



Office for Democratic Institutions and Human Rights

REPUBLIC OF UZBEKISTAN

PARLIAMENTARY ELECTIONS

27 December 2009

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

21-22 October 2009



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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In response to an invitation from the Ministry of Foreign Affairs (MFA) of the Republic of Uzbekistan to observe the parliamentary elections, scheduled for 27 December 2009, and in line with its methodology, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a needs assessment mission (NAM) to Uzbekistan from 21 to 22 October 2009. The OSCE/ODIHR NAM comprised Mr. Konrad Olszewski, Deputy Head of the OSCE/ODIHR election department, Mr. Mats Lindberg, OSCE/ODIHR Election Adviser and Ms. Anna Chernova, OSCE PA Programme Officer. The purpose of the NAM was to assess the pre-election environment and to advise on a possible OSCE/ODIHR observation activity.

The OSCE/ODIHR NAM held meetings in Tashkent with representatives from the MFA, the Central Election Commission, all four parliamentary political parties, the Ecological Movement of Uzbekistan, the State TV and Radio Company, members of civil society, and with representatives of the resident diplomatic community (see annex for a full list of meetings). The OSCE/ODIHR is grateful to the MFA and the OSCE Project Co-ordinator for their co-operation and assistance during the mission.

II. EXECUTIVE SUMMARY

Uzbekistan has a bicameral parliament. As per the constitution, elections to the *Oliy Majlis* (lower chamber) will be held on 27 December 2009. Local and regional elections will be held on the same day.

The 2003 Law on Elections of the *Oliy Majlis* (parliamentary elections law) was amended in December 2008. The amendments *inter alia* increased the number of seats in the lower chamber from 120 to 150, and have included 15 reserved seats for the newly-established Ecological Movement of Uzbekistan. It also abolished the possibility for initiative groups to nominate independent candidates. Members of parliament are elected in single-mandate constituencies on the basis of a majoritarian system.

The OSCE/ODIHR NAM did not identify any significant improvements in the electoral framework that continues to fall short of OSCE commitments. Rather, two of the newly adopted amendments to the parliamentary elections law represent steps backwards. Furthermore, none of the key OSCE/ODIHR recommendations offered in the past for consideration appear to have been implemented. However, the Central Election Commission (CEC) stated that recommendations had been taken into account when amending the election law in 2008.

All parliamentary political parties stated their support for the government. During meetings with the OSCE/ODIHR NAM, they defined their role as constructively supporting the authorities' efforts to ensure the development of Uzbekistan. All voted in favour of the 2008 electoral reforms and none of them expressed any election-related concerns. Efforts to register by other political groups, which may have offered alternative political platforms and views, have been unsuccessful. As a result, voters do not enjoy a genuine choice of parliamentary candidates representing views significantly different from those of the government. A genuinely pluralistic field of candidates constitutes a fundamental element of any democratic election.

The forthcoming parliamentary elections will be administered by three levels of election administration, consisting of the Central Election Commission (CEC), 135 District Election Commissions (DECs), and some 8,500 Precinct Election Commissions (PECs). Election commissioners at all levels are prohibited from being members of political parties.

Freedom of the media and other fundamental freedoms that are essential elements of any democratic process continue to be severely restricted. The campaign, including in the media, appears to be strictly controlled by the CEC. In the absence of vibrant pluralistic media, the state-owned National Television and Radio Company (NTRC) remains the key provider of radio and TV broadcasts. It is, therefore, also the most significant source of information about the electoral campaign. The NTRC plans to cover the elections in its news programmes, organize electoral debates, and provide registered candidates equal free airtime and possibilities for advertisement. On these issues, the NCRT has signed an agreement with the CEC.

Given that fundamental freedoms continue to be limited, that the current political spectrum does not offer the electorate a genuine choice between competing political alternatives, that previous key OSCE/ODIHR recommendations remain unaddressed, and that no progress has been achieved in bringing the legal framework closer in line with OSCE commitments, the OSCE/ODIHR NAM does not consider the deployment of an election observation mission, even of a limited nature, meaningful.

Mindful of the declared interest of the Uzbek authorities to maintain a dialogue with the OSCE/ODIHR on electoral reform, however, the OSCE/ODIHR NAM recommends the deployment of an Election Assessment Mission (EAM) of approximately ten experts that will further review the administrative and legal framework for elections and offer technical recommendations on improving the electoral legislation, procedures and practices. The OSCE/ODIHR EAM will deploy in early December and will visit some regions. It will also publish a report, including concrete recommendations.

III. FINDINGS

A. BACKGROUND

The OSCE/ODIHR established a Limited Election Assessment Mission (LEAM) for the 1999 parliamentary elections, and Limited Election Observation Missions (LEOMs) for the 2004 parliamentary and 2007 presidential elections. These missions did not deploy

short-term observers on election day, due to a lack of meaningful and pluralistic competition and limitations on civil and political rights.

The OSCE/ODIHR concluded that the 2004 parliamentary elections “fell significantly short of OSCE commitments and other international standards for democratic elections, despite minor improvements identified in the election law.”¹ The 2007 presidential election “took place within a tightly controlled political environment and failed to meet many OSCE commitments for democratic elections as laid down in the 1990 OSCE Copenhagen Document.”²

The most recent OSCE/ODIHR limited election observation mission noted concerns regarding violations of civil and political rights. Moreover, a number of interlocutors met by the OSCE/ODIHR NAM agreed that the situation regarding respect for fundamental human rights and freedoms has not improved. The Uzbek authorities have prepared a national plan for the implementation of the recommendations from the UN Human Rights Council's Universal Periodic Review. The OSCE/ODIHR has offered support in this regard.

The duration of the mandate of the Uzbek parliament is five years. In line with article 117 of the Constitution, the parliamentary elections are to be held on 27 December 2009. Local and regional elections will be held on the same day.

B. POLITICAL CONTEXT

There are currently four registered political parties represented in the *Oliy Majlis*: the Liberal Democratic Party (41 seats), the People's Democratic Party of Uzbekistan (28), the National Revival Party “*Milly Tiklanish*”³ (29) and the Social Democratic Party “*Adolat*” (10). There are also 12 non-party members of parliament (MPs), who were nominated by initiative groups in the 2004 parliamentary elections.

All parliamentary political parties stated their support of the government to the OSCE/ODIHR NAM. During meetings, they defined their role as constructively supporting the authorities in their efforts to ensure the development of Uzbekistan. All voted in favour of the 2008 electoral reforms, and none of them expressed any election-related concerns. Further, the authorities have systematically denied registration of other political movements, such as *Birlik* (Unity) and *Erk* (Freedom).⁴ As a result, voters do not enjoy a genuine choice of parliamentary candidates representing views significantly different to those of the government. A genuinely pluralistic field of candidates constitutes a fundamental element of any democratic elections.

The Ecological Movement of Uzbekistan was officially founded on 2 August 2008 and registered by the Ministry of Justice on 20 September of the same year.⁵ The

¹ http://www.osce.org/documents/odihr/2005/03/4355_en.pdf.

² http://www.osce.org/documents/odihr/2008/04/30832_en.pdf.

³ The previously existing National Democratic Party “*Fidokorlar*” merged with the National Revival Party “*Milly Tiklanish*” in June 2008 and was registered as “*Milly Tiklanish*” by the Ministry of Justice in August 2008. The 18 MPs of *Fidokorlar* and the 11 of *Milly Tiklanish* merged.

⁴ For more, please see http://www.osce.org/documents/odihr/2005/03/4355_en.pdf.

⁵ Following the registration of the Ecological Movement in September 2008, the parliament adopted amendments to the Parliamentary Elections Law on 25 December 2008 that stipulated that “fifteen

OSCE/ODIHR NAM was informed that the movement is made up of non-governmental organizations and other activists, mainly from the ecology or health sector, and has no permanent membership. This movement will be given 15 reserved seats in the new parliament; this measure was explained by the importance of environmental matters in the current stage of development in Uzbekistan. All political parties supported this initiative.

C. LEGAL FRAMEWORK

The December 2003 Law on the Oliy Majlis of the Republic of Uzbekistan (parliamentary elections law), as amended in December 2008, is the main piece of legislation regulating the conduct of parliamentary elections. The Constitution, together with *inter alia* the Law on Political Parties, the Law on Financing of Political Parties, the Law on Guaranteeing Citizens' Suffrage and the Law on the Central Election Commission constitute other important elements of the legal framework for parliamentary elections.

In 2005, the OSCE/ODIHR published a Legal Assessment of the Parliamentary Election Law⁶ which concluded that “while a few positive changes have been introduced, the Election Law requires significant improvements in order to comply with OSCE commitments and other international standards for democratic elections.”⁷ The assessment includes a large number of recommendations for possible improvements to the electoral framework, most of which remains unaddressed.

The December 2008 amendments to the parliamentary elections law *inter alia* increased the number of seats in the lower chamber of parliament from 120 to 150, including 15 seats reserved for the newly-established Ecological Movement of Uzbekistan (see Section III B.).

The additional 15 members of parliament will be elected by a congress of the Ecological Movement to be held on 27 December, i.e. the day of the parliamentary elections. The delegates to the congress have been selected at regional conferences. The 15 members are to represent 14 regions of Uzbekistan and the Central Apparatus of the Movement. The remaining 135 seats are contested in single-mandate constituencies on the basis of a majoritarian system. There is a 30 per cent turnout requirement, based on the number of voters in the voter lists, for the first round of election to be valid. Any second round must be held two weeks after the first round, without a minimum turnout requirement.

Given the fact that the 100 members of the Senate (Upper Chamber) are indirectly elected, the introduction of 15 reserved seats for the Ecological Movement is not compatible with paragraph 7.2 of the OSCE 1990 Copenhagen Document, which provides

deputies of the Legislative Chamber from the Ecological Movement of Uzbekistan shall be elected by the supreme body of the Movement within the timeframe determined by the Central Election Commission.”

⁶ http://www.osce.org/documents/odihr/2005/02/4316_en.pdf.

⁷ Specifically, paragraphs of the 1990 Copenhagen Document which are not respected include: 7.5, which calls on participating States to “...respect the rights of citizens to seek political or public office...”, 7.6, which calls on participating States to “...respect the rights of individuals and groups to establish...political parties...”; and 7.7, which calls on participating States to “... ensure that law and public policy work to permit political campaigning...”. In practice, political parties’ freedom to campaign is restricted by administrative and financial control imposed by the election authorities.

that all seats in at least one chamber of the national legislature should be freely contested in a popular vote.

Additionally, the possibility for voters to form initiative groups to nominate independent candidates for parliamentary elections was abolished by the December 2008 amendments. This change is in contravention of paragraph 7.5 of the Copenhagen Documents which provides citizens with the right to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.

In the last ten years, the OSCE/ODIHR has offered numerous concrete recommendations for electoral reforms. None of the key OSCE/ODIHR recommendations seems to have been implemented. However, the CEC stated that the recommendations had been taken into account when amending the parliamentary elections law in 2008. Among the novelties presented by the CEC as improvements are the enhanced possibilities of representatives of political parties contesting the elections to follow the vote count, as well as at their participation in the verification of signatures in support of candidates. The six-month time period for new parties to be entitled to contest elections after their registration was limited to 4 months; this change appears to be rather symbolic given the difficulties with registering new political organizations in Uzbekistan.

D. ELECTION ADMINISTRATION

The upcoming parliamentary elections will be administered by three levels of election administration: the Central Election Commission (CEC), 135 District Election Commissions (DECs), and some 8,500 Precinct Election Commissions (PECs).

The CEC is a permanent body of 15 members, elected by parliament. Their chairperson is elected from among the CEC members, upon the suggestion of the president. The CEC's competencies are delineated in article 11 of the parliamentary elections law. In addition to ensuring compliance with the law, the CEC also establishes electoral districts, forms DECs, registers candidates, channels campaign funding and approves ballot format.

DECs, one in each single-mandate constituency, were created on 16 October. Each has a chairperson, a deputy, a secretary, and no fewer than six other commission members. DEC members are nominated by regional authorities, with the CEC approving the nominations. As noted in article 13 of the parliamentary elections law, DECs are responsible for establishing electoral precincts, facilitating the organization of candidates' campaign meetings, registering candidate proxies, and providing for the printing of ballots and their distribution to PECs.

PECs are to be established no later than 40 days before election day. They should consist of 5-19 members, including a chairperson, a deputy and a secretary. DECs form PECs upon nominations from local authorities. Some 8,500 PECs will be established, including some 50 at diplomatic missions for out-of-country voting. The competencies of PECs are included in article 15 of the parliamentary elections law. They include the compilation of voter lists, notification of voters of the date of elections and the preparation of polling stations, including the provision of ballot boxes and other election materials.

Election commissioners at all levels are prohibited from being members of political parties.

E. CANDIDATE NOMINATION AND VOTER REGISTRATION

Registered political parties can contest parliamentary elections upon the submission of 40,000 support signatures. The CEC, the Ministry of Justice and the Ministry of Interior co-ordinated the verification of signatures and invited political parties to take part in the process. One party confirmed that it had taken part in the verification process and that the outcome was satisfactory. By 18 October, all four parliamentary parties had successfully registered. They are now entitled to nominate candidates up to 45 days before the elections. Each party may nominate only one candidate in each of the 135 constituencies. A gender requirement is also in place; no less than 30 per cent of candidates on any party's list must be female.

PECs are responsible for the compilation of precinct voter lists and for providing access to voters to verify and correct their data. Local authorities (called *Mahalla*) assist PECs in the collection of voter registration data. If a correction requested by a voter is rejected by a PEC, the voter can appeal to court. There is no national voter list database in Uzbekistan.

F. THE ELECTION CAMPAIGN AND ITS FINANCING

The conduct of the election campaign is strictly regulated by the CEC in order to ensure equality between all four registered political parties to present their platforms to the electorate. On 17 September, the CEC announced that the election campaign would begin on 22 September. Once parties and their candidates have been registered by the CEC, they may start organizing meetings with voters. According to article 27 of the parliamentary elections law, such meetings are organized by parties, but the venue and time must generally be agreed with PECs. Each candidate may register up to ten proxies to act on their behalf.

Annual subsidies for political parties are provided by the state, based on the number of parliamentary seats held. State financing for the campaign is also allocated to parties by the CEC, in line with their number of candidates. Parties can also raise campaign funds from party dues or from economic concerns owned by them. Donations to political parties are permitted outside the campaign period, with limits linked to the minimum wage. Any contributions made during an election campaign must be channelled through the CEC, which distributes it equally to all parties in the election. Parties must submit annual financial returns to the Finance Ministry, Justice Ministry and tax office. These returns must specify all party income, resources, and campaign expenditures.

G. THE MEDIA

In June 2008, the OSCE Representative on Freedom of the Media expressed concern about cases of intimidation and harassment of non-governmental journalists. He called for the immediate freeing of all imprisoned for expressing critical views and the return of foreign media outlets to Uzbekistan as important first steps toward compliance with OSCE commitments. He also urged the authorities to liberalize media regulations and to allow for pluralism and political debate in the press. He called for privatization in the print

media, the creation of a public-service broadcaster, easy registration and licensing of media outlets, and decriminalization of libel.⁸

Notwithstanding the large number of media outlets registered in Uzbekistan, there is a general lack of genuine pluralism of information and opinion. Private media are not considered truly independent and face difficulties operating due to stringent accreditation requirements. International news bureaus such as BBC, Radio Free Europe/Radio Liberty, Deutsche Welle have been forced to cease operations in Uzbekistan following the authorities' refusal to accredit them. International human rights and media monitoring organizations have also confirmed that independent media remains tightly controlled.⁹ The state National Television and Radio Company (NTRC) remains the main provider of TV and radio broadcasts, thus constituting the most important source of information regarding the election campaign.

According to article 27 of the parliamentary elections law, candidates for parliament are to enjoy equal rights in accessing the media. The law does not distinguish between state and private media. In practice, candidates' access to equal airtime is mainly provided by NTRC. Its coverage of the election campaign is regulated by an agreement with the CEC. This agreement covers a) newscasts, b) free airtime for candidates, c) campaign advertisements, and d) election debates between candidates. Although the Ecological Movement is not intending to field candidates in these elections, the NTRC stated to the OSCE/ODIHR NAM that it may inform the electorate about the movement, on the basis of the CEC agreement.

H. COMPLAINTS AND APPEALS

All election commission decisions can be appealed to the next higher level or to a court. Though the choice of institution is at the discretion of the plaintiff, once a petition has been sent to a court, further appeals stay with the judiciary and cannot be sent back to an election commission. District courts are the first level of the judiciary, followed by regional courts, and the Supreme Court. Decisions of the CEC can also be appealed to the Supreme Court. Previous OSCE/ODIHR missions noted that time frames for adjudication are lacking and that application of existing legal provisions appeared arbitrary.

I. ELECTION OBSERVATION

According to article 6 of the parliamentary elections law, international observers, mass media and political parties nominating candidates have the right to be present at all events related to the preparation and conduct of elections. They are also to be admitted to polling

⁸ See the full version of the press release at http://www.osce.org/fom/item_1_31734.html.

⁹ A 2008 summary report of 25 stakeholders' submissions to the Universal Periodic Review of the UN Human Rights Council prepared by the Office of the UN High Commissioner for Human Rights indicates that the few journalists who continue to work in the country do so at great risk to themselves, forced to self-censor due to harassment, beatings, detention, and threats of imprisonment for their critical views of the government. According to the report, at least six independent journalists are currently serving lengthy prison sentences ranging from five to 15 years. Despite the passing of new legislation outlawing censorship and ensuring freedom of speech, in practice, censorship is the norm and freedom of speech is severely limited. Those few independent journalists who remain in the country face tight government control. For further details see http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/UZ/A_HRC_WG6_3_UZB_3_Uzbekistan_E.pdf.

stations on election day and during the vote count. Further, they enjoy the right to request and receive copies of election results, certified by the respective commission. In contravention of paragraph 8 of the OSCE 1990 Copenhagen Document, the election legislation does not foresee domestic non-partisan election observation. The OSCE/ODIHR NAM was not informed of any attempts by civil society organizations to observe the upcoming elections.

The OSCE/ODIHR NAM was informed by the Uzbek MFA that a total of 270 international election observers are expected for the elections, including delegations from the Commonwealth of Independent States, the Shanghai Co-operation Organization and the Organization of the Islamic Conference.

IV. CONCLUSIONS AND RECOMMENDATION

Given that fundamental freedoms continue to be limited, that the current political spectrum does not offer the electorate a genuine choice between competing political alternatives, that previous key OSCE/ODIHR recommendations remain unaddressed, and that no progress has been achieved in bringing the legal framework closer in line with OSCE commitments, the OSCE/ODIHR NAM does not consider the deployment of an election observation mission, even of a limited nature, meaningful.

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ANNEX: LIST OF MEETINGS

State and Election Authorities

Ministry of Foreign Affairs

Mr. Durbek Amanov, Head of Department for the UN and International Organizations
Mr. Bakhrom Babaev, Head of the OSCE Section

Central Election Commission

Mr. Kuchkar Tagaev, Deputy Chairperson
Mr. Janabay Sadikov, Member
Mr. Komiljon Adilov, Member
Mr. Javlan Abdullaev, Press Secretary

Political Parties

Social-Democratic Party “Adolat”

Mr. Ismail Saifnazarov, Deputy Chairperson

Liberal Democratic Party

Mr. Mukhammadyusuf Teshabaev, Chairperson of the Central Governing Body
Mr. Bakhtiyor Yakubov, Deputy Chairman
Mr. Ravshan Ohunov, Head of the Department responsible for the Development and Dissemination of the Party’s programme
Ms. Larisa Yun, Head of the International Relations Department

National Revival Party “Milliy Tiklanish”

Mr. Ahtam Tursunov, Chairperson

People’s Democratic Party of Uzbekistan

Ms. Sharbat Abdullaeva, Deputy Chairperson

National Ecological Movement

Mr. Oston Mavlyanov, Deputy Chairperson
Mr. Rakhimjon Khakimov, Head of the Law Department
Mr. Murodkhon Rakhmonov, Co-ordinator of International Relations Department

Media

State National Television and Radio Company

Mr. Asadjon Khodjaev, Chairperson

Civil Society

Mr. Sukrob Ismailov, Co-ordinator of the Rapid Response Group
Mr. Surat Ikramov, Head of the Initiative Group of Independent Human Rights Defenders

Representatives of Embassies of OSCE participating States in Uzbekistan