



Strasbourg, 1st September 2005

Opinion no. 336 / 2005

CDL-EL(2005)030
Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**AMENDMENTS TO
THE ELECTION CODE
OF THE REPUBLIC OF AZERBAIJAN
ADOPTED BY THE MILLI MAJLIS
IN JUNE 2005**

LAW OF THE AZERBAIJAN REPUBLIC
ON AMENDMENTS TO THE ELECTION CODE
OF THE AZERBAIJAN REPUBLIC¹

Hereby the Milli Majlis of the Azerbaijan Republic decrees the following:

- I. The following amendments shall be made to the Election Code of the Azerbaijan Republic (Legislative Collection of the Azerbaijan Republic 2003, Issue 6, Article 274; Issue 12, Article 680; 2004, Issue 6, Article 416):
 1. Amendments of the following context should be made:
 - 1.1.29. *“results of voting – results of calculation of votes in a precinct election commission during elections (referendum); results of calculation of votes in a constituency election commission during referendum and Presidential elections;*
 - 1.1.30. *results of elections (referendum) – results of elections to the Milli Majlis of the Azerbaijan Republic and municipalities, as specified by the constituency election commission;*
 - 1.1.31. *election (referendum) returns – determining a nominee that is elected as a Deputy to Milli Majlis, President of the Azerbaijan Republic or a Councilor at elections, or defining the issue that is (not) adopted through referendum;*
 - 1.1.32. *verall returns of elections – generalization of returns of the elections to the Milli Majlis or Municipal Elections that reflect names of the candidates and number of votes cast for them”.*
 2. The following should be added in Article 2.4: *“Elections of Deputies of the Milli Majlis of the Azerbaijan Republic and Elections of the President of the Azerbaijan Republic cannot be held on the same day. Elections of Deputies of the Milli Majlis of the Azerbaijan Republic and Municipal Elections cannot be held on the same day. Elections of the President of the Azerbaijan Republic and Municipal Elections cannot be held on the same day.”*
 3. In Article 19.8. the words *“and on issues considered at that meeting”* should be added after the words *“on conduct of a meeting of the election commission”*; the words *“and list of the issues to be considered at that meeting, as well as draft decisions and other documents related thereto”* be added after the words *“information about the time of the election commission’s meeting”*; the words *“and list of the issues to be considered at that meeting, as well as draft decisions and other documents related thereto”* be added after the words *“information about the time of the meeting”*.
 4. In Article 19.17, the word *“apparatus”* should be replaced by the word *“secretariat”*.

¹ Received from Presidential Apparatus Legal Department on June 24, 2005.
IFES translation.
All bold and italic text is done by IFES for differentiation purposes.

5. The following should be added in Article 22.1: “***(Restrictions provided for with regard to kinship (except for immediate relatives) in this Article, shall not apply to members of precinct election commissions established in territories where the number of voters is less than 100 but more than 50, as specified in Article 36.7 of this Code)***”.
6. In Article 22.10.1, the words “***and issues to be discussed during such meetings, draft decisions regarding these issues and other documents***” should be added after the word “*meetings*”.
7. In Article 22.11, the words “***overall results***” should be replaced by the words “***returns (overall returns)***”.
8. In Article 27.1 the words “***Chairperson, Deputy Chairperson, Secretary and***” should be added before the words “*A member*” and “*the member*”.
9. In Article 28.6, the words “***and website***” should be added after the word “*outlet*”.
10. The following should be given as Article 34.5: “***Number of the permanent staff working for the secretariat of the Constituency Election Commission, their position titles and salaries shall be determined by the Central Election Commission of the Republic of Azerbaijan.***”
11. In Articles 40.12 and 42.2.7, the words “***(overall returns)***” should be added after the words “*returns*” and “*outcomes*”.
12. Article 41.3 should be added in the following edit: “***The observation can start from the date the elections (referendum) are announced and shall finish the day when all disputes regarding elections (referendum) are considered by the relevant court and returns (overall returns) of elections (referendum) are officially published.***”
13. In Article 44.5, the words “***general results***” should be replaced with the words “***returns (overall returns)***”; the word “***(referendum)***” be added after the word “*the elections*”.
14. The following sentences should be added in Article 46.1: “***The voters list shall be posted on relevant website of the Central Election Commission (constituency election commission), in conformity with the rules established by the Central Election Commission. In this case, the voters’ addresses must not be displayed.***”
15. The word “***should***” in Article 48.1 to be changed to “***should not***”.
16. The following sentence should be added in Article 60.2.3: “***(this provision can be applied to the candidates nominated by political parties or blocks of political parties in the case if the given information is inaccurate due to the candidate’s mistake).***”
17. The words “***at least 3% of votes***” should be changed to “***at least 3% of the valid votes***” in Article 60.5.
18. The word “***constituency***” should be changed to “***relevant***” in Article 73.2.

19. To following sentence should be added prior to the word ***“The following”*** in Article 74.1: ***“Pre-election campaign shall be held in accordance with Article 47 of the Constitution of the Azerbaijan Republic.”***
20. The following sentence should be added in Article 88.1: ***“This prohibition should be implemented in accordance with Article 47 of the Constitution of the Azerbaijan Republic.”***
21. Articles 100.2.4 and 100.2.6 should be removed. Article 100.2.5 should be considered 100.2.4; Article 100.2.7 should be considered 100.2.5; Articles 100.2.8-100.2.19 should be considered 100.2.6-100.2.17 respectively.
22. To add the following sentence in Article 104.6 after the words ***“upon receiving the ballot paper”*** and to Article 105.2 after the word ***“verify this with his/her signature”***: ***The person who issues ballot paper to voter shall put a stamp indicating the voting date on the voter’s card.***
23. To add the words ***“and observers”*** after the words ***“of two members”*** in Article 106.7.
24. The following sentence to be added to the end of Article 108.2: ***The Central Election Commission of the Republic of Azerbaijan shall draw protocol on general outcomes of elections to the Milli Majlis of the Republic of Azerbaijan and to municipalities.***
25. To replace figure ***“5”*** with figure ***“2”*** in Article 109.1
26. To replace words ***“2 days”*** with words ***“immediately, but not later than 24 hours to the Central Election Commission”***, to remove the words ***“at latest”*** and to add the words ***“submitted to mass media and”*** after the words ***“should be”***² in Article 109.3
27. Articles 112.2 and 112.3. to be given in the following edit:

112.2 The persons indicated in Article 112.1 of this Code may submit their complaints to the relevant superior election commission.

112.3 If complaints of the persons indicated in Article 112.1 are initially not considered by a superior election commission, consequently they can file complaints on the decision or the action (inaction) of the constituency election commission to the Central Election Commission, and on the decision or the action (inaction) of the Central Election Commission to the Court of Appeal.
28. To add the following sentences in Article 112.4:

“In any case, the Central Election Commission must make a grounded decision upon consideration of any complaint. If existence of an element of crime is assumed during

² The highlighted change was added to the amendments by the Milli Majlis and approved by the Law of the Republic of Azerbaijan On Changes and Amendments to some Legislative Acts signed by the President of Azerbaijan on June 14, 2005 (№ 938-IIQD).

the investigation of the complaint, the prosecuting body should be informed about it. The relevant prosecuting body must consider the complaint within 3 days".

29. To add the words "***each***" before the word "***complaint***" in Article 112.10
30. To replace the words "***minimum salary***" with the words "***conventional financial unit***" in Articles 128, 130, 156, 159, 191, 192, 225, 228.
31. In Article 128.3, to replace the figures "***5***", "***50***", "***100***" with the figures "***25***", "***250***", "***500***" respectively.
32. In Article 130, to replace the figures "***2***", "***1***", "***50***" with the figures "***10***", "***5***", "***250***" respectively.
33. The following words to be added in Articles 139.2.1, 170.2.2., 204.1.1., 240.2.1.: ***or when they are cancelled, under the condition that the number of registered voters in the election precincts exceeds ¼ of all voters registered in the constituency.***
34. In Article 156, to replace the figures "***15***", "***2***", "***5***", "***100***" with the figures "***75***", "***10***", "***25***", "***500***" respectively.
35. In Article 159.1.1, to replace the figures "***2***", "***500***" with the figures "***10***", "***2500***" respectively.
36. In Article 159.1.2, to replace the figures "***1***", "***250***" with the figures "***5***", "***1250***" respectively.
37. In Article 159.1.3, to replace the figures "***50***" with the figures "***250***".
38. In Article 159.2.1, to replace the figures "***2***" with the figures "***10***".
39. In Article 159.2.2, to replace the figures "***1***" with the figures "***5***".
40. In Article 159.2.3, to replace the figures "***50***" with the figures "***250***".
41. In Articles 161 and 230, to replace the words "***at least 3 percent of the votes of total number of voters***" with the words "***at least 3 percent of the votes considered valid***".
42. The words "***200 thousand***" with the words "***1 million***" in Article 191.
43. In Article 192, to replace the figures "***2***", "***500***", "***1***", "***250***", "***50***" with the figures "***10***", "***2.500***", "***5***", "***1.250***" and "***250***" respectively.
44. To replace the words "***at least 5 percent of the votes of total number of voters***" with the words "***at least 3 percent of the votes considered valid***" in Article 194.
45. In Article 203.1, to replace the figure "***14***" with the figure "***10***"; to add the words "***in accordance with Article 102 of the Constitution***" after the word "***approval***".

46. In Article 225.1.1., to replace the figures “2”, “1.500”, “1”, “550”, “250”, “150” with the figures “10”, “7.500”, “5”, “2.500” and “1.250”, “750” respectively.
 47. In Article 225.1.2., to replace the figures “1.500”, “1”, “750”, “500”, “250”, “100” with the figures “7.500”, “5”, “3.750”, “2.500”, “1.250” and “500” respectively.
 48. To replace the figure “100” with the figure “500” in Article 225.1.4.
 49. In Article 225.1.5, to replace the figures “2”, “1.500”, “750”, “500”, “250”, “150” with the figures “10”, “7.500”, “3.750”, “2.500”, “1.250” and “750” respectively.
 50. In Article 225.2, to replace the figures “10”, “7.500”, “5000”, “2500”, “1500”, “1000” with the figures “50”, “37.500”, “25.000”, “12.500” and “7500”, “5.000” respectively.
 51. In Article 225.5.1, to replace the figure “50” with the figure “250”.
 52. In Article 225.5.3, to replace the figures “150” and “5” with the figures “750” and “25” respectively.
 53. In Article 225.6, to replace the figure “100” with the figures “500”.
 54. In Article 228.1.2, to replace the figure “500” with the figures “2500”.
 55. In Article 228.1.3, to replace the figure “50” with the figures “250”.
 56. In Article 228.2.1, to replace the figure “2” with the figures “10”.
 57. In Article 228.2.2, to replace the figure “1” with the figures “5”.
 58. In Article 228.2.3, to replace the figure “50” with the figures “250”.
- II. This Law is effective from the date of signing.

Ilham Aliyev
President of the Republic of Azerbaijan

Baku, 28 June, 2005

№ 957-IIQD