



## LIMITED REFERENDUM OBSERVATION MISSION

### Kyrgyz Republic — Constitutional Referendum, 27 June 2010

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#### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

**Bishkek, 28 June 2010** – Following an invitation from the authorities of the Kyrgyz Republic and based on the recommendation of a Needs Assessment Mission, on 21 May 2010 the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a referendum observation mission to observe the 27 June constitutional referendum. Due to security considerations, on 18 June the OSCE/ODIHR decided not to deploy short-term observers as part of its ongoing observation of the referendum. The mission continued to observe the process as a Limited Referendum Observation Mission (LROM) with a core team based in Bishkek and long-term observers, initially deployed across the country.<sup>1</sup>

The referendum was assessed for its compliance with OSCE commitments and other international standards for democratic elections, as well as with the legislation of the Kyrgyz Republic. This statement of preliminary findings and conclusions is delivered prior to the conclusion of the process. The final assessment of the referendum will depend, in part, on the conduct of the remaining stages of the process, including the tabulation and announcement of results and the handling of possible post-referendum day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, within four weeks of the completion of the process.

In line with standard OSCE/ODIHR methodology for LROMs, the mission did not conduct a comprehensive and systematic observation of referendum day proceedings, but visited a limited number of polling stations and territorial referendum commissions.

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#### PRELIMINARY CONCLUSIONS

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The authorities of the Kyrgyz Republic succeeded in creating the necessary conditions for the conduct of a peaceful constitutional referendum on 27 June in spite of challenging circumstances. Although there were evident shortcomings, the reported high turnout indicates citizens' resilience and desire to shape the future of their country.

Immediate and resolute measures are required to build upon positive developments and to remedy flaws before the forthcoming parliamentary elections with the view to achieve further democratic progress. Strong political will is necessary to establish a democracy based on effective democratic institutions, rule of law, security for all and protection of human rights.

The constitutional referendum took place against the backdrop of the violent conflict in Osh and Jalal-Abad. As a result, referendum preparations in the conflict affected areas were temporarily disrupted. Although many poll workers had been displaced, the electoral authorities succeeded in staffing and opening all polling stations on time on referendum day. Moreover, efforts were made to enfranchise internally displaced voters often without identification; however refugees could not be provided with possibilities for casting their ballot. The pervasive atmosphere of fear and intimidation, compounded by arrests of prominent public figures from the Uzbek community, may have dissuaded some voters from casting their ballot. Indeed, participation in the South was lower than the rest of the country.

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<sup>1</sup> LTO teams were withdrawn from Osh and Jalal-Abad on 12 and 13 June for security reasons.

The legal framework provided an inconsistent and confusing basis for the conduct of the referendum. Although at times operationally justifiable, last-minute alterations and the fluidity of the legal framework led to election commissions and contestants not always being assured of the applicable legislation.

The formulation of the referendum question as a composite of issues made it difficult for voters to make a unitary choice; a 'yes' vote would approve the draft constitution and the law on its enactment, confirm Ms. Roza Otunbaeva as interim president until 31 December 2011 and dismiss the Constitutional Court. A single question precluded voters to express their views on the three distinct issues separately.

The Central Election Commission (CEC) administered the process in a largely transparent, collegiate and timely manner, especially considering the strenuous circumstances and shortened timetable. CEC sessions were open to all observers and media. This transparency was replicated by lower level commissions. In a welcome step, the process for selecting lower-level commissions was modified to decrease the possibility of administrative and political influence as well as to ensure a more balanced composition and foster public confidence. The way the CEC adjudicated the very few complaints received did not afford plaintiffs effective and timely remedies.

The campaign was low-profile; most parties campaigned for a 'yes' vote. Co-ordinated 'yes' and 'no' campaigns did not emerge. Closer to referendum day, the campaign was increasingly framed by all parties in terms of stability and the legitimacy of the provisional government, rather than with respect to the proposed constitution. Overall, political parties could campaign freely. However, an atmosphere of fear and the prevailing security conditions in the South hampered the possibility for campaigning in the last two weeks before the referendum. The conflict led some political parties and civil society actors to call for postponement.

The authorities, supported by international organizations, made considerable efforts to disseminate the draft constitution widely, promote discussion on its content, and to encourage citizens to vote. State officials often blurred the line between informing voters and actively campaigning for a 'yes' vote.

A relatively pluralistic media environment offered the public wide coverage of the referendum, even though the media focus shifted to the emergency situation in the South from 10 June onwards. The state media fulfilled their obligation to organize civic and voter education, thus providing the opportunity for voters to engage in the referendum. However, in its news coverage, it favored the 'yes' position.

The requirement of absentee voting certificates for voters to cast their ballot in a polling station outside of their place of permanent residence was removed. Furthermore, anyone could vote even if they were not included in the voter list and without identification, if recognized by the precinct commissions. While these measures were intended to enhance the universality of the vote, the inking of the voter's thumb, which was commendably reinstated in practice for the referendum, was the only safeguard against possible multiple voting.

Polling stations across the country opened on time and seemed well prepared, including in the South. In polling stations visited, voting proceeded orderly. PRC members seemed aware of procedures and managed the process in a largely proficient manner. However, the verification of inking was at times inconsistent in the polling stations visited. In addition, the voters' choice was often disclosed as ballots were not properly folded, thus compromising secrecy. Counting and tabulation processes observed were assessed less positively, with commissioners not always being

aware or not respecting the procedures. The CEC immediately posted detailed result protocols, broken down by polling station, allowing stakeholders to verify if the referendum results were reported accurately. It announced a turnout of 69.48 percent.

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## PRELIMINARY FINDINGS

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### Background and Political Context

Kurmanbek Bakiev was elected President of the Kyrgyz Republic in July 2005 following a popular uprising which ousted President Askar Akaev. Mr. Bakiev was re-elected in July 2009 in an election assessed by the OSCE/ODIHR as having “failed to meet key OSCE commitments.”

On 7 April 2010, violent protests led to the ouster of President Bakiev. The newly formed provisional government led by Ms. Roza Otunbaeva announced a ‘Return to Democracy’ program intended for a peaceful transition into a democratic state. A review of existing legislation, particularly the Constitution, was identified as a key step in this transition and a referendum to adopt a new constitution was set for 27 June 2010. The draft constitution is the result of a consultation process with national and international stakeholders and introduces a semi-parliamentary system. The provisional government also scheduled parliamentary elections for 10 October 2010 and has proposed a presidential election for October 2011. The draft constitution stipulates that Ms. Otunbaeva is not entitled to run for president in 2011 for a second term.

Starting from 10 June, a series of violent clashes between Kyrgyz and Uzbek groups in Osh and Jalal-Abad resulted in a high number of casualties and displaced citizens, leading to widespread concerns over the security situation and preparations for the referendum in this part of the country. A state of emergency was subsequently imposed in large parts of Osh and Jalal-Abad oblasts which expired prior to referendum day. Several political and civil society actors called for a postponement or cancellation of the referendum.<sup>2</sup> They argued that it would be inappropriate to ask people to vote in such circumstances and that the legitimacy of the results would be questionable if large numbers of displaced people were unable to vote. The provisional government, in contrast, consistently reiterated its commitment to proceed with the referendum as scheduled.

### Legal Framework

The legal framework for the referendum is confusing and did not fully regulate the process. It was based on the 2007 Constitution and the 2007 Law on Referendum, as well as several provisions from the 2007 Election Code and the 2004 Law on the Central Election and Referendum Commission. These laws were supplemented by governmental decrees and CEC decisions. The Provisional government resolved that its decrees represent normative acts and therefore have the power of law, a position that may be disputable in view of the existing laws.<sup>3</sup> Decrees No 19 and 20 stipulate that constitutional laws should guide the administration of the referendum unless they contradict the decrees, thus placing decrees above constitutional laws in the hierarchy of norms. Additionally, on 12 April the Constitutional Court was dismissed.<sup>4</sup> The fluidity of legal framework and the changes implemented throughout the process meant that election commissions and election

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<sup>2</sup> Such parties included *Akyikat* (Justice), *Ata Jurt* (Fatherland), *Butun Kyrgyzstan* (United Kyrgyzstan), *El Armany* (People’s Destiny), and Party of Communists of Kyrgyzstan (PCK).

<sup>3</sup> Provisional Government Resolution No 8 (10 April 2010). The 2009 Law on Normative Acts does not recognize decrees as having such status.

<sup>4</sup> Provisional Government Decree No 2 (12 April 2010). The Constitutional Court was the only body mandated to oversee the constitutionality of legal acts.

stakeholders may not always have been clear on the applicable legal framework and their legal rights.

Decrees of the provisional government largely followed the established framework for a referendum, yet some of the new provisions led to uncertainty and allowed for conflicting interpretations. For instance, the 2007 Constitution and the Law on Referendum stipulate that a referendum is valid if a minimum 50 per cent of eligible voters turn out to vote. However, this requirement is absent from Decree No 20. A series of conflicting statement by officials contributed to public uncertainty on whether this requirement is applicable. In addition, the 2007 Constitution does not permit holding a referendum whilst a state of emergency is imposed, yet Decree No 20 allows for holding a referendum, provided that the number of voters in the area under the state of emergency is less than half of the total number of eligible voters.

The question submitted for the referendum comprised different matters and yet required voters to provide only a single answer.<sup>5</sup> This contradicts existing legislation<sup>6</sup> and good practice for the conduct of referenda which require unity of content of the question. It is also desirable that the same question does not apply simultaneously to different hierarchical levels. A single question precluded voters to express their views on the three distinct issues. Voters may have been in favor of one matter but against another.<sup>7</sup>

### Referendum Administration

The referendum was administered by a four-tiered administration, headed by the CEC. The provisional government dismissed the previous CEC and appointed a new 15-member commission to organize the referendum, the parliamentary and presidential elections.<sup>8</sup> The CEC comprises eight political party and seven civil society representatives. A further six advisory seats were available for international experts, of which only one was filled so far.

Below the CEC are 7 Oblast and the Bishkek and Osh City Election commissions (OECs), 56 Territorial (Rayon and Town) Referendum Commissions (TRCs) and 2,281 Precinct Referendum Commissions (PRCs). In addition, the CEC formed 38 out-of-country PRCs in 22 countries for some 31,603 citizens registered abroad.

The process for selecting lower-level commissions was modified to decrease the possibility of administrative and political influence as well as to ensure a more balanced composition. This move was welcomed by national observers and helped foster public confidence. The CEC modified the selection process so that up to half of the members came from political party nominees and the remainder from groups of voters.<sup>9</sup> It decided not to make any OEC replacements until after the

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<sup>5</sup> The referendum question asks the voters to decide if they want to 'adopt the Constitution of the Kyrgyz Republic and the Law of the Kyrgyz Republic on enactment of the Constitution of the Kyrgyz Republic, which were submitted for the referendum (nation wide vote) as drafts by the Provisional Government.' The latter law includes references to the provisional government Decrees No 2 and 39, which dismiss the Constitutional Court and confirm Ms. Roza Otunbaeva as interim president until 31 December 2011.

<sup>6</sup> Article 7.2 of the Law on Referendum.

<sup>7</sup> Code of Good Practice on Referendums of the Venice Commission of the Council of Europe  
[http://www.venice.coe.int/docs/2007/CDL-AD\(2007\)008rev-e.asp](http://www.venice.coe.int/docs/2007/CDL-AD(2007)008rev-e.asp).

<sup>8</sup> Provisional Government Decree No 19, 21 April 2010 and Resolution No 22 (30 April 2010).

<sup>9</sup> CEC rules on the Formation and Dissolution of the Referendum Commission (30 April 2010) defines a group of voters as being a minimum of five voters who must submit their names and minutes of the meeting to the relevant commission.

referendum.<sup>10</sup> The CEC bypassed the OECs and directly appointed TRC members. TRC and PRC members were generally appointed within legal deadlines, although insufficient political party nominations to PRCs were received.<sup>11</sup>

The CEC provided training to TRC and PRC members, which was assessed positively by the OSCE/ODIHR LROM although it could have benefited from more time.<sup>12</sup> The inexperience of TRCs meant that the local administration assisted in their work at times, which questions the independence of the commissions.<sup>13</sup>

The CEC administered the referendum process in a largely transparent, collegiate and timely manner, especially considering the challenging circumstances and shortened timetable.<sup>14</sup> CEC sessions were open to all observers and media, and decisions were published on their website. This transparency was replicated by lower level commissions. The CEC made efforts to clarify procedures,<sup>15</sup> and bring them in line with decrees issued by the provisional government. Some of these decrees and CEC regulations<sup>16</sup> were issued extremely late and they were not consistently communicated to lower level commissions and the voting public.

The violent clashes in the south of the country brought new challenges for administering the referendum. Many PRC members in both Osh and Jalal-Abad cities could not be found. The CEC conducted an assessment of affected areas and made a call for political parties and NGOs to nominate new commission members resulting in a further 87<sup>17</sup> new members being recruited and all 82 polling stations were able to open on referendum day. However, the abduction of six poll-workers after the first training session in Osh city increased fears amongst polling staff and stopped any further training from taking place.

Efforts were made to enfranchise internally displaced voters often without identification; however refugees could not be provided with possibilities for casting their ballot. Domestic observers reported a lack of knowledge in some polling stations of the latest decisions designed to ensure enfranchisement of voters that had lost their ID or had been displaced by the violence.<sup>18</sup>

## Voter Registration

The quality and accuracy of the voter list (VL) remained a concern due to large scale, unregistered migration and emigration. The provisional government and the CEC made several attempts to update the VL at the local level through door-to-door checks. Migrants could be deleted from the VL on the basis of written testimony of relatives and neighbors.<sup>19</sup> OSCE/ODIHR LROM observed

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<sup>10</sup> According to Articles 16.2-16.4, Law on Referendum, OECs are permanent bodies appointed for five year terms whereas TRCs and PRCs are appointed for the referendum.

<sup>11</sup> As observed in all areas except Chui oblast.

<sup>12</sup> TRC trainings lasted one day, and PRC trainings were reduced to half a day.

<sup>13</sup> As observed by OSCE/ODIHR LROM in Chui and Balykchy.

<sup>14</sup> Provisional Government No 20 (21 April 2010) and Resolution No 22 (30 April 2010) shortened the preparation period from a minimum of three months (as provided by Article 14.2, Law on Referendum) to two months.

<sup>15</sup> Particularly in counting and tabulation of results, security of documents and access for observers and media.

<sup>16</sup> Voter lists were delivered to the PRCs by 8 June but the CEC rules for exclusion of absent citizens were issued on 14 June. Voting procedures were amended on 21 and 23 June on the basis of PG decrees issued 10 June (No 63), 17 June (No 73), 23 June (No 80) after the majority of PRCs had been trained.

<sup>17</sup> Of a total of 864 staff.

<sup>18</sup> The Coalition for Democracy and Civil Society, observing in Osh city reported that some people without IDs were turned away from polling stations by staff due to concerns that they would have insufficient ballots.

<sup>19</sup> Provisional Government Decree No 53 (27 May 2010).

different standards for these checks around the country resulting in some voters being deleted from the VL based on their absence at the time of the check.<sup>20</sup>

Neither the provisional government nor the CEC conducted regional or national cross-checking for possible duplicates in the voter database despite having the technical capability to do so. On a positive note, the CEC authorized a domestic observer organization, to audit the VL in 80 precincts.<sup>21</sup>

Voter lists were generally printed in a timely manner. The CEC authorized the VLs to be posted for public verification. However, since each PRC received only one copy, they were not usually posted but rather available for viewing in the office.

The provisional government removed the necessity for absentee voting certificates for those outside of their place of permanent registration on referendum day.<sup>22</sup> This allowed referendum participants to vote at any polling station within the country. Another decree was passed to provide the electoral rights of internally displaced persons in Osh and Jalal-Abad provinces allowing anyone to vote even if they were not included in the voter list and without identification, if recognized by the PRC.<sup>23</sup> At the same time, the practice of inking a voter's thumb was commendably reinstated and became the only safeguard against possible multiple voting.

According to the CEC, on 7 June before update, the total number of registered voters was 2,726,481. The final number will be known only after all the protocols have been aggregated to account for additions and deletions.

### **Civic and Voter Education**

Considerable efforts were made to encourage voters to express their choice and to inform them about the content of the draft constitution. The CEC conducted a widespread 'get out the vote' campaign, which was assisted by local government, through street banners, TV and radio spots. The timing of the measures for displaced persons in the South to vote did not allow for their adequate communication. Members of the provisional government made announcements to the media regarding the changes in identity document requirements and that individuals could vote in their nearest polling station without needing an absentee voting certificate.

A variety of organizations and institutions provided civic education on the Constitution. PRCs and civil society groups distributed some 630,000 leaflets and brochures and 1.8 million copies of the draft constitution in Kyrgyz and Russian, including 10,000 copies in Uzbek. Roundtables and community meetings led by NGOs were held in several cities and towns around the country and TV and radio programs were a regular occurrence. These roundtables had to be halted in the South due to the security situation. OSCE/ODIHR LROM noted that civic education events generally supported the 'yes' vote for the draft constitution rather than encourage neutral discussion.<sup>24</sup> The local administration bodies also engaged school teachers and other state employees to encourage the 'yes' position.<sup>25</sup>

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<sup>20</sup> OSCE/ODIHR LROM observers noted that in Naryn, deletions would occur if the voter was absent after three separate visits whereas in Jalal-Abad and Bishkek oral testimony of neighbors was sufficient.

<sup>21</sup> As the voter list extracts were not supplied until 20 June, the results of the audit were not published prior to referendum day.

<sup>22</sup> Provisional Government Decree No 63 (10 June 2010).

<sup>23</sup> Provisional Government Decree No 80 (23 June 2010).

<sup>24</sup> As observed in Karakol (4 June) and Naryn (22 June).

<sup>25</sup> As observed by OSCE/ODIHR LROM in Belovodskoye Moskovskiy rayon, Chui oblast, and Issyk-Kul.

## Campaign Environment

The referendum campaign remained low-key; co-ordinated ‘yes’ and ‘no’ campaigning did not materialize. Political parties indicated that their focus was on the forthcoming parliamentary elections rather than the referendum.

The ‘yes’ position was advocated primarily by the three parties who form the core of the provisional government: the Social Democratic Party of Kyrgyzstan (SDPK), *Ata Meken* (Fatherland), and *Ak Shumkar* (White Falcon). The key messages promoted by the ‘yes’ grouping were centered on the need to stabilize the country and provide legitimacy to the provisional government. A ‘no’ position was never publicly articulated during the referendum campaign. However, several parties including *Butun Kyrgyzstan* (United Kyrgyzstan), *Ata Jurt* (Fatherland) and *El Armany* (People’s Destiny) opposed the referendum, calling for its postponement or for achieving legitimacy through other means. They opposed a reduction of presidential powers in the draft constitution and criticized the inclusion of multiple issues in a single referendum question.

Campaign methods consisted mainly of speeches reported through the press, use of social and family networks and small public meetings.<sup>26</sup> State officials often blurred the line between informing the public of the referendum and actively campaigning for a ‘yes’ vote.<sup>27</sup>

Overall, political parties could freely campaign. No obstructions to their activities were reported. However, an atmosphere of fear and the prevailing security conditions in the Osh and Jalal-Abad oblasts hampered possibilities for campaigning in the last two weeks before the referendum. The referendum agenda was supplanted by much greater concerns of the population which stilted public debate.

## Media

The 2007 Constitution recognizes freedom of expression as a fundamental human right. According to the legal framework for the media during referenda campaign, state media are obliged to ensure equal conditions for campaigning.<sup>28</sup>

The media environment is relatively pluralistic and offers an adequate degree of diversity. Radio and television are the primary sources of information for Kyrgyz, with numerous outlets operating across the country. Print media in Kyrgyz and Russian is diverse but it is constrained by limited circulation in rural areas. OSCE/ODIHR LROM interlocutors indicated that the practice of self-censorship remains a concern among journalists.<sup>29</sup> However, no pressure against the media with respect to referendum coverage was noted and the media seems to have been able to freely report on the referendum. The OSCE/ODIHR LROM monitored a cross-section of media outlets.<sup>30</sup>

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<sup>26</sup> As observed by OSCE/ODIHR LROM in Issyk-kul and Naryn.

<sup>27</sup> As observed by OSCE/ODIHR LROM in Bishkek, Chui, Issyk Kul, and by the OSCE/ODIHR LROM media monitoring unit.

<sup>28</sup> Articles 30.1 and 31.1, Law on Referendum.

<sup>29</sup> As reported by OSCE/ODIHR LROM in Bishkek, Osh and Talas.

<sup>30</sup> Monitoring period, 27 May – 27 June; TV channels (18:00-24:00): National Television and Radio Broadcasting Company (NTRBC) TV, *Obshchestvennaya Tele Radio Companiya ‘ElTR’*, Channel 5, *Pyramida*, *Novaya Televizionnaya Set* (NTS), *Nezavisimoe Bishkekskoye Televidenie* (NBT); radio stations (18:00-24:00): NTRBC radio and *Radio Azattyk*; newspapers: *Aalam*, *Agym*, *Kyrgyz Tuusu*, *Erkin Too*, *Slovo Kyrgyzstana*, *Vecherni Bishkek*, *Moya Stolitsa Novosti* (MSN), *Delo Nomer*, *Komsomolskaya Pravda*, *Argumenti I Fakti*.

Overall, the state-funded NTRBC TV allotted 34 per cent of its news programs to referendum issues, with other channels ranging from 32 to 47 per cent.<sup>31</sup> In addition, NTRBC TV aired several programs<sup>32</sup> where members of the Constitutional Council,<sup>33</sup> civil society representatives and experts discussed changes in the draft constitution. During the week before referendum day, voter education spots appeared in NTRBC TV, *EITR* and NTRBC Radio. The clashes in Osh and Jalal-Abad shifted the media focus from an initially extensive coverage of constitutional issues to the emergency situation in the South.

Although CEC rules on campaigning<sup>34</sup> provide for state media to offer free airtime and space to competing groups, no group applied for this provision. Beginning on 21 June, only *Ata Meken* placed paid referendum advertisements on television. The low-profile campaign resulted in a minimal debate between the 'yes' and 'no' positions in the media. OSCE/ODIHR monitoring revealed a bias in the news coverage by all electronic media towards the 'yes' option. NTRBC TV dedicated 36 per cent of all their broadcasts to the 'yes' position and 63 per cent to neutral reports on the referendum. The 'no' position was virtually absent in all media outlets, which may be explained by a lack of a visible and organized 'no' campaign. Prominent campaigning by state officials in support of the draft constitution was observed. The provisional government received 80 per cent of TV and radio news coverage.<sup>35</sup>

The monitored print media offered wide coverage of the referendum, although it mostly endorsed the 'yes' position. The official newspapers *Slovo Kyrgyzstana* and *Kyrgyz Tuusu* published the draft constitution. The private newspapers *Vecherniy Bishkek* and *Delo Nomer* carried some criticism of constitutional changes. Nevertheless, an appeal to vote 'no' was not expressed in the media.

All monitored electronic and print media respected the provisions for campaign silence.

### Participation of Women

Women are generally under-represented in political life in the Kyrgyz Republic. Headed by Ms Otunbaeva, the provisional government has 7 senior female officials, compared to 22 males. In contrast, women played an active role in the campaign and in public life, particularly in civil society. Women were also well represented at all levels of the referendum administration; 38 per cent of CEC members, 40 per cent of OECs. Women seemed very well represented at PRCs visited.

### Participation of National Minorities

The largest national minority groups are Uzbeks (14.7 per cent) and Russians (8.3 per cent).<sup>36</sup> Whereas the Russian community largely aligned themselves with mainstream political parties, the Uzbek minority expressed disappointment with the draft constitution that it did not include special mechanisms to promote participation and representation of ethnic Uzbeks in public and political life, including in security and law enforcement bodies.

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<sup>31</sup> *EITR*, 43 per cent; Channel 5, 41 per cent; *Pyramida*, 32 per cent; NBT, 46 per cent; NTS, 34 per cent; NTRBC Radio, 40 per cent; *Azattyk*, 47 per cent.

<sup>32</sup> Such as *Achyz Soz* ('open discussion'), *Jani Bashat* ('new beginning'), *Surool* ('questions'), *Synak* ('criticism'). In addition, NTRBC aired TV spots where articles of the draft constitution were displayed on the screen and read aloud in Kyrgyz and Russian.

<sup>33</sup> The 75-member Constitutional Council was formed by the Provisional Government and mandated to elaborate the draft constitution.

<sup>34</sup> CEC Rules During the Preparation and Conduct of a Referendum in the Kyrgyz Republic (17 May 2010).

<sup>35</sup> NTRBC TV, 82 per cent; *EITR*, 89 per cent; Channel 5, 80 per cent; NBT, 57 per cent; NTS, 81 per cent; *Pyramida*, 71 per cent; NTRBC Radio 82 per cent; *Azattyk*, 81 per cent.

<sup>36</sup> National Statistics Committee of the Kyrgyz Republic, 2009, <http://www.stat.kg/rus/part/census.html>.



The violence in Osh and Jalal-Abad led to large numbers of displaced persons. Heightened security fears limited the freedom of movement and breakdown of inter-personal relations made participation of Kyrgyz and Uzbek on referendum commissions virtually impossible. Several prominent Uzbek figures, who previously supported the provisional government and its campaign for the 'yes' vote, were detained on charges of organizing and participating in violence. This further alienated the Uzbek community from the referendum.

### **Complaints and Appeals**

The right of legal redress is provided by the 2007 Constitution and other applicable legislation.<sup>37</sup> All referendum stakeholders are entitled to initiate a complaint when voting rights are infringed. Jurisdiction over referendum disputes is shared between referendum commissions and courts. The Supreme Court is the highest instance for such disputes. Decree No 20 provides adequate deadlines for adjudicating complaints.<sup>38</sup> On a positive note, referendum commissions and courts are obliged to decide immediately on complaints initiated the day before or on referendum day.

Very few complaints were filed with the CEC during the campaign period and none to the courts; of these, most related to the composition of referendum commissions. The CEC assigned complaints to a commission member, but they were considered outside of CEC sessions and responded to by letter only, which is in contravention with the law. This was often not done in a timely manner. As a result, complainants were not afforded effective remedy.

District courts were opened throughout referendum day to adjudicate complaints in a timely fashion. However no complaints were filed with the courts or the CEC at the time of writing.

### **Domestic and International Observers**

Several non-governmental organizations conducted observation with the Coalition for Democracy and Civil Society (CDCS) and *Taza Shailoo* fielding both long- and short-term observers. However, due to security concerns, both organizations had a limited presence in Osh and Jalal-Abad cities. The CEC accredited 189 international observers. No restrictions were placed upon observers, either domestic or international, who were able to operate unhindered. This large presence of observers added to the transparency of the process.

### **Referendum Day**

The impressions below are based on a limited number of polling stations and TRCs visited by OSCE/ODIHR LROM observers.

The atmosphere on referendum day was calm and peaceful. All polling stations opened on time. Security forces from police, and at times military and community volunteers were present in all polling stations visited. Political parties had few representatives in the commissions. At times, local authority representatives were present inside polling stations.

In the polling stations observed, the lay out and premises were adequate and voting proceeded orderly. In general, the PRC members seemed aware of procedures and managed the process in a proficient manner. However, OSCE/ODIHR LROM observers noted that the verification of inking

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<sup>37</sup> See the previous section on the Legal Framework.

<sup>38</sup> Complaints must be filed within three days of a decision, action, or in-action and considered within three days of receipt.

was at times performed inconsistently. As ballots were not systematically folded, voters' choice was at times revealed and the secrecy compromised.

The limited counting and tabulation observed were less orderly than the voting and not as well administered. Counting procedures were not always properly implemented both for counting and the completion of the results protocol. Local administration staff was interfering with the counting process in one of the polling stations. The organization of the reception of protocols at the TRCs observed was in many cases chaotic and confusing, with a number of delays occurring. A lack of understanding of the procedures by TRC members was evident. One OSCE/ODIHR LROM observer team was not allowed to observe the tabulation in a TRC. Another PRC counting protocol was filled in pencil, but already signed in ink, and was changed prior to its entry in the *GAS Shailoo*. Security personnel, political parties' observers and domestic observers were present in all polling stations observed during counting and tabulation at TRCs.

In a welcome transparency measure the CEC immediately posted detailed result protocols allowing stakeholders to verify that the referendum results were reported accurately.

The CEC reported that voter turnout was 69.48 percent (1,922,549 out of 2,767,088 registered voters), highest in Issyk-Kul oblast (85.07 percent) and lowest in Osh oblast (51.05 percent).

***The English version of this statement is the only official document.  
Unofficial translations are available in Kyrgyz and Russian.***

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#### **MISSION INFORMATION & ACKNOWLEDGEMENTS**

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Following an invitation from the authorities of the Kyrgyz Republic, the OSCE/ODIHR referendum observation mission opened in Bishkek on 21 May 2010 with a 13-member core team based in Bishkek. Fourteen long-term observers were initially deployed throughout the country. Altogether, 19 participating States were represented. Ambassador Boris Frlec headed the mission.

Due to security considerations, on 18 June OSCE/ODIHR decided not to deploy short-term observers for referendum day. The mission continued its observation of the process as a Limited Referendum Observation Mission (LROM).

The OSCE/ODIHR LROM wishes to thank the authorities of the Kyrgyz Republic for their invitation to observe the referendum, the Central Commission for Elections and Referenda and the Ministry of Foreign Affairs for their assistance and co-operation. It also expresses its appreciation to other state institutions, political parties and civil society organizations for their assistance.

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