may assign his/her authorized representative to open a special election account for him/her.

190.4. A presidential candidate or a registered presidential candidate may authorize another person to use his/her funds available in the special election account, informing the Central Election Commission about this in writing, and in this case this person shall bear responsibility for the legal violations.

Constitution:

Article 47. Freedom of thought and speech

I. Everyone may enjoy freedom of thought and speech.

II. Nobody should be forced to promulgate his/her thoughts and convictions or to renounce his/her thoughts and convictions.

III. Propaganda provoking racial, national, religious and social discord and animosity is prohibited.

3. Laws and regulations on equality of electoral finance

Main Research Findings:

Mass movements and trade unions are not allowed to donate to political parties.

\$10,000,000 manats (\$12,719,410 USD) maximum expenditure of presidential candidates.

Donations limits:

Citizens \$3000 manats (\$3,815 USD)

Legal entities \$50,000 m (\$63,597 USD)

Special fund: political party and bloc of parties funding presidential candidate: \$250,000 m (\$317,985 USD)

Donations limits favour wealthy citizens, legal entities, candidates and parties.

State funds for free air time and print space only to registered presidential candidates and parties (as opposed to non-registered).

State regulates the donation limits, with required financial reporting for registered parties with funds over \$10,000 m and non-registered parties, \$2,500 m etc.

*Registered parties must return unspent state electoral funds if receive 3% or more of popular vote or elected.

Registered parties must return all state electoral funds if receive less than 3% of the popular vote and unelected.

Research Excerpts:

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasis high relevance:

Law on Political Parties:

Article 18. Incomes and expenditures of political parties

The resources gained by political parties in the form of currency or wealth having currency equivalent shall be their income. The benefits gained as a result of exemption of a political party from the generally undertaken obligations shall also be regarded as income.

The following shall be regarded as income of a political party:

- membership dues;
- proceeds from the property;
- proceeds from the arrangements, circulation of press outlets and articles, and other similar lucrative activity;
- proceeds in the form of donations;
- resources received in the form of payment of the expenditures for the election campaign;

- payments of the local organizations;
- other proceeds.
- The following shall be regarded as expenditures:
 - expenditures incurred for the current activities;
 - expenditures incurred for activities of the departments of the political party and for the information;
 - expenditures incurred for the relations with the public and conducting of elections;
 - payments to the local organizations;
 - loan interest;
 - individual expenditures;
 - other expenditures.

The tax authorities shall supervise the sources of income of political parties, the amount of the gained resources and payment of the taxes as provided for in the tax legislation.

Article 19. Donations

Parties shall have the right to receive donations. The following shall have no right to grant donations to political parties:

- State agencies;
- the organizations, which serve exclusively charity purposes or religious purposes from the standpoint of the nature of their actual activities in accordance with their charters (founding documents);
- trade unions;**
- mass movements.

Besides, political parties may not receive donations granted with the purpose of gaining economical or political benefit.

The amount of donations granted in favour of political parties shall be included into the financial account, and the name (surname) of the donator, his/her address, the amount of the donation shall be indicated.

Article 191. Election Funds of Presidential Candidates

191.1. The maximum limit of the election fund of a presidential candidate may not be more than 10 million manats.

191.2. Election funds of presidential candidates shall be formed only from the following financial sources:

191.2.1. special funds - these special funds for presidential candidates nominated by political parties or blocs of political parties shall be formed from the funds contributed by political parties or blocs of political parties of presidential candidates, under the condition they not be more than 250 thousand manats;

191.2.2. a fund allocated by the Central Election Commission, except for circumstances considered by Article 197.6 of this Code;

191.2.3. voluntary donations of citizens and legal entities which may not exceed 3,000 and 50,000 manats respectively.

Article 192. Transparency in Usage of Election Funds during Presidential Elections

192.1. It shall be obligatory to publish the following information in the mass media provided for by Article 77.2 of this Code:

192.1.1. the financial report on expenditure of funds if the election fund of a registered presidential

candidate or a presidential candidate respectively exceeds 10,000 and 2,500 manats;

192.1.2. the legal entities who made donations to registered presidential candidates or presidential candidates, in respective amounts exceeding 5,000 and 1,250 manats (in this case, the possibility of transfer of funds by the same IFES Unofficial Translation. August 2008 172

legal entity through several installments of donations should be taken into account);

192.1.3. about the number of citizens who made donations to the election fund in amounts exceeding 250 manats;

192.1.4. the funds returned to donors and the grounds for their return; and

192.1.5. the total amount of money received in and spent from the election fund

Article 194. Obligation to Return the Unused Amount of Budget Funds Received by Presidential Candidates and Registered Presidential Candidates during Presidential Elections

A registered presidential candidate who participated in elections and received at least 3 percent of the votes considered valid or who is considered to be elected, as well as a registered presidential candidate who withdrew candidacy due to compelling reasons specified in article 73.3 of this Code shall be obliged to return the unspent part of the election fund transferred by the Central Election Commission within 30 days after Election Day. When this period finishes, a relevant bank should without any dispute transfer the money mentioned in the letter of the Central Election Commission, to the account of the latter.

Article 195. Payment by the Registered Presidential Candidates for Free Airtime and Free Space Allocated in Periodicals during Presidential Elections

195.1. A presidential candidate not considered by Article 194 of this Code should reimburse the full amount of the cost of free airtime and space to the TV and Radio companies and periodicals mentioned in Articles 77.2 and 77.3 of this Code. Within 3 days after the results of the Presidential Elections are officially published, the Central Election Commission shall send the following to the offices of the TV and Radio companies and periodicals mentioned in Articles 77.2 and 77.3 of this Code: IFES Unofficial Translation. August 2008 173

- the names of candidates;
- their addresses; and
- certified copies of notifications on payment for free airtime and space used in periodicals.

195.2. Within 10 days of the official publication of the results of the Presidential Elections, the TV and Radio companies and periodicals mentioned in Articles 77.2 and 77.3 of this Code shall send the relevant information on the cost of used airtime and space in periodicals, their legal address, and bank details to the presidential candidates considered by Article 194.1 of this Code.

195.3. Cost of free airtime and space in the periodical considered by Articles 80.5, 83.6 and 189.2 of this Code shall be determined in conformity with rules established by Articles 80.6 and 83.7 of this Code, by multiplying the total amount of airtime and space in periodicals allocated for presidential candidates, by the cost of airtime determined by TV and Radio companies and the cost of space in periodicals.

195.4. If presidential candidates use free airtime for joint election campaign activities mentioned in Article 189.2 of this Code, the amount of money to be returned by each candidate shall be determined proportionally by the total number of participants of each joint election campaign activity, by the TV and Radio companies.

195.5. If presidential candidates refuse to use the free airtime in the manner and within the period established by Articles 81.5 of this Code, the cost of free airtime presented shall not be paid.

195.6. TV and Radio companies and periodicals considered by Articles 77.2 and 77.3 of this Code shall inform the Central Election Commission about presidential candidates not considered by Article 194 of this Code who have not completely paid the cost of free airtime and space in periodicals, within 12

months of Election Day.

Article 197. Return of Money Received by Citizens Nominated as a Presidential Candidate at Their Own Expense

197.1. If there is no money in the election fund or it is short of money, the return of budget money by a registered candidate, as well as the cost of free airtime and space in periodicals, shall be provided from the personal funds of citizens nominated as presidential candidates.

197.2. If a registered presidential candidate not considered by Article 194 of this Code, undertakes obligations to return relevant funds in addition to submitting the final financial report according to this Code, he/she may return the due to the state budget to the account of the relevant Central Election Commission within a 12 month period effective from voting day.

197.3. If the obligations established by Article 197.2 of this Code are not performed and if the period mentioned by the obligations for returning money expires, funds shall be returned through court. If a registered presidential candidate is not considered by Article 194 of this Code and does not perform the requirements mentioned in Article 197.2 of this Code or undertakes obligations mentioned in the same Article before the final financial report is submitted, funds shall be returned by the court before the period for submission of the final financial report expires.

197.4. If a presidential candidate or registered presidential candidate loses his/her candidacy status, the obligations imposed on the candidates and registered candidates by Article 197 of this Code shall be imposed on the citizen who is was previously considered to be a candidate or registered candidate.

197.5. A list of citizens not considered by Article 194 of this Code and who owe debts to the Central Election Commission shall be published.

197.6. If a citizen not considered in Article 194 of this Code and nominated as a presidential candidate, has debts to the Central Election Commission on the date of the decision setting Election Day was officially published, on the budget funds from the previous elections, this candidate shall not have the right to receive funds from the state budget during the Presidential Elections.

4. Laws and regulations on equality of voter say

Main Research Findings:

Only elected persons have the right to represent the people.

Unity of people emphasized in Constitution.

Propaganda must not cause racial, national, religious, and social discord and animosity.
State must be notified of public meetings, demonstrations, rallies etc.,

Political content must be consistent with the unity of country, the Republic state institutions, Constitution etc.

No third-party spending limits.

Citizens have donation spending limit of \$3000 m (\$3,815 USD)

Spending limits favour wealthy citizens, legal entities, candidate, and parties.

Research Excerpts:

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasis high relevance:

Azerbaijan Constitution:

Article 1. The source of power

I. The sole source of state power in the Azerbaijan Republic are the people of Azerbaijan.

II. People of Azerbaijan are citizens of the Azerbaijan Republic living on the territory of the Azerbaijan Republic and outside it who are subordinate to the Azerbaijan state and its laws which does not exclude standards of international legislation.

Article 2. Sovereignty of people

I. Sovereign right of the Azerbaijanian people is the right of free and independent determination of their destiny and establishment of their own form of governance.

Article 4. Right to represent the people

No one except authorized representatives elected by the people will have the right to represent the people, speak on behalf of people and to make statements on behalf of people. [Elected representatives do not only represent the people]

Article 5. Unity of people

I. **The people of Azerbaijan are united.**

II. Unity of the Azerbaijanian people constitutes the basis of the Azerbaijanian state. Azerbaijan Republic is mutual and indivisible motherland for all citizens of the Azerbaijan Republic.

Article 6. Inadmissibility of usurpation of power

I. No part of people of Azerbaijan, no social group or organization, no individual may usurp the right for execution of power.

II. Usurpation of power is the most grave crime against the people.

Article 12. The highest priority objective of the state

I. The highest priority objective of the state is to provide rights and liberties of a person and citizen.

Article 28. Right for freedom

I. Everyone has the right for freedom.

II. Right for freedom might be restricted only as specified by law, by way of detention, arrest or imprisonment.

III. Everyone legally being on the territory of the Azerbaijan Republic may travel without restrictions, choose the place of residence and travel abroad.

IV. Any citizen of the Azerbaijan Republic has the right to return to his/her country whenever he/she so desires

Article 47. Freedom of thought and speech

I. Everyone may enjoy freedom of thought and speech.

II. Nobody should be forced to promulgate his/her thoughts and convictions or to renounce his/her thoughts and convictions.

III. Propaganda provoking racial, national, religious and social discord and animosity is prohibited.

Article 49. Freedom of meetings

I. Everyone has the right for meetings.

II. **Everyone has the right, having notified respective governmental bodies in advance, peacefully and without arms, meet with other people, organize meetings, demonstrations, processions, place pickets.**

Article 54. Right to take part in political life of society and state

I. Citizens of the Azerbaijan Republic have the right to take part in political life of society and state without restrictions.

II. Any citizen of the Azerbaijan Republic has the right himself to stand up to the attempt of rebellion against the state or state coup.

Article 55. Right to take part in governing the state

I. Citizens of the Azerbaijan Republic have the right to take part in governing the state. They may exercise said right themselves or through their representatives.

II. Citizens of the Azerbaijan Republic have the right to work in governmental bodies. Officials of state bodies are appointed from citizens of the Azerbaijan Republic. Foreign citizens and stateless citizens may be employed into state organizations in an established order.

Article 71. Protection of rights and liberties of a human being and citizen

I. **To observe and to protect rights and liberties of a human being and citizen specified in the Constitution**—is responsibility of bodies of legislative, executive and legal power.

Law on Political Parties:

Joining to the political party shall be available for men and women on the same conditions and equal opportunities shall be created for them thereof.

Information Sources:

Anti-censorship decree of 1998

Azerbaijan Constitution

Election Code of the Republic of Azerbaijan 2005

Law of Azerbaijan Republic on Public TV-Radio Broadcasting (12 November 1995)

Law on Azerbaijan Republic on Mass Media

Law on Azerbaijan Republic on Communications

Law on Azerbaijan Republic on Political Parties (adopted on 3 June 1992; amended by the Laws of 25 June 1992, 5 November 1996, 5 October 2001, 2 July 2002, 30 December 2003, 4 May 2004, 11 July 2004, 4 March 2005, 15 April 2005, 3 March 2006, 1 October 2007, 9 October 2007 and 5 March 2010)