

**INTERIM REPORT No. 1**  
**13 – 21 December 2011**

**22 December 2011**

**I. EXECUTIVE SUMMARY**

- On 16 November 2011, the president decreed the dissolution of the lower chamber of parliament (*Majilis*) and called for early elections on 15 January 2012, more than half a year ahead of the schedule. The dissolution followed an appeal from 53 deputies to the president. Voters will elect 98 members of the 107-member *Majilis*, with the remaining 9 elected by an advisory body appointed by the president.
- The Election Law has undergone certain changes since the last parliamentary elections. Most notably, following a 2009 amendment, the law provides for at least two parties to be represented in the *Majilis*. In case only one political party passes the seven per cent threshold, the party getting the second highest number of votes will also be allocated no less than two seats.
- The Law on Political Parties was amended in 2009. Nevertheless, the number of parties registered with the Ministry of Justice has not changed and two parties that have been seeking registration for some time remain unregistered.
- The elections will be administered by four levels of election administration. The Central Election Commission (CEC) has commenced training of lower-level election commissions. The number of registered voters is expected to be around 9,270,000.
- The CEC registered the eight parties that presented candidates lists by the legal deadline of 15 December. Their order on the ballot was determined in a lottery at the CEC. Independent candidates cannot stand for election, and political parties are prevented from forming electoral blocs. One party will not be able to compete in these elections as its activities were suspended by a court for six months in October 2011.
- The start of the campaign coincided with country-wide celebrations of the 20th anniversary of Kazakhstan's independence. On 16 December, violent clashes took place in Zhanaozen, Mangistau region, where energy sector workers had been on strike for several months. A state of emergency was declared in the town from 17 December to 5 January. On 18 December, the Prosecutor General's office confirmed 14 people had died as a result of the violence. The authorities have assured that elections will take place there; the OSCE/ODIHR EOM is in the process of determining whether it will be possible to deploy observers to this region.
- While the Constitution provides for freedom of expression, media continue to work in a restrictive environment, dependent on state subsidies and bound by legal provisions that induce

self-censorship. The CEC has established a Public Council to provide all electoral contestants with equal access to mass media and to ensure objective media coverage.

- The CEC has begun to accredit international observers and domestic observation groups have also stated their intention to observe the elections.

## II. INTRODUCTION

On 16 November 2011, the president dissolved the lower chamber of parliament (*Majilis*) and called for early parliamentary elections, seven months ahead of the schedule. An invitation to observe the elections was received by the OSCE/ODIHR on 17 November. Due to time constraints, the OSCE/ODIHR was not able to conduct a Needs Assessment Mission, but based on the findings and recommendations of the past OSCE/ODIHR election observation missions, decided to deploy a full election observation mission (EOM). The OSCE/ODIHR EOM commenced its work on 13 December. The EOM is led by Miklós Haraszi and comprises a 15-member core team based in Astana and Almaty and 28 long-term observers (LTOs) deployed to 14 cities to cover all regions of the country. The Core Team members and LTOs are drawn from 24 OSCE participating States. Participating States have been requested to second 400 short-term observers to observe voting, counting and tabulation of results.

## III. BACKGROUND

The calling of early parliamentary elections followed a 10 November appeal from 53 deputies to the president calling for the *Majilis*'s dissolution and the holding of early elections. Deputies gave a number of reasons in the appeal; among them, an expected global economic downturn in 2012, in which the government should concentrate on solving economic challenges and not on preparing for elections.<sup>1</sup> According to the Constitution, the president can dissolve the parliament at any time.

The last parliamentary elections took place on 18 August 2007, and the *Nur Otan* party won 88 per cent of the vote.<sup>2</sup> All other parties together received less than ten per cent and none of them passed the seven per cent threshold for representation in the *Majilis*.<sup>3</sup> In its final report, the OSCE/ODIHR concluded that "the election did not meet a number of OSCE commitments, in particular with regard to elements of the legal framework and to the vote count and tabulation."<sup>4</sup>

On 15 January, elections to *Maslikhats* (local councils) will take place in parallel with the *Majilis* elections. The OSCE/ODIHR EOM will observe elections to the *Maslikhats* only to the extent that they affect the conduct of the *Majilis* elections.

## IV. ELECTION SYSTEM AND LEGAL FRAMEWORK

Kazakhstan has a bi-cameral parliament comprising a 107-member lower house (*Majilis*) and a 47-member upper house (Senate).<sup>5</sup> Ninety-eight *Majilis* deputies are directly elected for a five-year

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<sup>1</sup> <http://www.parlam.kz:80/Parliament/ru/mazhilis/news-details/id391/2/1>.

<sup>2</sup> Voter turnout was announced at 90 per cent.

<sup>3</sup> Nationwide, the All-National Social Democratic Party received 4.63 per cent, the Democratic Party of Kazakhstan "Ak-Jol" gained 3.27 per cent, the Social Democratic Party "Auyl" received 1.58 per cent, the People's Communist Party of Kazakhstan 1.31 per cent, the Party of Patriots 0.75 per cent and the "Rukhaniyat" Party 0.41 per cent.

<sup>4</sup> OSCE/ODIHR reports on previous elections in the Republic of Kazakhstan are available at <http://www.osce.org/odihr/elections/kazakhstan>.

<sup>5</sup> *Maslikhats* of each of the 14 regions of the country, as well as of the cities of Astana and Almaty, elect two Senators each. In addition, the president appoints 15 Senators.

term through a proportional system with party lists in one nationwide constituency. The remaining nine will be elected on 16 January 2012 by the Assembly of the People of Kazakhstan (APK), an advisory body appointed by the president.<sup>6</sup> For the *Majilis*, candidates must be nominated by their respective parties. Independent candidates cannot run for election, and political parties are prevented from forming electoral blocs. Party lists are arranged in alphabetical order and only after the announcement of the final results, the governing bodies of the parties that passed the threshold of seven per cent decide which candidates will receive mandates.

Elections in Kazakhstan are regulated by the Constitution, the Constitutional Law on Elections (Election Law), as well as other election-related legislation, including the Law on Political Parties, the Law on Peaceful Assembly, and supplementing regulations of the CEC. The basic laws stipulate that fundamental civil and political rights necessary for the conduct of democratic elections are guaranteed, although a number of provisions have previously raised concerns as to their compliance with Kazakhstan's OSCE commitments. In particular, the legal framework unduly limits the right to be elected and continues to include inconsistencies with OSCE commitments and international standards, including undue restrictions on freedom of assembly and freedom of expression.

The Election Law has undergone some changes since the last parliamentary elections. Most notably, following a 2009 amendment, it provides for at least two parties to be represented in the *Majilis*. In case only one party passes the seven per cent threshold, the political party getting the second highest number of votes will also be allocated no less than two seats.

Voters must be citizens of Kazakhstan and at least 18 years old. People recognized by court as legally incapable, as well as those held in places of confinement on a court-imposed sentence, irrespective of the gravity of a crime, are not eligible to vote. Any citizen enjoying active suffrage rights who has reached 25 years of age and has been a permanent resident of Kazakhstan for the last 10 years can stand for parliament. Citizens with criminal sentences that are not expunged, regardless of the gravity, as well as those that have previously committed corruption-related crimes and violations are not eligible to stand. The Constitution stipulates an imperative mandate: deputies lose their mandate if they resign or are excluded from the party, or if the party ceases its activity.

## V. ELECTION ADMINISTRATION AND VOTER REGISTRATION

The elections are administered by four levels of election administration consisting of the Central Election Commission (CEC); 16 Regional Election Commissions (RECs);<sup>7</sup> 207 Territorial Election Commissions (TECs),<sup>8</sup> and 9,760 Precinct Election Commissions (PECs).

Each election commission has seven members, appointed for a five-year term. The CEC is a permanent body, while lower-level commissions are active during election periods only. The CEC chairperson and two CEC members are appointed by the president. Two members each are appointed by the Senate and the *Majilis*. The current commission was formed in April 2009.

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<sup>6</sup> The legal status of the Assembly of the People of Kazakhstan is defined by a law. According to the law, the Assembly is an advisory body under the president of Kazakhstan. Its primary role is to provide recommendations on the consolidation of the society and assist the president in his/her activity as a guarantor of the rights of the citizens regardless of their race, ethnicity, social status, faith and beliefs.

<sup>7</sup> One REC in each of the 14 *oblasts* (regions), in the capital of Astana, and in Almaty city. While RECs are also referred to as TECs in the Election Law, in practice they represent a higher tier.

<sup>8</sup> TECs are formed at the level of *rayons* (districts), cities and city-districts.

Lower-level commission members are appointed by corresponding *Maslikhats* based on nominations from political parties. In cases where parties do not submit nominations by the legal deadlines, *Maslikhats* appoint members based upon proposals from public associations and higher-level election commissions. Each party is eligible to nominate one candidate to each election commission, with nominees not required to be members of the proposing political party. Additionally, political parties not represented in an election commission may appoint a non-voting representative to the respective election commission for the election period.

The CEC has commenced its electoral preparations, including the training of lower-level election commissions. The CEC holds regular sessions that are open to observers and the media with decisions available on the CEC website in both Kazakh and Russian. The CEC has developed a voter education campaign, which includes billboards and TV spots and has posted voter information material on its website. In addition, the CEC has already held briefings on its electoral preparations for members of the diplomatic community and for international and Kazakhstani media.

Voters are included in the voter list based on their place of residence. Voter lists are compiled and updated by the *akimats* (local executive bodies), based on information provided by the bodies in charge of the population register. *Akimats* submit data about registered voters to the respective TECs bi-annually on 1 January and 1 July, both electronically and in hard copy. As of 1 July 2011 some 9,270,000 voters were registered. The law provides for the CEC to maintain a nationwide electronic voter register to be used for checking the accuracy of voter lists. Information about duplicates and other errors is to be sent to the *akimats*. Voters who will be away from their domicile on election day can apply for an absentee voting certificate at the precinct election commission until 18:00 on the day preceding election day.

## VI. PARTY AND CANDIDATE REGISTRATION

Political parties must be registered with the Ministry of Justice to be able to participate in elections. The Law on Political Parties was amended in 2009 to reduce the number of party members required for registration from 50,000 to 40,000. To be registered, political parties should present a list with signatures of these members to the Ministry. The law now states that if the party has presented a sufficient number of valid signatures, the number of invalid signatures will not be used as a reason for denial of registration. Despite these modifications, the number of the registered parties has not increased since 2007. Two parties remain unregistered to date<sup>9</sup> and two more face difficulties with registering their merger.<sup>10</sup>

The nomination process for candidates to deputies of *Majilis* commenced on 16 November and ended 5 December 2011. Out of ten registered political parties, eight submitted candidate lists to the CEC. The Communist Party was not permitted to compete in the elections, as its activities were suspended for six months by a court decision of 4 October 2011.

By the legal deadline of 15 December, the CEC registered eight candidate lists. The order of the parties on the ballot was determined to be the following:<sup>11</sup> People's Democratic Party "Nur-Otan" (127

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<sup>9</sup> The two unregistered parties are "Alga" and "Ata-Meken."

<sup>10</sup> Ten political parties are registered with the Ministry of Justice. The All National Social Democratic Party (OSDP) and Democratic Party "Azat" announced their merger and an intention to register the merged All National Social Democratic Party "Azat" on 24 October 2009. However, as the Ministry of Justice did not accept the name of a merged party and did not register it, two parties will join forces for the upcoming elections and appear as OSDP on the ballot.

<sup>11</sup> The order of parties was determined in a drawing of lots held by the CEC on 14 December.

candidates), People's Communist Party (21 candidates), Party of Patriots (20 candidates), Social Democratic Party "Auy" (18 candidates), "Rukhaniyat" Party (27 candidates), Democratic Party "Adilet" (59 candidates), All National Social Democratic Party (54 candidates), Democratic Party of Kazakhstan "Ak Zhol" (60 candidates). An election deposit of 15 times the minimal salary (approximately EUR 1,200 in total) per each person on the party list is to be paid by the political parties, from their own funds, to the account of the Central Election Commission.

## VII. CAMPAIGN ENVIRONMENT

Election-related laws provide that candidates have equal rights and conditions for participation in elections. Local administration must provide venues to candidates for their meetings with voters. Jointly with election commissions, they are to allocate places for posting printed campaign materials on equal access terms. The Law on Peaceful Assembly requires authorization by local authorities for an assembly to be held, with the applications for an authorization to be submitted at least ten days prior to the assembly. Election campaigns must not promote violent change of the constitutional order, infringement of the integrity of the Republic, undermining the safety of the state, unleashing of social, racial, national, religious, class and patrimonial clashes, or cruelty and violence.

The Election Law provides for an official campaign period which begins following the candidate registration deadline and campaigning prior to this is prohibited. There is a campaign silence period on election day and the day preceding it. The law prohibits military, national security and law-enforcement personnel, as well as judges from campaigning. Campaigning of state and local government bodies and their officials while on official duty is illegal. Furthermore, candidates in state positions are prohibited from using their official position to their advantage in the campaign.

Campaign funds of political parties running for election to the *Majilis* can be formed from the political parties' own means, not exceeding 5,000 times the minimal salary (approximately EUR 400,000 in total), as well as contributions from individuals and organizations, not exceeding 10,000 times the minimal salary (approximately EUR 800,000 in total). Financing of elections by foreign and international organizations and foreign citizens is prohibited.

The start of the campaign coincided with country-wide celebrations of the 20th anniversary of Kazakhstan's independence. On 16 December, violent clashes took place in Zhanaozen, Mangistau region, where energy sector workers had been on strike for several months. A state of emergency was declared in the town from 17 December to 5 January. On 18 December, the Prosecutor General's office confirmed 14 people had died as a result of the violence. The authorities have assured that elections will take place there; the OSCE/ODIHR EOM is in the process of determining whether it will be possible to deploy observers to this region.

## VIII. MEDIA

The Constitution guarantees freedom of speech and the right to freely receive and disseminate information by any means not prohibited by law. Censorship is prohibited. However, defamation and insult remain criminal offenses. Furthermore, provisions on "honor and dignity" in the Constitution, the Law on the Leader of the Nation,<sup>12</sup> along with other laws, restrict freedom of expression by providing for a higher protection of the president and government officials.

Due to a financially insufficient advertising market, media outlets depend on state subsidies. Furthermore, a lack of editorial independence and continuing criminalization of defamation and insult contribute to self-censorship. However, the internet increasingly contributes to diversity of

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<sup>12</sup> The Law on the Leader of the Nation was adopted in July 2010.

information and pluralism of opinions displayed in the public sphere, despite certain websites being blocked by authorities and legal restrictions on the internet.<sup>13</sup>

Article 28 of the Election Law guarantees candidates and political parties the right to campaign in the media under equal access conditions. The law provides political parties with the right to purchase airtime and print space on a contractual basis with prices made public. The Election Law does not provide for a limit on paid advertising, it is only constrained by the general campaign spending limits. Political parties are entitled to free airtime in form of participation in debates under conditions set by the CEC. The Election Law obliges mass media to provide unbiased coverage of the electoral campaign of candidates and political parties; however, no further information on the practical implementation of this requirement is provided by the law. On 7 December, the CEC established the “Public Council for Consideration of Information Disputes” as an advisory body to the CEC in order to provide all participants of the electoral process with equal access to mass media and ensure objective media coverage, among other things.<sup>14</sup> In addition, the Public Council has the right to advise the CEC on media-related complaints.

In order to assess the conduct and coverage of the campaign in the media, on 16 December the OSCE/ODIHR EOM commenced quantitative and qualitative monitoring of six television stations and five newspapers, in both Kazakh and Russian languages.<sup>15</sup>

## IX. COMPLAINTS AND APPEALS

Adjudication of electoral disputes is principally regulated by the Election Law. In addition, the Civil Procedures Code is applicable for complaints and appeals addressed to courts, and the Law on Procedures for Consideration of Petitions by Individuals and Legal Entities is applicable when other competent state bodies and officials review electoral disputes. The Election Law does not define a single hierarchical structure for resolution of electoral disputes, and allows for filing complaints on violations of election legislation simultaneously with election commissions, courts, and prosecutors.

Complaints on violation of electoral legislation must be considered within five days of receipt, or immediately if five or less days before election day. Complaints against decisions and (in)actions of election commissions can be submitted to either higher election commission or a court, or to both at the same time. In cases concerning decisions and actions of local government and self-government bodies, enterprises and organizations and their officials violating election legislation, exclusion of a candidate from a party list, and PEC decisions rejecting complaints in regard to voter lists the law envisages appeals to courts only. In these cases, the court decision is final.

Decisions and (in)actions of election commissions can be appealed within ten days of the decision or occurrence of (in)action, and have to be adjudicated within three days of receipt of a complaint. All complaints regarding voter lists are to be adjudicated on the same day. Denial of registration or de-registration of a party list can be appealed to the CEC and/or court within seven days and must be adjudicated within seven days of receipt.

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<sup>13</sup> In July 2009 a law on Internet regulation was adopted that equates all forms of Internet content, including forums and blogs, with traditional media.

<sup>14</sup> CEC decision, No. 65/124.

<sup>15</sup> The monitored TV stations are TV Kazakhstan, *Khabar*, Channel 31, Channel 7, KTK and Astana TV. The OSCE/ODIHR EOM monitors the following newspapers: *Kazakhstanskaya Pravda*, *Panorama*, *Svoboda Slova*, *Zhas Alash* and *Respublika*.

## **X. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES**

The Constitution and Election Law provide the basis for equal participation of women and men in the electoral process. Currently, women are not well-represented in the highest level of political leadership; of the 18 ministers in the government, 2 are women. There are no women among the governors (*akims*) of the regions and the two major cities. In the outgoing parliament, women held 17 of 107 seats in the *Majilis*. Two members of the CEC are women.

According to the 2009 census 63.1 per cent of the population is Kazakh. Russians, who are the largest minority, account for 23.7 per cent of the population.<sup>16</sup> Other minorities include Uzbeks (2.9 per cent), Ukrainians (2.1 per cent), Uyghur (1.4 per cent), Tatars (1.3 per cent), Germans (1.1 per cent), Koreans, Belarusians and Poles. According to the Constitution, the Russian language can be officially used on equal grounds with the Kazakh language in state institutions and local self-administrative bodies.

## **XI. DOMESTIC AND INTERNATIONAL OBSERVERS**

The Election Law provides for both domestic and international observation of elections. Domestic observers may be nominated by political parties, other public associations, and non-profit associations. They do not need formal accreditation, but are required to present a formal letter from their nominating party or organization and personal identification to the election commission where they intend to observe.

Domestic organizations, including the Republican Network of Independent Monitors, have expressed their intention to observe the upcoming elections.

In addition, political parties may nominate party proxies who assist with their electoral campaign and represent party interests. While proxies have the same rights and responsibilities as domestic observers, they are required to pass through a more formalized accreditation procedure. Each political party is allowed to register up to three proxies per precinct.

The CEC has already accredited international observers from the OSCE/ODIHR EOM and the Inter-Parliamentary Assembly of the Commonwealth of Independent States. As in previous elections, the CEC and Foreign Ministry have established support centres for international observers and foreign media in all regions and in the cities of Astana and Almaty.

## **XII. OSCE/ODIHR EOM ACTIVITIES**

The OSCE/ODIHR EOM commenced its activities in Astana on 13 December. The EOM has met with the Ministry of Foreign Affairs, the CEC, as well as representatives of the diplomatic community, and the acting Head of the OSCE Centre in Astana. It has established working relations with the CEC and has commenced meetings with political parties, candidates, civil society and media representatives. For election day observation, the OSCE/ODIHR EOM will be joined by delegations of the OSCE Parliamentary Assembly (PA) and the Parliamentary Assembly of the Council of Europe. Former OSCE PA President Joao Soares has been appointed by the OSCE Chairman-in-Office to lead the short-term observation mission.

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<sup>16</sup> See The Agency of Statistics of the Republic of Kazakhstan:  
[http://www.eng.stat.kz/perepis\\_nasl/Pages/n1\\_12\\_11\\_10.aspx](http://www.eng.stat.kz/perepis_nasl/Pages/n1_12_11_10.aspx).