



Office for Democratic Institutions and Human Rights

REPUBLIC OF TAJIKISTAN

PARLIAMENTARY ELECTIONS 27 February and 13 March 2005

OSCE/ODIHR Election Observation Mission Final Report



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**REPUBLIC OF TAJIKISTAN
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OSCE/ODIHR Election Observation Mission Final Report¹

I. EXECUTIVE SUMMARY

In response to the invitation from the Central Commission for Elections and Referenda (CCER) in Tajikistan, the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an election observation mission (EOM) to observe the parliamentary election on 27 February 2005, with the second round of voting on 13 March 2005.

The 2005 parliamentary elections in Tajikistan failed to meet many of the key OSCE commitments for democratic elections contained in the 1990 Copenhagen Document, and they were also not conducted fully in accordance with domestic law. Although some efforts were made to improve the legislative and administrative framework for democratic elections, a commensurate effort to ensure effective implementation was largely lacking. Therefore, despite some improvement over previous elections, large-scale irregularities were evident, particularly on election day.

The elections were held under a newly amended election law, which included significant improvements over previous legislation. Although a number of provisions remain problematic, the law could have provided the basis for the conduct of democratic elections if implemented effectively and impartially. Unfortunately, many potential benefits of the new amendments were not realized due to inadequate or arbitrary implementation.

In a positive development, members of opposition political parties were appointed to mid-level election commissions. In general, however, commissions were not established in an inclusive and politically balanced manner, and therefore did not enjoy the confidence of opposition parties. In particular, there was a common practice of appointing local government officials affiliated with the party in power as election officials, casting serious doubt on the independence of the election administration.

The Central Commission on Elections and Referenda generally met deadlines for election preparations. However, it held no official, public meetings in the five weeks prior to the elections, raising concerns about transparency and about how it could adopt decisions in accordance with law. The CCER did adopt some useful confidence-building measures, including transparent ballot boxes and ballot security features, but it did not adopt clear regulations to address shortcomings in the law or to ensure an effective and uniform process on crucial issues such as candidate registration, voting or counting.

In contrast to the last elections, the election campaign was conducted peacefully. Six parties and many self-nominated candidates participated, offering a measure of pluralism and choice for the voters. The candidate registration process appeared generally to have been reasonably

¹ This report is available in Tajik and Russian, but the English version remains the only official one.

administered, but a number of questionable legal provisions limited who could contest the election. Court cases and criminal charges against opposition leaders in the months leading up to the elections prevented some well known figures from standing for office.

The election campaign was subdued, with almost no genuine debate. To a large extent, political campaign events were controlled and managed by election officials and government authorities, who were at times biased, to the disadvantage of some candidates' ability to convey their message on equal terms to the electorate.

The effective closure of four independent newspapers and the inability of others to register represented a pattern of official interference with the press, thus undermining a fundamental aspect of a democratic election process. The state media offered little news coverage of the election, but it was reasonably balanced in the coverage it did provide, and it carried many public service announcements on the election procedures. In at least two instances, state TV altered or censored candidate messages. Overall, the media offered so little election campaign coverage that it called into question the voters' ability to make an informed choice.

The official complaints and appeals procedures were not transparent, and in general, did not offer effective remedies for grievances.

There were no formal or legal impediments to participation in the election process by women, nor by members of minorities, and both appeared to participate fully in the vote. In general, however, the support of women and minorities was not sought after by political parties, and neither played a leadership role in the campaign.

Election day was calm and voting procedures were assessed positively in many polling stations. A positive aspect was the presence of many domestic party and candidate observers. In a large proportion of polling stations, however, ballots were not adequately controlled or accounted for, opening the door for malfeasance. Multiple voting was a widespread problem. The counting process in many polling stations raised serious concerns, since the legal procedures necessary to ensure the integrity of the count were very often not followed. The tabulation at District Election Commissions (DECs) was even more problematic, with so many protocols filled in or altered illegally that it cast serious doubt on the integrity of the tabulation process.

The OSCE/ODIHR remains prepared to assist the authorities and civil society of Tajikistan to address the concerns arising from these elections. Specific recommendations are offered at the end of this report.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The OSCE/ODIHR Election Observation Mission (EOM) was deployed in response to an invitation from the CCER. The OSCE/ODIHR EOM, headed by Peter Eicher (USA), commenced its activities on 25 January 2005 and remained in Tajikistan through 6 March. Twenty seven experts and long-term observers from 17 OSCE participating States were deployed in Dushanbe and six other cities during the observation mission. Three members of the OSCE/ODIHR EOM remained in Dushanbe until 16 March to assess the second round contests, the complaints and appeals process and the final stages of work by election commissions.

On election day, 27 February, the OSCE/ODIHR EOM deployed 150 short-term observers from some 30 OSCE participating States, who visited about 600 of the nearly 3,000 polling stations in the country. A number of observers were assigned to observe the work of DECes.

The OSCE/ODIHR expresses its appreciation to the CCER, the Ministry of Foreign Affairs, other state and local authorities and civil society organizations for their co-operation during the observation. The OSCE/ODIHR also thanks the OSCE Centre in Dushanbe, as well as other international organizations and embassies in Tajikistan for their support.

III. BACKGROUND

Elections to the lower chamber of Parliament, *Majlisi Namoyandagon*, or Assembly of Representatives, took place on 27 February, with a second round of voting in three constituencies on 13 March. The upper chamber of Parliament, *Majlisi Milli*, is indirectly elected. These were the first parliamentary elections since the completion of implementation of the 1997 General Agreement on the Establishment of Peace and National Accord in Tajikistan, which ended the civil war and culminated in the 2000 parliamentary elections. The elections therefore offered the first major test of Tajikistan's progress in consolidating democratic processes and institutions in the post-war years.

A. ELECTORAL SYSTEM

The *Majlisi Namoyandagon* has 63 members, who are directly elected for five year terms. Twenty two are elected through a proportional, party list system from a single country-wide constituency. To win seats under the proportional system, political parties must pass a five per cent threshold. The remaining 41 members are elected from single mandate constituencies under a majoritarian system. In the single mandate constituencies, candidates must win an absolute majority of votes to be elected, otherwise a second round of voting is held between the two leading candidates two weeks later. For any of the elections to be valid, there must be at least a 50% voter turnout, otherwise repeat elections must be held.

Tajikistan also held elections on 27 February for local and regional governing bodies. The OSCE/ODIHR EOM did not observe the local and regional elections, except to the extent that they impacted directly on the parliamentary elections.

B. POLITICAL BACKGROUND

Tajikistan continues to suffer from the legacy of the recent civil war, in which thousands of Tajik citizens lost their lives. In addition to the war's enormous social and economic consequences, the legacy of war on the political landscape is still apparent. This includes a deep division between the government and some opposition parties. There is also a sense in some quarters that stability, which is considered as synonymous with support for the ruling establishment, should take priority over the democratic process.

There have been some improvements in the political situation since the last elections, including an ongoing dialogue and some co-operation between the government and registered opposition

parties, a growth in civil society, and an overall improvement in security conditions. To the contrary, however, substantially increased power has accrued to the President, who has been able and willing to place his supporters in most key positions of state and local government, and who has proceeded to marginalize a large number of his prominent political opponents. Constitutional changes in 2003 further consolidated the President's position and opened the possibility of his remaining in office until the year 2020. The opposition no longer holds 30 per cent of senior positions in government as it did under the peace agreement. The space for unobstructed and free political activity, and for independent media, appears to have narrowed substantially.

IV. LEGISLATIVE FRAMEWORK

The elections are regulated primarily by the Constitution and the Constitutional Law on Elections (the election law), adopted in 1999 and amended on 16 June 2004. The Law on Political Parties, the Law on Mass Media, and the Law on Public Demonstrations are also relevant, as is the Code on Civil Procedures, the Law on Citizen's Complaints to Government Bodies, and other legislation.

The new amendments to the election law, which were adopted after a period of extensive discussion with participation of opposition parties, incorporated some notable improvements. These included provisions for observation by political party observers; opening of electoral commission meetings to the public and mass media; prohibition of interference by State structures in activities of election commissions; the possibility of opposition representation on mid-level election commissions; improved access for candidates and parties to state radio and television; and a requirement to post results of the count in each polling station.

However, many of the election law's most significant deficiencies were not remedied by the 2004 amendments. Of particular concern, the election law does not provide for the inclusive and pluralistic composition of election commissions; there is no provision for domestic non-partisan observers; procedures for resolving complaints are inadequate; and provisions on voter registration, voting procedures, counting and tabulation are so vague that they are open to easy abuse. Despite these deficiencies, the law could have provided a basis for the conduct of democratic elections if implemented fully and impartially, and if supplemented by detailed regulations to address the electoral law's shortcomings.

Moreover, the potential benefits of many of the positive new amendments were not realized due to inadequate or arbitrary implementation. For example, opening electoral meetings to the public had little practical effect since most electoral commissions did not hold formal meetings (see section V, Election Administration). Prohibiting interference by governmental structures proved largely meaningless because so many government officials were appointed as election officials (see section V, Election Administration). The requirement to post results of the count in each polling station was widely violated (see section XI, Voting and Counting).

V. ELECTION ADMINISTRATION

The elections were administered by a three-tier system of election commissions: the CCER, 41 DEC's and 2,953 Polling Station Commissions (PSCs). Under the election law, all commissions

have broad powers and are independent from State bodies. Resolutions and other official acts of election commissions are obligatory for all state and local government bodies, political parties, candidates, voters and for lower-level election commissions (Article 10). The law forbids the formation of structures that substitute for election administrators, implement any of their activities, or take over their competencies (Article 10). These are particularly important and positive stipulations because past elections had serious problems with interference by local authorities.

A. THE CENTRAL COMMISSION FOR ELECTIONS AND REFERENDA

The CCER is a permanent body consisting of a chairperson, a deputy chairperson and 13 members, elected by the *Majlisi Namoyandagon* at the proposal of the President. In light of the heavy dominance of the Parliament by one political party, which is also the party of the President, this system of appointment did not guarantee the formation of a commission with sufficient political balance to enjoy public confidence. In a positive, although insufficient step, at least a few opposition members were appointed,² even though they did not appear to play a leading role in its activities. Overall, however, election commissions at all levels were dominated by supporters of the governing party.

The CCER representatives met regularly with the OSCE/ODIHR EOM. However, the OSCE/ODIHR EOM was often denied access even to basic documents. For example, it was never granted access to a complete set of the regulations or resolutions adopted by the CCER, demonstrating an extraordinary degree of secrecy in treating what should have been well-publicized documents, and violating observers' legal rights.³

The CCER held no public meetings for over a month before the elections, calling into question its compliance with the election law's provision (Article 8) that commissions are transparent and inform the public about their work.⁴ Moreover, the lack of meetings made it impossible for the CCER to adopt decisions in accordance with the election law, which requires a public meeting, a two-thirds quorum and a vote of more than 50 per cent of those present to adopt decisions (Article 19). The OSCE/ODIHR EOM was aware of at least three decisions adopted by the CCER that did not meet these stipulations.⁵

B. DISTRICT ELECTION COMMISSIONS

DECs consisting of no less than nine and no more than eleven members were established in all 41 single-mandate constituencies. DECs were formed by the CCER 60 days before the elections "upon suggestion of the local executive bodies, taking into consideration proposals from political parties" (Article 13). In a positive development, it appears that in virtually all cases, political party nominees were appointed to DECs. In practice, however, they did not appear to exert any

² The Communist Party, Islamic Revival Party, and Democratic Party each had one member of the CCER.

³ Article 8.2 of the election law states "International Observers have the right to: obtain documents which regulate the process of elections..." The EOM sent official letters to the CCER Chairman on 8 February and 18 February 2005 requesting the documents, as well as making repeated oral requests.

⁴ According to information provided by the CCER, there were only 5 formal sessions: 15 December 2004, 16 December 2004, 27 December 2004, 14 January 2005, and 24 January 2005.

⁵ Decision No. 1a of 8 January on disallowing observers in military polling stations; decision no. 12 of 7 February, cancelling an earlier decision on refusing registration of Mr. Mirzoiev as a candidate; and decision no. 16 of 4 March, on the election results.

influence or check on DEC operations.

Despite the election law provision (Article 10) stating that election commissions are independent from any state body in their activity, there was a widespread practice of appointing senior officials of regional and local government as members, including Chairpersons, of DECs.⁶ This practice was a serious concern since it called into question the independence of the election administration from the local executive. In practice, the distinction between local government and the election administration was often unclear.

Most DECs, like the CCER, appeared not to hold public meetings, raising concerns about the legality of their decision making processes. Although some DECs operated with a greater degree of transparency, several DECs denied OSCE/ODIHR EOM observers access to documents and information, in violation of the law.⁷

C. POLLING STATION COMMISSIONS

The PSCs were appointed by DECs 45 days prior to election day and consisted of between five and 19 members. There were 2,953 PSCs, including 27 formed in eighteen different countries to serve voters abroad. The law does not provide for political representation at the PSC level, but in a positive move, some DECs did appoint opposition political party nominees to PSCs.

D. ELECTION DISTRICTS AND PRECINCTS

Since Tajikistan has 66 districts (*nohiyas* or *rayons*), the delineation of the 41 single mandate constituencies only partly follows the territorial-administrative division of the country. The formation of constituencies, a CCER responsibility, was an area of concern. The 41 constituencies vary greatly in size, from 50,454 voters in Vanj to 103,383 voters in Isfara. This calls into question the principle of equality of the vote and violates the election law, which permits only a 15 per cent deviation (20 per cent in remote areas) in the size of constituencies. In Isfara, for instance, where opposition parties have previously won mandates, each seat represents almost twice as many voters as in some Dushanbe constituencies. Almost one third of constituencies do not meet the elections law's requirements in this regard (Article 21).⁸

E. VOTER REGISTRATION

Updating the voter lists is of particular importance in Tajikistan in light of displacement resulting from the civil war, as well as internal and external migration. According to the International Organization for Migration, approximately 600,000 citizens of Tajikistan are currently living in Russia, Kazakhstan and neighbouring countries as migrant workers.

There is no central voter register in Tajikistan. The voter registration process is passive: PSCs, assisted by local authorities, are responsible for compiling and updating voter lists for their precincts. Local executive bodies (*hukumats*, departments of interior, housing committees) provide PSCs with basic data about voters living in their precincts, and PSCs compile and update the data, often by going door-to-door. In a large number of precincts this process appears to have

⁶ Including, for example, in DECs 1, 2, 4, 7, 9, 11, 13, 14, 15, 20, 23, 24, 26, 30, 31, 33, 34, 35, 37 and 39.

⁷ DEC numbers 1, 4, 13, 17 and 37.

⁸ The constituencies in question are 1, 2, 3, 4, 5, 7, 9, 10, 17, 20, 31, 40, and 41.

been carried out carefully and meticulously by PSCs.

However, the existing system is open to potential multiple registration. For example, there was no way to check if people were registered in more than one precinct, as could easily happen if people changed residence or resided in more than one place (e.g., students, soldiers, temporary workers). Also of concern was the large number of Tajik citizens working abroad who may have appeared on the regular voter lists as well as on the lists compiled by embassies and other government offices abroad. The CCER did not issue clear instructions on registration of citizens outside the country, leading to inconsistent approaches by different PSCs.

Voter lists must be available in polling stations 15 days prior to election day so voters can check their entries on the list. In general, it appears the lists were completed slightly later than the stipulated deadline but they were generally available for inspection.

Voters can be included in the voter lists up to and including on election day, upon presentation of identification. The law does not specifically mention that voters have to provide proof of residence in a particular polling station area. This led to fears that voter lists might be inflated on election day. In practice, however, the number of persons added to the lists on election day was generally not large.⁹

There were 3,132,072 eligible voters in Tajikistan, according to the CCER announcement of preliminary results.

F. ELECTION PREPARATIONS

Technical preparations for the elections were generally completed on time. In a positive development, transparent ballot boxes were procured and polling materials were distributed to DEC in a timely manner. Ballot security was improved through use of a watermark and by having all ballots printed at a central location. The OSCE/ODIHR EOM was not permitted to observe the printing of ballots.

The law does not include clearly defined procedures on early voting, mobile voting, out-of-country voting or military voting. It was of considerable concern that the CCER did not adopt regulations to clarify these issues, since it raised the possibility that lax or inconsistent procedures could lead to problems or even manipulations on election day. In practice, these serious concerns did not materialize since voters generally appeared to make limited use of such special forms of voting. For example, there were only some 20,000 out-of-country voters according to the CCER's preliminary results. By the same token, there were very few early votes and in most polling stations observed there were not an inordinate number of votes with the mobile ballot box.

The CCER did make an effort to clarify some procedures. In an improvement from previous elections, the CCER undertook an active program of training for DEC and PSC members, with the assistance of the international community. The CCER training guide for PSCs set out detailed procedures to improve the polling process and included important new stipulations, such as

⁹ In a few cases, however, the number of voters added to the lists on election day did seem unrealistically high, for example in DEC 3/PS 45 and 50, and DEC 4/PS 33 and 37.

insisting that PSC protocols should be filled out in pen. Although the manual appeared to be in general use by DEC members and PSCs, a disturbingly high number of DEC members did not appear to be familiar with its provisions. Moreover, the procedures in the training guide were never adopted as official regulations and therefore did not have legally binding status.

Shortly before election day, the CCER announced that ballots should be placed in envelopes before being cast, to help preserve secrecy in light of the use of transparent ballot boxes. However, no formal instructions were issued, so although envelopes were procured and distributed, many polling stations did not use them.

In what might have been two particularly important steps forward for transparency, the CCER Chairman pledged repeatedly to the OSCE/ODIHR EOM that observers in PSCs would be able to obtain a signed and sealed official copy of the PSC results protocol. In addition, he stated that the CCER would make public the detailed results, by polling stations, when it announced the preliminary election results on the day after voting.¹⁰ In practice, however, the large majority of observers were not able to obtain official copies of protocols (see section XI, Voting and Counting). On election day, senior CCER officials told the OSCE/ODIHR EOM that they would not release detailed results by polling stations. The failure to fulfill these measures greatly diminished the transparency of the elections.

The OSCE/ODIHR EOM received credible allegations that members of two DEC members¹¹ were asked by a DEC supervising official to sign blank DEC results protocols. This is obviously a very serious charge that would imply an effort to falsify results. An opposition party filed a complaint with the State Prosecutor, but as of election day, no charges had been brought. The OSCE/ODIHR EOM request for a meeting with the prosecutor was not granted.¹²

VI. CANDIDATES AND CANDIDATE REGISTRATION

A. CANDIDATE REGISTRATION REQUIREMENTS

Citizens of Tajikistan who are at least 25 years old can become candidates for the *Majlisi Namoyandagon*, provided they meet a number of requirements, some of which are burdensome, and a few of which are contrary to OSCE commitments and other international standards. Registered political parties can nominate candidates for the party lists and for the single mandate constituencies. Individuals can stand as self-nominated candidates in the single mandate constituencies.

All candidates had to post a deposit equivalent to 200 minimum monthly salaries (a total of US\$500 before 1 January 2005 and US\$800 thereafter) from their own funds. In the single mandates, the deposit would be returned only to the winning candidate. In regard to the party lists, the deposit would be forfeited unless the nominating party passed the 5 per cent threshold in the country-wide constituency. The candidate registration deposit, a new amendment to the election law, was so high by local standards that virtually all parties complained that it eliminated many potential candidates and limited voter choice.

¹⁰ Assurances were given at meetings on 3 February, 14 February and 22 February.

¹¹ DEC 13 and DEC 17.

¹² Letter from the EOM to the Ministry of Foreign Affairs, dated 14 February 2005.

A legal requirement that candidates have higher education is contrary to OSCE Commitments and other international standards on non-discrimination, and was a barrier to some prospective candidates. A requirement that candidates produce a mental health certificate was also of concern since it might easily have been abused, although in practice it was not.

In addition, all candidates had to provide property and income statements. In at least one case, this provision was arbitrarily applied; a candidate was approved by the CCER to run on a party list yet denied registration by a DEC in a single mandate constituency on the basis of the same financial statement.¹³

Candidates in single mandate constituencies had to submit at least 500 signatures of eligible voters from the constituency. The provisions of law on approving signatures are vague and were often applied in a restrictive or non-uniform manner, disadvantaging some candidates and limiting their opportunities to seek legal redress. In most cases it appears that if more than three per cent of the first 500 signatures were found to be invalid, registration was denied, irrespective of the total number of signatures submitted.

About 100 prospective candidates were not registered by DEC's. The overwhelming reasons for refusals were failure to present sufficient valid signatures or to post the required deposit. However, within the constraints described above, and with a few exceptions, the registration process appears to have been reasonably administered.

Another anomaly of the candidate registration process was that under the election law, candidates were permitted to begin campaigning as soon as they were registered rather than on a set date. The late approval of some candidates thus led to unequal conditions, particularly for some self-nominated and opposition candidates, who were disadvantaged by not being able to start their campaigns as early as other candidates.

B. DISQUALIFICATION FOR CRIMINAL CHARGES

In the months leading up to the elections, a series of detentions and charges against opposition party leaders had a deleterious impact on the political landscape. The election law prohibits candidates from standing for office if they are wanted by state authorities in connection with serious crimes, even if they have not been convicted. This contradicts the universal principle of presumption of innocence enshrined in the Constitution and in Tajikistan's international commitments.

As a result, two well-known opposition candidates, Mahmadrusi Iskandarov, leader of the Democratic Party (DP), and Sulton Kuvatov, the head of the unregistered Taraqqiyot Party, were subsequently excluded from contesting the election in the months leading up to the election. The disqualification of major candidates on the eve of an election is a cause for grave concern.

In addition, several other leading members of opposition parties are in custody or prison following arrests in the past year. For example, the deputy head of the Taraqqiyot Party, Rustam Fayziyev was detained in August 2004 for slandering the President; he is still awaiting trial. The

¹³ Ms.Fayzinisso Vahidova of the Social Democratic Party, in DEC 14.

deputy head of the Islamic Revival Party (IRP), Shamsiddin Shamsiddinov, was arrested in 2003 on charges of illegal border crossing, forming illegal groups, polygamy, murder and treason; he was convicted in January 2004 and sentenced to sixteen years in prison. The prevalence of such cases calls into serious question the openness of the political process in Tajikistan.

The arrest of Mr. Iskandarov impacted seriously upon the DP's possibility to seriously contest this election. Also, in late 2004, after a split in the Socialist Party, the Ministry of Justice chose to register the pro-government leadership of the party, rather than the faction with opposition viewpoints. Two of the six registered parties were thus effectively neutralized by government action in the weeks leading up to the election.

C. CANDIDATES

A total of 231 candidates were registered; 170 for the 41 single mandate seats, and 61 put forward by the six registered political parties for the party list contest. The ruling PDP put forward the most candidates (62), followed by the IRP (37) and the Communist Party (CP, 20). Eighty self-nominated candidates also ran, many of whom seemed to be affiliated with the PDP.

The variety of candidates and parties demonstrated a measure of pluralism and offered voters a choice, including an opportunity to vote for an Islamic party, which is the only legal Islamic party in the Central Asian OSCE participating States.

Thirty-six candidates withdrew, most of them within 48 hours of election day, raising questions about the bona fides of their candidacies and creating some confusion on election day. There were thus 195 candidates on election day.¹⁴

VII. CAMPAIGN ENVIRONMENT

Six political parties took part in the elections: the ruling PDP, the CP, the IRP, the SP, the DP and the Social Democratic Party (SDP). Some parties were not registered by the government and were therefore ineligible to participate in the elections, demonstrating that the political party environment remains to some extent restricted. In a positive move, on 1 February, all six registered parties signed a code of conduct on campaign behavior.

The election campaign was subdued, with practically no real debate and few evident differences among the parties on economic or social issues. There appeared to be little active campaigning until about two weeks before the elections. Even then, there were relatively few campaign posters and the only major election rally was a campaign concert at the Opera offered by the PDP.

In general, PDP candidates appeared to have more access to public resources, such as buildings, offices, transportation, and local officials, than did their opponents, at times blurring the line between government and political parties. Opposition candidates complained about difficulty obtaining authorization from local authorities to get appropriate venues for their campaign meetings.

¹⁴ Or 183, when considering that 12 individuals ran as both single mandate and party list candidates. This compares to 298 candidates who ran in 2000.

According to different provisions of the election law, DEC's can arrange or assist in arranging candidate meetings with voters.¹⁵ In practice, however, most campaign meetings were organized by the DEC's, the PSC's or local administrations, rather than by the candidates themselves. There were many such meetings throughout the country. In general, all candidates in a district were invited, although the OSCE/ODIHR EOM observed instances in which opposition candidates were not informed of impending meetings, informed at the last moment, or even prevented from entering.¹⁶

The DEC-organized meetings usually enabled candidates to make their speeches freely, but there was seldom an exchange of views and questions from voters were often discouraged. In some instances, these meetings drew several hundred voters, although some attendees stated they were required to attend, and opposition candidates complained the audiences were stacked with government party supporters.

The meetings were often presided over by local (*hukumat*) officials, mayors and DEC chairmen, who in some instances used their participation unfairly to endorse ruling party candidates and to cut short speeches by other candidates.¹⁷ Overall, the system resulted in undue official control over the campaign, in particular since so many DEC leaders were also local officials and PDP members.

As a result of such de facto official control of the campaign, some candidates and parties chose to campaign primarily in very small private meetings with voters, to canvass door-to-door, or to hand out leaflets. A substantial number of such meetings were conducted individually by candidates in the *chaikhonas* (tea houses) or in the *mahallas* (neighborhoods). Some candidates expressed a preference for this type of low-key activity, which they believed guaranteed them a greater level of security and freedom of speech than official meetings.

In the later stages of the campaign, opposition candidates raised an increasing number of allegations of pressures, harassment, threats and obstruction to their campaigns. The OSCE/ODIHR EOM confirmed an incident in Dushanbe in which the police arrested activists, one of them a candidate in the local elections, putting up campaign posters. In a separate incident also confirmed by the OSCE/ODIHR EOM, activists were detained by Dushanbe police for handing out leaflets. A candidate for local elections was intimidated and arrested by the police in Faizobod; the police confirmed the detention. The OSCE/ODIHR EOM also received, but could not confirm, a variety of other allegations of incidents of intimidation, including disturbing reports of candidates or their relatives receiving threatening letters and telephone calls, and of individuals threatened with termination of employment if they supported the opposition. A candidate proxy complained that he was beaten at his house in the Sughd region, by another candidate.¹⁸

¹⁵ Article 14.10 states that one of the authorities of DEC's is to arrange meetings of candidates with electors; Article 39 states that election commissions assist in conducting campaign meetings.

¹⁶ In DEC's 1, 3, 4, and 11, the EOM verified instances of candidates being notified about meetings with voters at the last moment. In DEC 13, the EOM observed that not all candidates were invited to meetings. In DEC 14, the EOM observed opposition party leaders prevented from entering a meeting with voters.

¹⁷ Observed by the EOM in DEC's 10, 12, 19 and 31.

¹⁸ The EOM was sent a copy of the complaint, but was unable to verify it.

Popular knowledge of and interest in the election appeared to be quite limited, despite efforts by the CCER and non-governmental organizations to promote public awareness and involvement. There also appeared to be an inherent reluctance by much of the population to speak out against or contradict the current political establishment. This tendency, together with the generally low level of public involvement in the democratic process, provided a significant advantage to the incumbents.

The campaign was peaceful, a notable improvement over the previous election. The only serious violent incident of the campaign period was a powerful car bomb blast outside the Ministry of Emergencies on 31 January, which killed one person and injured many. Although there was apparently no direct link with the elections, the bomb did increase tensions and disrupt the non-violent atmosphere that should permeate an election environment.

VIII. MEDIA ENVIRONMENT¹⁹

A. OVERVIEW

State-owned *Televizioni Tojikiston* is the only TV station with country-wide coverage that provides news programs originating in Tajikistan; it is also reportedly the most popular media outlet in the country. State Radio also has country-wide coverage. Some local TV and radio channels also prepare and broadcast news programs. Russian Federation channels are available but provide very little information about Tajikistan. Power shortages in rural areas can limit the extent to which the population can receive news.

According to the Ministry of Culture, there are approximately 300 registered print media outlets in Tajikistan. There are, however, no daily newspapers. Two state-owned newspapers *Sadoi Mardum* and *Jumhuriyat* run a maximum of three issues a week and most non-state sponsored newspapers appear once a week.

The election law provides only a limited legal framework for the election campaign in the media. It guarantees equal conditions of access to the media for candidates and political parties (Article 39). The CCER is charged with creating equal campaign conditions for candidates (Article 12). The election law gives candidates and parties a right to free airtime in the state electronic media (fifteen and thirty minutes, respectively) but does not set out how this is to be implemented. A CCER resolution²⁰ provided candidates and parties with a right to publish up to eight typewritten pages, free of charge in the state-owned print media. The State Committee for Radio and TV

¹⁹ From 28 January till 27 February the EOM conducted qualitative and quantitative analyses of state-owned TV, three state-owned newspapers (*Jumhuriyat*, *Narodnaya Gazeta* and *Sadoi Mardum*) and four private newspapers (*Asia-Plus*, *Biznes & Politika*, *Tojikiston* and *Vecherniy Dushanbe*). TV monitoring focused on the prime-time news and political programs and newspaper monitoring focused on election coverage. The EOM produced statistics on the quantity of the time and/or space allocated to candidates, parties and other election protagonists, and assessed the tone of their coverage. The EOM also analyzed the coverage of state regional TV channels based in Khujand, Kulob and Qurghonteppa, as well as private local TV channels in Dushanbe (*TV Somonion* and *TV Poitakht*), Qurghonteppa (*KTV 5*) and Khujand (*TV SM-1*) in the period from 5 till 27 February.

²⁰ Resolution 279, adopted 27 December 2004.

issues licenses and supervises electronic media, but defers to the CCER in regard to election coverage.

In general, there was little active coverage of the campaign in either state or private media. News programs provided extremely limited information about political parties or candidates. There was a general lack of analytical or critical reports and articles. There were no debate programs in the state media. The predominantly neutral or positive coverage of the political actors indicates that self-censorship may have been frequently exercised, as reported also by many OSCE/ODIHR EOM interlocutors. This tendency may have been reinforced by a disturbing provision of the election law (Article 39), stating that media has no right to publish information discrediting the honor, dignity or business reputation of a candidate. All of these factors contributed to such low-key election coverage that very little information was available in the media on political parties or candidates.

B. ELECTRONIC MEDIA

All six political parties used their free 30 minutes on state TV during the last week of the campaign. Single mandate candidates appeared generally to have had a fair opportunity to use their 15 minute entitlement on their choice of TV or radio, although only about one third did so. However, the DP, SDP and IRP claimed that portions of their broadcasts were censored or altered by state TV. The OSCE/ODIHR EOM confirmed this was the case at least for the DP presentation and for one IRP single mandate candidate.²¹

In a positive development, state TV newscasts gave a significant amount of time to the CCER and other election commissions to explain the election process. In addition, state TV broadcast a special election program, *Microfoni Ozod* (open microphone), designed to provide voters with a chance to express their political opinions. This program was aired almost daily for two weeks prior to the elections and was filmed in various regions of Tajikistan. On the other hand, state TV news and current affairs programs devoted very limited coverage to the candidates and parties, only a total of 25 minutes over the month before the elections. The PDP and the CP received most coverage.

While Khujand and Qurghonteppa-based state TV channels programs provided almost no information about the activities of the political parties, Kulob-based state TV dedicated 20 per cent of its political news coverage to the PDP and virtually none to other parties. Khujand-based state TV provided representatives of the six political parties with time to present their platforms in an election program. However, the parties were not given equal time; the PDP received almost twice as much as other parties. SDP and DP complained to the OSCE/ODIHR EOM that their presentations were shortened and edited without their permission; but these allegations could not be verified.

Regional private TV channels such as *KTV 5* in Qurghonteppa, *TV SM-1* in Khujand and *TV Poitakht* provided only limited information about political parties or election activities. Dushanbe-based private *TV Somonion* provided somewhat more coverage.

²¹ The EOM received confirmation on these cases both from a representative of state TV and separately from a representative of the State Committee for Radio and TV.

Paid political advertising was permitted, but was not widely used. PDP and IRP placed some paid advertisements in state and private media. The State Committee for Radio and Television refused to allow broadcast of a paid spot of the DP on state TV, apparently because the jailed head of the party, Mr. Iskandarov, was portrayed. SDP also complained that state TV refused to air one of its paid advertisements, which featured Mr. Rajabi Mirzo, an SDP candidate and editor of the newspaper *Ruzi Nav*. An agreement among 11 TV and one radio channel in the Sughd region (signed on 15 January) limited the total amount of paid airtime for the political parties.

The Vose-based private TV channel *Mavji Ozod* attempted to air a debate among political party representatives running in District 37. However, the debate was obstructed by the Chairman of the DEC, who insisted that the debate could not be aired as a news program but had to be a paid program. As a result, the debate was cancelled.

The week before the elections, a private television station in Sughd, *TV Guli bodom*, owned by self-nominated candidate Yusuf Akhmedov, was suspended from broadcasting by a decision of the State Committee for Radio and TV, which asserted that the station was not even-handed in its coverage. Mr. Akhmedov assessed the closure as government interference in his campaign. Curiously, another channel, *TV Anis*, began to broadcast in the region shortly before the closure of *TV Guli bodom*, airing material of all candidates except Mr. Akhmedov. *TV Anis* ceased broadcasting shortly after the election day.

Voter education and get-out-and-vote announcements were widely presented on both state and private media. The spots were supported by various civil society organizations as well as state organizations. In one case, a public service spot broadcast on the state TV explained how to mark the ballot by showing a voter marking a ballot for the ruling PDP.

C. PRINT MEDIA

Only about 25 per cent of candidates used the opportunity to publish free presentations in the state newspapers; most of those that were published in *Sadoi Mardum*. Aside from this, however, the state-owned newspapers *Jumhuriat* and *Sadoi Mardum* presented almost no information about political parties and candidates. Of the state-owned newspapers, only *Narodnaya Gazeta* provided some coverage (approximately 13 per cent of its contents) to presentation of political parties beyond the free presentations.

In contrast with other monitored newspapers, the private newspaper *Asia-Plus* provided somewhat more variety of information about the activities of all the political parties. *Asia Plus* provided contestants running in the same district with a chance to answer questions concerning their programs and platforms. It provided most coverage (37 per cent) to PDP, followed by SDP (15 per cent). The portrayal of parties was mostly positive. Other non-state sponsored newspapers, *Vecherniy Dushanbe*, *Bizness i Politika* and *Tojikiston*, printed some articles about political parties, with PDP receiving most space.

The private newspapers *Nerui Sukhan*, *Odamu Olam*, *Ruzi Nav*, and *Adolat* were not able to publish prior to the elections, since no state or private printing house in Tajikistan would print them and attempts to print abroad and import copies were stopped by the authorities. The effective closures of these newspapers, as well as the failure by authorities to register other new publications, had a serious negative effect on the availability of diverse views. The apparently

systematic pattern of government action against independent media was inconsistent with a democratic election process.

Following the election, two state-owned newspapers, *Sadoi Mardum* and *Jumhuriyat*, refused to publish the OSCE/ODIHR EOM's Statement of Preliminary Findings and Conclusions, even as a paid announcement.

IX. COMPLAINTS AND APPEALS

Complaints on election-related issues could be filed with either a first instance court or with election commissions by candidates, parties, voters, proxies or observers. Decisions on complaints could be appealed to a superior commission or to the Supreme Court.

As of election day, the CCER had received 63 written complaints. Of these, 23 concerned candidate registration; just three were decided in favor of the complainants. Another 21 complaints were forwarded by the CCER to other state bodies²² and 19 pertained to the local elections and were forwarded for consideration by corresponding commissions. Despite numerous official requests, the OSCE/ODIHR EOM was denied access to any complaints until four days before the election, and was then selectively shown 21 and denied access to the rest, in contravention of the election law.²³

As far as the OSCE/ODIHR EOM could determine from the information made available to it, only three complaints received binding, official decisions by the CCER; the rest were answered by letter. The reasons given by the CCER Deputy Chairman and the staff lawyer for the use of decisions or letters in different cases was that the election law did not require the CCER to make decisions, and that binding decisions were merited only if actions by lower election commissions had to be overturned. This interpretation appears to contradict the election law.²⁴ The use of different procedures became a very significant distinction, since the Supreme Court ruled that it could review only official decisions of the CCER, not complaints that were responded to by letter. The effect was that almost all complainants to the CCER were denied the possibility of a subsequent judicial appeal.

The CCER set up a working group to deal with complaints and appeals. The group, however, apparently never met in public session, although under the election law the CCER must take its decisions in public session (Article 19). These circumstances raised concerns that CCER decisions on complaints were taken arbitrarily.

Most of the complaints and appeals filed with the Supreme Court resulted in the Court referring them to lower courts or declaring that the complainant had no standing. Copies of the complaints were not made available to the OSCE/ODIHR EOM, although the Supreme Court did provide copies of its rulings. Two complaints to the Supreme Court were launched by members or heads of DEC's against the CCER; both were refused, one because there was no official decision by the

²² Most were forwarded to the Prosecutor's office.

²³ Article 8 specifically gives international observers the right "to get familiarized with the results of considered complaints (statements) and remarks with regard to violation of electoral legislation."

²⁴ Article 12 of the election law lists among the CCER's authorities: "considers applications and complaints about decisions and actions of electoral commissions and *makes decisions* on them" [emphasis added].

CCER, and the other because the members of election commissions are not mentioned in the election law as being among those having a right to appeal to courts against decisions of the CCER. In at least one case, a candidate filed a complaint with the Supreme Court alleging unlawful action by the CCER; the Supreme Court denied the application saying the candidate should have appealed first to a lower court, although the election law states specifically that decisions of the CCER may be appealed to the Supreme Court (Article 20).²⁵

To the best of the OSCE/ODIHR EOM's knowledge, none of the cases and complaints filed directly with or forwarded by the CCER to the Prosecutor's Office resulted in charges being filed. It is aware of at least six complaints filed with the Prosecutor's office and of two official responses, both refusing to open criminal cases. The OSCE/ODIHR EOM's official request to meet with the Prosecutor's office was not granted.²⁶

In general, the complaints process was inconsistent and did not provide an effective means of redress.

X. PARTICIPATION OF WOMEN

Under the constitution and laws of Tajikistan, women enjoy the same rights as men. There were no formal legal impediments to women's participation in elections. The government has taken a number of steps to increase women's political participation, including a new law on "State guarantees of equal rights for men and women and equal opportunities in the exercise of such rights," that encourages representation of both sexes on party lists and membership in election commissions. However, the law was adopted in mid-February 2005, too late to be applicable for the 2005 elections.

Although women hold a number of senior positions in government, they are generally underrepresented in politics in Tajikistan. Currently no woman heads a political party and there are few women in senior positions in parties.

Of the 195 candidates, 32 were women. All six political parties had women on their party lists, although in general they were in positions too low to expect to be elected. The PDP and SDP had women among the first three names on their lists, and the PDP placed women rather evenly throughout its list. Women ran as candidates in 12 of the 41 single mandate constituencies. Seven women were elected on the party list vote, all from the PDP. Four were elected from single mandate constituencies. Altogether, 11 women were elected in the first round, representing over 17 per cent of the lower house.

The relatively low numbers of politically active women is usually explained by a combination of traditional, cultural norms and poor economic conditions, which make it difficult for many women to enter politics. The high candidate registration deposit presented a particular barrier for women. Traditionally, male heads of households have often proxy-voted on behalf of their wives and other family members.

²⁵ The case was filed by Ms. Fayziniiso Vahidova of the SDP. The relevant portion of Article 20 reads: "Decisions of the CCER may be appealed to the Supreme Court of the Republic of Tajikistan within ten days after these decisions have been taken."

²⁶ Letter from the OSCE/ODIHR EOM to the Ministry of Foreign Affairs, dated 14 February 2005.

Two of the CCER's 15 members are women, and their spokesperson is a woman. At least three of the 41 DEC Chairpersons were women. In about 13 per cent of the polling stations observed by the OSCE/ODIHR EOM, the PSC Chairpersons were women.

XI. PARTICIPATION OF MINORITIES

Tajikistan has several national minorities, of which Uzbeks are by far the largest, numbering as many as 25 per cent of the population. There was no overt discrimination against Uzbeks or other minority groups, nor were any formal barriers placed in the way of their full participation in the electoral process. At the same time, however, members of the Uzbek minority did not appear to be actively engaged in the elections as candidates. Political parties did not have messages designed to appeal to Uzbek voters.

Ballots were printed in Uzbek and Russian, as well as in Tajik.

XII. VOTING AND COUNTING

A. VOTING

Election day was calm and peaceful. No incidents of violence were reported. Most polling stations opened on time at 6:00 a.m.

OSCE/ODIHR EOM observers assessed voting generally positively in 80 per cent of polling stations visited. While this demonstrated that many election officials were performing their duties according to the law and regulations, it also meant that there were significant irregularities, or procedures were being implemented poorly, at a disturbingly high number (20 per cent) of polling places observed. Geographically, voting was assessed most positively in Mountainous Badakhshon and most negatively in Sughd and Khatlon provinces.

In a large proportion of polling stations, ballots were not adequately controlled or accounted for by election officials. For example, the number of ballots received by the polling stations was not entered into protocols at the start of voting day in 66 per cent of polling stations visited. In some polling stations, the voter list contained significantly less signatures than the reported number of ballots issued to voters.²⁷ In some polling stations, voters were not consistently required to sign for their ballots.²⁸ Observers witnessed ballots being given to voters without acceptable identification in 44 per cent of polling stations visited. More than 10 per cent of ballot boxes were not properly sealed or were not sealed at all. While these weak controls may have reflected sloppy procedures rather than intentional manipulation, they nonetheless opened the door for serious abuses and made it impossible to guarantee that the integrity of the voting process had not been challenged.

²⁷ For example in DEC 11/PS 55 and DEC 14/PS 12.

²⁸ For example, signatures were not required in DEC 26/PS 32. There were no signatures for over 400 ballots used in DEC 14/PS 12 and DEC 17/PS 31.

The most common voting violation observed and verified was multiple voting, an illegal practice that occurred on a very large scale. For example, observers noted that voter lists contained multiple signatures in the same handwriting in more than half the polling stations visited. In 64 polling stations, observers counted over 100 signatures in the same handwriting, while 12 had over 500 signatures in the same handwriting.²⁹ In the worst cases, multiple voting took the form of flagrant ballot box stuffing.³⁰ Proxy voting was a manifestation of multiple voting that was witnessed in a third of all polling stations visited.

In certain parts of the country voter turnout appeared to be very high. In many areas, however, the voter turnout figures reported by polling station commissions were improbably high, in light of the apparently moderate turnout witnessed by observers.³¹ A number of polling stations closed early, reporting 100 per cent turnout.

Unauthorized persons were present in 30 percent of the polling stations visited. The presence of uniformed police officers and local government officials from *hukumats* and *jamoats* inside the voting premises raised concerns, especially since in many cases they were observed instructing voters on how to vote.³² Observers also reported partisan observers unduly assisting voters in voting booths or directly influencing voters in a number of polling stations.³³

Observers reported that some polling facilities were too small and lacked sufficient booths to ensure secrecy. In several cases, polling stations with more than 2000 voters were equipped with only two voting booths; no polling station visited had more than four booths. This resulted in widespread open voting, especially in the early voting hours.

In a positive development, political party or candidate observers were present in most polling stations visited (89 per cent) and could observe unhindered in 93 per cent of these. Disturbingly, however, the OSCE/ODIHR EOM received several credible reports of intimidation of observers representing opposition parties, who were denied access to polling stations, expelled from the premises or otherwise obstructed from observing.³⁴ Several opposition parties complained their members were denied accreditation as polling station observers in many places throughout the

²⁹ Polling stations with over 500 signatures in the same hand were DEC 1/PS 17 and 22, DEC 10/PS 59, DEC 11/PS 56, DEC 27/PS 16 and 35; DEC 28/PS 20, 33 and 34, DEC 29/PS 19 and 33, DEC 30/PS 2.

³⁰ In DEC 2/PS 16, DEC 7/PS 1, DEC 9/PS 1, DEC 9/PS 35 and DEC 31/PS 2.

³¹ While processing one voter quickly took about 2 minutes, 16 polling stations provided observers who revisited them with dubious figures suggesting that they had processed voters at a rate of 5-12 seconds per voter during the observers' absence: DEC 8/PS 11, DEC 10/PS 23 and 30, DEC 15/PS 19, 20 and 25, DEC 23/PS 1, 21 and 23, DEC 25/PS 9, 10, 14 and 19, DEC 33/PS 116 and 117 and DEC 34/PS 49.

³² Police officers or local officials interfering in the process or instructing voters were observed in DEC 1/PS 28, DEC 3 (several PSs), DEC 7/PS 51, DEC 9/PS 5, DEC 13/PS 28, DEC 16/PS 34, DEC 27/PS 9 DEC 31/PS 17 and in several PSs in the Kulob zone. Police presence was further reported from DEC 19/PS 18, DEC 35/PS 9, DEC 36/PS 5, DEC 24/PS 12 and Khorugh city. Local officials were observed intimidating voters or illegally campaigning at DEC 3/PS 22, DEC 13/PS 11, DEC 29/PS 40, several precincts in DEC 31, at DEC 34/PS 16 and DEC 36/PS 1 and 11.

³³ DEC 7/PS 7, DEC 13/PS 1, DEC 20/PS 11, DEC 29/PS 51, DEC 32/PS 12, DEC 37/PS 9 and DEC 40/PS 12. In each of these cases, the person unduly influencing voters was a domestic observer or proxy representing the PDP.

³⁴ DEC 3/PS 8, DEC 32/PS 30, DEC 9/PS 37, DEC 13/PS 25, 28 and 36, DEC 14/PS 25 and 26 DEC 17/PS 22, DEC 25 (several PS), DEC 40/PS 12, DEC 41/PS 3 and DEC 16/PS 34.

country. The OSCE/ODIHR EOM confirmed that several DEC's did not adequately accredit opposition observers.³⁵

B. COUNTING

The counting process in many polling stations raised serious concern; observers evaluated the process as “poor” or “very poor” in 54 per cent of polling stations visited. Proper counting procedures necessary to ensure the integrity of the process were generally not followed and many PSCs (48 per cent) displayed poor knowledge of how to complete the results protocol. For example, unused ballots were not invalidated, as required by the election law (Article 46), in 32 per cent of the polling stations observed. Key information such as the number of unused ballots and the total number of ballots of each kind found in the ballot boxes were not established and announced in nearly one-third of counts observed, again in violation of legal requirements. Many PSCs were unable to distinguish correctly between spoiled (invalidated) ballots and ballot legitimately cast “against all”. The validity of ballots was not determined consistently in 34 per cent of counts observed, raising fears of unfair practices or manipulation.

A particularly serious problem was the use of pencils rather than pens to complete results protocols, although the CCER purported to have instructed and trained PSCs that protocols were always to be completed only in pen. In 12 per cent of counts observed, the PSC filled in counting protocols in pencil,³⁶ opening the possibility that the results could be easily altered at a later stage. Even more serious, a number of PSCs signed protocols in which the results portion was left blank.³⁷ In some instances both blank, signed copies and completed copies of protocols were taken to the DEC.³⁸

Reports of intimidation grew more frequent during the count, and in several instances national observers, especially representing IRP, were expelled from polling stations after the closing of the polls.³⁹ In a few cases, OSCE/ODIHR EOM observers were hindered in their efforts to observe the counting.⁴⁰ Unauthorized persons were observed present at 40 per cent of counts attended and in one-third of these cases they interfered in the counting process.⁴¹

Contrary to repeated assurances from the CCER, over 80 per cent of PSCs observed did not provide official copies of the counting protocols to OSCE/ODIHR EOM observers.⁴²

³⁵ DEC's 4, 12, 16, 18 and 37.

³⁶ Among other examples observed, protocols were completed in pencil in more than half of polling stations in DEC 17, DEC 28/PS 24 and 26, and DEC 31/PS 50.

³⁷ Blank, but signed protocols were observed in DEC 13/PS 49, DEC 31/PS 12, DEC 39/PS 40, DEC 41/PS 3 and as a general picture in polling stations in the Kulob region.

³⁸ Observed in DEC's 3 and 4.

³⁹ IRP representatives were expelled in DEC 13/PS 25, 28 and 36, DEC 14/PS 25 and 26, DEC 17/22, and DEC 37/PS 9.

⁴⁰ Including in DEC 5/PS 19, where EOM observers witnessed deliberately inaccurate counting, as well as DEC 26/PS 3 and DEC 37/16.

⁴¹ In DEC 11/PS 75 the Head of District (*rayon*) directed the counting process and dictated to the PSC Chairperson what figures to write in the counting protocol.

⁴² Refusal to provide EOM observers with an official copy of the protocols took place in DEC 2/PS 33; DEC 3/PS 8; DEC 6/PS 9, 70; DEC 7/PS 8; DEC 8/PS 118; DEC 10/PS 43; DEC 11/PS 9, 20; DEC 12/PS 5, 41; DEC 13/PS 28, 49; DEC 19/PS 7, 13; DEC 20/PS 73; DEC 23/PS 7; DEC 24/9; DEC 26/PS 3; DEC 27/PS 9; DEC 8/PS 1; DEC 29/PS 16, 53; DEC 30/PS 123; DEC 31/PS 1, 41; DEC 35/PS 3; DEC 37/PS 14; DEC 38/PS 1; DEC 39/PS 40; DEC 41/PS 3, 8.

Furthermore, 85 per cent of the PSCs observed did not issue a certified copy of protocols to domestic observers present at the count. Some DEC directly prohibited copies of counting protocols being issued to national and international observers.⁴³ In 75 per cent of polling stations visited, the PSC did not publicly post a copy of the protocol, as required by law.⁴⁴ The Chairperson of DEC 6 instructed all PSCs not to display protocols at all.

In all, observers assessed that a severe violation of procedures took place during the count in 28 per cent of polling stations visited. As result of this and the generally poor procedures followed, observers expressed low or very low confidence in the count at 45 per cent of polling stations where the count was observed.

C. TABULATION OF RESULTS

OSCE/ODIHR EOM observers were present at 28 of the 41 DECs to observe at least part of the tabulation of results. Although the observers had access to the DEC premises, several DECs obstructed the work of observers or would not grant them full access to documents.⁴⁵

In half of the DECs visited, protocols were filled in or altered in the premises of the DEC,⁴⁶ a serious breach of procedures and of the election law, which requires that protocols be filled in at the polling stations. In some instances, the changes appeared to be primarily an effort to reconcile figures that did not add up correctly.⁴⁷ In other instances, however, the changes appeared to be deliberate tampering with the protocols.⁴⁸ In all, so many protocols were filled in or altered in so many DECs that it cast serious doubt on the integrity of the tabulation process.

Another violation of law that cast doubt on the integrity of the process was the delivery of some PSC results to government offices before they were taken to the DECs.⁴⁹

Observers expressed low or very low confidence in the tabulation process at 57 per cent of the DECs they observed.

XIII. ANNOUNCED RESULTS

The CCER issued preliminary results at a press conference on 28 February. This fulfilled the legal requirement to announce preliminary results within 24 hours.

⁴³ DEC 3, 4, 13, 19 and 20.

⁴⁴ Result protocols were observed not on display in DEC 1/PS 4, 6; DEC 2/PS 2; DEC 3/PS 8; DEC 4/PS 50, 51; DEC 5/PS 8, 13; DEC 6/PS 70; DEC 8/PS 118; DEC 11/PS 20, 75; DEC 12/PS 5, 41; DEC13/PS 28, 49; DEC 14/ PS 11; DEC 15/ PS 3; DEC 19/PS 3; DEC 20/PS 73; DEC23/PS 7; DEC 24/PS 9; DEC 29/PS 16; DEC 31/PS 1, 2, 9, 13, 14, 17, 20, 21, 22, 25, 31; DEC 33/PS 1, 2, 3, 4, 7, 9, 11, 27, 30, 31 32, 50; DEC 35/PS 3; DEC 39/PS 40; DEC 41/3, 8.

⁴⁵ DECs 1, 3, 4, 9, 12, 29, 31 and 36.

⁴⁶ Witnessed by EOM observers in DECs 1, 3, 4, 5, 11, 13, 17, 28, 29, 31, 33, 36, and 39.

⁴⁷ For example, in DEC 11.

⁴⁸ For example, in DECs 1 and 36.

⁴⁹ In DEC 15, for example, some protocols were delivered first to the local *hukumat* office; in DEC 19 some protocols were delivered to the tax authority office.

On 29 February the CCER provided more details, announcing that voter turnout was 92.6 per cent. On the party list, the PDP received 74.9 per cent of the vote, the CP 13.6 per cent and IRP 8.9 per cent, which translated into 17, 3 and 2 parliamentary seats respectively. The other three parties did not pass the five per cent threshold. In the single-mandate vote, PDP candidates won 32 seats, one CP candidate won a seat and five self-nominated candidates were elected. Run-offs in the remaining 3 constituencies (District 7, Hisor; District 17, Asht; and District 18, Mastchoh) were scheduled for 13 March.

On 4 March, the CCER provided the OSCE/ODIHR EOM with a copy of the preliminary results in DEC breakdown. Despite repeated assurances by the Chairman, however, the CCER did not provide the preliminary results by polling station. This seriously undermined the transparency of the tabulation. .

XIV. POST-ELECTION DEVELOPMENTS AND SECOND ROUND

A. POLITICAL DEVELOPMENTS

On 1 March, two days after the first round elections, three opposition parties (the IRP, DP and SDP) gave separate press conferences declaring they did not recognize the election results. On 3 March, these parties were joined by the CP in joint press conference announcing they had signed an agreement contesting the validity of the elections. The four parties submitted a long, joint complaint to the CCER requesting a rerun of the elections in all Dushanbe constituencies. The CP and the IRP said they would not take up their seats in the *Majlisi Namoyandagon*, and all four parties said they would boycott local administrations and give up their representation on the National Council of Reconciliation, a working group on peace created after the war.

Subsequently, the IRP held an official party session and decided to take up the two seats it had won, while continuing not to recognize the results. The CP's criticism of the election results led to reports of internal dissension and a split in the party, which the CP leadership denounced as government interference in party affairs.⁵⁰ The CP deputies decided to take their seats in Parliament for at least its first session on 17 March.

On 13 March, two SDP activists were detained by law enforcement bodies in Jabor Rasulov district: N. Begmatov, former candidate to *Majlisi Namoyandagon*, and M. Shukurov, candidate to local elections. They were accused of insulting a judge, slander and hooliganism. They remained in detention when the last members of the OSCE/ODIHR EOM left Tajikistan on 16 March. The SDP leader complained to the OSCE/ODIHR EOM that SDP was under increasing pressure from authorities.

B. SECOND ROUND CONTESTS

Second round voting took place on 13 March in the three constituencies in which no candidate won an absolute majority in the first round: Hisor (DEC 7), Asht (DEC 17) and Mastchoh (DEC 18). However, in Hisor and Mastchoh the self-nominated candidates withdrew in favor of the

⁵⁰ This was reminiscent of the apparently engineered split in the Socialist Party in November; see section IV, Candidates and Candidate Registration.

PDP candidates, following a request from the PDP.⁵¹ As a result, the only contested election took place in Asht, between the self-nominated Muattara Juraeva and Solijonov Nodirjon, the official PDP candidate. Voting was held in all three constituencies, since a 50 per cent turnout was required to validate the rerun elections, even when only one candidate was running.

All three DEC's completed technical preparations for the elections in a timely manner.

Although the OSCE/ODIHR EOM did not deploy short-term observers for the second round voting, three members of the OSCE/ODIHR EOM observed voting in Hisor, outside Dushanbe. Election day appeared to be peaceful and calm.

In Hisor, although only one candidate was running, the OSCE/ODIHR EOM observed the same type of violations it had witnessed in the first round two weeks earlier. Multiple voting was again a serious problem. All voter lists observed had large numbers of signatures in the same hand. In many cases, it was clear that different people had signed the lists for the same voters in the two different rounds. None of the polling stations observed required voters to present identification. Group voting and proxy voting were widespread. Unauthorized persons, including uniformed policemen and *hukumat* officials, were observed inside the polling stations interfering in the work of the PSCs. In most polling stations observed, the officially announced turnout was not realistic, judging by the modest number of voters witnessed.⁵² At the DEC level, PSCs arrived with protocols that were incomplete, blank or completed in pencil.

As far as the OSCE/ODIHR EOM could determine, there was no official announcement of preliminary results. The CCER provided the OSCE/ODIHR EOM with preliminary results on 15 March that showed the elections to have been valid, claiming over 80 per cent turnout in each constituency. In Asht, the official PDP candidate won with 52.3 per cent of the vote.

C. COMPLAINTS

At least eight complaints were filed with the CCER after the 27 February round of voting.⁵³ At the time the last EOM members left Tajikistan (16 March) only three of these had received a response from the CCER, each stating that the complaint was not sufficiently substantiated. In regard to the joint claim by four political parties, the Deputy Chairman of the CCER informed the OSCE/ODIHR EOM that although there were some violations, they were not sufficient to merit rerunning the elections in Dushanbe.

The OSCE/ODIHR EOM was aware of nine complaints filed with the district court in Rudaki, one with the City Court of Kulob and one in Jabor Rasulov district court. In a particularly disturbing twist, one complainant was detained and is now facing criminal charges.⁵⁴

⁵¹ The PDP request for the candidates' withdrawal was confirmed to the EOM by the Deputy Head of the PDP.

⁵² In some instances, polling stations reported unrealistic surges in voter turnout between repeat visits by EOM members. PS 9, for example, purported to have processed a voter every 20 seconds.

⁵³ The joint complaint by four political parties, and complaints by parties or candidates in DEC's 7, 9, 16, 18, 21, 40, and 41.

⁵⁴ N. Begmatov, the SDP candidate detained on 13 March, noted above.

The OSCE/ODIHR EOM was not aware of any post election complaints relating to the second round.

CCER officials indicated to the OSCE/ODIHR EOM that there is no consideration being given to holding election officials accountable for election law violations. The officials stated that any violations were human errors and would not have altered the election results.

The various avenues of post-election appeal did not provide a transparent, timely or effective means of redress for election day violations of law.

XV. RECOMMENDATIONS

A. GENERAL RECOMMENDATION

1. The authorities should not foster a culture of impunity for election related violations. They should undertake an investigation into the irregularities and fraudulent practices set out in this report, and should hold accountable those responsible for serious violations of electoral law, especially members of election commissions or government bodies who violated the law.

B. LEGISLATIVE FRAMEWORK

2. The law should be amended to provide for election commissions that are truly independent from government and that are sufficiently inclusive and pluralistic to ensure broad confidence in their work. Registered political parties should be represented on commissions at all levels and self-nominated candidates should be represented meaningfully at the DEC and PSC levels. Persons holding State or local government positions should not serve on DEC. The regular employment and political party affiliation of all election officials should be publicized.
3. The candidate registration provisions of the election law should be amended to ensure all citizens can enjoy their right to seek public office without discrimination. In particular:
 - The prohibition of candidacy for persons accused of crimes but not convicted (Article 33) is contrary to the Constitution and to Tajikistan's international obligations, and should be removed from the law;
 - The requirement that candidates have higher education (Article 28) is discriminatory and should be removed from the law;
 - The requirement that candidates present a mental health certificate (Article 35.6) and have not had a lawsuit brought against them (Article 35.8) could be easily abused and should be removed from the law;
 - The candidate registration fee (Article 32) is excessive to the point that it discriminates on the basis of wealth and should be reduced substantially;
 - The provisions on signatures required for registration (Articles 31 and 35) should be spelled out in detail to ensure that they are consistently applied; that all signatures are considered, not just the first 500; and that citizens are allowed to sign petitions for more than one candidate;

- In order to ensure candidates have equal rights, the political campaign should begin on an established date, not from the moment a candidate is registered (Article 37).
- 4. The complaints and appeals procedure set out in the law should be clarified and reinforced. The election law should include the possibility to file a complaint against a broader range of violations, including against inactivity of election commissions or against inappropriate actions by government officials. In order to remedy current practice, the law should clearly stipulate that the CCER and other election commissions must rule officially on complaints, in public session, within a very short, designated time period. Penalties for violations by officials should be clear and should be commensurate with the gravity of the offense.
- 5. The law should be amended to provide for domestic non-partisan election observers.
- 6. The law should be amended to ensure that all observers have the right to obtain an official copy of polling station results protocols.
- 7. Article 55 of the law should be amended to specify that the preliminary results announced by the CCER must provide a breakdown of results by polling station.
- 8. Article 39 of the law should be amended to remove, or strictly limit and qualify, the stipulation that media may not publish information discrediting the honor, dignity or reputation of candidates.
- 9. The election law should be reviewed to ensure its provisions are consistent with the newly adopted law on “State guarantees of equal rights for men and women”, with particular regard for women’s representation in party lists and membership in election commissions.
- 10. Consideration should be given to eliminating the 50 per cent turnout requirement for elections to be valid.
- 11. Consideration should be given to changing from a negative to a positive system of marking ballots, i.e., to marking ballots in favor of a candidate or party rather than striking out the names of all candidates and parties not selected.
- 12. The option to vote “against all” candidates or party lists should be removed from the law, thereby ensuring that voters take responsibility for the body which is being elected.
- 13. Consideration should be given to setting a deadline for when a candidate may withdraw and under what conditions he or she may reclaim the registration deposit.

C. ELECTION ADMINISTRATION

- 14. Election commissions, and in particular the CCER, should hold regularly scheduled public meetings throughout the election process. All decisions should be taken at these meetings by open vote, as required by law (Article 19).

15. The CCER should revise the boundaries of constituencies in accordance with its responsibility (Article 12.2) to bring them into compliance with the election law's stipulation that constituencies should be approximately equal in size (Article 21.1).
16. The CCER should issue detailed, binding instructions in accordance with its responsibility (Article 12.1) to interpret the many vague provisions of the election law and to ensure the provisions of law are uniformly applied. For example, clear regulations should be adopted on candidate registration, early voting, voting by mobile ballot box, out-of-country voting, military voting, counting votes, and completing protocols at the DEC and PSC levels. Part of this problem could be easily remedied by adopting the CCER's detailed training guide for PSCs as a binding instruction on voting and counting procedures.
17. Consideration should be given to establishing a national voter register.

D. POLITICAL PARTIES/CAMPAIGN

18. Steps should be undertaken, including through law or regulation, to ensure that political parties and candidates can organize their campaign meetings freely and without official interference; to ensure they have prompt, easy and equal access to public premises for campaign meetings; and to eliminate the need for any official approvals or waiting periods for election gatherings, rallies or demonstrations.
19. The role of election commissions and local governments in organizing campaign meetings should be restricted by law or regulation to providing assistance at the request of candidates or parties. Local officials and DEC members should not preside at or participate in campaign meetings in their official capacities.
20. Voter and civic education should include information on candidates, political parties, and their platforms.
21. The work and professionalism of political parties should be improved through training. Better training should also be provided to political party observers.

E. MEDIA

22. Steps must be taken to ensure that media outlets are able to publish and/or broadcast freely both between elections and during pre-election periods, in order to ensure that the public has access to a variety of views and information, so that voters can subsequently make informed choices.
23. Candidate and/or political party broadcasts should not be altered or censored.
24. The state media should make greater efforts in its news and public affairs programs to provide information on political parties and candidates, taking care that such information is impartial and balanced.
25. Debates among candidates and parties should be encouraged in the pre-election period and artificial obstacles should not be put in the way of such debates.

26. Paid political advertisements in the press or the electronic media should be clearly identified as advertisements.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).