



INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Kazakhstan – Early Parliamentary Elections, 20 March 2016

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Astana, 21 March 2016 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE).

Marietta Tidei (Italy) was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and leader of the short-term observer mission. Geir Jørgen Bekkevold (Norway) headed the OSCE PA delegation. Jordi Xuclà (Spain) headed the PACE delegation. Ambassador Boris Frlec is the Head of the OSCE/ODIHR Election Observation Mission (EOM), deployed from 17 February.

The assessment was made to determine whether the elections complied with OSCE commitments and Council of Europe standards, other international obligations and standards for democratic elections and with national legislation. Each of the institutions involved in this International Election Observation Mission (IEOM) has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the election process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the election process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report at its Standing Committee meeting in Tbilisi in July 2016. The PACE delegation will present its report at the meeting of the Standing Committee on 26 May 2016.

PRELIMINARY CONCLUSIONS

The 20 March early parliamentary elections were efficiently organized, with some progress noted, but indicate that Kazakhstan still has a considerable way to go in meeting its OSCE commitments for democratic elections. The legal framework restricts fundamental civil and political rights, and comprehensive reform is required. In a positive development, candidate registration was inclusive and six parties contested the elections, but genuine political choice is still lacking. While the campaign was low-key, candidates were generally able to campaign freely. State-funded media made efforts to meet requirements for equal access, but analysis and political debate were largely absent, and the blurring of the distinction with the State benefited the ruling party. On election day, serious procedural errors and irregularities were noted during voting, counting and tabulation. It is hoped that the anticipated 2017 reform process will result in significant improvements. The authorities invited international observers in an open and unrestricted manner.

The laws regulating elections aim to provide for fundamental civil and political rights. Reform of the legal framework is, however, necessary for it to fully meet international obligations and standards to which Kazakhstan has committed. Restrictive provisions related to suffrage rights, freedoms of assembly and expression have not yet been addressed despite previous OSCE/ODIHR recommendations. Positively, the Central Election Commission (CEC) stated that it is preparing a

comprehensive proposal of amendments to the Election Law to be considered in 2017 with a view to addressing previous OSCE/ODIHR recommendations.

The CEC operated in a professional manner. Its sessions were open to and regularly attended by observers, media and political party representatives. However, lower-level election commissions held sessions on an ad-hoc basis without informing stakeholders, which limited the transparency of the process. The Election Law aims to ensure political party representation in election commissions but does not provide for an enforcement mechanism. One electoral contestant was largely under-represented in lower-level election commissions and questioned the impartiality of election administration.

Around 9.7 million voters were registered to vote, including 14,013 abroad. Interlocutors generally did not express concerns about the accuracy of the voter register. All citizens over 18 years of age have the right to vote, except those declared incompetent by a court or those serving prison sentences, irrespective of the gravity of the crime. This blanket provision poses a disproportionate restriction that is at odds with international obligations, OSCE commitments and good practice.

Candidate registration was inclusive and the CEC registered all 234 candidates nominated by six political parties by the legal deadline of 19 February. By law, independent candidates cannot stand for election and political parties are not allowed to form electoral blocs, contrary to the 1990 OSCE Copenhagen Document and other international obligations and standards.

Contestants were generally able to campaign freely throughout the country, despite restrictive legal provisions for holding public assemblies. Activities increased in the last two weeks, but the campaign remained low key overall. While the participation of six parties provided voters with some alternatives, most contestants did not directly challenge the ruling party, thus limiting voters' genuine political choice.

The dominant position of the ruling party at all levels of government and administration for many years now has effectively blurred the distinction between the State and party, which is at odds with international commitments.

The new requirement for the CEC to publish the total amount of funds received and spent by each party twice a month during the campaign is a positive development. However, the lack of information on donors and how campaign funds were spent limited the transparency of campaign finances.

The law does not provide for gender quota or other temporary special measures to enhance participation of women in the elections. Overall, 47 out of 234 candidates on party lists (20 per cent) were women. Women also comprised 34 and 46 per cent of Regional and Territorial Election Commission members, respectively, and 75 per cent of Precinct Election Commission members.

While the Constitution guarantees freedom of expression and prohibits censorship, the presence of numerous penalties in the law stifles public debate and suppresses alternative viewpoints. Despite prior recommendations, defamation remains a criminal offence. Positively, state-funded media showed a noticeable effort to meet formal requirements to provide contestants with equal access. However, the media provided little platform-oriented coverage of one of the parties. Extensive reporting on the President's activities dominated in most media outlets, and the ruling party used his position to its benefit. Generally, an in-depth and comprehensive analysis that would provide voters with a meaningful opportunity to learn about candidates and concrete policies was largely absent.

The law provides sufficient opportunity for voters and parties to bring complaints about the electoral process before the courts, higher-level commissions and prosecutors. However, the law limits the right to appeal the election results to certain senior officials which leaves the contestants without the opportunity to challenge the validity of the results and is not in line with international standards. The few complaints filed were promptly addressed by courts and prosecutors. Issues raised before the CEC were not considered to be of a complaint nature and were therefore not considered collegially and publicly.

National minority issues were not visibly raised in the campaign. Participation of national minorities in the election process is regulated in the Election Law only in so far as it covers the indirect elections of nine deputies to the *Majilis* by the Assembly of the People of Kazakhstan.

Election day was efficiently organized, but serious procedural errors and other irregularities were observed during voting, counting and tabulation. During voting, observers noted indications of ballot box stuffing, a very high number of names added to the voter lists on election day, as well as group and proxy voting. During counting, PECs largely failed to follow the reconciliation procedures that would ensure consistency and reliability of the process. Negative assessments of tabulation were often linked to procedural violations. Transparency was limited, as IEOM observers were often prevented from following the process.

PRELIMINARY FINDINGS

Background

On 13 January, deputies of the lower house of parliament (*Majilis*) voted unanimously to request President Nursultan Nazarbayev to dissolve the parliament.¹ One week later, the president set 20 March as the date for the early parliamentary elections to be held concurrently with elections to *Maslikhats* (local councils).² These elections were the third consecutive parliamentary elections to be held early. The authorities have proclaimed their commitment to conduct elections in line with national legislation and international standards.³

There are seven registered political parties in Kazakhstan, five of which took part in the early parliamentary elections in 2012 that resulted in the second successive victory for *Nur Otan* led by President Nazarbayev. Then, *Nur Otan* won 83 out of the 98 directly-elected seats, the Democratic Party of Kazakhstan *Ak Zhol* and the Communist People's Party of Kazakhstan (CPPK) won 8 and 7 seats respectively. The non-parliamentary parties are the People's Democratic Patriotic Party *Auyl*, *Birlik* Party, Nationwide Social-Democratic Party (NSDP) and the Democratic Party of Kazakhstan *Azat*. Six out of seven registered parties are contesting these elections.⁴

¹ On 18 January 2016 the *Majilis* Chairperson stated that "the main reason [for early parliamentary elections] was the need for the parties to receive a renewed vote of confidence from the electorate, social cohesion as well as synchronizing *Majilis* and *Maslikhats* actions for the implementation of reforms at all levels." See also [the statement by the deputies with an initiative to hold early elections](#).

² The OSCE/ODIHR observed elections to the *Maslikhats* only to the extent that they affected the conduct of the *Majilis* elections.

³ In February 2016, at the Winter Meeting of the OSCE Parliamentary Assembly, [the Senate Chairperson stated](#) that "the parliamentary elections will be open and in compliance with national legislation and international standards."

⁴ The Democratic Party of Kazakhstan *Azat* decided not to participate, stating it is unrealistic to hope that representatives of the social forces opposing the central authorities would get into the *Majilis*.

The party landscape has changed since the last parliamentary elections. In 2013, *Birlik* Party was registered, and *Auyl* and the Party of Patriots of Kazakhstan merged in 2015.⁵ Furthermore, on 3 August 2015, at the request of the Ministry of Justice, the Specialized Inter-district Economic Court of Almaty decided on the dissolution of the Communist Party of Kazakhstan (CPK) on the grounds that it no longer meets party registration requirements.⁶

Electoral System and Legal Framework

Kazakhstan has a bi-cameral parliament consisting of a 107-member lower house (*Majilis*) and a 47-member upper house (Senate).⁷ Ninety-eight *Majilis* deputies are elected in a nationwide constituency on the basis of proportional representation. The remaining nine members are elected by the Assembly of the People of Kazakhstan (APK), an advisory body formed by the President.⁸ This provision continues to be at odds with Paragraph 7.2 of the 1990 OSCE Copenhagen Document, which maintains that all seats in at least one chamber of the national legislature be directly elected. As the APK members can also cast votes in their capacity of regular voters, this arrangement is at odds with the principle of equality of the vote.⁹

Parties must obtain at least seven per cent of the total number of votes to participate in the allocation of seats which is among the highest thresholds in the OSCE region.¹⁰ If only one party passes the threshold, the party receiving the second highest number of votes will also be given at least two seats. Seats are allocated to candidates on the lists by the parties after the elections and the parties are not bound by any candidate list order. This limits the information available to voters with regard to the electoral contestants, contrary to good practice.¹¹

The parliamentary elections are primarily governed by the Constitution, the Constitutional Law on Elections (Election Law), the Law on Political Parties and Central Election Commission (CEC) regulations.¹² Despite Kazakhstan's commitment to uphold standards for democratic elections and

⁵ *Birlik* was formed on the basis of the merger of *Rukhaniyat* Party and Democratic Party *Adilet*.

⁶ The deficiencies identified were: the addresses of the party's actual headquarters and its 13 branches differ from those in the registration documents; number of party members fell below the required 40,000; number of party members per branch fell below the required 600 in a few branches; party did not maintain electronic lists of party members in all branches; non-compliance with tax laws and failure to submit tax declarations.

⁷ The representative bodies of each of the 14 regions of the country, as well as the cities of Astana and Almaty, elect two senators each. In addition, the president appoints 15 senators.

⁸ The APK is meant to represent the various ethnic groups of the country. It is currently made up of 446 representatives of ethnic and cultural associations whose primary role is to ensure inter-ethnic consent in the process of forming the Kazakhstani identity.

⁹ The principle of equal suffrage is provided for by article 21(3) of the Universal Declaration of Human Rights (UDHR) and Article 25 (b) of the International Covenant on Civil and Political Rights (ICCPR). Article 3a) of the 2002 Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States (CIS Convention), provides that, "each citizen has one vote or an equal number of votes to other citizens, and is entitled to exercise the right to vote in equality with other citizens." Article 51.1 of the Constitution stipulates that the parliamentary elections shall be held on the basis of equal suffrage.

¹⁰ Some OSCE/ODIHR EOM interlocutors expressed concern regarding the high threshold and its effect on pluralistic representation in parliament.

¹¹ Paragraph I.3.3.1.b.ii of the [2002 Council of Europe's European Commission for Democracy through Law \(Council of Europe Venice Commission\) Code of Good Practice in Electoral Matters](#) says that, "The public authorities have a number of positive obligations; inter alia, they must enable voters to know the lists and candidates standing for election, for example through appropriate posting."

¹² Other applicable laws include the Law on Peaceful Assemblies, the Law on Mass Media, the Law on Communications, and the Law on Broadcasting, as well as relevant provisions of the Criminal Code, the Administrative Offenses Code and the Civil and Civil Procedures Code.

participation in a number of major international and regional instruments,¹³ restrictive provisions, including those related to prisoners' voting rights, candidate eligibility and restrictions on freedoms of assembly and expression have not been lifted. Significant reform of the legal framework for elections is needed for it to meet OSCE commitments and other international obligations and standards for democratic elections.

There has been little effort to reform election legislation since the 2012 parliamentary elections and most OSCE/ODIHR recommendations are yet to be addressed. The few changes to the Election Law adopted in 2015 were made to align it with changes in legislation on the court system and as part of a legislative initiative for institutional reform.¹⁴ Positively, the CEC stated that it is preparing a comprehensive proposal of amendments to the Election Law to be considered in 2017 with a view to address previous OSCE/ODIHR recommendations.

Election Administration

These elections were administered by the CEC, 16 Regional Election Commissions (RECs), 208 Territorial Election Commissions (TECs) and 9,840 Precinct Election Commissions (PECs).¹⁵ Commissions at all levels have seven members appointed for a five-year term.

The CEC is a permanent body responsible for the implementation of election legislation and its uniform application. The CEC Chairperson and two members are appointed by the president, and the Senate and *Majilis* each appoint two members. The current CEC has six members, two of whom are women.

Technical preparations for the elections were administered efficiently and in compliance with legal deadlines. The CEC sessions were open to and regularly attended by observers, media and political party representatives. Since the announcement of the elections, the CEC adopted and posted on its website a number of decisions. However, lower-level election commissions held sessions on an ad-hoc basis without informing stakeholders, which limited the transparency of the process.¹⁶

All lower-level election commissions were formed by *Maslikhats* based on nominations from political parties contesting the elections and, in case of a shortfall, from public associations or higher-level election commissions.¹⁷ As per the CEC data, 34 per cent of REC members and 25 per cent of REC chairpersons, as well as 46 per cent of TEC members and 27 per cent of TEC chairpersons are women.

By law, each party is entitled to one seat on a given commission; *Maslikhats* are not, however, bound by nominations of political parties when forming election commissions. Moreover, the law does not ensure that party representation in commissions must be upheld during turnover of

¹³ Including the 1966 ICCPR, 1979 Convention for Elimination of All Forms of Discrimination against Women, 2003 Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities, and the 2002 CIS Convention. Since 2012, Kazakhstan is also a member of the Venice Commission.

¹⁴ See the Law On Amending Constitutional Laws To Improve Civil Procedure Legislation from 31 July 2015 and the Law On Amending the Constitutional Law On Elections in the Republic of Kazakhstan from 18 November 2015.

¹⁵ Including 65 out-of-country polling stations established in 51 diplomatic missions. RECs are formed at the *oblast* (region) administrative level: one in each of the 14 *oblasts*, and one in each of the cities of Astana and Almaty. TECs are formed at the level of *rayon* (district), city and city-district.

¹⁶ OSCE/ODIHR observers were not able to attend any lower-level election commission sessions. Some commission members informed the OSCE/ODIHR EOM that session discussions concerned only commissioners.

¹⁷ The political party nominees are not required to be members of the respective nominating parties.

commissioners. In some lower-level election commissions visited by the OSCE/ODIHR EOM, all members affiliated themselves with *Nur Otan*.¹⁸ In several other instances commissioners were unaware of the organization they represented.¹⁹ The *de facto* over-representation of *Nur Otan* is at odds with the aim of the Election Law to ensure political party representation and raises concerns regarding the impartiality and integrity of commissions provided for by international standards.²⁰

Some OSCE/ODIHR EOM interlocutors expressed their concern that the formation of election commissions lacked transparency.²¹ In some cases, even though the NSDP submitted nominations for membership of RECs and TECs, they informed the OSCE/ODIHR EOM that none of its nominees were elected by the respective *Maslikhats*.²² This resulted in NSDP being largely under-represented countrywide including in executive positions in RECs and TECs.²³ The OSCE/ODIHR EOM was informed of up to nine cases in which complaints were filed about the composition of lower-level election commissions. Regrettably, further information on the complaints could not be provided by the CEC or the General Prosecutor's office.²⁴

In over 20 per cent of election commissions visited by the OSCE/ODIHR EOM, the leadership of the commissions were also supervisors of commission members in their regular jobs.²⁵ This could affect the independence of election commissioners.

Trainings of lower-level election commissions were conducted by higher-level election commissions using printed and video materials produced by the CEC. The methodology used during the trainings varied and ranged from theatre-style lecturing to interactive tools. The CEC produced a range of informative voter education and awareness videos including on voter registration, voting procedures, as well as on participation of persons with disabilities, which were regularly aired on various TV channels in both Kazakh and Russian languages.

¹⁸ The OSCE/ODIHR EOM was informed that in some instances commissioners were members of *Nur Otan* while being nominated by other organizations. This was the case in Mamlyut TEC in North Kazakhstan, Karakiya TEC, Ridder and Semey city TECs in East Kazakhstan.

¹⁹ Astana city TEC, Astana city district TEC, Glubokoe and Oskemen TECs in East Kazakhstan, Ertis, Kashir and Pavlodar TECs in Pavlodar Oblast.

²⁰ Paragraph 20 of the 1996 UN Human Rights Council (UNHRC) General Comment 25 to the ICCPR requires that “[a]n independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.” Paragraph II.3.3.1.e of the 2002 Council of Europe Venice Commission’s Code of Good Practice in Electoral Matters recommends that “Political parties must be equally represented on electoral commissions or must be able to observe the work of the impartial body. Equality may be construed strictly or on a proportional basis.” Under Article 19.2(j) of the CIS Convention, the State parties undertook an obligation “to ensure creation of independent impartial election bodies, which organize the conduct of democratic, free, fair, genuine and periodic elections in accordance with laws and independent obligations of the state.”

²¹ Commission members could not accurately describe the procedure for the appointment of election commissions and some of them could not state what criteria were used by the *Maslikhats* when electing commissioners or replacing them.

²² Such cases were reported to the OSCE/ODIHR EOM in Aktobe, Almaty, Karaganda, Mangystau and Zhambyl. In several instances the *Maslikhats* claimed that NSDP did not submit sufficiently qualified candidates.

²³ According to data provided by the CEC, dated 19 February, 62 per cent of members represent different parties, while the remaining 38 per cent were nominated either by public associations or higher-level election commissions. The parties have the following representation: *Nur Otan* (214 members), CPPK (193 members), *Ak Zhol* (193 members), *Birlik* (191 members), *Auyl* (189 members), NSDP (26 members).

²⁴ The CEC and Prosecutor's offices registered complaints on the composition of election commissions as matters related to the *Maslikhats* elections, and therefore they were not shared with the OSCE/ODIHR EOM.

²⁵ Such cases were observed at REC, TEC and PEC levels in Almaty city, Aktobe, Akmola, Atyrau, East Kazakhstan, Kostanai and Kyzylorda Oblasts. In these cases election commissioners held administrative positions either in local executive or representative bodies.

Voter Registration

All citizens over 18 years of age have the right to vote, except those declared incompetent by a court or those serving prison sentences, irrespective of the gravity of the crime. This blanket provision poses a disproportionate restriction that is at odds with international standards, OSCE commitments and good practice.²⁶

The nationwide electronic voter register is maintained by the CEC. The total number of voters as of 1 January 2016 was 9,791,165 of whom 14,013 were registered abroad. Voter lists were compiled based on voters' place of residence and printed by the *Akimats* (local administration). Voters who wished to vote in a location different from their place of permanent residence could do so by requesting a temporary change of registration 30 days prior to election day. Most OSCE/ODIHR EOM interlocutors did not express concerns regarding the accuracy of voter lists.

As of 4 March, voters could review the voter lists and request corrections of discrepancies in their records.²⁷ Voters could also check their registration details and the location of their polling stations on the internet. In addition, as of two weeks before election day, voters could apply for an Absentee Voting Certificate (AVC), which allows them to vote in any polling station outside the city, town or village where they are registered. Voters could register on election day based on a certificate of residence issued by the Citizen Service Centre.²⁸

Candidate Registration

Registered voters who are at least 25 years old and have permanently resided in Kazakhstan for the last ten years can stand for election, except those with an unexpunged criminal record and those found guilty of a corruption offence. The formation of electoral blocs and self-nominated independent candidacies are not permitted.²⁹ These restrictions on candidacy rights are contrary to paragraph 7.5 of the 1990 OSCE Copenhagen Document, other international standards and good practice.³⁰

Candidate registration, notwithstanding restrictions within the current legal framework, was inclusive. The CEC registered all 234 candidates nominated by six political parties through nationwide party lists by the legal deadline of 19 February. Candidate registration documents had to be accompanied by a monetary deposit of 15 times the minimum salary (a total of some EUR 850)

²⁶ Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will “guarantee universal and equal suffrage to adult citizens,” while Paragraph 24 provides that restrictions on rights and freedoms must be “strictly proportionate to the aim of the law.” Paragraph I.1.1.1.d.iii of the 2002 Council of Europe Venice Commission’s Code of Good Practice in Electoral Matters states that the deprivation of the right to vote must be subject to the proportionality principle. See also [Paragraph 14 of General Comment No. 25 to the ICCPR](#).

²⁷ Voter lists established in special polling stations in rest-homes, various medical centres, hard-to-reach places, distant pastures, detention centres, representative offices of the Republic of Kazakhstan abroad, and on ships sailing on election day as well as in military units are posted five days before election day.

²⁸ The Citizen Service Center falls under the Ministry of Investment and Development. There is one such center in each administrative level.

²⁹ The CEC received two requests from citizens wishing to be registered as independent candidates.

³⁰ Paragraph 7.5 of the 1990 OSCE Copenhagen Document provides that participating States will respect the right of citizens to seek political or public office without discrimination. Paragraph I.1.1.1.d.iii. of the Council of Europe Venice Commission’s Code of Good Practice in Electoral Matters states that the proportionality principle must be observed when depriving an individual of the right to be elected. See also paragraph 15 of General Comment No.25 to the ICCPR which states that “any restrictions on the right to stand for election...must be justifiable on objective and reasonable criteria”. Article 3.4 of the 2002 CIS Convention states that “every citizen should have equal legal possibilities to propose him/herself as a candidate in elections.”

for each candidate in the party list.³¹ The NSDP informed the OSCE/ODIHR EOM that they did not nominate more candidates as they could not afford the required deposit per candidate. Of the 234 registered candidates 47 (20 per cent) are women. The Election Law does not contain gender quota or other temporary special measures to enhance participation of women in the elections.³²

Following the lottery held by the CEC on 16 February, the order of the parties on the ballot was determined as follows: *Nur Otan* (127 candidates – 30 women), CPPK (22 candidates – 4 women), *Ak Zhol* (35 candidates – 6 women), *Birlik* (8 candidates – 1 woman), NSDP (23 candidates – 4 women), *Auyl* (19 candidates – 2 women).

Campaign

The official campaign commenced on 20 February, the day after the close of candidate registration, and concluded on 18 March at midnight. Although campaign activities intensified somewhat in the last two weeks prior to elections, overall the campaign was low key. Many OSCE/ODIHR EOM interlocutors noted that the campaign for local elections was more dynamic. While the participation of six parties appeared to provide political variety and choice, the parties' campaign platforms and rhetoric were complementary to and aligned with the president's long-term strategies and refrained from proposing political alternatives.³³ Most parties' campaigns revolved around themes of social stability, policies to address the economic crisis as well as preservation of national values.³⁴ The NSDP was unique in questioning the policies of the ruling party and expressed concerns about the integrity of the electoral process.

Contestants were generally able to campaign freely, within the existing legal framework that continues to contain restrictive provisions, such as the obligation to ask for permission to hold an event rather than provide a notification, contrary to international standards and good practice, and despite previous OSCE/ODIHR recommendations.³⁵ The OSCE/ODIHR observed 23 campaign events. During the campaign period the OSCE/ODIHR EOM learned of four requests to hold outdoor campaign events being rejected by local authorities in Astana.³⁶

In paragraph 5.4 of the 1990 OSCE Copenhagen Document, participating States committed to ensuring a "clear separation between the State and political parties." The dominant position of the ruling party at all levels of government and administration for many years now has effectively

³¹ Parties that reached the 7 per cent threshold in previous elections are exempt from the electoral deposit while parties that received 3 to 5 and 5 to 7 per cent of votes, are entitled to 30 and 50 per cent reduction of the deposit respectively. Electoral deposits are refunded to political parties that pass the 7 per cent threshold.

³² There are 28 (26.2 per cent) women deputies in the outgoing *Majilis* and 3 (6.4 per cent) women in the Senate.

³³ [100 Concrete Steps to Implement Five Institutional Reforms](#) and [Nurly Zhol \(Bright Path\)](#).

³⁴ Some parties raised issues related to people with disabilities and called for ensuring equal rights for them.

³⁵ The Law on Peaceful Assemblies requires organizers to submit a request to hold a public event, including information about the nature and organizers of the event, to the relevant local authorities 10 days in advance. Paragraph 9.2 of the 1990 OSCE Copenhagen Document stipulates that "everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards." Paragraph 12 of the UNHRC General Comment No. 25 states: "Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected." See also [statement by the UN Special Rapporteur from 27 January 2015 on the right to freedom of peaceful assembly in Kazakhstan](#).

³⁶ The Astana local authorities rejected the requests of *Birlik*, NSDP, CPPK and *Auyl* to hold outdoor campaign events in the city of Astana. The local authorities referred to the provision in the law on peaceful gatherings, that public gatherings cannot obstruct traffic or block pedestrian walkways. In two cases, *Birlik* and CPPK, the local authorities also found that the applications did not provide sufficient information about the events.

blurred this distinction. The ruling party benefited from the dual role and position of its chairperson.³⁷

Campaign tools used by most contestants included door-to-door canvassing and leafleting, small mobile street gatherings, indoor meetings and the use of party-reception centers where citizens were provided with advice on how to resolve their daily problems and informed of the party activities. All parties had access to the places designated for posting materials. Most parties organized meetings with voters in state-run and private enterprises, in educational institutions, libraries and cultural centers. Billboards, posters, and leaflets for *Ak Zhol*, *Auyl*, *Birlik*, CPPK and the NSDP were evident throughout the country to a much lesser extent. Social media were used by all parties and, due to financial constraints, were the prevailing tool employed by the NSDP to reach out to the voters.

Campaign Finance

Political parties can use their own funds and can receive private contributions to fund campaign activities.³⁸ Only parliamentary parties are entitled to public funding for their regular activities, while there is no public funding of the campaign. The total amount that can be spent on a party's campaign is KZT 342,885,000 (approximately EUR 888,000). Political parties are obliged to open a dedicated bank account to manage campaign contributions and expenditures, and the bank reports to the CEC on a weekly basis on account activities.

The CEC is responsible for overseeing and ensuring the transparency of campaign finances. Following amendments in August 2015 to a CEC resolution, the CEC published a summary of the total amounts received and spent per party twice during the campaign period. The lack of information on donors and the use of campaign funds limited voters' ability to make an informed choice.³⁹ Following the elections, political parties are required to submit campaign finance reports on the basis of which the CEC is obliged to publish an overview. The Election Law stipulates that the overview includes the total amount received by each party and the sources of those funds but does not require the CEC to publish information on campaign donors or the use of funds thereby limiting the transparency of campaign finances.

Media

The media environment in Kazakhstan has over recent years been characterized by a lack of independent sources and a restrictive legislative framework that have profoundly challenged freedom of expression. The OSCE Representative for Freedom of the Media (RFoM) has on several occasions expressed concerns about media developments in the country, including closures of media outlets, disproportionate and excessive penalties for administrative violations, as well as

³⁷ The President, acting in his official capacity, on several occasions publicly endorsed *Nur Otan* and its achievements and called upon voters to vote for the party. On 4 March during a meeting with women on the occasion of Women's Day in Astana; on 9 March during the Republican Forum of the APK in Uralsk, on 10 March during a Republican Youth Forum in Aktobe, on 17 March, during the Republican Forum of Workers' Collectives in Pavlodar. On 1 March, the occasion of the newly-introduced "Day of Gratitude" was jointly celebrated with the 17th anniversary of *Nur Otan* in Astana. A number of *Nur Otan* party offices are located in the same buildings as state and local government institutions.

³⁸ Citizens and Kazakhstani organizations can contribute to a political party's campaign fund except: state bodies or organizations, local self-government bodies, charitable organizations, religious associations, and Kazakhstani legal entities with foreign stock in their charter capital. Anonymous donations are also forbidden.

³⁹ See the [first](#) and second [overview](#) published by the CEC that provide only the total amounts of funds collected per party. Article 12.5 of the 2002 CIS Convention states that political parties shall submit information on their donors and the use of campaign funds and the electoral bodies shall publish this information.

prosecutions of journalists and independent voices, all of which have further limited pluralism of opinion.⁴⁰

The state exercises its influence over media through a widespread system of public tenders. Thus, despite a large number of outlets, the media do not offer diverse viewpoints, in particular in the realm of television that serves as the main source of information, especially in rural areas. Access to the Internet, including to social networks that offer alternative political opinions, is growing, mainly amongst the younger and urban population. However, numerous sanctions contained in the legal framework, including blocking of access to websites, can lead to self-censorship and endanger political discourse in the online domain.⁴¹

While the Constitution guarantees freedom of expression and prohibits censorship, the legal framework for media contains a number of restrictive provisions. The presence of numerous sanctions in the law stifles public debate and suppresses alternative viewpoints. Contrary to the OSCE/ODIHR recommendations and calls from the OSCE RFoM, the Criminal Code retains defamation and insult. The Code also contains a provision on incitement of social, national and religious discord and on spreading false information, with a penalty of up to 20 and 10 years of imprisonment, respectively. These restrictions, combined with frequently used provisions on defamation under the Civil Code that can carry substantial fines, result in a legal framework that induces self-censorship.⁴²

The Election Law obliges media to present objective campaign coverage and guarantees political parties equal access. The CEC was responsible for overseeing media compliance and performed this task in co-operation with the Committee on Communication, Informatization and Information under the Ministry of Investment and Development (Media Committee).⁴³

The campaign was visible in the nationwide media.⁴⁴ Under the CEC's narrow interpretation of the law, any airtime given to a contesting party outside the news format is considered to be campaigning and should be paid for from the party's campaign fund. Thus, while paid political advertisement was used by the contestants, journalistic coverage of the campaign was limited to newscasts and articles. An in-depth, comprehensive analysis that would provide voters with a meaningful opportunity to learn about parties and concrete policy proposals was largely absent. The law provides for debates to be organized by the CEC among political parties which nominated candidates. The CEC organized one pre-recorded televised debate, aired by *Khabar TV* on 16

⁴⁰ See OSCE Representative on Freedom of the Media Regular Report to the OSCE Permanent Council from [10 March 2016](#); and statements from [26 January 2016](#), [26 December 2015](#), [27 October 2015](#) and [25 September 2015](#). On 22 February, the owner of private news agency KazTAG and the Board Chairman of the Union of Journalists of Kazakhstan was detained based on accusations of tax-fraud and embezzlement of state funds. More than 400 journalists supported the statement of *Adil Soz*, an Almaty-based foundation for freedom of speech, requesting the General Prosecutor to ensure a transparent investigation.

⁴¹ In recent months, several trials took place and bloggers and journalists were convicted on charges of 'incitement of interethnic discord' or propagating 'separatism' online and in social media.

⁴² In 2015, as a potentially preventive measure, the Tax Code was amended to oblige a complainant to pay a submission fee based on the amount to be claimed as compensation in civil defamation cases.

⁴³ The Media Committee analysed quantitative coverage (but not the tone) in over 450 media outlets.

⁴⁴ On 20 February, the OSCE/ODIHR EOM commenced qualitative and quantitative monitoring of seven TV channels: *Kazakhstan TV*, *Khabar TV*, *KZ24* (state-funded broadcasters), *First Eurasian Channel* (state-funded joint-venture company), *Astana TV*, *Channel 31* and *KTK* (private channels); one radio station, *Kazakh Radio* (state-funded); and six newspapers: *Egemen Kazakhstanana*, *Kazakhstanskaya Pravda* (state-funded), *Karavan*, *Liter*, *Vremya* and *Zhas Alash* (private newspapers). OSCE/ODIHR EOM also observes election-related coverage in the online media, such as www.informburo.kz, www.nur.kz, www.tengrinews.kz, www.zakon.kz, www.365info.kz.

March, with the participation of all contesting parties. The formalistic format of the debate did not offer an opportunity for interactive exchange of views.

During the campaign period, media covered all contending parties, with a noticeable effort of state-funded outlets to meet formal requirements to provide equal access. Yet, extensive reporting on the President's activities, including regular work and ceremonial occasions, dominated most of the media. The state-funded broadcasters dedicated to the president between 27 and 43 per cent of their political prime time news.⁴⁵ As for the contestants, the media gave them between 0 and 10 per cent.⁴⁶ Both state-funded newspapers adopted similar approach.⁴⁷ The coverage of most of the parties was positive and neutral, with *Nur Otan* presented in an overwhelmingly positive manner, often directly linked with achievements of the President's strategies. In comparison to the coverage of other contestants, state-funded channels rarely gave the NSDP leader an opportunity to speak, often depicted speakers from a distance and generally focused on technical aspects of the party's campaign, such as itineraries of meetings and the number of leaflets distributed, rather than on its platform.⁴⁸

On 4 March, the NSDP complained to the CEC about the manner in which three state-funded broadcasters covered its campaign events. The party claimed that the channels intended to downplay the NSDP and its candidates. In a verbal response on 5 March the CEC clarified that the coverage of the channels complies with the legal requirements. OSCE/ODIHR EOM monitoring findings nevertheless indicate that the coverage on state-funded channels improved as of 10 March for a few days. OSCE/ODIHR EOM also learned about the media plan that was prepared by the Media Committee and is distributed to major media on regular basis to inform them of important political events.⁴⁹ This practice raises doubts about the independence of editorial policy of state-funded media.

National Minorities

On 26 February, a formal board meeting of the APK nominated a list of nine candidates, including a representative from the Kazakh majority and eight from national minorities, among whom two females. An extraordinary session of the APK will elect nine members to the *Majilis* on 21 March.

Most party programmes supported inter-ethnic harmony. *Nur Otan*, *Ak Zhol* and *Birlik* also underlined equality for ethnic groups and CPPK opposed ethnic discrimination and called for

⁴⁵ *First Eurasian Channel* dedicated 43 per cent of its news coverage to the president in his institutional capacity, *KZ24* – 35 per cent, *Kazakh Radio* – 33 per cent, *Khabar TV* – 33 per cent, and *Kazakhstan TV* – 27 per cent. All of this coverage was in positive or neutral tone.

⁴⁶ *Khabar TV* dedicated 10 per cent of its news coverage to *Nur Otan*, 9 per cent to each *Ak Zhol*, *Ayul* and CPPK, and 8 per cent to each *Birlik* and NSDP. Other state-funded broadcasters split their news coverage in the following way: *Kazakhstan TV* – *Ayul* and CPPK 9 per cent each, *Ak Zhol*, *Birlik* and NSDP 8 per cent each, *Nur Otan* 7 per cent; Channel *KZ24* – *Ak Zhol*, *Ayul*, *Birlik*, CPPK and NSDP 7 per cent each, and *Nur Otan* 6 per cent; *Kazakh Radio* – 4 per cent to each contestant; *First Eurasian Channel* – *Nur Otan* 3 per cent, other contestants received less than 0.5 per cent each.

⁴⁷ *Egemen Kazakhstana* dedicated 26 per cent of its political news coverage to the president, 11 per cent to *Nur Otan*, 6 per cent to each *Ayul* and *Birlik*, and 5 per cent to each *Ak Zhol*, CPPK and NSDP. *Kazakhstanskaya Pravda* dedicated 18 per cent of its political news coverage to the president, 9 per cent to *Nur Otan*, 8 per cent to each *Ak Zhol*, *Ayul* and CPPK, 7 per cent to *Birlik*, and 6 per cent to NSDP.

⁴⁸ In addition, on 9 March the NSDP requested *Khabar TV* to broadcast its paid spot. However, the channel asked to edit the language of the spot and aired it from 15 March, during the prime time. The spot was aired six days after the initial request, even though the media's internal regulation provides for a four day advance notice.

⁴⁹ The OSCE/ODIHR EOM was informed by some media outlets that the media plan serves as a guideline and framework for the coverage of political events.

inclusive citizenship, NSDP and *Auyl* pledged to revive the Kazakh language, national identity, traditions and culture. The campaign featured a public declaration by President Nazarbayev in support of the official use of the Russian language.

Data on ethnic origin is not required by law for the registration of candidates to the *Majilis*, except for the nine nominees from the APK. However, the CEC has issued press releases stating how many ethnic groups are represented in some party lists. Regarding the determination and publication of election results, the Election Law indicates that ethnic origin should only be published at the discretion of the candidates. There are also no legal requirements regarding the disaggregation of data on ethnic origin for election administration members. However, the CEC has collected such data for RECs and TECs.⁵⁰

Complaints and Appeals

The Election Law provides the opportunity for complaints about the decisions, actions or inactions of the election commission or local authorities, as well as violations of the law. The law, however, limits the right to appeal the election results to certain senior officials, leaving the contestants without the opportunity to challenge the validity of the results, contrary to international standards and good practice.⁵¹

Complaints may be filed by all electoral participants with election commissions, courts or prosecutor's offices within ten days of the decision, action or inaction. Recent amendments to the election law addressed previous ambiguities and clarified that the Supreme Court has jurisdiction over all appeals of CEC decisions.⁵² Commissions, courts and prosecutor's offices promptly reviewed all matters and met the five day deadline for consideration of complaints in all cases. However, a few matters were classified as requests by the CEC despite being of a complaint nature and therefore were not considered in a collegiate and public style. In the pre-election period, the CEC received 30 official letters regarding the *Majilis* elections, none of which were assessed by the CEC to be of a complaint nature, one case was filed with the Supreme Court and the prosecutor's office received three allegations of election violations related to the *Majilis* elections. Despite requests the CEC did not provide the OSCE/ODIHR EOM with information on the number or nature of complaints received on election day.

Citizen and International Observers

The Election Law provides for citizen and international observation of elections. Citizen observers may be nominated by public associations and non-profit organizations.⁵³ Political parties are entitled to have observers and proxies who enjoy similar rights, while the proxies can also request recounts. International observers are accredited by the CEC. The authorities extended open and

⁵⁰ According to this data, 80.5 per cent of members of all RECs and TECs are ethnic Kazakh, 14.5 per cent ethnic Russian, 2.5 per cent Ukrainian and 2.5 per cent are from other groups.

⁵¹ The right to appeal final results is granted to the president, one fifth of the members of parliament, speakers of both houses of parliament, and the prime minister. The UDHR states that "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law," (Article 8). See also Paragraph II.3.3.3.f of the 2002 Venice Commission's Code of Good Practice in Electoral Matters which says that "All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections."

⁵² Supreme Court judges are nominated by the President and confirmed by the Senate.

⁵³ In December 2015, Kazakhstan adopted amendments to a number of laws regulating the activities of non-governmental organizations.

unrestricted invitations to and welcomed a number of international observer groups. As of 14 March, the CEC accredited 817 observers from the OSCE/ODIHR, the OSCE PA, PACE, the CIS, the Shanghai Cooperation Organization, the Parliamentary Assembly of Turkic-Speaking Countries, the Organization of Islamic Cooperation and several foreign countries. The OSCE/ODIHR EOM has learned of a number of civil society organizations that observed the parliamentary elections both nationwide and regionally.

Election Day

The election day was efficiently organized, but serious procedural errors and serious irregularities were observed during voting, counting and tabulation. International observers were often prevented from following the process. The CEC reported voter turnout at 77.1 per cent.

Most polling stations opened on time, they were well-equipped with all the necessary materials present and the process was overall assessed positively except in eight observations. One third of PECs, however, did not count and announce the number of ballots received.

The voting process was assessed negatively in 8 per cent of observations, which indicates significant violations in the process. Observers noted indications of ballot box stuffing in 19 cases, series of seemingly identical signatures on the voter lists (16 per cent of observations), group voting (6 per cent), proxy voting (4 per cent), and improperly sealed ballot boxes (4 per cent). Many observer teams were not allowed to fully scrutinize the voter lists. In a number of cases where they were allowed, observers noted a relatively low number of signatures on the lists as compared to the turnout figures provided by the PECs and the number of voters who cast their ballots during observation. This raises significant concerns with regard to the turnout reported on the basis of the number of registered voters.

Counting was assessed much more negatively than voting with nearly half of observers (46 per cent) noting serious violations. Following the opening of the ballot boxes, IEOM observers noted eleven cases of ballot box stuffing. Observers linked significant procedural errors or omissions that were observed in a majority of counts to either poor understanding of the procedures by the PECs (in about a third of observations) or deliberate falsification (one in ten of the counts observed).

During counting, PECs largely failed to follow the reconciliation procedures that would ensure consistency and reliability of the counting. In about half of observed counts, the numbers of voters in the voter lists, signatures on the voter list, absentee voters were not announced. In a vast majority of observations, PECs did not use the control equations to cross-check the figures and had difficulties filling in the protocols. Very often the PECs did not announce the figures in the protocols, and in about one third of observations a copy of the protocol was not posted in the premises, as required by law. Transparency was further negatively affected by observers being unable to see voters' marks on the ballots in almost half of the observations. Overall, an honest count, required by paragraph 7.4 of the 1990 OSCE Copenhagen Document, was not safeguarded.

The tabulation process was assessed negatively in about a quarter of observations, which was linked to procedural violations and lacking transparency. IEOM observers reported that in one third of observations, PEC protocols were changed without a formal decision of the TEC and figures did not reconcile correctly in protocols in one fifth of the TECs observed. PECs often completed the results protocols at the TECs, contrary to the law. IEOM observers reported that in one quarter of observations they did not have a clear view of tabulation procedures or the procedures were conducted in separate rooms, which precluded meaningful observation. Party

observers, most of them from Nur Otan, were present in most polling stations and TECs, and citizen observers were also present in about half of polling stations and TECs.

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

MISSION INFORMATION & ACKNOWLEDGEMENTS

Astana, 21 March 2016 – The OSCE/ODIHR EOM opened in Astana on 17 February. It includes 15 experts in the capital and 28 long-term observers deployed throughout the country.

On election day 359 observers from 41 countries were deployed, including 282 long-term and short-term observers deployed by the OSCE/ODIHR, as well as a 64-member delegation from the OSCE PA and a 13-member delegation from the PACE. Opening was observed in 145 polling stations and voting was observed in 1467 polling station across the country. Counting was observed in 145 polling stations. The tabulation was observed in 102 RECs.

The observers wish to thank the authorities for their invitation to observe the election and the Central Election Commission and the Ministry of Foreign Affairs for their assistance. They also express their appreciation to other state institutions, political parties and civil society organizations and the international community representatives for their co-operation.

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