



INTERNATIONAL ELECTION OBSERVATION MISSION

Presidential Election, Republic of Kazakhstan– 4 December 2005

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Astana, 5 December 2005 – The International Election Observation Mission (IEOM) for the 4 December presidential election in the Republic of Kazakhstan is a joint undertaking of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe, and the European Parliament. Following an invitation by the Ministry of Foreign Affairs, and the conduct of a Needs Assessment Mission, the OSCE/ODIHR deployed an Election Observation Mission (EOM) to Kazakhstan on 17 October 2005.

This statement of preliminary findings and conclusions is delivered prior to the completion of the election process, including tabulation and announcement of final results and the expiry of legal deadlines for hearing possible complaints and appeals. An overall assessment of the entire election will depend, in part, on the conduct of the remaining phases of the process.

The OSCE/ODIHR will publish a Final Report, presenting a comprehensive analysis of all observers' findings and offering recommendations for further improvement of the election process, approximately two months after the completion of the process.

The institutions represented in the IEOM stand ready to support the authorities of the Republic of Kazakhstan in their efforts to conduct elections in line with OSCE commitments and other international standards for democratic elections, including in the event of an expedited follow up process to address recommendations.

PRELIMINARY CONCLUSIONS

The 4 December 2005 election was the second multi-candidate presidential election in the Republic of Kazakhstan since independence in 1991. The election process has been administered within the framework of an Election Law that was amended both prior to and after the parliamentary elections in 2004.

Despite some improvements in the administration of this election in the pre-election period, the presidential election did not meet a number of OSCE commitments and other international standards for democratic elections. Candidate registration was mostly inclusive and a field of five candidates provided voters with an opportunity for choice. However, numerous and persistent examples of intimidation by the authorities, including undue restrictions on campaigning and harassment of campaign staff, limited the possibility for a meaningful competition whereby all candidates had equal opportunities to convey their views to the electorate.

The Central Election Commission (CEC) administered the election in a generally transparent manner during the pre-election period, taking into account some previous OSCE/ODIHR recommendations regarding election administration. While IEOM observers assessed that voting was conducted in a

calm and peaceful atmosphere, the quality of the process deteriorated during the vote count and was assessed negatively in 27 per cent of observations.

State media largely met their legal obligations to provide free airtime to candidates; however, overall media bias in favor of the incumbent and legal restrictions on freedom of expression and dissemination of information diminished the possibility for electors to make fully informed choices. Three statements issued separately by the Ministry of the Interior and the National Security Council, alleging plans for violent actions by the opposition and its supporters, which received considerable coverage in the press, increased tension in the pre-election period.

Elements of the pre-election process that represent positive developments include the following:

- On 9 September, the President in his capacity as Head of State but at the same time a prospective candidate, issued a decree which stated the intention to conduct a free, fair and competitive election;
- The CEC met regularly at open sessions, adopted several decisions aimed at improving the election process and conducted an extensive voter education campaign;
- The accuracy of voters lists appeared to have been somewhat improved, and voter lists were generally accessible for public scrutiny;
- The CEC decided in a timely manner that voters would be allowed to choose to vote by paper ballot in polling stations where electronic voting (e-voting) would be used;
- The increase in the number of polling stations with e-voting over the 2004 elections has been gradual, and the e-voting system has been made easier for voters to use;
- The CEC introduced a set of protocols for transparent reporting of results from polling stations, in an attempt to foster public confidence in the e-voting system;
- Most lower-level election commissions appeared well trained and equipped;
- A debate among presidential candidates was broadcast live on a television station with statewide coverage, although the incumbent chose not to participate, thus reducing the value of this event for the electorate.
- Observers were allowed access to election commissions at all levels.

The election process revealed a number of shortcomings, including the following:

- There were restrictions on opposition candidates' ability to campaign freely including limitations on holding outdoor meetings, inadequate venues for indoor meetings, insufficient access to advertising space, and apparently orchestrated disruptions of campaign events;
- There was harassment, intimidation and detentions of campaign staff and supporters of opposition candidates, including cases of beatings of campaign staff;
- The application of legislation on protection of the honour and dignity of the president and of candidates, particularly three instances of confiscations of newspapers, limited political discourse and restricted freedom of expression;
- There was evidence of pressure exerted on students by university faculties to vote in favor of the incumbent;
- At times, lack of clarification of relevant legislation by the CEC and other state bodies led to misunderstandings and a degree of confusion;
- Opposition parties remained under-represented on election commissions at all levels, and pluralism of numerous lower level election commissions was adversely affected by permitting the majority of an election commission to be employed by a single employer;

- The certification and testing of the electronic voting system is non-transparent, leading to a continued lack of public confidence in the system. It appeared that contractors providing components of the system had excessive autonomy and insufficient guidance from the CEC;
- The e-voting system still lacks a paper trail which could be used for audits, recounts or in the case of election disputes;
- The optional control number used in electronic voting for verification purposes could potentially undermine the secrecy of an individual's vote;
- While the CEC organized a working group to review complaints, as a collegial body the CEC adopted decisions on only a few of the complaints received;
- The authorities did not amend the legislative framework in line with the recommendations contained in both the OSCE/ODIHR 2004 Assessment of the Constitutional Law on Elections and in the OSCE/ODIHR Final Report on the 2004 Parliamentary Elections.¹

Voting was conducted in a generally calm atmosphere. IEOM observers assessed the voting process positively in 92 per cent of polling stations visited, and negatively in eight per cent. However, the IEOM observed instances of interference of unauthorized persons, multiple and proxy voting, ballot box stuffing, and pressure on students to vote. Ballot boxes were not properly sealed in 12 per cent of polling stations observed. In observed polling stations with e-voting, a large majority of voters appeared to have favoured voting by paper ballot. Domestic non-partisan and candidate observers were present in almost all polling stations visited.

International observers assessed the vote count as bad or very bad in 27 per cent of counts observed. Observers noted serious violations in 21 per cent of counts observed, including tampering with results protocols. Protocols were not posted for public display in over one third of polling stations where the count was observed. The tabulation of results at the District Election Commissions (DECs) was negatively assessed in 20 per cent of the 112 DECs visited. Preliminary results were not posted by polling station on the CEC website as of 13:00 hours on the day after the election.

PRELIMINARY FINDINGS

Background

In 1999, the OSCE/ODIHR deployed a limited Election Assessment Mission for the presidential election, which found that “the election process fell far short” of meeting OSCE commitments. The IEOM for the 2004 Parliamentary Elections concluded that these elections “fell short of OSCE commitments and other international standards for democratic elections in many respects.” Subsequent to the parliamentary elections, the OSCE/ODIHR issued a Final Report in December 2004 containing recommendations for further improvement to the election process. The CEC provided the OSCE/ODIHR with their response to the recommendations shortly before the 2005 presidential election.

The President is elected in a two-round system. To be elected in the first round of voting, a candidate must receive more than half of all votes cast. If no candidate reaches the required majority, the two

¹ See www.osce.org/odihr-elections/14472.html for the OSCE/ODIHR Final Report on the 2004 parliamentary elections and www.osce.org/odihr-elections/13442.html for the OSCE/ODIHR Assessment of the Constitutional Law on Elections in the Republic of Kazakhstan.

candidates receiving the most votes contest a second round, in which the candidate who receives the higher number of votes is considered elected. Under the Constitution, no person can serve more than two consecutive terms as President.

During 2005, the timing of the presidential election was discussed by political actors in Kazakhstan, namely as to whether, under the Constitution, presidential elections should be held in December 2005 or December 2006. The issue was ultimately referred to the Constitutional Council, which ruled that the elections should take place in December 2005. Following that decision, the Majilis, the lower House of Parliament, on 7 September called presidential elections for 4 December 2005.

The election was contested by five candidates: (in ballot order) Mr. Yerassyl Abylkasymov (Communist People's Party of Kazakhstan), Mr. Alikhan Baimenov (Ak Zhol Party), Mr. Mels Yeleussizov (independent), Mr. Nursultan Nazarbayev (Otan Party), and Mr. Zharmakhan Tuyakbai ('For a Just Kazakhstan' Movement).

Legal Framework

The legal framework governing the presidential election include the Constitution, the Election Law, regulations and decisions of the CEC, and the Law on Peaceful Assemblies and other legislation. On 9 September 2005, President Nazarbayev signed a decree instructing State and local authorities to ensure free, fair and competitive elections.

The Election Law was amended several times, notably in April 2004. Some of the amendments adopted in 2004 represented considerable progress, although the electoral legislation needs further improvement. The OSCE/ODIHR made a number of recommendations addressing outstanding concerns with the election legislation in its 2004 Assessment of the Constitutional Law on Elections and in the Final Report on the 2004 Parliamentary Elections. None of the recommendations regarding the legal framework have been adopted to date, although the authorities have indicated their intention to make further improvements.

The Election Code was also amended in April 2005, but these amendments, especially a prohibition of election-related public meetings from the end of the campaign until the official publication of results, do not meet OSCE commitments for democratic elections. On 14 November, the CEC proposed that the Majilis, the lower house of Parliament, remove the amendment restricting public meetings. However, Parliament did not pass this amendment before election day.

The Law on Peaceful Assemblies, in combination with the Code on Administrative Violations, imposes limitations which can result in undue restrictions of the fundamental right to peaceful assembly. Furthermore, the application of this law to outdoor meetings of candidates with voters, creates unnecessary and unreasonable obstacles to candidates' access to the electorate, and gives local executive authorities undue power to deny requests for such meetings and to decide on the venue and timing of meetings.

The practical application of provisions on the protection of honour and dignity of the President and of candidates contained in the Constitution, the Election Law, the Code on Administrative Violations and the Criminal Code limited the political discourse during the election campaign, and in effect, significantly restricted freedom of expression as well as the right to disseminate information available in the public domain. This included the case of Mr. James Giffen, currently pending in a U.S. Federal Court, concerning alleged links between payments to high-ranking officials of

Kazakhstan and oil contracts. There was an effective ban placed on any public discussion of this case as a result of a letter from the prosecutor's office and a decision of the Almaty Regional Specialized Court.

Election Administration

The election was administered by a four-tiered system of election commissions headed by the CEC. The second level consists of 16 commissions: 14 Regional Election Commissions (RECs), and the City Election Commissions of Astana and Almaty. The third level comprises 204 District Election Commissions (DECs) and the fourth level, 9,580 Precinct Election Commissions (PECs).

All election commissions consist of seven members appointed for five-year terms. CEC members are confirmed by the Majilis on the proposal of the President, and lower-level commissions are elected by the corresponding Maslikhats (regional and local councils) based on proposals of political parties. Each political party has the right to propose one member of the corresponding election commission.

Election commission members proposed by political parties currently account for more than 80 per cent of the membership of RECs, DECs and PECs. The two main parties supporting the incumbent, Otan and Asar, have the highest representation at the precinct level, with 13.8 and 13 per cent respectively. Among parties that identify themselves as opposition, the Ak Zhol is represented by 4.4 per cent of PEC members and the Communist Party of Kazakhstan, by 1.9 per cent. This is mainly a result of these parties' low level of representation in the bodies appointing the commissions.

The number of PEC members who are employees of state enterprises and other organizations is approximately 55 per cent. Numerous PECs include several workers from the same institution or company. According to the Election Law, election commissions "should not consist of workers from one and the same organization." The CEC interprets this requirement as being satisfied as long as at least one commission member works in a different organization from the other members. However, the independence of a commission could be questioned where a majority of its members work at the same organization and are subordinate to another commission member at their regular place of work.

The CEC generally worked in an open manner, holding regular sessions, press briefings and other events which provided for the transparency of its work. On 16 September, the CEC made a decision which took a number of steps to improve the transparency and functioning of the election administration and has implemented many of these. The CEC has also made further decisions and statements aimed at improving the election process. Such steps included the Statement to All Subjects of the Election Campaign, weekly press briefings and meetings with candidates and proxies, and the decision that all three results protocols would be handed out to those entitled. However, the CEC's decision-making process was not always transparent to observers and the general public. The agenda of CEC sessions was never given in advance to candidate representatives, observers or media representatives. The practice of holding closed 'working meetings' lasted until a week before election day.

A lack of clarification of relevant legislation occasionally led to misunderstandings and a degree of confusion during the electoral process. Such problems were noted regarding signature collection, production and handling of Absentee Voter Certificates (AVCs), presence of international observers and their assistants in polling stations on election day, and the use of envelopes. A decision to use envelopes for paper ballots was introduced late in the process, but the CEC cancelled the decision on 28 November, after concerns had been raised by some candidates. A late CEC decision on the

handling of AVCs, while attempting to address concerns regarding the potential for abuse of these documents, caused a degree of confusion among lower-level commissions, and did not provide for full accountability on this sensitive matter.

On 26 November, the CEC took two important decisions which clarified provisions in the Election Law regarding election-day procedures. One decision clarified that in polling stations with electronic voting (e-voting), observers and candidate proxies are entitled to all three results protocols, while the other decision clarified which documents can be used for voter identification on election day.

During the election period, the CEC organized trainings for lower-level election commissions, provided instructions and developed manuals for PEC members. Lower-level election commissions appeared to be adequately trained and prepared for their tasks. The CEC conducted large-scale voter education and mobilization campaigns, informing voters about various stages of the electoral process and explaining election procedures, with a focus on e-voting.

RECs were generally cooperative with the EOM and provided observers with requested information. However, many RECs did not conduct regular sessions or did not inform observers about sessions in advance.

Generally, voter lists were available for public inspection by the deadline of 18 November, and voters were able to check the lists. At some PECs, lists were not stamped and signed by local executives as required. Prosecutors' offices played a positive role in updating voter lists, finding a number of inaccuracies in the lists and requesting that election commissions correct errors. According to the CEC, after the verification stage, the number of eligible voters increased by just over 100,000 voters to a total of 8,702,000.

Electronic Voting

Electronic voting (e-voting) was first used in Kazakhstan in the 2004 parliamentary elections. This year, the 'Sailau' e-voting system was used in some 15 per cent of polling stations, a gradual increase over the 2004 parliamentary elections (10 per cent). The 1,451 polling stations with e-voting served approximately 32 per cent of voters. The CEC decided at an early stage that voters served by polling stations with e-voting would be able to choose between e-voting and paper ballot and that a single paper voter list would be used in polling stations with e-voting.

The Sailau system has been modified since the last elections, and the new intuitive touch-screen voting terminals appear to be easier for voters to use. However, several elements of the system continue to contribute to a continued lack of public confidence, despite a widespread information campaign that encouraged voters to use e-voting. The e-voting system still lacks a paper trail which could be used for recounts or in the case of election disputes.

As in 2004, the use of an optional four-digit code for voter verification remains a major concern. The purpose of this code is to make it possible for a voter to check that his or her vote was recorded correctly, by consulting a protocol which lists all control codes next to the name of the candidate for whom the corresponding vote was recorded. While this feature is intended to build public confidence in the e-voting system, the control code, if provided to a third party, would show how a voter voted. This opens the potential for violation of the secrecy of the vote as well as intimidation.

The certification and testing process of the ‘Sailau’ system still lacks transparency. A private company assessed the system prior to both this election and the 2004 elections. The company indicated that the voting system and its major components were tested to standards which are a state secret. It is therefore not possible to assess the appropriateness of these standards. The CEC and its Information Technology Center staff could not answer all technical questions about voting cards and voting terminals, which suggests that contractors providing these parts have been operating with excessive autonomy and insufficient guidance from the CEC.

While many aspects of the system do permit auditing, it is not clear whether there is a routine audit process which would allow the identification of problems in a timely manner in order to improve the conduct of future elections.

In order to make the association of a voter with a vote impossible, the system is designed in a way that actual votes are not stored individually. The side effect is that this makes it impossible to conduct a recount. The OSCE/ODIHR EOM was informed that there is no backup storage of votes during the voting process. This means that it would be impossible to recover the votes from loss of or damage to the only memory device holding the votes.

Four out of the five candidates standing in this election urged their supporters not to use e-voting.

Candidate Registration

Following the 4 October deadline for candidate nomination, nominees had 20 days to provide the necessary documentation to be registered as candidates by the CEC. The registration process was mostly inclusive and resulted in the registration of five candidates. Of the 18 initial nominees, four did not pass the mandatory Kazakh language test and one did not take the test, while two withdrew before the registration deadline. Six nominees were denied registration because they did not submit the required support signatures, tax certificates and proof that they provided the election deposit.

One nominee, Senator Ualikhan Kaisarov, was denied registration due to having an insufficient number of valid support signatures. The Supreme Court upheld the CEC decision.

The Election Law does not provide for a separate deadline for the submission of documents and support signatures prior to the deadline for candidate registration. This can be potentially misleading for prospective candidates since the Election Law gives election commissions up to ten days to check the signatures. The CEC issued a statement suggesting that nominees submit their signatures no later than ten days before the registration deadline, but it did so only one day before the date it suggested for submission. This lack of clarity appeared to be a factor in the CEC’s decision not to register Mr. Kaisarov as a candidate. He appealed the decision to the Supreme Court, which upheld the CEC decision. There were numerous complaints regarding the signature collection process, many from voters who requested that their signature in support of a candidate be withdrawn, while other complaints claimed that signatures were being falsified.

Campaign Environment

The election campaign began on 25 October. Most candidates actively traveled throughout the country to meet voters. The campaign environment was impacted by the decision of the incumbent President, not to campaign in person. Nevertheless, the President made visits to some regions in his official capacity as head of state.

Visually, the campaign was dominated throughout the country by billboards, banners and posters of the President. Representatives of two candidates told the OSCE/ODIHR EOM that they lacked access to advertising space, especially billboards. Candidates had generally been informed by private companies and local administrations that no space was available for their advertising, although this did not appear to have affected President Nazarbayev's campaign. Although later in the process other candidates did get access to some billboard spaces, mainly in Astana, a considerable visual disparity remained.

The OSCE/ODIHR EOM received numerous complaints from Mr. Nazarbayev's campaign team regarding campaign infractions by his opponents (posters in non-allocated locations, posters being torn down, and advertising without the required print information). In certain cases, courts imposed administrative penalties for such infractions.

The campaign was, to some extent, undermined by numerous incidences of disruption or interference in campaign meetings, mainly those of Mr. Tuyakbai and Mr. Baimenov. Instances of interference from local administration were reported, but most often, disruptions were caused by individuals, sometimes acting in an organized manner. In addition, the OSCE/ODIHR EOM observed that campaign meetings of the two candidates were being video or audio-taped by members of law enforcement agencies. As election day approached, the frequency of such disruptive actions appeared to decrease. The other candidates did not appear to experience such harassment.

Two candidates initially complained that allocated locations for meetings were too small and too remotely located. Encouragingly, all candidates were granted certain designated closed venues to meet voters throughout the country.

Of serious concern were detentions of campaign staff while handing out campaign materials or attempting to contact voters; OSCE/ODIHR EOM members observed two such cases directly, while more were reported by campaign offices. In addition, the EOM received numerous reports that vehicles carrying campaign materials were stopped for security checks and searched; some cases were directly observed. Such instances were interpreted by the candidates concerned as an effort by the state security forces to harass and intimidate their staff and to impede their campaigning.

In addition, incidents were alleged where representatives from the campaigns of Mr. Nazarbayev and Mr. Tuyakbai were beaten by unknown assailants. In the case of Mr. Tuyakbai's campaign, this was confirmed by the OSCE/ODIHR EOM in two cases. In another case involving Mr. Tuyakbai's campaign in Aktau, the EOM received correspondence from the Ministry of Interior that two men had been apprehended and that the attack was not politically related, although the investigation had not yet been concluded. In the case of the campaign worker for Mr. Nazarbayev in Turkistan, the EOM was not able to verify the information.

In two locations, members of Mr. Tuyakbai's campaign staff discovered that their offices were under video surveillance, seemingly by state security and law enforcement authorities. OSCE/ODIHR EOM observers verified the surveillance.

As required by the Law on Peaceful Assemblies, candidates had to seek permission for open meetings with voters ten days in advance of the event. Mr. Tuyakbai's campaign, particularly, complained about this provision and noted that out of 51 requests made countrywide only five

meetings were approved (and only one in the requested location). In all but one instance, the locations granted were at some distance from town centres.

Closer to the day of election, the OSCE/ODIHR EOM received increased reports and observations of students at universities across the country being pressured by their rectors or professors to vote in the election and, occasionally, to specifically vote for Mr. Nazarbayev. This was confirmed by the EOM in three cases. There were threats of expulsion or removal of stipends if students did not comply.

On 17 November the Minister of Interior stated that the state security structures had information that opposition groups were arming themselves and warned that any incidents would be forcefully put down. This statement had a negative impact on the campaign environment, with opposition candidates saying that such a statement was provocative and contributed to a climate of apprehension amongst the population. President Nazarbayev's campaign explained this statement as a warning to others and noted that the Ministry of Interior undoubtedly had proof, but was under no requirement to make it public.

On 12 November, Mr. Zamanbek Nurkadilov, a former minister and a member of the Political Council of the For a Just Kazakhstan movement, was found shot dead in his house in Almaty with two bullet wounds to the chest and one to the head. The preliminary investigation indicated that his death was a suicide, although the investigation is still ongoing.

Mr. Galymzhan Zhakianov, an opposition leader, is currently serving a sentence due to a conviction which has been widely viewed as politically motivated. The prison administration has recently recommended parole, and the case is currently with the relevant court.

Media Environment

The main source of political information in Kazakhstan is television, followed by newspapers and radio. While most media outlets are privately owned, few media are seen as independent and as providing well-balanced and fair coverage of political developments.

Several newspapers were fined, and in some cases their print run was destroyed, for violating Article 100 of the Code on Administrative Violations (distributing false information and action defaming candidates' honour and dignity). There were three instances of confiscations of the newspapers *Svoboda Slova* and *Zhuma Times* shortly after they left the printing house, raising concerns over the limitation of the right to freely disseminate information.

All candidates were able to utilize the free time and space granted to them in the state broadcast and print media. The Election Law grants each candidate 15 minutes of free airtime on TV and 10 minutes on radio, as well as two free articles in print media. This is a limited amount in view of the incumbent's advantage in other media coverage. Opposition candidates reported that there were requests from State media to modify their materials, and one candidate complained to the CEC that a newspaper had modified the title of his article without prior notification.

On 17 November, four of the five candidates participated in a televised debate organized by the CEC. The debate provided voters a chance to gain a better understanding of the choices they have on the election day; however, its value for voters was reduced by the absence of President Nazarbayev, who went on an official visit to Ukraine, thus denying the voters an opportunity to compare the views of all candidates.

Despite high advertisement prices in broadcast and print media, candidates used paid advertisement, in particular during the last two weeks of the campaign. While paid time and space was available to the candidates under equal financial conditions, Mr. Tuyakbai's campaign complained to the CEC that three TV channels had established restrictive requirements with regards to the minimum length of spots and the time at which they would be broadcast. The CEC rejected the complaint, arguing that the broadcasters' conditions were the same for all candidates, as provided by the Election Law.

All broadcast media monitored by the OSCE/ODIHR EOM² dedicated the biggest part of their news coverage related to the presentation of candidates to Mr. Nazarbayev, who was more frequently portrayed in his capacity of President than as a candidate. State-owned TV Kazakhstan-1 dedicated 59 per cent of the time allocated to candidates to the incumbent, while Mr. Tuyakbai, Mr. Baimenov, Mr. Abylkasymov and Mr. Yeleussizov received 12, 13, 8 and 8 per cent, respectively. Apart from the extensive coverage devoted to the incumbent, State TV provided reasonably balanced coverage of the candidates which was neutral or positive in tone.

Khabar television, in which the State has a majority stake, dedicated 49 per cent of its relevant news coverage to President Nazarbayev. While four candidates were portrayed in a neutral or positive manner, the portrayal of Mr. Tuyakbai was negative, and his campaign activities were often distorted. On the other hand, Khabar's news coverage of several events which were presented as regular activities of the President was overly extensive, and the events resembled campaign events.

Private KTK television dedicated 77 per cent of its newscasts coverage of contestants to Mr. Nazarbayev; his portrayal was overwhelmingly positive. Other candidates were portrayed in a mostly negative light. The same tendency was apparent in other KTK programmes, including satirical programmes which targeted almost exclusively opposition figures, including presidential candidates. Private Channel 31 gave 74 per cent of the time of its newscasts reserved for contestants' coverage to Mr. Nazarbayev. Mr. Tuyakbai received 12 per cent. While the tone of the coverage of the incumbent president was positive or neutral, portrayal of Mr. Tuyakbai was slightly negative. In a positive development, Channel 31 presented each of the five campaigns in 15-minute programs, which the candidates did not have to pay for.

The majority of the 17 monitored print media demonstrated bias in favor of or against certain candidates, which led to complaints from several candidates. While state-owned newspapers *Egemen Kazakstan* and *Kazakhstanskaia Pravda* as well as several private newspapers showed a clear bias in favor of the incumbent, both in terms of space and the tone of coverage, the newspapers *Zhuma Times* and *Svoboda Slova* portrayed the incumbent negatively, with Mr. Tuyakbai portrayed in a positive light. The private weekly *Panorama* offered the most balanced coverage.

Complaints and Appeals

Over 17,500 complaints were filed with election commissions, prosecutors and other authorities in the period between calling the election and election day. The majority of complaints related to the signature collection process. Other complaints included claims by some candidates of difficulties in conducting their campaign, harassment of campaign staff by authorities, distribution of campaign

² Since 19 October, the EOM has been conducting qualitative and quantitative analyses of four TV stations – *Kazakhstan-1*, *Khabar*, *Channel 31* and *KTK*, as well as of 17 newspapers – *Aikyn*, *Delovaya Nedelya*, *Egemen Kazakstan*, *Express K*, *Karavan*, *Kazakhstanskaya Pravda*, *Liter*, *Megapolis*, *Nachnem s Ponedelnika*, *Novoe Pokolenie*, *Panorama*, *Soz*, *Svoboda Slova*, *Vremya*, *Zhas Alash*, *Zhas Kazak*, and *Zhuma Times*.

materials lacking required information, campaign materials damaging the honour and dignity of candidates, damaged campaign materials, and appeals against actions/inaction of various authorities.

During the pre-election period, the CEC received over 370 complaints. CEC officials provided responses to many of these, including recommendations to State authorities to rectify violations of the Election Law.³ A number of CEC responses were later challenged in the Supreme Court by Mr. Tuyakbai's campaign, claiming in a number of instances that those responses constituted inactivity. The Supreme Court did not uphold any of the appeals in the pre-election period.

The CEC established a Consultative-Advisory Working Group to review complaints and appeals, and individual CEC members responded to most complaints. However, the CEC made decisions as a collegial body on few of the complaints it received. This practice does not appear to be fully in line with the principles of collegiality and transparency as required in the Election Law. The Working Group met regularly and publicly to hear reports regarding complaints to the CEC and other authorities, but while it served as a forum for exchanging information, it addressed few individual complaints.

Participation of Women

No women contested the presidential election. All three women nominees were disqualified for failure to pass the mandatory Kazakh language test.

Overall, 58 per cent of all election commission members are women. Three out of seven CEC members are women. At the REC level women comprise only 22 per cent of commission members.

Participation of Minorities

National minorities appeared to be able to participate in the election process without difficulty. Although election-related information was presented to voters in Kazakh and Russian, no reports were received that this presented a hindrance to other groups. In addition, members of minority groups were represented on election commissions at various levels. However, none of the 18 presidential nominees were from national minority groups.

Domestic and International Observers

The Election Law provides an adequate framework for election observation by domestic non-partisan observers, and party and candidate representatives. A number of domestic election observation groups observed the presidential election. The two most visible non-partisan domestic observation efforts were undertaken by the Republican Network of Independent Monitors (RNIM), established in 1999, and the Public Committee for the Control of the Election, established in September 2005, under the leadership of Senator Kuanysh Sultanov. These two organizations said they would field around 2,000 and 5,000 observers, respectively, on election day. The methodology used by the Public Committee for the Control of the Election was unclear.

Some domestic observation organizations, particularly the League of Voters, came under increased pressure at the close of the pre-election period. In particular, the group claimed to experience

³ For example, the CEC recommended that the Ministry of Foreign Affairs remove from their website material found to be in violation of campaign provisions.

intimidation from regional authorities, with co-ordinators being told by executive bodies to cease their activity or face repercussions.

Regarding international observation, the authorities have taken the position that only representatives of foreign states, inter-governmental and inter-state organizations can be accredited as international observers. Consequently, the Ministry of Foreign Affairs denied accreditation to the European Network of Election Monitoring Organizations (ENEMO), and the CEC withdrew the accreditation of CIS-EMO.

On election day, domestic non-partisan and candidate observers were present in nearly all polling stations visited, although they were restricted in their work in 8 per cent of polling stations observed. In the majority of observations, neither domestic non-partisan nor candidate observers were present at the DEC.

Election Day, Vote Count and Tabulation of Results

Voting was conducted in a generally calm atmosphere. Overall, observers assessed voting positively in 92 per cent of polling stations visited, and negatively in eight per cent. The performance of most PECs was assessed positively, with only four per cent being assessed as bad or very bad. Unauthorized persons were present in 11 per cent of polling stations visited, sometimes interfering in or directing the process (four per cent). Observers saw voters being instructed who to vote for in 3 per cent of polling stations observed and to use e-voting instead of paper voting in 2 per cent of polling stations observed.

Observers noted multiple and proxy voting in 2 per cent of polling stations visited, and group or family voting in 14 per cent. Other serious irregularities included multiple identical signatures on voter lists (10 per cent) and violations of the secrecy of the vote (6 per cent). Two cases of ballot box stuffing were observed directly, and at least five cases indicating stuffing were noted. In 12 per cent of polling stations visited, ballot boxes were not properly sealed.

Observers reported that in a number of cities, university students came to vote in large, often organized, groups. In Shymkent and Turkistan, there was evidence that students were pressured to vote. In one polling station, local government officials recorded the names of all students who voted.

In numerous polling stations, a significant numbers of voters requested to be added to the voter list, without producing required documents or AVCs. In some cases, voters who had previously checked that they were on the list were missing. Procedures for mobile voting were not always followed, and secrecy of the vote was often lacking. In Mangistau region, mobile voting was organized for over 1,000 persons living in settlements no longer served by a polling station without the required applications.

Overcrowding of polling stations occurred frequently and seriously hampered the process in six per cent of polling stations visited. Observers noted more overcrowding in e-voting polling stations, partly due to the limited number of booths available for paper voting. Some 42 per cent of polling stations did not provide access for disabled voters.

Voters who voted electronically frequently did not sign the voter list, removing an important safeguard against multiple voting. In e-voting polling stations visited, over two thirds of voters appear to have preferred paper ballots.

In eight per cent of visits, IEOM observers were not given full access to the process, and in isolated cases, they were not allowed to enter polling stations or were restricted in their work

International observers assessed the vote count as bad or very bad in 27 per cent of the 165 counts observed. There were serious violations in 21 per cent of counts observed, including tampering with results protocols in 10 per cent. In several instances, the votes cast for Mr. Nazarbayev were determined by subtracting the votes received by other candidates and invalid ballots from the number of votes cast instead of being counted. Observers also noted a wide range of procedural violations, such as voters' choices not being announced loudly (64 per cent), ballots not being shown to those present (54 per cent), results protocols not being filled in completely (9 per cent) and in ink (8 per cent). In 27 per cent of counts observed, PECs had problems filling in the protocols. In e-voting polling stations, the PI-card, which holds the election results, was not put away and sealed in 29 per cent of counts observed. Protocols were not posted for public display in over one third of polling stations where the count was observed. IEOM observers did not have a full view of the process in 14 per cent of cases observed and did not receive copies of protocols in 11 per cent of polling stations observed.

The tabulation of results at the DEC level was assessed as bad or very bad in 20 per cent of the 112 DEC's visited. The organization of the work was assessed negatively in 31 per cent, and the transparency in 43 per cent of DEC's visited. Unauthorized persons were present in 21 per cent of DEC's visited. As of 1300 hours on the day after the election, the CEC had not posted preliminary results by polling station on its website.

Mission Information and Acknowledgements

Mr. Bruce George (United Kingdom), Head of the OSCE Parliamentary Assembly (PA) delegation, was appointed as Special Coordinator by the OSCE Chairman-in-Office to lead the short-term observers. Mr. Tadeusz Iwiński (Poland) led the Parliamentary Assembly of the Council of Europe (PACE) delegation, and Mr. Struan Stevenson (United Kingdom) led the European Parliament delegation. Ambassador Audrey Glover (United Kingdom) is Head of the OSCE/ODIHR Election Observation Mission.

The OSCE/ODIHR Election Observation Mission (EOM) opened in Almaty and Astana on 17 October. The EOM deployed 46 experts and long-term observers in Astana, Almaty and the 14 regions. On election day, the IEOM deployed some 411 short-term observers including 45 parliamentarians from the OSCE PA, 7 from PACE, and 16 from the European Parliament. Observers came from a total of 43 OSCE participating States. The IEOM observed voting throughout the Republic of Kazakhstan in approximately 2,000 polling stations out of a total of 9,580, and counting was observed in some 165 polling stations. The IEOM was also present in 112 District Election Commissions to observe the tabulation of results.

The IEOM wishes to thank the Ministry of Foreign Affairs, the Central Election Commission, and other national and local authorities for their assistance and cooperation during the course of the observation. The IEOM also wishes to express appreciation to the OSCE Centre in Almaty and other international organizations and embassies accredited in the Republic of Kazakhstan for their support throughout the duration of the mission.

For further information, please contact:

- Urdur Gunnarsdottir, OSCE/ODIHR Spokesperson (+48 603 683 122); or Jonathan Stonestreet, OSCE/ODIHR Election Adviser, Warsaw (+48 607 500 099);
- Bas Klein, Parliamentary Assembly of the Council of Europe, Strasbourg (+33 662 654 89);
- Andreas Baker, OSCE Parliamentary Assembly, Copenhagen (+45 601 08 030);
- Tim Boden, European Parliament, in Brussels (+32 475 351 948)

***This statement is also available in Russian.
However, the English version remains the only official document.***
