

INTERIM REPORT No. 2
22 June – 4 July 2009

13 July 2009

I. EXECUTIVE SUMMARY

- Preparations for the 23 July 2009 presidential election are underway and the Central Election Commission (CEC) has almost daily sessions on an ad hoc basis. The CEC has not generally publicized the time, place or agenda of its sessions in advance. The law does not oblige the CEC to do so.
- Rayon Election Commissions (RECs) also hold ad hoc sessions and do not generally advise of sessions ahead of schedule to candidate representatives, observers or the media, as prescribed by law. OSCE/ODIHR EOM observers have often been denied access to REC sessions.
- In the appointment of Precinct Election Commissions (PECs), the ‘one third principle’ of distributing members between municipal workers, political parties, and nominees from ‘groups of voters’ has been implemented variably by RECs. The same has been true of subsequent lotteries held in cases of too many nominees from one category. In these lotteries, the party of the President, *Ak Jol*, has emerged as the winner in most cases.
- Deadlines with regard to the establishment of voter lists appear to have been respected. As of 27 June, PECs have begun the ‘familiarization’ of voters with voter lists (VLs). OSCE/ODIHR EOM observers have reported that VLs are available for individual scrutiny, but are not generally on public display. It appears that no regional or national computerized cross-checking of the VLs has been undertaken.
- President Bakiev has been the most visible of the six candidates. His billboards, especially non-campaign billboards with him as President, are widely displayed throughout the country. A few billboards for two other candidates as well as posters for three of the candidates are displayed in Bishkek. Otherwise, there is so far little visual evidence that a national presidential campaign is underway.
- Preliminary findings from the OSCE/ODIHR EOM’s media monitoring indicate that broadcast coverage of candidates’ campaigns has been limited. Most focused predominantly on the activities of President Bakiev, both as candidate and President. Airtime for the other candidates has been limited, although Radio *Azattyk* has provided more balanced coverage.
- On 3 July, state television organized a debate to which all six candidates were invited. The programme was broadcast live and involved an open discussion, although President Bakiev and Mr. Atambaev declined to participate.
- A number of appeals by candidates were lodged with election commissions and courts. Very few complaints have been satisfied by commissions and no court decisions have favoured the plaintiff.

II. ELECTION ADMINISTRATION

Election preparations are underway and the Central Election Commission (CEC) has almost daily ad hoc sessions; the law does not require the CEC to publicise the time, place or agenda of its sessions in advance. While the CEC has accredited representatives and proxies for all the candidates, only Mr. Sariev has nominated a representative to the CEC with an advisory vote.

All observed CEC sessions passed decisions unanimously.¹ Not all of the approximately 180 decisions passed in 2009 have been made public as required by law; most of them are published on the CEC website. The OSCE/ODIHR EOM is still awaiting receipt of the remainder of the CEC decisions in order to adequately evaluate the election administration process.

All lower-level election commissions are required by law to notify their superior commission and all interested parties about the time and place of their sessions, and to ensure access. These sessions, which are also held on an ad hoc basis, are not generally advised ahead of schedule to candidate representatives, observers or the media. Interested parties have to call commissions in order not to miss commission sessions. OSCE/ODIHR EOM observers have been denied access to REC sessions in several instances.

All Oblast Election Commissions (OECs) and Rayon Election Commission (RECs) visited by OSCE/ODIHR EOM observers were located in the same buildings as the respective local administration. All but one of the RECs formed their Precinct Election Commissions (PECs) by the 22 June deadline. Most of the PECs visited had established offices, but not all were open during working hours. The CEC informed the OSCE/ODIHR EOM that the RECs appointed 20,689 members to 2,331 PECs. Training of PEC chairpersons and secretaries is ongoing.

Although the electoral code establishes a minimum number of members per election commission, it does not set a maximum number.² Municipal workers and political party representatives should not exceed one third each of lower level election commission members. In the event that more are put forward, places are allocated through the drawing of lots. All remaining members are nominated by 'groups of voters'.³ These elements such as the number of members, the 'one third principle', and the lottery have all been implemented variably by RECs.⁴ The REC in Balykchi based their choice of members from municipal workers on CVs rather than conducting a lottery. RECs in Kerben, Leylek, Sulukuta, Aksy and Kadamjay had a common pool of candidates from municipal workers and 'groups of voters'. The REC Chairperson in Naryn decided on appointment of members without observing the criteria for these two categories.

Members appointed from 'groups of voters' often included people affiliated to a political party. For example, of nine members nominated by 'groups of voters' in the REC Aksy, three are also members of the *Ak Jol*,⁵ Communist Party of Kyrgyzstan (CPK) and *Zamandash* parties.

¹ From 26 June onwards, the OSCE/ODIHR EOM has been provided with the proposed decisions for each session.

² The exact number of members in each commission should reflect the number of voters in the precinct, but should be no less than seven. However, there is no written instruction on the algorithm to be used.

³ According to CEC Regulation No.27, 'groups of voters' must have at least 5 members from the respective constituency. There is no legal requirement for such groups to be formally registered.

⁴ In most cases, RECs considered one third of 7 members to be 2; in others, it was 3. The number of commission members per PEC was variable. The REC in Karakol, for example, allowed each PEC to decide individually on the number of members to appoint.

⁵ This individual is also a member of the city council, where he represents *Ak Jol*; appointment of local councilors is prohibited by Art. 16.1 of the Electoral Code.

According to the CEC, 23 political parties participated in the formation of PECs and 5,820 members were appointed from among these parties. Several RECs rejected political party nominees on various grounds, for example lack of signatures, CV errors, incomplete family names, and applications sealed with a national party seal rather than a local one.⁶ The REC in Aksy rejected all nominations from *Jany Kyrgyzstan*, *Ata Meken* and SDPK (the later two of which are considered opposition parties). The REC in Tash-Komur rejected 5 proposals from *Uluu Birimdik* and 10 proposals from CPK, while admitting all ten from *Ak Jol* and six of nine from SDPK. The REC in Nookan refused 18 *Ata Meken* nominations for not submitting passport copies, although this is not stipulated in the Electoral Code or any regulation that is publicly accessible.⁷

The results of the lotteries to allocate commission members show that certain parties fared worse than would be expected under random selection. In the Tong REC, *Ak Jol* submitted nominations for all 39 PECs and won 23; SDPK nominated 29 and won three, while *Ata Meken* nominated 24 and won one. *Uluu Birimdik* and the Green Party of Kyrgyzstan won no spots from 20 and 15 nominations, respectively. Following this lottery, three out of the four SDPK and *Ata Meken* nominees resigned; according to SDPK, they had been threatened by the local authorities. The official gazette reflecting the results listed no members from opposition parties. Similar lottery results were also observed in Batken and Kadamjay. The OSCE/ODIHR EOM's requests for copies of protocols on PEC nominations were generally refused, although observers were allowed to see the protocols. Across the country, *Ak Jol* appears to have most political party places on PECs.

In Issyk-Kul oblast, 48 of 144 nominees from the United People's Movement (UPM) withdrew prior to the lottery. The UPM stated that this was under pressure from local authorities and intended to submit a complaint. The REC stated that it would not accept it on the grounds that members had already resigned.

III. VOTER REGISTRATION

Deadlines with regard to the establishing of voter lists appear to have been respected. As of 27 June, PECs have begun the 'familiarization' of voters with voter lists (VLs). OSCE/ODIHR EOM observers have reported that VLs are available for individual scrutiny, but are not generally on public display. All amendments are added to additional voter lists, which will be processed after election day.

VLs are prepared by the local administrations on the basis of information received from passport offices and civil registries. Changes in personal data are forwarded to the rayon or city *GAS Shailoo* system administrators, who maintain the *GAS Shailoo* automated system. Rayon or city system administrators are able to edit only district-level data. Oblast system administrators and the CEC have access to the oblast and national level information, respectively. It appears that no oblast or national computerized cross-checking has been undertaken. Voters can ask to check their details in the database in person at the *Gas Shailoo* offices, but changes after 27 June must be made at the PECs.

⁶ Although this is required by CEC Regulation No.27 on the Formation of Election Commissions, dated 24 March 2009, some parties advised the OSCE/ODIHR EOM that they do not have such local seals.

⁷ Submission of passport copies is not required by the Electoral Code nor by CEC Regulation No.27 on the Formation of Election Commissions, dated 24 March 2009.

According to the CEC, 2,700,804 voters were registered as of 30 June with 114,000 of them registered abroad.⁸ Details of these individuals were forwarded to the CEC, which stated that it would remove them from voter lists prior to the 27 June printing.

IV. THE ELECTION CAMPAIGN

The election campaign has been ongoing, with President Bakiev being the most visible of the six candidates. His billboards, especially those showing him in his capacity as President, are widely displayed throughout the country. A few billboards for Mr. Nazaraliev and Mr. Sariev are present in Bishkek, as are posters for Mr. Atambaev and Mr. Nazaraliev. Otherwise, there is little visual evidence that a national presidential campaign is underway.

President Bakiev's party structure also appears to be the most extensive with *Ak Jol* offices and campaign branches across the country. These have been instrumental in organizing a large-scale campaign for the President. Opposition and civil society activists have criticized the alleged misuse of administrative resources by President Bakiev's campaign, especially in the location of party offices within state administrative premises. Mr. Atambaev's campaign also has offices in regional centres; other candidates appear either not to be present at the regional level or only in very limited capacity.

President Bakiev's campaign has focused on stability and socio-economic progress over the past four years. There is also a strong accent on regional stability and on Kyrgyzstan's role in dealing with international terrorism in the region. A number of recent police actions against militant groups in the south of the country have been widely reported in the national media.

The campaign of Mr. Atambaev has emphasized the necessity of further political, socio-economic and legal reforms. He also has focused on the need for increased transparency in public life. Reportedly, Mr. Atambaev's campaign has faced certain problems. The UPM, for which Mr. Atambaev is standing, has reported that local authorities and police have obstructed his public gatherings in the Toktogul district, Balykchi and Karakol. On 26 June, Mr. Atambaev received a first warning from the CEC for distributing leaflets criticizing President Bakiev and his administration; it appears that these leaflets were provided to the CEC before publication, but no comment was made at that point.

Mr. Sariev has focused on promoting new people in politics and a new mentality based on universal values. He has conducted a number of rallies across the country, although OSCE/ODIHR EOM observers have noted obstruction of one rally by the local administration in the Batken region.

As the only female candidate, Ms. Umetalieva has concentrated on socio-economic issues and the need to raise the status of women in society. She has also underscored the need to protect the south from alleged terrorists. Although not very visible, Ms. Umetalieva has participated in joint meetings that RECs organize for candidates, generally together with *Ak Jol*. She has, however, informed the OSCE/ODIHR EOM that the local administration did not provide her with a venue in Chuy region.

Mr. Nazaraliev's campaign has focused predominantly on internet and billboard advertising. His election programme has three major aspects: improving social conditions, attracting foreign investment, and developing closer relations with the Collective Security Treaty Organization and the Islamic world.

⁸ The Ministry of Foreign Affairs previously informed the OSCE/ODIHR EOM that this number was 129,000.

Mr. Motuev has made rare public appearances. During one, he criticized Mr. Nazaraliev for refusing to debate with him and also commented negatively on Mr. Atambaev's past performance as prime minister. Mr. Motuev has stressed the importance of intensifying economic activity and fighting corruption. He also publicly stated that it would be a great honour for him to come second in the election to President Bakiev.

On 1 July, the CEC published information on the current status of candidates' funds. As reported, Mr. Atambaev has spent 4,488,535 out of 4,502,200 *som*; President Bakiev, 14,704,706 of 35,565,500 *som*; Mr. Motuev, 241,009 of 243,100 *som*; Mr. Nazaraliev, 418,689 of 422,500 *som*; Mr. Sariev, 295,224 of 320,000 *som*; and Ms. Umetalieva, 219,248 of 602,000 *som*. The Electoral Code sets a campaign spending limit at 50,000,000 *som*.⁹

V. THE MEDIA

Preliminary findings from the OSCE/ODIHR EOM's media monitoring indicate that broadcast coverage of candidates' campaigns has been limited. Most of the monitored broadcast media focused predominantly on the activities of President Bakiev, both as a candidate and in his official capacity. At the same time, media regularly failed to distinguish between Mr. Bakiev's role as candidate and as President, even on occasions that were clearly campaign events.

NTRBC and EITR (state-funded TV), as well as private Channel 5 and NTS, focused predominantly on the activities of the incumbent and his election campaign. Of all registered candidates, President Bakiev received 60 percent of the news coverage on NTRBC and 80 per cent on EITR. Similar trends were observed on Channel 5; some 78 per cent of coverage was devoted to President Bakiev. The tone of the coverage on all channels was mainly positive. On the same channels, Mr. Atambaev received between 7 to 12 per cent of coverage, mainly negative or neutral. Private TV NTS tended to ignore other candidates, allocating 99 per cent of coverage to President Bakiev. The news department of private TV channel NTS has gone on vacation from 27 June until 1 September. Other private channels such as *Piramida* and NBT have almost no election coverage, aside from some limited information on the President.

All candidates are entitled to free spots of 50 seconds twice per working day on NTRBC, starting on 22 June. All candidates have been taking advantage of this legally guaranteed free airtime. On 3 July, NTRBC, upon the initiative of the CEC, organized a debate to which all six candidates were invited. President Bakiev and Mr. Atambaev declined to participate. The programme was broadcast live and involved an open discussion. While most regional State TV stations have not provided free airtime to the candidates as required by law, Jalal-Abad's regional TV has offered each candidate 30 minutes to address voters.

The monitored radio stations presented a different picture. While NTRBC radio newscasts focused predominantly on President Bakiev, allocating him 84 per cent of coverage that was mostly positive in tone, Radio *Azattyk* provided a more balanced coverage of the candidates with 43 per cent for Mr. Atambaev, 34 per cent for President Bakiev and some 10 percent for Mr. Sariev. The tone of coverage on Radio *Azattyk* was mostly neutral and contained both positive and negative references.

Print media tended to display a variety of views. However, newspapers are not widely available outside of Bishkek. The majority of print media monitored by the OSCE/ODIHR EOM exhibited

⁹ The current rate of exchange is 1 EUR:60 SOM.

partisan editorial policies, supporting specific candidates. Newspapers have relatively low circulation rates as well as limited and delayed distribution outside of Bishkek.

During the reporting period, the CEC did not report any complaints regarding campaign coverage by the media. The CEC's working group on informational disputes informed that they follow media coverage, but no media monitoring is being conducted by that group or the CEC. On 2 July, the CEC working group sent letters to *El Sozu* and *Nazar* newspapers, stating that they must not accept paid campaign adverts as they had not been officially accredited to do so.

VI. COMPLAINTS AND APPEALS

Following the Supreme Court's final ruling, reported on previously by the OSCE/ODIHR EOM,¹⁰ Mr. Aitikeev filed two additional suits on the basis of new circumstances. In his first claim, the plaintiff alleged illegal action on the part of the CEC, which has re-verified more than three per cent of candidate support signatures. The district court rejected the claim, as it did not find any new elements to the case. On 25 June, the Supreme Court upheld the decision of the district court. The second suit alleged forgery on the part of the CEC during and after the signature verification process. The district court heard the case on 3 July, but rejected it. Mr. Aitikeev filed an appeal to the Supreme Court on 4 July. The OSCE/ODIHR EOM is following the case.

Two other complaints adjudicated in the courts related to the composition and appointment of election commission members. In both cases, district courts dismissed complaints on ground of jurisdiction. In Batken, Mr. Atambaev's representatives alleged that the number of municipal employees in RECs exceeded the 1/3 quota. On 18 June, the district court dismissed the claim, stressing that the plaintiff had to first appeal to a higher level commission. However, Article 54.6 of the Electoral Code stipulates that legal remedy can be sought either from the higher level election commission or from the courts, at the discretion of the complainant. Appeals to higher level election commissions are only obligatory for decisions of PECs. On 25 June, the Nookan district court dismissed a case about the denial of appointment of 18 commission nominees from *Ata Meken* on the same jurisdictional ground as with Mr. Atambaev's case. This was upheld by the Supreme Court on 30 June.

On 1 July, Mr. Atambaev appealed two CEC decisions¹¹ that extended the terms of OECs until the end of the election process and delegated the power to the OECs to form election precincts.¹² The plaintiff argued that the CEC had exceeded its competence and demonstrated inaction in forming new OECs timely. In addition, the plaintiff put a motion for all PECs to be reconstituted. The district court dismissed the complaint on 3 July. Mr. Atambaev's legal team has informed that they intend to appeal the decision.

During the reporting period, the CEC received four formal complaints. Two of them on the composition of election commissions were remedied through an official letter sent to the respective election commissions; the CEC ordered the conduct of a new PEC lottery in Talas after representatives of *Ak-Shumkar* were hindered from participating. It also instructed Batken OEC to replace seven REC members, who were reported to constitute more than 1/3 from municipal

¹⁰ See OSCE/ODIHR EOM to the Kyrgyz Republic Interim Report No.1, available at: http://www.osce.org/documents/odihr/2009/06/38510_en.pdf

¹¹ No.29, dated 24 March 2009 and No.46, dated 1 April 2009.

¹² The complaint was first submitted to the *Piervomajski* district court on 30 June by Mr. Atambaev's authorized representative, but was not accepted for consideration, on the grounds that it had not been submitted by the candidate himself.

employees. Two complaints, primarily related to campaigning, were considered on 26 June at the CEC session. Consequently, the CEC issued a warning to Mr. Atambaev for offensive campaigning against the incumbent President and the leaflets in question were taken out of circulation. A second appeal that alleged the display of a campaign billboard for President Bakiev without the required print information was forwarded to the police, who were to remove the billboard.¹³

The Prosecutor's Office has a role in handling election-related disputes. Although no formal complaints had been received at the time of writing, the Prosecutor General informed the OSCE/ODIHR EOM that his office had pro-actively transmitted the abovementioned leaflet to the CEC for review.

VII. DOMESTIC AND INTERNATIONAL OBSERVERS

As of 3 July, the CEC has registered about 100 international observers. A coalition of domestic election NGOs, "Time of My Choice", intends to deploy approximately 3,000 observers on election day and is also engaged in long-term observation of the election. The group reports on their findings on weekly basis. A new domestic NGO, "For Fair Elections", which emerged in May 2009, has already recruited 2,000 observers for election day. They have informed the OSCE/ODIHR EOM that they focus on the campaigning of candidates and on 'get out the vote campaigns' in Kyrgyzstan, Kazakhstan, and Russia. They were particularly concerned about a recent video shown on state TV, which purported to show Mr. Atambaev inebriated during a campaign speech.¹⁴

VIII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM has continued its regular activities during the reporting period. The Head of the OSCE/ODIHR EOM and other core team members maintained regular contacts with the CEC, the MFA, and representatives of the candidates' campaign headquarters. They also met regularly with other state bodies, courts, civil society representatives, media, and diplomatic representations. A first briefing for members of the diplomatic community accredited in the Kyrgyz Republic was held on 23 June. Long-term observers, deployed throughout the country, have continued to observe preparations for the upcoming election and the campaign in the regions. They are preparing for the deployment of short-term observers in the week prior to election day.

¹³ According to Article 35.2 of the Electoral Code, all printed campaign materials must contain the name and address of the company that produced it.

¹⁴ The video was aired by state TV on 27 June. In a meeting with the director of NTRBC, he informed the OSCE/ODIHR EOM that they had received the video from a concerned citizen and thought it to be in the public interest to broadcast it. After criticism by Mr. Atambaev's campaign that the video was faked, state TV has offered to have the video examined by experts in Russia or Kazakhstan.