

## REPUBLIC OF KAZAKHSTAN

### I. System of Government

1. The Republic of Kazakhstan is a unitary state with a presidential form of government.
2. The President is the head of state and of the executive branch of government. The President is elected by direct ballot under a two round system for a seven year term, with the possibility of a single re-election.
3. Kazakhstan has a bicameral national legislature consisting of a lower chamber (the *Majilis*) and a higher chamber, the Senate. The Majilis is composed of 77 deputies representing territorial constituencies who are elected by direct vote for five year terms. Sixty seven deputies are elected from single seat constituencies via a two round majoritarian system. The remaining 10 deputies are elected by party list proportional representation, with a 5 percent share of the national vote threshold for party representation. The Senate consists of 39 representatives who serve six year terms. Thirty two are elected by the members of regional and city councils in joint session, with half being elected every three years. The remaining seven senators are appointed by the President.
4. Local representative councils (*maslikhats*) are directly elected for a four year term and local executive bodies (*akimats*) are presidentially appointed.
5. In a post election report, the Central Election Commission (CEC) of Kazakhstan stated that there were 8,949,199 registered voters for the 4 December 2005 presidential election,—significantly more than the 8,702,000 registered voters reported as of 13 November 2005 by the CEC and independent election observers.

### II. Electoral Legal Framework

6. Kazakh elections are governed by the 1995 Constitution (as amended in 1998), election laws passed by parliament, presidential decrees and the regulations and decisions of the Central Election Commission (CEC).
7. The Kazakh Constitution contains the legal provisions on citizenship, elective offices, and terms of office as well as the basic provisions for the systems for presidential, legislative and local elections. Other laws governing national and local elections include: the 1999 Constitutional Law on Elections (as amended in 2004 and 2005), Presidential Decree on Realization of Election Rights of Citizens to ensure free, fair and competitive elections, Law on Peaceful Assemblies, Law on Mass Media, Law on Political Parties, Code on Administrative Violations, Criminal Code, and regulations and decisions of the CEC.

### III. Election Management Body

8. Elections in Kazakhstan are administered by a four-level system of election commissions headed and supervised by the Central Election Commission (CEC). The CEC is composed of seven members appointed by the Majilis for five year terms of office upon the recommendation of the President. Below the CEC, regional election commissions and constituency election commissions (for constituency based elections) and district election commissions (for proportional representation elections) also composed of seven members with five year terms of office are elected by the corresponding maslikhats based on the proposals of political parties.

9. The fourth level of election administration consists of precinct election commissions (PECs). The PEC has the duty to familiarize citizens with the precinct voters list, consider applications for correction of errors and discrepancies in the precinct voters list and to solve issues relating to maintenance of the voters list at the precinct level.
10. The principal tasks of the CEC include the following: to organize preparations and holding of elections, supervise the uniform implementation of the election laws by lower level commissions, to conduct uniform electronic registration of citizens, to register presidential candidates and political parties/blocs to the election of deputies to the Majilis, to form election districts, to determine who are elected under the party list, to determine and oversee the expenditures for election campaigns, to hear and decide complaints from lower level commissions, voter education, vote counting and to publish the results of the elections.

#### **IV. The Right to Vote**

11. Citizens who are at least 18 years old on the day of the relevant election and who are registered voters are qualified to vote. Disqualified from registering and from voting are citizens adjudged legally incapable by a court and those held in prison under a court sentence.
12. Kazakh election laws provides for both domestic and overseas absentee voting. Not later than 30 days before election day, voters within the country who are unable to attend the voting station where they are originally registered may, upon a written application to the local executive body, be included in the voters register of the place where they are on the day of the elections. Registered voters who live, work or are on business trips abroad and who have valid passports are included in the voter registers and are allowed to vote in voting stations abroad.
13. Members of the military and their families, and other voters living at military bases are included in the voters lists prepared on the basis of data provided by military commanders. Military servicemen living outside military bases are included in the voters lists at the places of their residence.
14. Students staying in hostels are included in the voters list according to the location of their hostels. Voters lists for hospitals and sanatoriums, temporary detention centers, citizens located in remote areas and the like are compiled and submitted by heads of institutions or the corresponding akimats.
15. Voting stations cater for 3,000 voters per station.

#### **V. System and Procedure of Voter Registration**

16. Voter registration is initiated by the state through local government units, although a qualified voter whose name is not included in the voters list may move for the inclusion of his/her name in the list. The local executive bodies (akimats) compile voters lists based on data provided by population registration bodies under the Ministry of Justice. Twenty days before election day, the voters lists for voting stations, stamped and signed by the local chief executive (*Hakim*), are submitted to the corresponding election commissions for public scrutiny and updating. The voters' list is displayed for public scrutiny at the premises of the electoral commissions 15 days before election day. Qualified voters who were not able to find their names in the voters' list may file an application for inclusion in the voters' list before the divisional election committee, and if denied, to appeal before the regular courts. Entry of changes in the voters' list is not allowed on election day. In the 2005 presidential elections however, the CEC allowed voters whose names were not included in the voters' list to be included in the voters' list, and to vote, after the divisional election committee has examined the identity card of the voter and has verified his/her residence in the registration book of residents.

17. A qualified voter can be included in only one voters list.
18. Voters lists formed for absentee voters are made available to voters for scrutiny five days before election day. For local government elections, voters lists are made available for scrutiny in voting stations seven days before election day.
19. The voters lists include information such as the voter's surname, name, patronymic, year of birth (for 18 year olds - including information about the day and month of birth) and residential address.
20. The lists of electors for election of senators are compiled by the relevant territorial election committees from data provided by the secretary of each maslikhat, and are made available for public scrutiny through publication in the local mass media not less than seven days prior to elections. These lists include information such as the elector's surname, name, patronymic, year of birth, the name of the maslikhat where the elector is a representative, and residential address.

## **VI. Data Management and Storage**

21. Electronic voting was introduced in 10 percent of the polling stations for the 2004 Parliamentary elections using a computer-based information system called *Sailau*. This system was intended to manage the voters' register through voter identification, allow electronic voting, periodic reports of voter turn-out to the CEC, fast tabulation of voting results and to generate protocols at the precinct level. An identification card with a bar code was distributed to the voters in the voting stations selected for electronic voting. A PIN code was also randomly generated by the system in order to allow the voter to verify if his/her vote was properly recorded. The system however, has no paper trail and cannot be subjected to manual audit. The introduction of electronic voting necessitated the encoding of the voters' list in electronic format.
22. However, due to the confusion brought about by the introduction of the new voting system, and the inability of the local governments and election authorities to distribute the IDs with bar codes effectively, the CEC allowed the voters assigned to the voting stations chosen for electronic voting the option to choose between electronic voting and paper balloting. For this purpose, two versions of the voters' list were used: one on paper, and the other in electronic format. Significant discrepancies between the paper and electronic voters' lists were noted by election observers in the 2004 Parliamentary elections. Voters without bar codes were also allowed to vote electronically. Voters who were not able to find their names in the voters' list were either turned away or allowed to vote. It was also observed that some of those who chose electronic voting were not properly recorded as having voted in the paper voters' list.
23. Electronic voting was expanded to 15 percent of the total number of polling stations for the 2005 Presidential elections. The *Sailau* system was modified to allow "touch screen" voting. As in the 2004 elections, the voters were given the option on how to vote: either by paper ballot or by electronic voting. Unlike the 2004 elections however, only one paper voters' list was used. Upon entering the polling station, the voter is registered with the computer after his/her identity was verified by the PEC. The voter is then given an electronic card that is inserted in the voting terminal. The electronic card records his/her vote. After voting, the electronic card is inserted by the voter to the device for vote counting. The electronic card is then swiped clean and used again by the next voter. As in the 2004 elections, it was observed that many voters who voted electronically did not sign the voters' list.

## **VII. Data Management Technology**

24. With the introduction of electronic voting in the 2004 parliamentary elections, voters list are kept in two formats: on paper and on electronic format using the Sailau technology. Unique bar codes to be used in electronic voting were also distributed to voters assigned to the pilot polling stations. In the 2005 Presidential elections, the electronic voting system was modified to allow the voters to use touch screen technology in voting using a reusable electronic voting card.

## **VIII. Types of Voters List Generated**

25. The preliminary voters list is prepared for public scrutiny and correction by local executive councils on the basis of the population register. The updated voters list before election day becomes the final voters list for election day. Lists of electors for elections of senators are compiled by the relevant territorial election committees. When electronic voting was introduced in the 2004 parliamentary elections, two versions of voters' list were used: a paper version and an electronic version. For the 2005 Presidential elections, only the paper voters' list was used notwithstanding the fact that electronic voting was used in 15 percent of the polling stations.

## **IX. Proof of Registration**

26. The registered voters are not issued any specific proof of registration or inclusion in the voters' list. An attempt in this direction was made during the 2004 parliamentary elections when bar codes were distributed to the registered voters of the polling stations chosen for electronic voting.

## **X. Maintenance of the Voters List**

27. The election law tasks the local executives (*akimat*) with reviewing voter lists twice a year. Data on voters, after being verified against data held by other competent bodies and organizations, is submitted by the local executive body in electronic and paper format to the relevant territorial election commission by July 1 and January 1 each year. Local executive bodies are responsible for the authenticity of the voters registers, and for the voter data presented by the relevant election commission.

## **XI. Quality Assurance Mechanisms**

28. In preparation for the 2005 presidential elections, local executive bodies and election commissions conducted door-to-door verification of voters to improve the accuracy of the voters lists. Voters lists were also made available for public inspection and correction 15 days before election day.

## **XII. Transparency and Accessibility to the Public**

29. The voters' list is made available for public inspection 15 days before election day. Citizens may check their data in the voters list and appeal against omission, exclusion, wrongful inclusion and request amendment to data contained on the list.
30. Applications for changes to the voters list are acted upon by the relevant election commission on the day of receipt of such applications. If the application is not accepted, an appeal can be made to the relevant court for final judgment. If the court decides in favor of an applicant, the election commission makes the amendments in the electoral register or includes previously omitted citizens. The voters' list may not be altered on election day.

31. Limited protection for personal data contained in the voter registry is provided by the Law of 8 May 2003 on Computerization of Data.

### **XIII. Voter Education**

32. The CEC is responsible for voter education. It is tasked to explain the law and raise awareness of electoral practice among voters, and to stimulate voter interest generally in political activity and the electoral process. The CEC uses pre election media campaigns and produces information booklets explaining the rights of voters, voter registers and voting procedures (electronic and paper ballot). The CEC's voter education programs have been regarded by international observers as professional and effective. Specific detail on voter registration information campaigns was not available.

### **XIV. Voter Registration Cost**

33. No published data on voter registration cost was available for review.

### **XV. Performance Standards**

34. Publicly available data on the performance standards of the voter registration system of Kazakhstan could not be found when researching this case study.

### **XVI. Performance of the Voter Registration System**

35. International election observers noted serious problems with the voters lists for the 2004 parliamentary elections. In some areas the lists were found to be incomplete and in others there were discrepancies between lists in electronic and paper formats. It was also observed that voters who were issued identification cards with bar codes for electronic voting were turned away at voting stations when their names were not included in the electronic voters list. Abuses of the use of absentee voting certificates were also noted for this election.
36. In its Statement of Preliminary Findings and Conclusions for the 2004 Parliamentary Elections, the OSCE-led International Election Observation Mission noted that "while the CEC has made efforts to update and computerize the voters list and improve its accuracy, significant problems remain with the voter register." The mission cited the case of Almaty where a formal complaint was filed alleging that "several thousand voters were left off voter lists, apparently due to a dispute among local government officials." The mission further states that "problems in the accuracy of the voter register were evident on election day, due to significant discrepancies between paper and electronic voter lists, voters being added to the voter lists, and voters being turned away at the polling station."
37. While election day additions to the voter lists were permitted in the 2004 Parliamentary Elections - but only under circumstances strictly regulated by higher level commissions, the OSCE/ODIHR IEOM reported that "widespread additions were made," where observers witnessed voters being added to the list in 10 percent of locations visited and "in some cases PECs made additions only on the basis of telephone confirmation with no supporting documentation." Observers judged that at best, this was "a non-transparent process." At worst, it "could result in the arbitrary disenfranchisement of voters or manipulation of the voter list."
38. In the 2005 presidential elections, international election observers concluded that the accuracy of the voters lists appeared to have improved and were generally available for public scrutiny. They noted that akimats and electoral commissions exerted efforts to improve accuracy of voters list through door-to-door verification and voter education campaigns. They also cited the positive role played by the prosecutor's office in finding inaccuracies in voters lists and reporting these to the electoral

commissions for corrections. Notwithstanding the fact that Article 24(10) of the Constitutional Law on Elections (as amended up to 2005) prohibits changes to the voters' list on election day, the CEC allowed voters who were not able to find their names in the voters' list to vote upon proper verification of their identities and residence by the PECs. The CEC reported that after verification of the voters' list, the number of voters increased by 100,000 to 8,702,000 on election day. However, two days after election day, the CEC reported in its Resolution No. 54/109 that the voters' list actually increased up to 8,949,199.

39. Notwithstanding the foregoing findings and conclusions, the international election observers also recommended the further review of the voters lists and procedures for their compilation, to ensure their accuracy. They cited the inclusion of additional 100,000 voters before election day. It was also noted that in some PECs, the voters lists were not stamped and signed by the local chief executive (akimat) before they were submitted to the corresponding election committee 20 days before election day as required by law. It was also observed that some voters who applied for registration did not submit the proper application documents and the PECs did not make formal decisions on their inclusion in the voters lists. This resulted in some voters not finding their names in voters lists on election day.
40. Election observers also criticized the practice of preparing the voters list and conducting voting within military units for members of the military on account of the potential influence that military commanders may exert on their units. They recommended that members of the military should be registered to vote and vote at their place of residence or the nearest civilian polling station, unless they are located in areas too far from a civilian polling station such as naval units on a ship at sea.