



Statement by the Delegation of the Republic of Azerbaijan

1068th Meeting of the Permanent Council,

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violation by the OSCE/ODIHR of its mandate

I wish to draw attention of the Permanent Council to the undesirable situation that emerged after the decision of the OSCE/ODIHR to cancel its Election Observation Mission for the upcoming parliamentary election in Azerbaijan to be held on November 1, 2015.

On 14 July the Government of Azerbaijan, honoring its OSCE commitments, extended an invitation to the OSCE/ODIHR to observe the upcoming election. Following the Needs Assessment Mission (NAM) report, the Minister of Foreign Affairs of the Republic of Azerbaijan communicated in writing substantive concerns over the findings and recommendations of NAM. The Azerbaijani side questioned the validity of the OSCE/ODIHR findings and urged the ODIHR to ensure that the number of the STOs and LTOs is reasonable, given the fact that the Parliamentary Assemblies of the OSCE and the Council of Europe also expressed their interest to deploy respective election observation missions. Taking into account elections practice in wide OSCE area and ratio of LTOs and STOs to the size of population and electorate, Azerbaijan suggested the OSCE/ODIHR revising its NAM report and informed the Director of ODIHR that the Permanent Mission of Azerbaijan to the OSCE stands ready for consultations on the matter.

Unfortunately, the OSCE/ODIHR refused hearing to the concerns of Azerbaijan and rejected our proposal to engage in consultations on its debatable recommendations.

Azerbaijan has always maintained a dialogue and cooperation with ODIHR, despite many disagreements. Since the very inception of the election observation missions of the ODIHR, Azerbaijan has been the pioneer in accepting these missions. Although Azerbaijan's opinion differed to various degrees with the

ODIHR's assessment, nevertheless we have always considered the engagement with ODIHR as a win-win situation. This year it would be for the first time that the OSCE/ODIHR is not participating in election observation mission in Azerbaijan. Also it would be for the first time that Azerbaijan will conduct election and host observation missions with no ODIHR involvement. As a result, ODIHR will lose the opportunity to assess the election monitoring, and thus it would have no moral or any other right to criticize or evaluate the election taking place in Azerbaijan. Therefore, a chapter of ODIHR election observation over parliamentary election in Azerbaijan is closed. Regretfully, this will also deprive the OSCE participating States to benefit from OSCE/ODIHR expertise on election observation.

The second important aspect of the decision of the ODIHR Director to cancel observation mission to the parliamentary election in Azerbaijan is that it is a serious violation of his mandate due to the following reasons:

1. According to Helsinki 1992 Document the OSCE/ODIHR's main role in election related area is to assist the OSCE participating States to implement their human dimension commitments, in particular "...through receiving any comments from States visited by the CSCE Missions". Thus, failure by the OSCE/ODIHR to address the shortcomings communicated by Azerbaijan that expected the ODIHR rendering its assistance is an attempt to infringe upon the sovereign rights of the OSCE participating State;
2. The ODIHR refusal of Azerbaijan's offer for consultations and attempt to impose its own questionable findings is contrary to the spirit of our Organization, which stands for dialogue and cooperation. Such an attitude by the Director of ODIHR is non-constructive and cannot be tolerated;
3. The OSCE/ODIHR is not a decision-making body. Nor is Director Link authorized to take such decision on his own, without consulting the Chairmanship or the OSCE participating State concerned. According to the Budapest 1994 Decision "the ODIHR...in consultation with the Chairman-in-Office, will, acting in advisory capacity, participate in discussions of the Permanent Council...by providing information on implementation issues... Acting in close consultation with the Chairman-in-Office, the Director of ODIHR may propose further action". This is an explicit restraint put on the Director's authorities and the procedure he is required to follow.

Therefore, I wish to inquire the Serbian OSCE Chairmanship if the Director of ODIHR followed the procedure outlined in the Budapest Decision and closely consulted the Chairmanship? If that was the case, Azerbaijan as a state concerned could have been consulted on the matter.

If that was not the case, then the actions taken by the Director of ODIHR, at least in two counts, violate his mandate.

Mr. Chairperson,

In light of the above-mentioned and being compelled by the steps taken by the Director of OSCE/ODIHR, the Azerbaijani authorities would like to hold this institution accountable for the following actions:

1. Ignorance to the concerns of the OSCE participating State identified in the NAM report and communicated to him as well as failure by the Director of ODIHR to engage into consultations;
2. Violation of the mandate by refusing to assist the OSCE participating State in implementing its election-related commitments;
3. Taking the decision without consultations with the OSCE Chairmanship and participating State concerned as well as for not acting in an advisory capacity and not suggesting a course of actions for consideration of the OSCE Permanent Council as it is prescribed in his mandate.

We would appreciate the Chairmanship's good offices in communicating the above-mentioned points to the Director of ODIHR and facilitating the response by this institution to the concerns of the OSCE participating State over violation of the mandate.

We believe that the OSCE/ODIHR still has a potential to realize its added-value in the Organization, if OSCE participating States act promptly to rectify the situation emerged as a result of the abuse of mandate. To this end, I urge distinguished colleagues to seriously consider concerns of the Azerbaijani side under the guidance of Serbian Chairmanship of the OSCE.

The current ODIHR's attitude necessitates urgent improvements of practice of relations between the participating States and the ODIHR until it further deteriorates into crisis of the Organization. Equality and sovereign rights of all OSCE participating States must be safeguarded and their legitimate expectations from the executive structures must be met.

Therefore, we suggest the Serbian Chairmanship to urgently set up *ad hoc* group to comprehensively address the violation of mandate by the ODIHR and to submit its proposals to the OSCE Permanent Council.

Thank you.