



Office for Democratic Institutions and Human Rights

KYRGYZ REPUBLIC
PRESIDENTIAL ELECTIONS
29 October 2000

OSCE/ODIHR FINAL REPORT



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I. EXECUTIVE SUMMARY

While democratic development in the Kyrgyz Republic remains comparatively viable, it is increasingly challenged by the failure of authorities to respect the law and a tendency to decrease freedoms afforded to political parties, civil society and the media. In this context, the 29 October 2000 presidential election in the Kyrgyz Republic, despite some positive features, failed to comply with OSCE commitments for democratic elections and failed to reverse the negative trends identified during the parliamentary elections.

The election took place amid a backdrop of security threats in the south of the country, a worsening economic situation, continuing opposition discontent at the conduct of the recent parliamentary elections and the failure of authorities to adequately address irregularities.

The Election Code provides the basis for democratic elections. However, as during the parliamentary elections, the implementation of the Code undermined this potential. The OSCE/ODIHR Election Observation Mission (EOM) was particularly concerned with:

- The restrictive process of candidate registration, which resulted in the exclusion of a number of prominent opposition leaders from the election;
- Pressure against a leading independent monitoring organisation, undermining its capacity to effectively observe the election;
- Pressure against private media, resulting in a lack of media in the country able or willing to take an editorial policy independent of the presidency and overt bias in State media in favour of the incumbent;
- Harassment of opposition candidates' activities, which influenced negatively the fairness of the campaign;
- A failure of the Central Election Commission (CEC) to reflect the interests of all candidates in the election equally; and
- Irregularities during the tabulation process, which raised questions about the accuracy of the reported results.

Nonetheless, the EOM noted positive features in this election, including:

- The Election Code and the use of an electronic tabulation system provided a remarkable level of transparency for the tabulation of results, allowing observers and candidates the possibility to audit the aggregation of the results from polling station to the CEC level;
- The development of a computerised nation-wide database of registered voters provided a much improved system of voter registration and production of voter lists;
- Election commissions at the intermediate levels included a high percentage of women and national minorities;

¹ This report is also available in Russian and Kyrgyz languages. However the English text remains the only official document.

- Candidates were well represented in polling stations on election day; and
- Civil society remained active in the electoral process despite pressure from the authorities.

After the parliamentary elections in February and March 2000, the OSCE/ODIHR issued a report including a number of recommendations aimed at strengthening the legislative and administrative processes. At that time, the report stressed that without a concurrent political will by the authorities to cease interfering in and undermining the electoral processes, such legislative and procedural changes would have a negligible impact. While the CEC addressed some recommendations of the OSCE/ODIHR through normative acts, the conduct of the presidential election indicated that such political will did not prevail.

In view of the above, a number of improvements should be considered, the most important of which are:

- Election Commissions should include representatives from political parties and candidates;
- The use of a language test for prospective candidates should be re-considered. If the test is to be retained, it should be relevant and administered uniformly and transparently; and
- The obligation of State media to provide equal access should be enforced.

The OSCE/ODIHR stands ready to work closely with the authorities and civil society in Kyrgyzstan in addressing these and other concerns, and recommendations contained in this report.

II. ACKNOWLEDGEMENTS

The Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) in Bishkek on 21 September 2000. The EOM remained in place until 5 November. Mr. Mark Stevens (UK) was appointed as Head of Mission. Throughout the duration of the observation, the OSCE Centre in Bishkek, headed by Ambassador Jerzy Więclaw, provided highly appreciated assistance and support.

This report is based on the findings of 16 long-term observers and experts. It also incorporates the observations of 104 short-term observers who reported from more than 500 of the 2,090 polling stations in 44 of the 53 regional administrative units. The observation was supported by bilateral embassies of OSCE participating States and international organisations based in the region. The EOM received a generous grant from USAID to support the deployment of locally recruited international observers.

The OSCE/ODIHR EOM wishes to thank the Ministry of Foreign Affairs, the Presidential Administration, the Central Election Commission and subordinate commissions of the Kyrgyz Republic for their co-operation and assistance during the course of the observation.

III. POLITICAL BACKGROUND

Following the parliamentary elections in February and March 2000, there were a number of protests concerning irregularities. As a result, the authorities agreed to hold roundtable discussions between government and opposition.

At the same time, the authorities increased pressure on some NGOs and opposition-oriented media. Criminal charges were initiated against two main opposition leaders, both of whom had already indicated their intention to run in the presidential election. Daniyar Ussenov (then a leader of the People's Party) was found guilty of criminal charges dating back to 1996. As a result, he was constitutionally ineligible to stand in the election. Feliks Kulov (Chairman of Ar-Namys party, a former Mayor of Bishkek, former Governor of Chui Oblast and former Minister of National Security) was arrested in March on charges of fraud and embezzlement. After being acquitted by a military court, his case was later re-opened by a higher-level military court. A third opposition figure, Topchubek Tuganaliyev (Erkindik party leader), who had also announced his intention to run in the presidential election, was arrested in May and charged with plotting to assassinate the President. He claimed the charges were fabricated, but received a 16-year prison sentence (later reduced to six years). Such prosecutions during an election are troubling.

Following a controversial registration process presented below, the Central Election Commission (CEC) eventually registered six candidates for the election:

Askar AKAEV	Incumbent President
Tursunbek AKUNOV	Leader of a Human Rights NGO
Almazbek ATAMBAEV	Industrialist and leading member of Social Democratic Party
Tursunbay BAKIR UULU	Leader of Erkin party and MP
Omurbek TEKEBAEV	Leader of Ata-Meken party and MP
Melis ESHIMKANOV	Leader of People's Party and owner of <i>Asaba</i> newspaper

The 2000 presidential election took place amid debates over the economic course followed by the country, the future of the constitutional framework, and in the aftermath of terrorist attacks in Fergana Valley. Also, despite a Constitutional Court ruling permitting the incumbent to run in the 2000 election, questions over the issue remained at the forefront of political debate. Some opposition leaders stated that the incumbent had already served two terms, being elected in 1991 and 1995. The Constitutional Court, however, ruled that the President had only served one term under the new Constitution.

Opposition candidates largely attributed accumulated economic difficulties, corruption, poverty, and ineffective use of foreign loans as well as ineffective implementation of social and economic reforms, to the incumbent. The authorities blamed the opposition for destabilising the country in the midst of a threat to its territorial integrity.

Some candidates urged constitutional amendments to move the country toward a stronger parliamentary system from the current presidential one. The authorities strongly rebuffed any such suggestion, stating such a system was not appropriate for Kyrgyzstan.

Some political alliances formed during the campaign. Feliks Kulov publicly supported the candidacy of Tekebaev, adding the advantage of a prominent northern-based politician to his

southern constituency and party structure.² Atambaev received the support of the Party of Communists of Kyrgyzstan (PKK).³ Eshimkanov had the backing of the People's Party, of which he is the leader. During the campaign, although Tekebaev, Atambaev and Eshimkanov did not formally align forces, they often co-ordinated their activities and issued joint protest statements on the electoral process. A number of political parties, including Moya Strana and the Democratic Party of Women publicly endorsed President Akaev.

IV. LEGISLATIVE FRAMEWORK

A. LEGISLATIVE OUTLINE

The legal framework for the conduct of the election is mainly provided by the 1996 Constitution (amended in 1998), the Election Code (1999), and instructions and administrative decisions issued by the Central Election Commission (CEC).

B. AMENDMENTS OF THE ELECTION CODE

In a final report on the parliamentary elections published on 10 April 2000, OSCE/ODIHR issued a number of recommendations for changes to the Election Code and administrative provisions. Initially, an inclusive roundtable was proposed to discuss possible changes to the Code as well as the irregularities during the parliamentary elections. However, a number of key opposition parties withdrew in protest against changes in the agenda and an enlarged and unworkable format introduced by the Presidential Administration. While the roundtable resulted in some welcome changes, as well as an assertion by the Presidential Administration that a further working group would be established after the presidential election to consider additional changes, an opportunity was missed to further strengthen the legislative base of the presidential election.

Amendments to the Code not in accordance with OSCE/ODIHR recommendations were introduced by Parliament on 4 October 2000. Article 28 was amended to read: "A registered candidate cannot be criminally liable, arrested or subject to administrative penalties imposed by a court". Previously, the article had included the qualification that such proceedings could not be undertaken "without the permission of the prosecutor". Because of the way in which the prosecutors misused this power during the parliamentary elections, OSCE/ODIHR recommended that the article should be amended to add the stipulation that the prosecutor should only initiate criminal proceedings against a registered candidate where there is a clear public need or where the alleged crime is of a grievous nature. In addition, amendments to Articles 54 and 55 resulted in inconsistencies in the time available to appeal decisions and actions of election commissions, and State bodies and officials to higher commissions and courts.

V. ELECTORAL ADMINISTRATION

In addition to the Central Election Commission (CEC), seven Oblast (province) and Bishkek City Commissions (OEC), 53 Rayon (district) and smaller city commissions (REC), and 2,090 Precinct Election Commissions (PEC) administered the election.

² Tekebaev's campaign materials stated that, if he was elected President, then Kulov would be appointed Prime Minister.

³ Iskhak Masaliev, son of the Party of Communists leader, acted as Atambaev's campaign manager. Masaliev had been refused registration as a candidate after failing the language test.

In the final report on the parliamentary elections, OSCE/ODIHR recommended a change to the mechanism for forming election commissions, as existing legislation did not provide adequate safeguards for pluralistic and representative commissions.

The key problem is Article 11.7, which states that the establishment of election commissions shall be carried out “with regard to suggestions” made by political parties, public associations, voters’ meetings....” This does not ensure participation for representatives nominated by political parties, public associations and voters’ meetings. According to the CEC, 50% of OEC members, 57% of REC members, and 50.26% of PEC members were on State or local government payrolls. Such a preponderance of commission members beholden to State structures undermines the neutrality of commissions.

The CEC is composed of 12 members plus a Chairman who is appointed by the President of the Republic. The Legislative Assembly, People’s Representative Assembly and the Presidential Administration can each nominate four members. Given the political composition of the two houses of Parliament, this can result in a majority of members representing the ruling group. Each registered candidate can have one “consultative member” on the CEC, though only three candidates took up this option.⁴

Women were well represented on OECs (36.1%) and RECs (37.86%), as were national minorities, 25.4% and 25.2% respectively.⁵

VI. CANDIDATE REGISTRATION

The criteria for registration as a presidential candidate are:

- The collection of a minimum of 50,000 eligible voter signatures, with at least 3% of the total from each Oblast and Bishkek City;
- A deposit of 1,000 times the minimum monthly salary (approximately 120,000 Soms);⁶
- Age between 35 and 65 years;
- Command of the State language; and
- 15 years residence in the Kyrgyz Republic.

Of the 18 candidates who indicated their intention to participate in the election, only six were eventually registered. Of the 12 prospective candidates who were not registered, eight failed the language test, two refused to take the language test, and two failed to collect 50,000 signatures.

The candidate registration process unfairly limited possibilities for participation in the election. The imposition of an onerous language test represented an unfair obstacle to participation for many candidates. Further, some leading opposition leaders were prevented from participating prior to the registration process, by virtue of legal proceedings (see III above).

⁴ The three candidates taking up the option for a consultative member were, Atambaev, Tekebaev and Bakir uulu. However the Bakir uulu representative rarely attended CEC sessions. The CEC announced on 14 October that an application for a representative of President Akaev to be appointed as consultative member had been received, but no action was taken.

⁵ The equivalent figures for the PECs are not available.

⁶ Approximately \$2,500.

Article 43.3 of the Constitution requires that presidential candidates have a “command of the State language”. Article 61 of the Election Code defines “knowledge of the State language” as having “the ability to read, write, express thoughts/ideas and make public speeches in the state language”. On the basis of these requirements, the CEC decided that each candidate wishing to stand in the presidential election had to pass a test in the Kyrgyz language and established a Linguistic Commission to conduct the test. No such test had been used at the previous presidential election.

Some prospective candidates, such as Ishkak Masaliev, appealed to the Constitutional Court on the grounds that the Linguistic Commission was unconstitutional. On 13 September, the Constitutional Court rejected the appeal.

Feliks Kulov refused to take the test, asserting that the Linguistic Commission was not constitutional and the language examination should not be a condition to the registration of presidential candidates. Iskhak Masaliev (Party of Communists of Kyrgyzstan), Dooronbek Kadyrbekov (member of the Legislative Assembly) and Omurbek Suvanaliev (Ar-Namys party) were among the candidates who failed.⁷

The EOM had two main concerns with regard to the language test. First, assessing a candidate’s command of the State language was in breach of Article 25 of the International Covenant of Civil and Political Rights, ratified by the Kyrgyz Republic, and Article 5 of the OSCE Copenhagen Document. Language requirement can serve to limit the possibilities for political participation by national minorities. In the Kyrgyz context, it was also used to limit the possibilities for participation by opposition candidates.

Second, given the past dominance of Russian language, there is an understandable need to preserve and promote the Kyrgyz language. However, the population’s proficiency in the language is still in development. The Constitutional Court, whilst ruling that the test was constitutional, stated that candidates should undergo a “uniform procedure”. The actual test used by the Linguistic Commission was not uniform and was onerous.

The overall impact of the exclusion of prospective candidates due to criminal convictions, the prosecution of a prospective candidate during the registration process, and the exclusion of other prospective candidates through a questionable language test resulted in a significantly limited scope of candidates, notwithstanding the six who were registered.

VII. VOTER LISTS

The development of a computerised nation-wide database of registered voters was a positive development. While still containing some flaws, the basic framework provided for a much-improved system of voter registration and lists.

The voter database, known as “Shailoo”, was a UNDP financed project. After a year in use, all Oblast and Rayon State administration bodies are now linked to it. It includes 97% of registered voters. The missing voters are those in remote military units, hospitals and abroad.

The main outstanding problem with the system is that there is no clear mechanism based on law to address duplicate and otherwise erroneous entries. When such entries are discovered at the central

⁷ All three represent Kyrgyz-speaking constituencies in Parliament, and all three claimed that they had to campaign in Kyrgyz, thus proving their ability to interact with people in the State language.

level, they are marked and a request to verify the information is transmitted to the Rayon-level operator. The Rayon level then undertakes any verification, the outcome of which is not certain.

During this election, verification was conducted at the local level by PEC members, *Jeks* (housing managers), and agencies of the Ministry of Interior for *propiska*. Lack of procedures guaranteeing a response from the central level down or from the local/regional level up, resulted in inconsistencies in addressing erroneous entries.

VIII. PRE-ELECTION CAMPAIGN

A. CAMPAIGN REGULATIONS

Article 31.1 of the Election Code provides that a candidate can start to campaign only after his or her registration has been confirmed. However, as noted by OSCE/ODIHR after the 2000 parliamentary elections, given that candidates are registered on a rolling basis up to the deadline, candidates end up with an unequal amount of time to campaign.

The regulations for posting campaign materials in Bishkek were inadequate. Bishkek City Council adopted regulations in July, but the CEC only notified candidates of the requirements in early October. The regulations required candidates to apply to the Mayor's office to post campaign materials in public places by providing a copy of the material for prior approval. According to Article 30.1 of the Election Code, only the CEC was entitled to check the content of printed campaign material. The regulation further restricted the posting of print campaign material to designated sites only, but the city provided only a minimal number of public boards where such material could be posted. The overall effect of this regulation was to severely limit campaign advertising in the capital.

B. CAMPAIGN MEETINGS

Candidates held a good number of meetings around the country. However, the campaign remained fairly low-key, largely due to most candidates' limited financial resources.

The CEC and RECs established a schedule of public meetings for candidates and their proxies. In the first place, election commissions should not be involved in organising campaign meetings.⁸ In addition, while candidates with limited resources found some of these meetings useful and the meetings provided a forum for discussion, a number of negative factors emerged.

The schedule of meetings was established by the election commissions without consulting candidates. Some candidates and their representatives could not attend many of the meetings due to scheduling conflicts. Other candidates were completely unaware of the meetings. As a result, voters interpreted non-attendance by candidates as a sign of no interest. At a number of these meetings, the organisers compelled local State-controlled company employees to attend. At other meetings, a list of attendees was kept, intimidating some. Also, organisers passed on a list of questions to people in the audience, prompting them to ask questions discrediting or flattering candidates.

Some local councils, such as in certain rayons in Chui and Bishkek, refused to allow candidates to organise their own meetings, claiming that it would upset the balance of meetings organised by the

⁸ Such a mechanism was also used for the parliamentary elections.

election commissions. This situation clearly violated both the letter and spirit of the law. When permitted to hold separate meetings, opposition candidates were often harassed. This included undercover police filming the audience (observed in Issyk-Kul and Bishkek); unwarranted presence of militia and police roadblocks preventing attendance (Chui and Jalal Abad); refusal to use public premises (Naryn, Chui and Jalal Abad); and taking a list of attendees (Chui).

C. USE OF STATE RESOURCES, PRESSURE ON STATE EMPLOYEES AND STUDENTS

Pressure on State employees was reported even during the collection of signatures, with State institutions and companies allegedly obligated to collect a certain number of signatures for the incumbent. During the campaign, the EOM received reports from university professors in Bishkek that they were forced to donate part of their salary to the incumbent's campaign funds and take a leave of absence from work to campaign for the incumbent.

Students in universities in Bishkek, Naryn and Osh were also pressured during the campaign to vote for the incumbent or risk "failing" their exams or losing their student accommodation. After reports surfaced that large numbers of students in Bishkek had their passports taken away as a means to ensure their vote for the incumbent, the Chairman of the CEC issued a statement urging university officials to stop pressuring students. Some of the students informed the EOM that, if they did not turn up to vote, not only would they pay the penalty, but someone else would vote for them.

In Naryn and Issyk-Kul, State employees were pressured to vote for the incumbent or risk losing their jobs. In Naryn and Jalal Abad, State employees were campaigning on behalf of the incumbent in violation of Article 30.6. In Alamedin Rayon in Chui, a head of a village was dismissed by the *Akim* after allegedly campaigning for Atambaev.

In Naryn, Bishkek, Chui and Issyk-Kul, many of the incumbent's campaign staff were from State institutions and had received paid leave to work on the campaign. In a rayon in Chui, the incumbent's campaign office was located in the building of the local administration.

D. OTHER CAMPAIGN IRREGULARITIES

The Ministry of Interior's Department for Economic Crime (DEC) pressured the publishing house Bild, which produced posters for Tekebaev. The DEC alleged that the posters were not legal. Allegedly, the company did not have a certificate from the CEC to produce the posters, though no such certificate was required. The DEC also claimed that the posters were inappropriate because they portrayed Feliks Kulov as Prime Minister and Tekebaev as President. The matter was resolved at the CEC, with a compromise to stamp the word "future" before the titles, which should not have been required.

Continent company was pressured by the Ministry of Interior (MoI) to take down billboards in Bishkek with posters of Atambaev. The MoI claimed that the contract between Atambaev and the company had been breached because the former had not pre-paid the costs as stipulated in the contract. The company asserted they had agreed with Atambaev that costs could be paid later.

The President and his spouse were shown on TV and in newspapers donating equipment, aid and materials to villages, hospitals, schools and universities.⁹ The conduct of such charitable acts by a candidate is in violation of Article 36.5 of the Election Code.

⁹ Mrs. Akaev is Chairperson of a charitable foundation.

IX. THE MEDIA

The media environment was characterised by an overwhelming tendency of State-owned public media and government-oriented private media to exhibit an overt bias in favour of the incumbent. Opposition candidates, when mentioned, were portrayed predominantly in negative terms. The State-owned media failed to comply with its legal obligation to provide balanced and objective reporting on candidates.

Since the parliamentary elections, harassment and intimidation against private media resulted in self-censorship and a notable decrease in the number of media outlets able or willing to offer an editorial line independent or critical of the authorities. In a report published on 30 October, the European Institute for the Media (EIM), which monitored the media coverage of the campaign, expressed serious concern “about the future of the freedom of expression and the autonomy of the media in Kyrgyzstan”.

A. MEDIA MONITORING

The EOM monitored five TV stations - KTR, TV Piramida, TV KOORT, TV NBT and TV OSH, and nine newspapers - *Slovo Kyrgyzstana*, *Kyrgyz Tuusu*, *Erkin Too*, *RIF*, *Utro Bishkeka*, *Vecherni Bishkek*, *Asaba*, *Res Publica* and *Delo Nomer* from 29 September to 31 October.

Monitoring indicated that Kyrgyz media showed no improvement in its coverage compared to the parliamentary elections. Results showed clear support by State-owned TV (KTR) to the incumbent by allocating him 99.2% of air time related to elections on prime time news. The vast majority (87%) of this coverage was positive in tone, the remaining 13% neutral. A prime example of KTR’s bias was a two-hour press conference broadcast live during prime time on 27 October. Most of the broadcast focused on positive developments over the previous five years and the President’s promises to increase pensions, reduce unemployment and poverty, and improve conditions for agriculture. No critical questions were asked of the incumbent.

Private TV broadcasters generally did not offer a balanced coverage of the campaign. TV Piramida, the most popular national broadcaster, offered the incumbent 99% of its prime time news coverage related to elections. The majority of this coverage, 69%, was positive in tone, and the remaining 31% neutral.

State funded newspapers *Slovo Kyrgyzstana* and *Kyrgyz Tuusu* also showed clear bias in favor of the incumbent, both in space and tone of the coverage, and against the three main opposition candidates. In addition, these papers produced some articles discrediting opposition candidates. For example, *Slovo Kyrgyzstana*, devoted over 75% of its total space of political information to President Akaev, with 73% being positive in tone and 25% neutral. In contrast, Tekebaev received only 10% of space, with 76% being negative.

Some private newspapers provided more coverage for the opposition candidates. *Delo Nomer*, for example, showed support for candidate Atambaev, devoting to him 18% of election related space, the majority positive. *Vecherny Bishkek*, the most popular paper, supported the incumbent, allocating him 63% of largely positive election coverage, and heavily criticizing other candidates.

B. INTERFERENCE IN THE BROADCASTING OF FREE AND PAID ADVERTISING

Given the overwhelming bias in news programming for the incumbent, the provision of paid and free advertising could have offered the other candidates some balance of coverage. However, a number of actions by the CEC, KTR and the authorities against TV Piramida undermined the possibility.

The State broadcaster KTR refused to accept a video for a paid advertisement from candidate Atambaev, despite CEC instructions to do so after ordering changes to the content. With the backing of the CEC, KTR also reduced the free time available for candidates from 30 minutes each to 20 minutes, claiming that the spots broadcast had a higher monetary value than interviews and therefore the candidates had used up their allocation. However, the Code does not permit such a monetary definition of time available to candidates.

The CEC offered editorial comments and effectively censored a Tekebaev video, after an alleged complaint by a small group of citizens. It ordered the TV spot to be changed, even going beyond the substance of the alleged complaint and insisting on the removal of images and commentary which CEC members claimed were not appropriate. Following an incident involving a campaign spot for candidate Tekebaev, the private Piramida TV declined to show any election material in the final two weeks of the campaign, further limiting opposition candidates' exposure.

Article 35.1 of the Election Code provides the CEC with the right to scrutinise “printed campaign materials” (emphasis added). Regulations provide for the CEC Media Working Group to “analyse materials on violations committed by registered candidates”,¹⁰ but they do not provide the right to scrutinise and effectively edit campaign materials for TV broadcast. The CEC's own Regulation 337 paragraph 2.12 states that, “The candidate, in accordance with an agreement with an electronic media as a form of campaigning within the free airtime determines on his own the content of the information...”¹¹

C. PRESSURE AGAINST PRIVATE MEDIA

After providing a platform for opposition candidates, some private newspapers, including *Asaba*, *Respublika* and *Delo Nomer*, were faced with vexatious lawsuits, tax inspections, and the State-owned distribution network at times refusing to distribute their prints. *Delo Nomer* had seven cases against them spanning the campaign period. *Res Publica* lost a libel case and had to pay a heavy fine. *Asaba* lost a court case and was ordered to pay 50 million Som (\$1 million) in damages.

Piramida TV was under pressure during the campaign to be uncritical of the incumbent and not to cover the other candidates. As a result, the presidential election media monitoring showed a distinct change from the parliamentary elections, when Piramida TV was fairly well balanced in its coverage. Piramida did not broadcast any coverage of the 30 October EOM press conference in its news of 30 or 31 October. On the morning of 1 November, the EOM received a phone call from an editor at Piramida informing that the Deputy Director, who seemed to be following orders from the authorities, had left the company and the TV station was free to broadcast the press conference. It was shown that evening and was a well balanced segment, reporting the EOM conclusions and a response from the CEC.

¹⁰ CEC Resolution 336 on Media Regulations, adopted 28 June 2000.

¹¹ Issued on 28 June 2000.

X. DOMESTIC OBSERVER GROUPS

Prior to the election, the NGO Coalition “For Democracy and Civil Society”, claiming support by some 170 independent NGOs, came under pressure from the CEC, the Ministry of Justice, prosecutors, and government-oriented media, in what appeared to be a co-ordinated attempt to undermine its work and credibility. Following the NGO Coalition’s critical evaluation of the parliamentary elections, the CEC questioned the impartiality of the organisation and their receipt of foreign support.

The CEC argued that no organisation with the name NGO Coalition “For Democracy and Civil Society” had been registered with the Ministry of Justice. However, a “Public Association for Democracy and Civil Society” was registered. Despite the organisation’s participation as independent observers under the name of the NGO Coalition in the 1999 local government and 2000 parliamentary elections, its registration was at issue during the presidential election. The Bishkek City Prosecutor also issued two warnings to the head of the NGO Coalition for alleged illegal activities.

One week prior to election day, the CEC agreed to allow the individual NGOs supporting the Coalition, to observe the process, but not under the name of the NGO Coalition “For Democracy and Civil Society”. The “Public Association for Democracy and Civil Society” – using in some cases the NGO Coalition “For Democracy and Civil Society” seal, accredited 1,950 observers in all seven Oblasts. In a letter addressed to lower commissions on 26 October, the Chairman of the CEC equated the “Public Association for Democracy and Civil Society” with the NGO Coalition “For Democracy and Civil Society”, thus creating confusion on election day.

The “Non-Government and Non-Commercial Organisation’s Association” also observed the election and informed the EOM that it had deployed more than 4,000 observers. Their findings and conclusions closely mirrored those of the CEC.

XI. ELECTION DAY

A. DEPLOYMENT

The EOM deployed 104 short term observers on election day, reporting from over 500 polling stations in six Oblasts and the city of Bishkek, representing 25% of all polling stations around the country. Batken Oblast was not covered, largely for security reasons.

B. VOTING

In a majority of precincts observed, the voting process was administered adequately. Candidate representatives or consultative members of the PEC were present in some 98% of polling stations visited by the EOM. Given the lack of political pluralism among full members of election commissions, this was encouraging. Observers found a representative of the incumbent in 83% of polling stations; Atambaev in 76%; Tekebaev 59%; Eshimkanov 35%; Akunov 24%; Bakir uulu 9%.

The exclusion of a large number of voters from voter registers resulted in a large-scale use of additional voter lists and practices that may have been used to artificially increase the voter turnout.

In some polling stations, commission members kept a check on voters who had not voted during the day. This list was then used to “encourage” voters to turn out. In Bishkek, Chui, Jalal Abad and Osh, voter registers in many polling stations were marked with obviously identical signatures, indicating multiple voting or ballot box stuffing. In Jalal Abad, university students at PEC 95 were compelled to show their ballot to officials before placing them in the ballot box.

An atmosphere of intimidation as a result of a large security presence at some polling stations was noted. Local and regional administration officials, security personnel, and State and private enterprise officials often controlled proceedings and instructed voters in and around polling stations. The presence of “unauthorised persons” was noted at some 35% of polling stations visited.

A serious incident took place in Bishkek, where 701 ballots were found in the ballot box before a polling station opened. Seven hundred of the ballots were for the incumbent and one was for Akunov. The details of the case remain unclear. However, the authorities very quickly declared that the fraud was committed by the representatives of Tekebaev and Atambaev. The investigation of this case without consideration to due process of law raises serious concerns. Another serious case of ballot box stuffing was discovered in Osh, in polling station 5306. Observers noted many ballots folded in bundles. As the counting progressed, the PEC changed the number of persons allegedly having voted from 1,888 to 1,924 and then to 2,097, to account for the number of ballots.

C. THE VOTE COUNT AND TABULATION OF RESULTS

The remarkable level of transparency for the tabulation of results at all commission levels represented an important achievement for this election. Within 24 hours of polling, results at all levels were posted on the CEC web site. This allowed observers, candidates, and voters to audit the results from precinct to national level. However, this achievement was marred by serious violations before the results were entered into the computerised system.

Some of the procedural tabulation problems reported by observers were:

- Precinct protocols were not always posted publicly as the law requires (34% of PECs observed), and in some cases, observers were denied copies of these protocols.
- In 29% of precinct vote counts observed, precinct result protocols were prepared in pencil or PEC members signed blank protocols. Many more such protocols were observed arriving at RECs.
- Some of the precinct protocols were altered before delivery to the REC or at the REC.
- In some cases, observers were denied access to the vote counting process at the precinct level, and the tabulation process at the REC and OEC levels. The EOM is in possession of an e-mail message from the CEC dated 29 October at 20:43, instructing RECs to deny observers access to the room where the protocols were entered in the computerised system.

In addition, some of the reported turnout figures do not seem credible. Observers in the Suzak Rayon in Jalal Abad reported the following:

- PEC 07: 1,966 out of 1,971 registered voters allegedly voted. Of these, 1,920 voted for the incumbent. Observers estimate that up to 60% of signatures on the list looked suspicious. Also the list was 28 signatures short of the number of ballots.
- PEC 19: A Tekebaev observer was thrown out before count. There were 25% more votes counted than voters indicated as having voted on the register.

- PEC 08: 2,824 voted out of 2,942 registered voters. 2,658 voted for the incumbent. However, only 241 signatures were on voter register.
- At least 6 PECs reported a turnout in excess of 90% by 4 p.m.¹²

More specific violations observed include:

- Kara Sura Rayon, Osh: Many protocols were filled out in pencil. Three protocols were observed being changed. REC member took ten protocols away.
- PEC 5146, Osh: PEC signed blank protocol, figures were inserted at REC. At Alay REC, observers saw many signed protocols being filled in near the delivery room.
- PEC 7007, Kemin, Chui: Blank and cancelled ballots were counted for the incumbent. Signed blank protocols were filled out at REC.
- PEC 7288, Moskov, Chui: PEC Chair went to Akim, not REC. Protocol was completed in a room not accessible to observers. At REC, many protocols being re-done.
- Jaryl Rayon, Chui: PEC Chairs were observed erasing pencil-filled protocols and changing numbers.
- Issyk-Kul: Many protocols were re-done.
- Sverlovsk Rayon, Bishkek; Osh City; Issyk-Kul OEC, Sokoluk Rayon Chui; Jem Oguz Issyk-Kul; Jalal Abad City; Uzgen Osh; Lenin, Bishkek: Observers were denied access to tabulation process.
- The EOM obtained a copy of the official protocol for PEC 5313 in Osh, which differed from the results entered into the Shailoo system. The official protocol had:

	PEC Protocol	Shailoo Results
Akaev	487 votes	887 votes
Tekebaev	450 votes	50 votes

In response to an enquiry from the EOM, the CEC changed the result back to the original.

Given that the EOM only observed 41 counts at the PEC and a smaller number of tabulations at RECs, the number of irregularities discovered is very high, indicating a widespread problem and an outcome that lacks credibility. This parallels the practice during the parliamentary elections and continues to be a major problem for the electoral process in Kyrgyzstan, particularly given the vested interest of local State officials in the re-election of the incumbent, who indirectly appoints lower level officials.

¹² In a polling station of 1,500 voters, which is fairly common, this would represent the processing of 1,350 voters in 540 minutes. This represents the processing of 2.5 voters per minute consistently for 9 hours. Given the usual process in polling stations in Kyrgyzstan, such a processing rate is not credible.

XII. RESULTS

Candidate	Votes	%
Askar AKAEV	1,459,067	74.45%
Omurbek TEKEBAEV	271,456	13.85%
Almazbek ATAMBAEV	117,557	6.00%
Melis ESHIMKANOV	21,240	1.08%
Tursanbay BAKIR UULU	18,990	0.97%
Tursanbek AKUNOV	8,540	0.44%
AGAINST ALL	13,214	0.67%

Thus, the turnout of registered voters was 77.33%.

XIII. RECOMMENDATIONS

The OSCE/ODIHR offered detailed recommendations following the parliamentary elections, most of which remain relevant. The following recommendations should be viewed as complementary to the earlier recommendations. Whilst some improvements can be made, the main problem with the electoral process in the Kyrgyz Republic remains the implementation of laws and interference by the executive branch of government.

A. RECENT AMENDMENTS

1. Recent amendments to the Code should be re-considered. Article 28 should follow the original OSCE/ODIHR recommendation that criminal proceedings against registered candidates can be initiated, but “only if there is a clear public need defined in law”. Articles 54 and 55 allow enough time for a complaint to be filed and adequately considered. In light of this, Article 55 should be brought into line with Article 54 to allow a complaint to be filed against State bodies, officials and election commissions within one month from the publication of results, rather than one month from election day.

B. ELECTION ADMINISTRATION

1. Election commissions should include representatives from political parties and candidates, and not be dominated by individuals on State payroll.
2. As the current composition of the CEC can lead to dominance by pro-authority members, a new formula ensuring a more representative body should be considered, with no quota for the Presidential Administration and full membership for political forces contesting an election.
3. The Chairman of the CEC should not be appointed by the President of the Republic. The Chairman should enjoy broad political support.

4. The procedures for CEC sessions should ensure that the agenda cannot be determined solely and controlled by the Chairman.
5. Candidates should be responsible for the campaign materials they produce. The CEC should not be able to censor such material, and should only act in cases of a violation of the law.

C. CANDIDATE REGISTRATION

1. The use of a language test for prospective candidates should be re-considered. Such a test has clear implications for the participation of candidates from ethnic minorities.
2. If the Kyrgyz authorities are determined to retain a language test, it should be relevant and administered uniformly and transparently.

D. VOTER REGISTRATION

1. The computerisation of voter lists should continue, with clear guidelines for the checking, reporting, and correction of incorrect entries.

E. CAMPAIGN

1. There should be a common start date for the campaign for all candidates after the completion of registration procedures.
2. Local government regulations must be in line with the Election Code, providing adequate and timely opportunity for campaign possibilities across the country, including the provision of billboards and guidance on campaign sites. These regulations must not place an unfair burden on candidates to have materials checked by local authorities or an unfair time lag between submission of requests for campaign sites and response by authorities.
3. If election commissions wish to provide a forum for meetings between candidates and voters, such meetings should be optional and a schedule should be developed in consultation with candidates and should be well publicised. Meetings should be voluntary and no voter should be subjected to a name check or other intimidating processes during such meetings. In addition, candidates should be free to organise their own meetings using their own funds.
4. Local authorities must cease interfering in the campaigns of candidates. All candidates should be given equal and fair support by local administration as stipulated by the Code.
5. No state institution or employee should be pressured to support the campaign of an incumbent or any other candidate. The Code is clear in this regard and should be respected.
6. Private companies should not be subjected to any pressure by State institutions when providing services to candidates. The CEC must act to defend the election rights of all participants in this regard.

F. MEDIA

1. The CEC Working Groups, such as the Media Working Group, should include relevant professionals and not be dominated by State representatives.
2. An independent and impartial body should be established to monitor the media. Such a body could be responsible for considering complaints and ensuring compliance with legal obligations.
3. Media should not be held responsible for “unlawful” statements made by candidates or party representatives.

G. VOTING AND COUNTING PROCEDURES

1. Unauthorised persons should not be permitted to be present in polling stations and during counting and tabulation process. Clear and severe penalties should be defined for any violation of this provision.
2. PEC members must be instructed to complete protocols only in ink. Spare copies should not be signed. Any violation should be penalised severely.
3. Instructions for PEC members should make it clear that, whilst they may make a record of the number of voters participating during the day, they should not keep a list of names of those not participating, as such a list can be mis-used.
4. To ensure adequate secrecy of the ballot, voters should be required to fold the ballot after marking it and prior to placing in the ballot box.

H. DOMESTIC OBSERVERS

1. The rights of domestic and international observers should be detailed in the Code and clearly communicated to lower level commissions.

I. ELECTORAL DISPUTES

1. The election disputes resolution process could be reviewed in accordance with guidelines produced by OSCE/ODIHR to clarify the election appeals process, mainstreaming the respective roles of election commissions and courts.¹³

¹³ See “Resolving Election Disputes in the OSCE Area: Towards a Standard Election Dispute Monitoring System”, Warsaw, 12 July 2000.