



Office for Democratic Institutions and Human Rights

**KYRGYZ REPUBLIC
PARLIAMENTARY ELECTIONS**

20 February & 12 March 2000



FINAL REPORT

Warsaw 10 April 2000

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Kyrgyz Republic
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I. INTRODUCTION

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 4 January 2000 to monitor the parliamentary elections scheduled for 20 February 2000. A second round of voting was held on 12 March.

Mr. Mark Stevens (UK) was appointed as Head of the ODIHR EOM and was in the country from 14 January to 16 March. Mr. Ihor Ostash, Vice-President of the OSCE Parliamentary Assembly, was appointed by the OSCE Chairperson-in-Office as her Special Representative to lead the short-term observation during the first round of the election.

This report is based on the findings of 17 long-term observers and experts. It also incorporates the observations of 115 short-term observers for the first round of the election, including a delegation of 15 from the OSCE Parliamentary Assembly, and 70 short-term observers for the second round.

On the first election day, observers reported from 601 of the 2,050 polling stations in 42 of the 45 election constituencies. For the second round of elections, observers monitored the process in over 300 polling stations in 24 constituencies. The observation was supported during both rounds by bilateral embassies of OSCE participating States and international organisations based in the region. For the second round, the EOM received a generous grant from USAID to support the deployment of locally recruited international observers.

Throughout the duration of the observation, the OSCE Centre in Bishkek, headed by Ambassador Jerzy Wieclaw, provided highly appreciated assistance.

II. EXECUTIVE SUMMARY

Both rounds of the 2000 parliamentary elections in the Kyrgyz Republic were characterised by a series of negative trends, that ultimately prevented a number of political parties and candidates from competing in the election on a fair and equal basis. The pre-election period was marred by a high degree of interference in the process by state officials, a lack of independence of the courts, resulting in a selective use of legal sanctions against candidates, and a bias in the state media.

Opposition parties and candidates faced a number of serious obstacles including:

- denial of registration of two leading opposition parties;
- de-registration of an opposition party list;
- de-registration of leading opposition candidates after the first round; and
- systematic voting irregularities committed against a leading opposition candidate.

These events lead the EOM to conclude that the opportunity for particular political parties and candidates to be represented in the new Parliament was systematically undermined.

Despite a number of shortcomings, the new electoral legislation could have provided for credible competitive elections. As such, it was regrettable that the authorities did not interpret the legislation in an inclusive spirit, facilitating full participation of political forces. Further, as a consequence of various registration problems faced by particular candidates and parties as well as the selective application of election provisions, the level of confidence in the independence and neutrality of the judiciary and election administration was diminished.

The State media showed an overt bias in favour of pro-government parties, in particular the Union of Democratic Forces. Whilst some press freedom exists in the Kyrgyz Republic, public and private media remain vulnerable to pressure from the authorities, creating a climate of self-censorship.

The election campaign and election day procedures for both rounds were peaceful. There was a full and active participation by Kyrgyz domestic observers during both rounds of voting, which served to strengthen the process. The quality of the election day procedures varied across the country. In many areas the election was generally well conducted, but some very serious concerns remain in certain constituencies, with clear evidence of officially orchestrated irregularities aimed at securing the defeat of a leading opposition candidate. There were reports of candidates attempting to bribe voters, and some local officials and university heads abusing their positions to influence voters and election commissions. In several instances, the tabulation procedures lacked transparency. Voters participated in large numbers and some positive indications, such as the decrease in the instances of proxy and family voting, were noted.

The Kyrgyz Republic is a newly-developing democracy. There is a fledgling civil society in the country, with active NGOs and nascent political parties. However, political parties must be given a fair and equal opportunity to compete in the election and voters the opportunity to make a choice between competing alternatives. There is concern that the negative trends identified during this election, particularly given that most were political in nature rather than solely technical or legislative, represent a reversal of previous positive developments. Developments since the elections confirm these concerns. The Kyrgyz authorities should seriously address the concerns highlighted in this report before the presidential elections.

The serious pre-election problems and the election day irregularities in a limited number of areas undermined the positive conditions for fair and competitive elections, which the existing legislation could have ensured. The EOM therefore concludes that the 2000 Kyrgyz Parliamentary Elections did not comply with OSCE commitments.

III. LEGISLATIVE FRAMEWORK

The conduct of the parliamentary elections in the Kyrgyz Republic is regulated by the 1999 Election Code (the Code) and the 1996 Constitution (amended 1998). In addition, the Central Election Commission (CEC) issued administrative instructions, providing clarifications for the implementation of the provisions of the Code. There is also a law on the CEC, but this effectively replicates the Code.

The two-chamber parliament is elected through a mixed electoral system:

- **The 60-seat Legislative Assembly (LA)**
15 members are elected on a proportional basis from national party lists
45 members are elected from 45 single mandate constituencies on a majority basis
- **The 45-seat People's Representative Assembly (PRA)**
All 45 members are elected from 45 single mandate constituencies on a majority basis

For the national party list proportional elections, a 5% threshold applies. According to article 80 of the Code, the method for seat distribution is the Hare Quota, with remaining seats allocated using the Method of Largest remainder.

The 45 single mandate constituencies are common for both the Legislative Assembly and People's Representatives Assembly.

In order to secure a first round victory in both the LA and PRA, a candidate must secure a vote equal to more than half of the registered electorate. If no such majority is secured, then the two leading candidates enter a second round of voting, in which a majority of the votes cast is sufficient.

IV. ELECTORAL ADMINISTRATION

A. Role and Authority of Commissions

The Central Election Commission (CEC) is composed of 12 members and a Chairman, appointed by the President of the Republic. Four of the 12 members are appointed by the Legislative Assembly, four by the People's Representative Assembly and four by the Presidential Administration. In addition, each registered party list can have one "consultative member" of the CEC. The main responsibilities of the CEC are defined in Article 10 of the Code.

The process for nominating CEC members raises some concerns. The current formula does not adequately ensure real political pluralism, as the presidential administration and the two parliamentary chambers, dominated by pro-governmental forces, select all members. The President selects the Chairman of the CEC without consulting the Parliament and political and civil society forces. In addition, the CEC is based in the Presidential building. This has implications for the perception of the independence of the CEC, particularly in connection with the forthcoming presidential elections.

Each Territorial Election Commission (TEC) has a minimum of 13 members, plus the Chairman and Secretary. The Chairman is appointed by the CEC. Members are nominated by local councils, taking account of suggestions made by political parties, public associations and groups of voters. Not more than one representative of each nominating body shall be appointed on a TEC. Each registered party and candidate can have one "consultative member". The main responsibilities of TECs are defined in Article 13 of the Code.

Each Precinct Election Commission (PEC) has between 7-13 members, plus a President appointed by the TEC. Members are nominated by local councils, taking account of suggestions made by political parties, public associations and groups of voters. Not more than one representative of each nominating body shall be on a PEC. Each registered party and candidate can have one "consultative member". The main responsibilities of PECs are defined in Article 15 of the Code.

Article 11.2 of the Code states that, "TECs shall be established by the CEC ... within 10 days after appointing the elections". Article 11.7 covers the nomination of members to TECs and PECs, and states that "establishment of election commissions shall be carried out upon nomination by relevant local councils with regard to suggestions made by political parties, public associations and voters meetings". In addition, according to Article 11.8, "registered candidate, political party or election bloc has the right to appoint one member of the election commission [CEC, TEC and PEC] with a consultative vote".

On the basis of these articles, three problems emerged during the elections:

- The onus on local councils to consider "suggestions made by political parties, public associations and voters meetings" is vague. It is not clear in the Code to what extent these suggestions should be taken into account, if at all. During these elections, very few representatives from political parties, candidates and NGOs were evident on election commissions, with the vast majority of commission members being state employees.¹
- Due to their composition, commissions were vulnerable to pressure by local and regional state officials. The process does not foresee a formal role for *Akims* (*local governors*), yet they constantly played a leading role in the work of election commissions, and had representatives present in polling stations and managed the work of TECs. This served to decrease confidence in the process.

¹ According to research conducted by the EOM, some 82% of the TECs members were state employees, 9% represented NGOs or political parties and candidates, and 9% were "private" citizens.

- The 10-day period for establishing TECs also served to decrease the possibilities for participation by NGOs and political parties and candidates, as they were either not adequately informed of the possibility to nominate members or could not respond in the timeframe available.
- The training of TECs, and particularly PECs, was of a mixed quality. In some instances, members of TECs were not aware of their nomination and so missed the training. At the PEC level, the problems were more acute, with members missing training sessions and the sessions themselves being reportedly inadequate. This had obvious implications for the conduct of the process.

B. Printing of Ballot Papers

Contracts for the printing of the three ballot papers for the parliamentary elections were awarded to three different printing houses, two of which were owned by two candidates competing in the election. One of the candidates was standing in a single mandate constituency for the Legislative Assembly, and was given the contract for the printing of the ballots for the People's Representative Assembly. The other candidate was standing in a single mandate constituency for the People's Representative Assembly, and was given the contract for the printing of ballots for the Legislative Assembly. The state-owned printing house printed ballots for the national party list.

Concern was expressed regarding the security of the printing process as well the involvement of candidates in the process. The CEC faced a problem of resources in determining the printing contracts, as the chosen ballots required fairly advanced printing technology, which is not readily available in the Kyrgyz Republic. In light of this, and given that the printing was divided between three different companies, the CEC made an effort in this regard. However, whilst international observers were granted access to the printing, domestic observers were not. In addition, parties and candidates complained that they were not adequately informed of their right to observe the printing process. This again served to increase their concern regarding a key aspect of the process.

V. CANDIDATE AND PARTY LIST REGISTRATION

The parties are registered by the CEC, while candidates competing in single mandate districts are registered by the relevant commissions.

A. Registration Process

Some 420 candidates were registered to stand in the elections in 45 single mandate constituencies both for the Legislative Assembly and the People's Representative Assembly. Eleven political parties and blocs contested the 15 seats in the Legislative Assembly allocated to political party lists.

According to Article 27.4 of the Election Code, a candidate can only be registered in one constituency, but can be both on a party list and compete in a single mandate constituency. There is a residency requirement of three years in the constituency where the candidate wishes to stand. Each candidate and party seeking registration is required to provide a series of documents to the relevant election commission.

The registration process was considered complicated by many political parties and candidates, particularly regarding the need to submit a large number of documents on their finances. Many claimed that they were asked to submit some documents not originally required by law and not asked from all candidates and parties. This delayed the registration of a number of candidates.

1. Article 92: Registration of Parties for the Election

Article 92 of the Code has two important stipulations regarding party participation in the election:

- only parties whose “charters foresee participation in elections of state bodies”; and
- only parties “registered with the Ministry of Justice not later than one year prior to the day of appointment of elections ... shall have the right to participate in elections to the Legislative Assembly”.

Nonetheless, 15 parties qualified for the election. Four parties were barred because the Ministry of Justice determined that their charters were not in accordance with Article 92. These four included the People’s Party, one of the main opposition parties. Five parties were barred because they were registered less than one year prior to the calling of elections, including the pro-presidential Adilet party and Ar-Namys, one of the main opposition parties.

The People’s Party contested a 29 November 1999 decision by the Ministry of Justice that the party’s charter was not in accordance with the stipulation in the Code. However, the Ministry rejected the complaint. The People’s Party acknowledged that their original charter, written in 1995, was vague,² but did change it on 11 December, some six weeks before the 20 January deadline for registration, allowing the Ministry of Justice ample time to reconsider the issue. A complaint was also submitted to a local court in an attempt to overturn the decision of the Ministry. The initial decision by the Ministry of Justice was upheld in a series of subsequent court cases, culminating in a Supreme Court decision on 31 December.

The Ministry of Justice and the CEC informed the EOM that the decision was reached on purely legal grounds, and that the ruling by the Ministry affected not only opposition parties but also other parties. However, given that there are only four parties in the country which are clearly opposition and which have some profile and reasonable base, the prevention of two of them (People’s Party and Ar-Namys) from competing in the election from the outset had a clear political significance. Further, given that the purpose of the new electoral system was to facilitate and promote the participation of political parties on the national political stage, the ruling of the Ministry of Justice was regrettable. In addition, the one year registration stipulation which prevented the participation of Ar-Namys among others, was rather strict.³ The Article was passed on 29 April 1999, yet was retroactively applied to November 1998.

In addition, Article 92 is in contradiction with the Law on Political Parties adopted in June 1999. This new law foresees the participation in elections of registered political parties, which would include the parties excluded under the above rulings by the Ministry of Justice. Article 11 of the law, states clearly that: “political parties shall have the right [to] participate in elections of the Jogorku Kenesh [parliament]”. Given that the new law was passed over six months before the registration deadline for the elections, it could have allowed the Kyrgyz authorities to interpret the election legislation in an inclusive manner.

The decision to deny registration to these parties had a negative impact on the beginning of the parliamentary electoral process and undermined the positive political impact of the new system, as it reduced considerably the participation of opposition parties in the new national party list elections.⁴

2. Financial Deposit

To stand as a candidate in a single mandate constituency, a 30,000 SOM deposit had to be paid. Whilst such a procedure is fairly regular in many electoral systems, the sum of 30,000 SOM (approximately \$638) is a substantial amount in the Kyrgyz Republic.

² It mentions that the party strives for the power of the people, rather than striving for state power as required by Article 92.

³ The President had suggested a 6-month period, but this was rejected by the Parliament.

⁴ The main opposition parties are: the Party of Communists of Kyrgyzstan, the Democratic Movement of Kyrgyzstan, and the People’s Party and Ar-Namys. Some analysts also include Erkin Kyrgyzstan and Ata-Meken, although neither is strongly opposition in character and both are mainly vehicles for the leader of the party.

3. Financial Declarations and Review of Candidate Registration

According to Article 27 of the Code, in order to be registered, each prospective candidate must submit “a declaration of income for the year preceding the year of appointment of the election and also submit all information pertaining to immovable property, motor vehicles and stocks that are registered to the candidate and to members of his/her family”.

Article 27.2 states that the “corresponding election commission within the period established by the Code, shall review the compliance of the procedure of a candidate’s nomination with the requirements of the Code and take a decision on a candidate’s registration”. This second stipulation refers to the entire registration procedure, of which the financial declaration is one part.

Article 27.11 stipulates that, “within two calendar days after registration the election commission shall issue the appropriate certificate to candidates.”

Further, Article 56 of the Code allows a candidate to be de-registered as a result of an incorrect financial declaration. It also allows such a de-registration to take place after the first round and even after a candidate has become an elected member in the parliament.

Election commissions were not able to adequately address the burden of verifying the financial declarations of candidates. This resulted in candidates being registered without the proper verification of submitted documents and opened up the system to abuses. Candidates could produce “evidence” of their opponent’s alleged failure to declare wealth in order to secure their de-registration. Registration could be reviewed and annulled at a later stage on the basis of “new evidence”.

The registration period must be of a fixed nature. Once the registration has been accepted, the candidate should not be removed from the process except for grievous violations. In addition, the punishment must be proportionate to the violation or misdemeanour. Failure to adequately comply with a financial declaration in many countries is remedied by a fine.

B. De-Registration of DMK Party List

Following the Ministry of Justice decision to deny registration to Ar-Namys, the party entered into an agreement with the Democratic Movement of Kyrgyzstan (DMK), which had been registered by the CEC. Members of Ar-Namys were included on the DMK party list, including the leader of Ar-Namys, Mr. Kulov, at the head of the list. Such an arrangement is not proscribed by law and was replicated by the pro-presidential Union of Democratic Forces (UDF). The UDF put Mr. Chingiz Aitmatov, the leader of Adilet, at the head of their list. Adilet was refused registration for the same reasons as Ar-Namys.

On Friday 4 February, a local Bishkek court heard a complaint against the CEC decision to register DMK submitted by four members of the party claiming that the party list should not be registered, as the party congress at which the list was voted on was not legally constituted. The court ruled in favour of the complainants, and ordered that the list be de-registered. The decision was acknowledged by the CEC as being legally binding. At a meeting on Monday 7 February, the CEC announced that the party list ballot would be printed without listing the DMK.

The defendant in the case was the CEC. But at the outset of the trial, the CEC agreed with and argued for the complainants. Given that the CEC had just registered the party and had no legal basis to complain, such a position did not appear to be warranted. In discussions with the EOM, the Chairman of the CEC indicated that a large number of Ar-Namys members on the DMK list was not appropriate. This was more a political judgement than a legally based one.

The week before the case was heard, the CEC set-up a committee, including the Ministry of Interior, Ministry of Justice and Prosecutor General, to review the registration of the DMK. The law does not foresee such a committee, and many of the documents they requested from the DMK were also not required under the law.

The original complainants acknowledged that they had been members of the DMK in the early 1990s, when it was more of an association, but had not been active in recent years during which time the DMK had become a formal political party. In addition, the complainants were not fully conversant with the party charter, and the case was better argued by the CEC and the judge.

In light of earlier decisions barring the participation of Ar-Namys and the People's Party, the opposition in the Kyrgyz Republic, which is primarily made up of Ar-Namys, People's Party, DMK, and the Party of Communists of Kyrgyzstan had been effectively prevented from participating fully in the election.

The authorities stressed to the EOM that members of these parties were able to participate as individual candidate. Many of these individuals subsequently ran into further obstacles preventing their fair or even actual, participation in the election.

C. Candidate Immunity

According to Article 28.6, criminal proceedings cannot be instituted against a registered candidate and a candidate can not be arrested "without the permission of the prosecutor (according to the level of the elections)". Thus, registered candidates enjoy immunity unless the prosecutor determines otherwise.

There was concern during the election that this power of the prosecutor was abused, with old cases against candidates being re-opened during the election campaign, with clear political implications.

Mr. D. Ussenov

A criminal case against the leader of the People's Party, dating back to 1996, was re-opened by the public prosecutor during the election campaign. Mr. Ussenov was a member of Parliament.⁵ The case involved an assault charge. The victim had dropped the charges, and stated publicly that he did not want to pursue the case, leading to the relevant local court closing the case in October 1999. The timing and nature of the case raised serious political concerns as to the real impetus behind the case.

The court case was stopped by the prosecutor, after concerns had been raised by the international community to the Presidential Administration, regarding the proliferation of cases against candidates and parties. Whilst the cessation of the case was welcome, the fact that political pressure could lead to the dropping of the case does highlight the ability of political authorities to influence the actions of legal authorities.

Mr. I. Kadyrbekov

A case against Mr. Kadyrbekov was initiated by the leader of the Democratic Party of Women, Mrs. Shalieva, before the start of the campaign. She charged him with breaking her finger during an incident in the Parliament in 1998. This case also caused concern because of the timing, the competing political interests of the defendant and the plaintiff, and the fact that the judge placed a restriction order on Mr. Kadyrbekov, a sitting member of Parliament, prohibiting him from leaving Bishkek. The restriction prevented Mr. Kadyrbekov from visiting Naryn, Oblast where he was a registered candidate.

⁵ Members of parliament enjoy diminished immunity, covering their public life but not their private life.

Mr. M. Kaipov

Marat Kaipov, a prominent candidate in Jalal Abad, was taken to court by another candidate for allegedly not requesting a leave of absence from his employer, the Constitutional Court. Mr. Kaipov had submitted all required documents and requests to the Constitutional Court and the relevant TEC (Jalal Abad constituency number 11). However, the case was pursued by the other candidate, with the backing of the local prosecutor. The Supreme Court upheld the de-registration.

D. De-Registration of Candidates Between the First and Second Rounds

Following the first round of the election, numerous candidates, who had qualified for the second round, were de-registered based on complaints concerning their initial registration and their conduct in the election campaign.

Name	LA / PRA	District	Date	% 1 st round vote ⁶	Official Reason for De-Registration
K. Mamakeev	PRA	Bishkek #2	11 March	7.51%	Irregular Financial Declaration
D. Ussenov	LA	Bishkek #5	11 March	28.48%	Irregular Financial Declaration
B. Chynybaev	LA	Bishkek #6	11 March	18.30%	Irregular Financial Declaration
A. Israilov	PRA	Jalal Abad #14	11 March	43.39%	Irregular Financial Declaration
O. Subanaliev ⁷	LA	Issyk-Kul #17	10 March	18.77%	Vote Buying
K. Mamurkulov	LA	Issyk-Kul #17	10 March	10.39%	Vote Buying
N. Arkabaev	LA	Batken #25	12 March	15.10%	No Special Campaign Account
J. Osmonov	PRA	Osh #33	March	18.18%	Vote Buying
A. Bakov	LA	Chui #39	11 March	18.73%	Irregular Financial Declaration

Mr. E. Aliev, campaign manager of candidate Feliks Kulov, was detained by the Ministry of Interior three days prior to the second round election day. The detention was based on charges dating back to 1995 in Tajikistan. Mr. Aliev was detained in Bishkek, preventing him from carrying out his duties during an important time of the electoral process, and was released more than one week after the election had taken place.

In District 6 in Bishkek, the leading candidate for the Legislative Assembly was de-registered on the evening before the election. In addition, the second placed candidate in the People's Representative Assembly was de-registered by the TEC and was awaiting a decision on his appeal from the Supreme Court. Thus, no second round took place. However, due to late decisions on these cases, the voters were not informed, and only found out on the day of the election by virtue of a notice on the closed door of the polling station.

A case against S. Dunlarov, in District 37 in Chui, was to be held on Monday 13 March. However, it was decided that the case would only proceed if the candidate won the second round and would be dropped if he lost. In the event, he lost.

The manner in which the TEC in District 5 in Bishkek heard the complaint against D. Ussenov after the first round was highly unsatisfactory. The Chairman of the TEC was seemingly under great pressure. He did not allow serious consideration of the allegation against Ussenov, and did not give the candidate a real opportunity to rebut the allegations of improper financial declarations. The case

⁶ This represents % of registered voters in the district and not % of participating voters, which on the national level was 64%.

⁷ The 1st round results for District 17 were annulled due to alleged irregularities and both of the candidates qualifying for the second round were also de-registered.

was finally concluded at the Supreme Court, at which two members walked out before the final vote, refusing to be part of the proceedings.

In addition to the above cases, a number of other cases were considered and decided in favour of the candidate. These cases included some prominent political figures, such as O. Tekebaev (Jalal Abad #12), the leader of Ata-Meken, and I. Masaliev (Batken #25), of the Party of Communists of Kyrgyzstan (PKK). Both of these cases were decided only on the day before or on the day of the second round of the election, causing confusion and consternation among voters.

The overwhelming conclusion is that there was a high level of political interference affecting actions and decisions of candidates, election commissions and courts, up to and including the CEC and Supreme Court. These actions aimed at excluding particular political forces from competing in the election.

E. Repeat Voting

Article 76 states that “In case there is one candidate left, voting shall not be conducted and a candidate shall be recognised to be elected”. According to Article 76.3, the only cases in which a third candidate might replace the withdrawn candidate is if only one candidate is left due to the “death, withdrawal or termination of citizenship” of one of the qualifying candidates. The CEC confirmed that the word “withdrawal” in the article in question relates to withdrawal of citizenship and not withdrawal from the election.

As a consequence, in all cases where one candidate withdrew⁸ or was de-registered, the second candidate qualifying for the second round was automatically elected. This was in contradiction to the spirit of the legislation, which required a candidate to secure the majority of votes from the registered electorate in order to be elected in the first round.

Following the de-registration of A. Bakov in district 39 in Chui, his second round opponent, K. Korkmazov, was automatically elected to the Legislative Assembly. In the first round, Mr. Korkmazov had received just 9.76% of the votes of the registered electorate. In district 2 in Bishkek, following the de-registration of K. Mamkeev, K. Imanaliev was elected despite the fact that 91.81% of the registered electorate had not voted for him. In many of these cases of de-registered candidates, the elected representatives had received between just 11-22% of the vote.

VI. PRE-ELECTION CAMPAIGN

A. Election Campaign

The campaign environment generally allowed for all candidates to advocate their political platform. The campaign was conducted in a traditional form, through TV slots and debates, campaign literature, posters, leaflets, newspaper advertisements, public meetings and rallies. Most meetings with voters were organised by TECs. These meetings were often well attended and voters appreciated the interactive format of most meetings, allowing them to directly confront candidates on important issues.

The main campaign issues promoted by candidates were the economy and unemployment, improvement of living conditions, development of agriculture and industry, access to health care and higher education, and corruption. However, most political platforms could hardly be differentiated from others, which could be attributed to the level of political development of political parties and that most candidates were “independents”, standing on the basis of their local position.

⁸ Six candidates withdrew prior to the second round, four for the PRA and two for the LA.

The tone of the campaign remained constructive, even though some candidates tended to be more aggressive against their opponents towards the end of the campaign. The campaign was held in a generally peaceful environment. However, there were strong allegations of vote bribery throughout the country. The EOM could not verify these allegations. It was equally difficult for election commissions and courts to adequately investigate such claims. However, a number of candidates were de-registered for such allegations, whilst others remained not punished. There was a clear inconsistency in the manner in which allegations were addressed.

B. Campaign Rights

1. Start of the Campaign Period

Article 31 states that, “Pre-election campaigning shall start from the day of a candidate’s (list of candidates) registration.... In the course of conduct of repeat voting the campaigning shall start from the day of an official publishing of the decision on appointing repeat voting....”

This article has some negative implications for the conduct of the campaign before both rounds:

- For the first round of the election, candidates having their registration confirmed quickly were able to start campaigning before those facing problems. Many candidates expressed concern to the EOM about the unequal campaign opportunities.
- For the second round of the election, there was some confusion regarding the official decision on repeat voting, largely because many districts were not in a position to clearly determine which, if any, candidates were to compete. Thus, for candidates facing allegations, de-registration proceedings or court appeals, their participation was not confirmed and they therefore were not in a position to start campaigning. Given that in many instances the final decision on such cases, often taken by the Supreme Court, was not until the last few days prior to the day of voting, this had implications for the equality of campaign opportunities.

2. Permission for Public Meetings

Candidates could organise individual rallies with the authorisation of competent authorities (e.g. local authorities, university rectors or school directors). Some candidates claimed that they did not receive permission to use premises to meet with voters (such as District 5 in Bishkek, and others in the Jalal-Abad and Osh regions).

Some candidates faced repeated problems to access premises. They were often not given valid explanation for not being allowed to hold meetings or the meetings were cancelled at a very late stage, forcing the candidate to meet voters outside. Some candidates also reported problems with holding meetings in the lead-up to the second round, being refused access to premises where they had campaigned previously.

3. Review of Campaign Materials

Under Article 35.1, “Samples of campaigning printed materials or their copies shall be submitted to [the relevant] election commission with an aim not to distribute the materials that are in contradiction with the legislation”.

There was some concern prior to the campaign that this article could be misused by the authorities as a form of censorship. No such claims were reported during the election. However, given the formulation of this article, candidates remain vulnerable to interference by authorities.

VII. THE MEDIA

A. Media Legislation

The Code is the main regulator of media conduct during the election. However, certain articles in the Constitution as well as the Law of Mass Media (1992) are also relevant.

Article 16 of the Constitution guarantees freedom of the media and freedom of expression. Article 17 states that restrictions of rights and freedoms are allowed only for the purposes of guaranteeing rights and freedoms of other persons, and providing public safety and constitutional order.

Media coverage of the election is regulated in Chapter 6 of the Code, Articles 30 to 36. The main principle is that candidates, political parties and election blocs are guaranteed equal access to mass media (Article 30.3), with a provision for free airtime for all electoral contestants.

The Law on Mass Media states that media have the right, without limitations, to collect, search for, receive and distribute information. However, the media have a responsibility for the authenticity of published information. Foreign ownership of the media is not allowed (Article 5).

B. Limitations on Media Coverage

The CEC provided a generally open interpretation to potentially limiting articles in the Code. Article 36.6 of the Code prohibits mass media from publishing information damaging the reputation of candidates, and Articles 127 and 128 of the new Criminal Code still punish libel with imprisonment. In addition, Article 49 of the Constitution states that the honour and dignity of the President are inviolable.

In general, the media are susceptible to structural weaknesses, such as weak financial base, pressure from the authorities, reliance on a limited number of printing houses, which are largely state owned, and a tendency for political pressure from the authorities to limit criticism. Media owners are aware that the authorities can easily order a visit from tax inspectors. As a result, whilst a degree of press freedom exists in the Kyrgyz Republic, this atmosphere of media vulnerability results in a climate of self-censorship. In addition, the State media clearly exhibits a strong bias towards the Government and President, further skewing media coverage of the political environment.

Article 31.3 states that, “It shall be prohibited to publish in mass media the results of opinion polls, prognoses of election results, other investigations, in connection with elections from the moment of registration of candidates (list of candidates)”.⁹

This article contains two problematic stipulations:

- Prohibiting the publication of opinion polls for a brief period before an election is fairly normal. However, to do so from the moment of registration of the candidates, i.e. from the moment the election campaign starts, is excessive.
- The phrase “prognoses of elections, other investigations” could be interpreted to include any investigations or analysis on the election, and thus seriously limits the capacity of media to adequately cover the campaign.

⁹ On 17 February during the prime-time news on Piramida TV, the Chairman of the CEC violated this article by giving information on an opinion poll. He stated: “The Union of Democratic Forces Bloc is in second place ... But the Communist Party of Kyrgyzstan has a leading position”.

C. Results of Media Monitoring: Overview

State-owned Kyrgyzstan TV (KTR) generally met their responsibility to provide free airtime to all candidates and political parties.

Paid political advertising was available to candidates and parties. However, two concerns were noted. Some parties reported that *Slovo Kyrgyzstana*, the state-owned newspaper, repeatedly claimed that whilst they were open to advertising from any party, they had unfortunately sold all space well in advance. It was noted, however, that leading pro-presidential parties, such as the Union of Democratic Forces (UDF) and the Democratic Party of Women, did take out significant advertising space in the newspaper. In addition, it was not always possible to differentiate between free airtime and paid advertising, due to the lack of any markings on the adverts.

In TV news programming state owned KTR exhibited a clear bias in favour of the pro-presidential UDF, led by Mr. Chingiz Aitmatov, as well as clear negative tendencies towards opposition candidates, such as Feliks Kulov and Daniyar Ussenov.¹⁰

Whilst in the first round, KTR did not really fulfil its obligations as a public service due to bias in its programming, in the second round its failure was largely due to the paucity of political coverage. In the first round, 21.5% of airtime was dedicated to political coverage, whereas in the second round this figure fell to just 6.6%, which is a normal level during non-election periods. Moreover, half of this time was used to cover the activities of the President and Government.

Private electronic media generally gave a more diversified reporting of the election campaign, with coverage for both opposition and pro-presidential / government parties and candidates.¹¹ Whilst there was a small tendency to provide more coverage to the opposition than state channels and allow some criticism of the President, this did not mean that private media were fully free to cover the campaign, due to the limitations discussed above.

In print media news, state-owned *Slovo Kyrgyzstana* exhibited bias towards the pro-presidential UDF and with negative coverage of the opposition.¹² The government-owned paper *Kyrgyz Tuusu*, followed the same tendency,¹³ whilst *Erkin Too*, also government owned, was slightly more balanced in terms of quantity of coverage, though its coverage of the opposition was more negative in tone.

Independent papers, such as *Res Publica* and *Asaba*, which are identified with the opposition, exhibited a bias towards the opposition parties. *Vecherny Bishkek* is one of the most popular newspaper in the country. It showed a small tendency to give more coverage to the UDF and the Democratic Party of Women, but also gave extensive and not always negative coverage of the opposition, particularly the People's Party.¹⁴

¹⁰ KTR gave some 21% of its coverage to UDF, largely positive in tone. DDK/Ar-Namys and the People's Party received 5.6% and 2.8% respectively, and it was largely negative. In the main KTR news programme *Ala Too*, UDF received 15.6% of coverage, which was largely positive. DDK/Ar-Namys received 19.9%, but it was largely negative. The leader of UDF, Chingiz Aitmatov, also received the most time for direct speech, at 7%, with President Akaev second with 2.8%. During the second round, the negative coverage of Daniyar Ussenov continued. He received nearly 8% of coverage but 98% of this was negative.

¹¹ Piramida TV gave 13.8% of its coverage to the People's Party, of which 28.7% was negative. UDF received 10.2%, mainly positive. Ussenov received the greatest opportunity for direct speech in both rounds.

¹² In the first round, UDF received 8% of coverage, which was positive in tone. DDK/Ar-Namys received 8.8%, 90% of which was negative in tone.

¹³ *Kryz Tuusu* 14.4% to UDF, positive in tone, and 11.9% to the Democratic Party of Women, positive in tone. DDK/Ar-Namys received 10.6%, mainly negative.

¹⁴ UDF received 9.6% and the Democratic Party of Women 5.2%, mainly positive or neutral. DDK/Ar-Namys received 5.6%, half of which was negative, and the People's Party 12.5% mainly positive.

VIII. COMPILATION OF VOTER LISTS

According to Article 21.5 of the Code, voter lists are compiled by relevant PECs “on the basis of the data on voters submitted by local state executive bodies”. According to Article 22.1, the “Lists of voters at [PECs] shall be presented for general familiarisation and additional reviewing not later than 15 calendar days prior to the day of voting”.

In practice, PECs usually relied on local housing officials (*Jek*) to check and verify the voter lists. However, on the day of the election the voter lists clearly proved to be inaccurate. A substantial number of voters were added to additional voter lists on the day of the election and many voter details, such as date of birth, proved inaccurate. There were also many instances of duplicate voters in the list. This allowed for serious irregularities and administrative errors. Voters were fairly easily added to additional lists after only a cursory checking of identification documents and without cross-checking registers in different areas.

Some of the shortcomings in voter lists are due to ambiguities and complexities in the citizen registration process. The basis of a citizen’s registration (*Propiska*) is permanent or temporary residence. In theory, citizens in towns and cities are no longer required to register. However in practice, they report to the local administration for registration, which is indicated by a stamp in their passport. The registration is then the basis for information used in compiling voter lists.

Many citizens do not registered in their new place of residence. This is a particular problem in Bishkek, where a substantial number of persons have migrated from other towns and rural areas. Registration is often avoided either as a means of avoiding taxes or other costs, or merely because people have not bothered.

In cases where people have registered in their new permanent or temporary place of residence, they have not necessarily been de-registered from their old place of residence. This led to an inflation of voter numbers in some areas. Some candidates claimed that the *Jek* were providing information on such absent but still registered voters to some candidates, enabling their vote to be cast by others.

IX. POLLING DAY

A. First Round of Voting: 20 February 2000

The EOM deployed 115 international observers on the first round election day. They reported from some 600 polling stations in 42 of the 45 election constituencies. Their assessment of voting procedures during the first round was generally positive. In 90% of instances, the process in polling stations was reported good or very good. The remaining 10% bad or very bad rating was largely due to reports from the Jalal Abad area.

Across the country, some common concerns were the poor quality of voter lists and pressure on students. The number of voters registered in some polling stations was also very high, with up to 3,000 voters in some instances, whilst 1,000 – 2,000 was fairly common. Some PECs handled this demand fairly well, but many found it burdensome, particularly during the counting process. Instances of proxy and family voting were noted, but domestic and international observers involved in past elections in the country reported that this is a decreasing trend. The EOM found such practices in 11.53% of polling stations visited.

A further positive aspect was the presence of domestic observers, from NGOs and political parties, in close to 99% of polling stations visited. Whilst recognising that in a couple of instances the large

number did cause organisational problems for the PECs,¹⁵ the presence of observers from a wide spectrum of organisations, parties and candidates, greatly contributed to the electoral process, particularly given the lack of pluralism of the PECs.

A negative aspect of the process was the often dominating presence of local authorities in polling stations. Representatives of *Akims*, were all too often present in polling stations, with many reports of their active management of the process. Whilst in some instances this was claimed to be a benign attempt to facilitate the process, in many instances the *Akims* were closely linked to a particular candidate and assumed a more partisan role.

1. Manipulation of Student Vote

One of the worst aspects of the voting process during both rounds of the election was the manipulation of the vote at polling stations where a large number of students were registered. This was noted in Bishkek and Jalal Abad. In both instances, university heads were standing for election in the first round. For the second round, the student vote appeared to have been promised by the university heads to other candidates where they no longer were candidates.

Prior to the day of the election, there were allegations that students were under pressure. The EOM received information that in Bishkek students from the Agricultural University, located in District number 5, had been sent home to collect the passport numbers of three persons each, to be added to voter lists and vote for the head of the university. The EOM observed on election day that there were indeed many additions to the voter lists. Also students turned up at the same “allocated” time and some even acknowledged to observers that they were under pressure to vote for their university head or a specific candidate.

This situation was largely replicated during the second round. In District 3 in Bishkek, students acknowledged to the EOM that their vote was checked. If they failed to vote, then access to cheap university accommodation would be jeopardised. In District number 9 in Jalal Abad (PS #93,94, 95), the EOM observed students with multiple, pre-marked ballots during the second round.

2. Use of Additional Lists on Election Day

There was heavy reliance on the use of additional voter lists, largely as a result of the inadequacies of voter registers. Given the often poor quality of the administrative checks in polling stations – identification documents and the lack of cross district checks for double voting - opened the process to abuse.

The following table lists the use of additional lists in the main urban areas of Bishkek and Chui.¹⁶

Area	District	Voter Turnout	% Voter Turnout	No. on Additional List	% Voters on Additional List on Election Day
BISHKEK	1	24,067	48.42%	1,608	7%
	2	23,443	42.19%	1,591	7%
	3	27,504	52.71%	1,817	7%
	4	24,924	48.57%	1,654	7%
	5	24,175	53.16%	1,925	8%

¹⁵ This was largely due to the large number of independent candidates in the election, all of whom had the right to appoint observers / representatives to polling stations.

¹⁶ The EOM was unable to obtain the figures for District 43 in Chui, as the TEC would not provide the information to LTOs.

	6	27,281	46.90%	2,086	8%
	7	19,398	36.69%	576	3%
	8	22,184	42.74%	1,139	5%

CHUI	36	31,235	56.72%	1,292	4%
	37	35,550	57.82%	2,054	6%
	38	34,848	55.72%	1,561	4%
	39	28,025	54.24%	1,009	4%
	40	38,270	65.07%	951	2%
	41	28,304	55.61%	471	2%
	42	28,281	57.93%	2,183	8%

B. Second Round of Voting: 12 March 2000

For the second round of the election, the EOM deployed some 70 international observers, reporting from over 300 polling stations in 24 election constituencies.

The overall impression of observers was more negative than in the first round, but this was largely due to irregularities in Jalal Abad and particularly District 44 in Talas.

International observers again reported positively on the presence of domestic observers, who were present in over 98% of polling stations visited. However, a number of observations serve to highlight the main weaknesses in the existing system.

- In 28% of instances, observers reported that “unauthorised persons”, invariably local officials, were present inside polling stations.
- Observers reported intimidation of voters in 5% of instances, compared to just 2% in the first round. These reports were again largely limited to Jalal Abad and particularly Kara Bura District 44 in Talas Oblast.
- In 68% of instances, observers reported voters added to additional lists.
- The EOM found proxy voting in 6.5% of instances and family voting in 15%, an increase compared to round one.

When considering the two rounds of voting, the overall rating of voting administration on election days is generally positive, but with numerous serious exceptions, particularly but not limited to, Jalal Abad Districts 9, 10, 11 and Kara Bura District 44 in Talas. These exceptions include poor and illegal practices, with some PECs clearly involved in irregularities, including the acceptance of multiple ballots, the invalidation of ballots, the stuffing of ballot boxes as registers were clearly signed by a single person for large numbers of voters in some instances. Many other problems relate to a lack of training and education of PEC members and voters.

During the second round of the election in District 44, the EOM found clear evidence of systematic fraud, committed by state and election authorities, aimed at securing the defeat of Feliks Kulov. This evidence includes:

- A massive increase in the number of advance voters;
- PEC members acknowledging irregularities during advance voting as well as regular voting, and one PEC (44) acknowledging that they had received special payment for such practices;
- Corroborated information, that voters had been paid 150 Soms (\$3) to vote for a certain candidate;

- Pre-marked ballots observed in a safe of the PEC;
- Marked ballots clearly shown to officials for approval prior to casting in the ballot box; and
- An atmosphere of intimidation in the district throughout the electoral period.

In polling stations observed by the EOM, the number of advance voters in relation to the number of registered voters ranged from 7% - 28.5%. In the first round, the number of advance voters was much the same as in the rest of the country, at around 1%. In PECs 37 and 43, some PEC members were removed during the counting of advance votes.

As a result, the EOM questions the legitimacy of the election in district 44.

X. VOTE COUNT AND AGGREGATION

A. Aggregation of Results: 20 February 2000

With the exception of particular areas of concern addressed below, the overall opinion of observers from the two rounds of the elections was that the biggest obstacle facing the counting process was a general lack of organisation, often stemming from very large numbers of registered voters, with each casting up to five ballot papers.¹⁷ There were discrepancies between the number of signatures on the registers and the number of ballots in the box. Many PECs were not able to adequately deal with this problem.

For the first round, some 17% of observers reported that the counting process was bad and 8.5% very bad. These are high figures. Observers reported that the overwhelming reason for this was the poor administration and organisation. Another reason was the poor quality of polling station protocols.

Observers reported good access at the TEC level, except for District 44. However in some areas, PECs visited the *Akimat* before reporting to the TEC. Also, in most instances, the TECs were located in the *Akimat* building. The CEC explained this as a logistical issue, with the *Akimat* being the only body capable of supplying the office space and computer links. This practice opened the system to abuse.

1. Completion and Publication of PEC Protocols

Article 44.21 states that, “The third copy of the protocol shall be posted for public acquaintance in the place, established by a Precinct Election Commission”. Observers noted in almost all cases that no protocol was posted.

Article 44.23 states that, “Upon a request of any interested person a [PEC] ... shall be obliged to [provide] a certified copy of the protocol ... or provide them with the possibility to make a copy and certify it”. Observers noted that in many instances copies were made available, but not uniformly.

In many instances, protocols were signed in ink but completed in pencil. In addition, many PECs signed a second protocol, which had no figures marked. Whilst observers noted that this was often done to avoid the PEC having to reconvene in case of errors in the protocols, nonetheless it significantly opened the process to abuse.

2. Irregularities in District 44 – Kara Bura in Talas Oblast

During the first round, the tabulation process in TEC 44 was irregular and lacked transparency. Problems in this district began at the counting stage at the PECs, when in some polling stations (10, 39, 55, 56, 57, 58) observers were denied copies of the protocols. At the TEC, located in the building of the *Rayon* Administration, many PECs took their protocols first to the office of the *Akim* prior to

¹⁷ In most districts, local elections took place simultaneously with the parliamentary elections.

delivering to the TEC. The *Akim* and Vice-Governor met the PEC Chairpersons upon arrival. Observers were not allowed to accompany the PECs during this part of the process, with security guards blocking the entrance. Observers then noted that protocols had been changed.

The Chairwoman of the TEC tried unsuccessfully to stop this procedure and even gained the support of the Chairman of the CEC after threatening to resign in the face of proliferating irregularities.

A comparison of a limited number of protocols from PEC 6040 and the official results from District 44 is indicative:

	Protocol collected by the EOM	TEC Results
No. of Invalid Votes	42	540
Votes for F. Kulov	647	147

Following the first round, the Chairwoman of TEC 44, Dilbara Moldogazieva, publicly acknowledged the irregularities, and claimed that she had been threatened and was under pressure from local and regional authorities in Talas to resign. She initially resisted, but eventually resigned after she lost the support of the CEC. Her colleagues on the TEC wanted her dismissal, claiming she was unstable and authoritarian. She claims that, as nearly all other TEC members are state employees, their allegiance to the regional administration was assured.

3. Annulment of Results in Issyk-Kul District 17

The first round results in constituency 17, Issyk-Kul area, were annulled, and two of the four qualifying candidates, including one of the remaining opposition candidates, were de-registered due to alleged violations of the law. The CEC claimed to have thoroughly investigated the allegations and issued a 36-page report. However, the TEC and PECs did not agree with the findings. In addition, neither domestic observers nor international observers had reported any serious irregularities.

The EOM is not convinced as to the credibility of the decision. Similar allegations were prevalent throughout the country, yet were mostly ignored or remained unpunished. Many of the allegations were unsubstantiated or trivial, yet the CEC and the Rayon Court proceeded with the annulment of the results and the de-registration of two candidates for the Legislative Assembly.

If a similar level of scrutiny had been applied elsewhere and similar accusations accepted at face value, then the outcome of a majority of districts in the first round should have been annulled. The impact of alleged irregularities on the result was never considered, nor was the proportionality of the punishment to the alleged infringements.

4. Complaints and Aggregation of Results in Jalal Abad

Despite the submission of over 150 complaints in the Jalal Abad area prior to election day, and numerous reported instances of irregularities on the day of the election, no action was taken there. The only court cases involved a candidate's financial declaration form and an allegation of dual citizenship of a candidate.

Observers were generally dissatisfied with the process in many districts in Jalal Abad during both rounds of the election. Some of the malpractice observed, particularly involving university students, have been mentioned elsewhere in this report. Other problems in the area included:

- Detention of an international observer for observing a demonstration, which the police claimed was an illegal gathering.

- Active campaigning by local officials for candidates in a number of districts in the area. District 11 was of particular note, where city officials were actively striving for the election of candidate Joldoshov.
- A series of anomalous results in polling stations in Districts 12 and 15. In District 12 it was noted that 7 of the 11 parties did not get a single vote in 17 polling stations, which would seem unlikely. In District 15, between 50% - 81% of votes were for the UDF bloc in the first round, which was against the general voting trend in the area.
- In District 10 (PS 49), international observers clearly identified multiple voting and ballots folded together in the ballot box. However, no discrepancies were noted in the submitted protocols, indicating a lack of accuracy in the accounting of the votes. In District 11, supporters of a candidate de-registered just prior to the day of the election protested by taking ballots out of polling stations. Whilst such an action cannot be condoned, the fact that the PEC protocols tallied correctly indicates figures were artificially balanced.

5. Automated Information System – “Shailoo”

The CEC used an automated information system for the transfer of information from the TECs to the CEC, for publishing voter turnout levels during the day, and the publication of the results at the end of the process.

This was a welcomed effort to increase the transparency of the process. However, a number of concerns should be stressed:

- The results published at the national level are not comprehensive. The web-site only published the results for candidates qualifying for the second round and not all other results and details which are important for the transparency of the process.
- Results were not available at TEC or PEC levels. This is important for verifying protocols. It is also technically possible given the data input method.
- The *Shailoo* system at the TEC level would not accept a PEC protocol unless the numbers were 100% accurate. This created the situation where PEC members would fill out protocols in pencil or bring spare signed ones, both of which seriously opened the process to abuse.

B. Aggregation of Results: 12 March 2000

For the second round of the elections, the EOM focused on the count in polling stations and the tabulation process at the TEC level.

At the PEC level, some 33% of observers reported that the process was bad or very bad. As in the first round, this reflected poor organisation and poor administrative procedures. 40% of observers reported that the protocols were filled in pencil, and at the TEC, 43% reported seeing protocols filled in pencil, pre-signed or otherwise blank. Further, 60% reported seeing protocols being “re-done”, which meant pencil-filled protocols being “corrected” or blank protocols used to submit the corrected figures.

In 93% of TECs observed, they were located in a building of the *Rayon* or *Oblast* Administration. In 20% of cases, observers were not given full access to the tabulation at the TEC. In only 47% of cases, domestic observers were present.

The overall impression was of a lack of full transparency in the process at the TEC level, and a generally unsatisfactory administration of the process. In 40% of instances, observers reported dissatisfaction with the process at TECs.

Initially, observers had problems gaining access to the TEC in District 44, due to the very large security presence outside the building. Observers reported that, in virtually every case, the PECs went to the offices of the *Akim* prior to going into the TEC, some for up to two hours. In the TEC itself, observers had only limited access to the process and were not able to verify the procedures at all. In any event, given the extent of the irregularities during the course of advance voting and election day voting, the process had already been largely undermined prior to the TEC-level tabulation.

XI. ADJUDICATION OF COMPLAINTS AND DISPUTES¹⁸

Decisions of a commission can be appealed to the same commission and then to higher commissions. The decision can also be appealed to the relevant city court and then finally to the Supreme Court.

The EOM had serious concerns regarding the lack of independence of the judiciary during this election. Regardless of whether the legal process was technically adhered to, the final decision of the courts was not always impartial.

The TECs proved equally susceptible to pressure, and in some cases also exhibited a clear lack of impartiality towards certain candidates. In addition, many TECs were not competent to deal with substantive legal complaints or administrative enquiries. This resulted in decisions made very late, or inconsistent decisions.

The CEC did not appear to give due consideration to appeals. Most sessions to consider appeals or complaints were dominated by the Chairman, with other members playing little or no role. Even when appellants addressed the CEC, such as in the Ussenov de-registration case following the first round, the CEC never discussed his testimony, giving the appearance of a pre-determined decision.

Article 55.7 requires “decisions on complains [to be] made within a three-day period but not later than a day prior to the voting day....” However, Article 55.9 makes the more pertinent point that, “Courts and bodies of the office of the prosecutor shall arrange their work in the way that provides timely consideration of appeals”.

One of the most unseemly aspects of the election was the untimely consideration of complaints and appeals, including on the day of the election. This was partly caused by the number of appeals. The result was last minute decisions, which served to create confusion among voters and election commissions, as well as uncertainty among affected candidates.

The CEC established a Reception Centre for complaints. The Centre was also mandated to answer questions from voters and candidates on aspects of the electoral process. The CEC was then to follow-up on complaints received. The Centre received some 500 complaints in total. The establishment of the Centre was a positive aspect in the administration of the election complaints. However, the need for a manual processing of the complaints did somewhat hinder the work.

XII. CONCLUSIONS

One of the main conclusions based on the results of the elections is that political parties remain a weak force in the country, with a limited local base and a very weak national base. Most candidates (407 out of 420) were identified as independent on the ballot, highlighting the weak attraction of parties to the Kyrgyz electorate.

¹⁸ The ODIHR Rule of Law section has produced a report on the election disputes resolution mechanism in the Kyrgyz Republic, as part of an International Election Standards Programme. This report covers in great detail the judicial process during the election as well as a number of case studies.

A. Election Results¹⁹

Category	Orientation	Party Name	Party List Seats	SMC Seats	Total Seats
PARTIES WITH PRESIDENTIAL ORIENTATION	Pro-Presidential	Union of Democratic Forces	4	8	12
		Democratic Party of Women	2	0	2
		Party of Afghan War Veterans	2	0	2
	Pro-Government / Centrist	Maya-Strana	1	3	4
		Agrarian-Labour Party	0	1	1

INDEPENDENT CANDIDATES			-	73	73
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PARTIES WITH OPPOSITION ORIENTATION	Opposition	People's Party	0	2	2
		DMK/Ar-Namys	0	0	0
	Leftist Opposition	Party of Communists of Kyrgyzstan (PKK)	5	1	6
	Opposition / Centrist	Erkin Kyrgyzstan	0	1	1
		Ata-Meken	1	1	2

A number of key factors must be considered:

- None of the above groups is particularly cohesive and changes in the political orientation can be expected. The delineation into “presidential” and “opposition” is to reflect the general orientation of the parties. This will likely prove particularly true for the already limited opposition, as the PKK do not have much commonality with other opposition parties.
- Some independents will likely be wooed by parties in the coming period.
- Out of the 105 newly-elected members of Parliament, only five are women, and 12 ethnic-Uzbeks.²⁰

B. Limitations of Participation and Representation of Opposition Parties and Candidates

Opposition parties and candidates faced a series of obstacles preventing their fair or even actual participation in the election. The following table indicates the fate of various opposition forces during the election:²¹

¹⁹ Due to the difficulty in defining political affiliation, these figures are a broad indication only.

²⁰ These figures are tentative, as the EOM was unable to obtain accurate information at the time of writing.

²¹ Political affiliation is not always overt, so the table may omit some candidates standing as independents during the election. In addition, the orientation of some parties is variable, but the above forces are usually perceived as the main opposition.

Party	Party List Election		Main Candidates in SMCs	Status
People's Party	Denied Registration		Ussenov	De-Registered, was leading after the first round Two other members elected
Ar-Namys	Denied Registration		Kulov Subanaliev	Led after first round, but defeated due to irregularities in second round and arrested after the election Led after first round, but results annulled and candidate de-registered
DMK	De-Registered		Jeksheev	Not elected
PKK	Won 5 seats in party list elections		Masaliev	Leader Elected + up to 1 other
Ata-Meken	Won 1 seat in party list elections		Tekebaev	Elected, after winning court case on day of second round overturning TEC decision to de-register candidate.
Erkin Kyrgyzstan	Did not win a seat in party list elections		Bakir Uulu	Elected, but was taken to court after second round accused of vote buying

Other candidates and parties, which were not opposition, also faced similar problems. However, three key points should be considered:

- The fair participation of an opposition in an election is the fundamental basis of pluralism. The possibility for an alternative for voters is central to a free and competitive election.
- The opposition in the Kyrgyz Republic is fairly small. By restricting the participation of three key parties and a handful of key candidates, the opposition is effectively excluded from the formal political process, and of course from parliamentary politics for the next five years.
- Whilst some opposition candidates made it to Parliament, they will not have the necessary 15 members to form a parliamentary group. In addition, given the use of legal measures against their colleagues, the elected members may feel vulnerable to future pressure or prosecution.

C. Post-Election Developments

Following the second round of the election, a number of disturbing events were reported.

- Feliks Kulov, the defeated candidate in District 44, was arrested under charges dating back to when he was Head of National Security and Governor of Chui Oblast. The Government claims that the charges and arrest are not election related.

- There were a series of demonstrations in Kara Bura and Bishkek against the conduct of the elections in District 44 and the subsequent arrest of Feliks Kulov. Police used force in breaking up some of the demonstrations and detained a number of demonstrators. There were also reports of local election officials in Kara Bura acknowledging their role in the fraud.
- A number of opposition- or independent-oriented newspapers faced restrictions on printing and distribution, investigations and fines. These include *Res Publica*, *Dela No* and *Asaba*.
- The organiser for the National Coalition of NGOs in Kara Bura was detained shortly after the second round of the election.

The Government has agreed to establish a working group and participate in a round table aimed at strengthening electoral legislation and addressing the problems during this election.

XIII. RECOMMENDATIONS

1. Interference in the process by State authorities undermined the independence and integrity of the courts, election administration and state media. The recommendations outlined below will serve to strengthen the legislative, political and administrative processes, but without a concurrent political will on behalf of authorities to cease such interference in the future, any changes will have a negligible impact on the process.

A. Legislative Framework

2. **Article 76.3 Repeat Voting**

The Law should be amended to ensure that a second round is held in all cases where the first round of voting was not decisive, allowing the voters to choose their elected representative. This can be achieved by either not allowing a candidate to withdraw or by promoting the third-placed candidate in the event of a withdrawal by either of the top two candidates. The issue of de-registration would follow the same principle of promoting the third-placed candidate and is further discussed below.

3. **Article 28.6 Candidate Immunity**

The prerogative of the prosecutor to initiate criminal proceedings against registered candidates should only be exercised if there is a clear public need defined in law. Such proceedings need to be initiated in a timely manner, avoiding to disrupt the election campaign or to overturn the results of the election.

4. **Article 57 Consequences for Violation of Election Rights**

All persons committing a violation under this article, be they voters, candidates, representatives of candidates and parties, or election and state officials, should be punished. In cases where a violation is committed by an election or state official, the person in question should not be allowed to hold such a position in future.

B. Election Administration

5. **The Composition of Territorial and Precinct Election Commissions**

The right for political parties, candidates and NGOs to nominate representatives on election commissions should be formalised, creating a more pluralistic electoral administration. Recognising that election commissions should not be too large and unwieldy, and the need to accommodate a potentially large number of representatives given the preponderance of independent candidates, a formula should be developed to ensure broad representation across an electoral constituency.

Such a formula might foresee the right of political parties to have a certain number of representatives supplementing locally nominated individuals, with independent candidates and NGOs also allocated a number of positions across the constituency. Members could then be allocated to various polling stations, possibly by drawing a lot with some safeguards, ensuring a balance of representation in each commission, whilst avoiding any one commission being too large.

Alternative mechanisms for selecting members might be equally valid. The important is to ensure broader representation on election commissions, with the right for nomination by parties, candidates and NGOs being formalised.

6. Composition of Central Election Commission

The Presidential Administration, Legislative Assembly and People's Representative Assembly each nominate four members of the 12-member CEC. However, this opens the possibility of a majority of members favouring a particular political tendency and creates a perception of partiality among the public even if the CEC is in fact impartial. A new formula ensuring a more representative body should be considered, taking into account the possibility of full membership for political parties and no quota for the Presidential Administration.

Again, alternative mechanisms might be equally valid, but a wider, more representative and credible membership should be attained.

7. The Chair of the Central Election Commission

To ensure a wider acceptance of the political impartiality of the Chair of the CEC, it might be pertinent to have the position decided by a vote in Parliament. Whatever mechanism is chosen for appointing the Chair, it should be ensured that the Chair enjoys wide political support and the confidence of the Commission.

8. Location of the Central and Territorial Election Commissions

In the interests of creating independent election commissions, it is important to ensure a separation between the electoral administration and the State administration wherever possible. The CEC must be moved out of the Presidential White House, particularly for the presidential elections.

Whilst recognising the limitations of infrastructure in some areas of the country, it is important to seek to separate the TECs from the premises of *Rayon* and *Oblast* administrations.

9. Training of Election Officials

The training of election officials should be upgraded, ensuring consistency in the training and reachout to all members. In addition, the training should be more comprehensive, with adequate time given to the complicated process and taking into account the experience of members.

10. Printing of Ballot Papers

All electoral contestants and recognised observer groups should be given access to the sensitive printing of ballot papers, to ensure confidence and transparency. Recognising the potential of a large number of persons present at the same time and security concerns, interested persons can apply and a schedule could be worked out.

C. Candidate and Party Registration

11. Registration of Political Parties for Parliamentary Elections

The new Law on Political Parties should supersede Article 92 of the Election Code, thereby recognising all parties registered under this law as eligible for the parliamentary elections, given satisfaction of other reasonable legal requirements.

12. Registration of Candidates and Political Parties for Elections

Serious consideration should be given to the registration of candidates for elections, with a number of basic principles taken into account:

- i) The documents required for registration should be clearly articulated, with no extra requirements imposed on candidates or parties;
- ii) The timeframe to consider the registration must be reasonable to enable the election commission concerned to carry out full examination of submitted documents;
- iii) Once accepted by an election commission, the registration of a candidate or party should be final. If it is felt necessary to retain in the law some provision for reconsidering financial declarations or other documents after registration, then three important factors should be taken into account:
 - a) De-registration may not be an appropriate punishment in all instances;
 - b) The consideration of a candidate's registration status after the first round of voting should be avoided except in the most extreme circumstances.
 - c) De-registration of a candidate or party during an election is an extremely grave act, and should only be considered in the most serious and exceptional of circumstances. At all times, the interests of the electorate should be taken into account and the proportionality of the violation to any punishment should be a guiding principle. Only in exceptional cases, defined in law, should a review of registration be permitted after the expiry of the initial 10-day period prescribed in Article 73.4.

13. Financial Deposit

The current level of financial deposit should be decreased to a more reasonable sum.

D. Voter Registration

14. Revision and Administration of Voter Lists

Voter Lists should be revised and updated. There should be a thorough cross-check at the regional and national level for duplicate entries.

The procedure for adding voters to the list shortly before and during an election should be reconsidered. Voters should be given adequate information when their place of registration is changed. Voters should also have a responsibility to ensure they have been deleted from old lists and have obtained the appropriate certificate to be added to a new list.

E. Media and Campaign

15. Vulnerability of the Media

A serious problem facing media in the Kyrgyz Republic is its financial and institutional vulnerability, particularly to pressure from authorities. Therefore, State authorities must undertake not to interfere in the conduct of the media illegally, ending the threat of pressure, such as tax inspections.

In addition, to help strengthen the media, the example of other countries might be followed. Media may be exempted from paying VAT for a period of a few years. This would help strengthen their financial base, increasing their professional and technical abilities.

16. Impartiality of State Media

An undertaking by State media institutions and State bodies to ensure impartiality in future elections should be considered. An independent monitoring organisation could also be considered.

17. Article 31.3: Media Coverage of the Election

This article should be amended to reflect normal practice. The references to “other investigations” should be deleted, and the prohibition on opinion polls and “prognoses of election results” could be limited to 7 or 15 days prior to the day of election.

18. Article 51.10: Provision of Media Services to Candidates and Parties

Normal media activities, such as debates, news or discussion programmes, which would include candidates or party representatives, should be excluded from this article.

19. Paid Airtime

All paid and free airtime should be clearly identifiable.

20. Restrictions on the Movement of Candidates

Restriction on the movement of candidates during an election is an extremely grave matter. Courts should take into account the proportionality of such a restriction to the case in question. During the parliamentary elections, for example, the placement of a restriction of movement order against a registered candidate and standing Member of Parliament for a relatively minor and old offence was clearly not warranted.

21. Start Date for Election Campaign

All candidates should enjoy the same length of time for election campaigning period. A common starting date for the campaign should be introduced. This of course requires a clear and timely registration process for candidates and parties.

22. Permission for Public Meetings

Some safeguards to ensure free and equal access for all candidates to appropriate public buildings should be introduced, ensuring timely and fully transparent decisions by appropriate authorities.

F. Voting and Counting Procedures

23. Role of Local Authorities

The provision in the law regarding persons authorised to be present in a polling station should be fully respected. The tendency for representatives of local authorities to be present during voting and counting processes should be stopped.

24. Review of some Electoral Practices

A number of important points should be considered for future elections:

- i) Election authorities should continue to address the practice of family and proxy voting;
- ii) Students are prone to undue pressure and influence by university authorities. Election commissions should pay particular attention to the voting in such areas, prosecuting persons guilty of pressuring voters in such a manner;

- iii) Where possible, and in cases where the current number is in excess of 1,500, the number of voters per polling station should be reduced, to improve the administration of the process. This is of course dependent on available resources, but in instances where it is possible, a decrease in the number of voters would alleviate some of the strains on the process;
- iv) The list of acceptable identification documents for voting purposes should be clarified to ensure greater vote security and consistency;
- v) The regulation allowing voting without identification documents in places of less than 500 registered voters should be amended to bring into line with normal requirements for identification documents to be produced by all voters.

25. PEC and TEC Protocols

- i) All protocols should be completed in ink, and no blank protocols should be signed by PEC members.
- ii) The requirement of the law that protocols should be posted at the PEC site should be respected strictly to ensure transparency. The law also requires that copies be available to observers and party representatives. This too should be respected strictly.

26. Shailoo – Automated Results

The results from the “Shailoo” automated vote tabulation system should be published, in a reasonable timeframe, for all levels, including PEC results. This will ensure full transparency and accountability. There is a current requirement in Article 48 for the full publication within two months. However, given the available technology, this could be done sooner.

27. Observation of Territorial Election Commissions

The law should explicitly state that all aspects of the process at the TEC level is open to observers and party representatives.

G. Dispute Resolution Process

28. Independence of the Courts

Political interference in the legal process must cease. Such practice undermines the credibility of the courts and confidence in the electoral process.

29. Consistent and Timely Application of the Law

A fair election requires that there is a greater level of consistency in the process, particularly in the application of the law. It is also vital that decisions are taken within a reasonable timeframe. Some key considerations are:

- i) Standardisation of required evidence.
- ii) Consistency in the level of punishment for a violation.
- iii) Reduction in the number of bodies responsible for considering legal complaints and appeals. The number of instances might be reduced to three or even two, to increase consistency and facilitate the timely processing of cases.

The ODIHR Rule of Law Unit project on election disputes includes a more extensive list of recommendations in this area.