



Office for Democratic Institutions and Human Rights

# REPUBLIC OF KAZAKHSTAN

EARLY PRESIDENTIAL ELECTION

26 April 2015

OSCE/ODIHR Election Observation Mission  
Final Report



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**REPUBLIC OF KAZAKHSTAN**  
**EARLY PRESIDENTIAL ELECTION**  
**26 April 2015**

**OSCE/ODIHR Election Observation Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Ministry of Foreign Affairs of the Republic of Kazakhstan, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an election observation mission (EOM) for the 26 April 2015 early presidential election. The OSCE/ODIHR EOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections, as well as national legislation. On election day, 291 observers from 36 countries were deployed throughout the country to observe opening, voting, counting and the tabulation of results.

The Statement of Preliminary Findings and Conclusions issued on 27 April 2015 concluded that: “Preparations for the 26 April election were efficiently administered, however, necessary reforms for holding genuine democratic elections still have to materialize. The predominant position of the incumbent and the lack of genuine opposition limited voter choice. A restricted media environment stifled public debate and freedom of expression. Election day generally proceeded in an orderly manner, but serious procedural deficiencies and irregularities were noted throughout the voting, counting and tabulation processes”.

This was the second consecutive presidential election to be held early. A 2010 amendment exempts the incumbent from the constitutional limit of two consecutive terms. The incumbent and his political party dominate politics and there is lack of credible opposition in the country, with several prominent critics of the government either imprisoned or living in exile. The current consolidation of political power threatens the development of political pluralism, as committed to in the 1990 OSCE Copenhagen Document.

The legal framework provides a technical basis for the conduct of elections, but undue restrictions on fundamental freedoms of assembly, association and expression, contradict key OSCE commitments for democratic elections. Despite recent amendments, previous OSCE/ODIHR recommendations remain unaddressed in the Election Law, including key provisions related to the composition of election commissions, candidate registration, and the complaints and appeals process. Further reform is needed to bring legislation in line with OSCE commitments and other international obligations and standards for democratic elections.

Overall, the election was efficiently administered prior to election day; all electoral deadlines were met and commissions at all levels were open to observers and media. The Election Law does not provide a mechanism for ensuring equitable political party representation in election commissions. In many mid- and lower-level commissions visited by the OSCE/ODIHR EOM, members and almost all chairpersons were affiliated with *Nur Otan*, raising questions about their impartiality. The Central Election Commission (CEC) did not issue detailed regulations or guidelines for the verification of candidate support signatures and the tabulation process; this affected the consistent application of the law.

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<sup>1</sup> The English version of this report is the only official document. Unofficial translations are available in Kazakh and Russian.

There were over 9.5 million voters registered for the election. Voter registration is passive and most OSCE/ODIHR EOM interlocutors did not express concerns about the accuracy of voter lists. However, there are no uniform means of collecting data for voter lists and procedures for cross-checking lists did not sufficiently guard against multiple entries. The blanket denial of voting rights of those serving prison sentences or declared incompetent lacks proportionality, at odds with OSCE commitments and other international standards.

Out of 27 nominees, 3 candidates were registered. The application of a language test for candidates had a negative impact upon the inclusiveness of the candidate registration process. Of 27 nominees, 15 did not take the mandatory language test or failed to pass it. There were no clear criteria for evaluating the language test, leaving assessments to the discretion of the CEC appointed Linguistic Commission. Additional restrictions on the right to be elected, including residency requirements and the exclusion of all persons with a criminal record irrespective of the gravity of the crime, are contrary to OSCE commitments and other international standards for democratic elections.

There were no women candidates for president, although there were two nominees. Two of the six CEC members were women. Women represented more than half of the members and chaired more than a third of the commissions visited by the OSCE/ODIHR EOM.

The campaign was largely indiscernible, lacked competitiveness and appeared to generate negligible public interest. Despite the incumbent's announced intention not to campaign personally, he actively toured the country in his official capacity. Voters were not offered a genuine choice between political alternatives. The two opponents to the incumbent openly praised the President's achievements. The involvement of government officials in the campaign and the location of *Nur Otan* offices in government buildings blurred the line between state and party. Credible reports of pressure being put on voters to attend rallies and vote in high numbers for the incumbent, raised concerns about voters' ability to cast their vote "free of fear of retribution," as required by the 1990 OSCE Copenhagen Document.

Campaign finance transparency is limited by a lack of requirements for public disclosure and pre-election reporting. The Election Law tasks the CEC with the oversight of campaign finance but insufficiently regulates criteria for sanctions. Self-nominated candidates have access to and can therefore spend less money than candidates nominated by political parties or other public associations.

A restrictive legal framework for media and recent sanctions, including closure and blocking of websites, decreased the diversity of viewpoints and stifled public debate. Despite prior OSCE/ODIHR recommendations, defamation remains a criminal offence. The lack of comprehensive campaign coverage in the media considerably limited the opportunity for voters to make a well-informed choice. In media monitored by the OSCE/ODIHR EOM, candidates were given even coverage but the incumbent was also extensively covered in his official capacity, thus contributing to an uneven playing field.

Complaints and appeals procedures are insufficiently regulated, lack clarity, and allow for overlapping jurisdiction. While the law provides all electoral participants with rights of redress and appeal, the possibility to challenge election results is limited to the president and the parliament. In these elections, six complaints were filed with the courts, all of which were dismissed as ungrounded, and none to the CEC.

In accordance with OSCE commitments, the Election Law provides for international and citizen observers, as well as authorized representatives of registered candidates. Several civil society groups informed the OSCE/ODIHR EOM that they did not observe these elections due to a lack of financial resources and a perceived lack of electoral competition.

Election day generally proceeded in an orderly manner, but serious procedural deficiencies and irregularities were observed throughout the voting, counting and tabulation processes, including indications of ballot box stuffing. Transparency of the process was limited, with numerous PECs and DECAs not providing the OSCE/ODIHR EOM with the possibility of meaningful observation or obliging them to remain in designated areas. The CEC did not publish election results broken down by district or polling station, further diminishing the overall transparency of the process.

This report offers a number of recommendations to support efforts to bring elections in line with OSCE commitments and other international obligations and standards for democratic elections. The OSCE/ODIHR stands ready to assist the authorities and civil society to improve the electoral process and to address the recommendations contained in this and previous reports.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Ministry of Foreign Affairs (MFA) of the Republic of Kazakhstan and based on the recommendation of a Needs Assessment Mission conducted from 3 to 6 March 2015, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 26 March for the 26 April early presidential election. The EOM was headed by Cornelia Jonker and consisted of 12 experts based in Astana and 30 long-term observers deployed throughout the country. Mission members were drawn from 24 OSCE participating States.

On election day, 291 observers from 36 countries were deployed. Opening was observed in 106 polling stations and voting was observed in 1,071 polling stations across the country. Counting was observed in 94 polling stations and the tabulation in 71 District Election Commissions.

The OSCE/ODIHR EOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections, and with national legislation. This final report follows a Statement of Preliminary Findings and Conclusions, which was released at a press conference in Astana on 27 April.<sup>2</sup>

The OSCE/ODIHR EOM wishes to thank the authorities of Kazakhstan for the invitation to observe the election and the Central Election Commission, the MFA and other authorities for their assistance and co-operation. It also expresses its appreciation to the representatives of political parties, media, civil society, the international community and other interlocutors for sharing their views. The OSCE/ODIHR EOM also wishes to express its gratitude to the OSCE Programme Office in Astana for its co-operation and support.

## III. BACKGROUND AND POLITICAL CONTEXT

In November 2014, President Nursultan Nazarbayev, the country's president since 1991, introduced an economic stimulus programme called *Nurly Zhol* (Bright Path) that builds on "Kazakhstan-2050", a strategy aimed at creating conditions for Kazakhstan to join the 30 most developed countries in the world by 2050. On 11 February 2015, the President declared that the country faces economic difficulties and requires significant reform.

On 14 February, the Assembly of the People of Kazakhstan (APK), an advisory body appointed and chaired by President Nazarbayev, put forward an initiative to conduct an early presidential election

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<sup>2</sup> All previous OSCE/ODIHR reports on Kazakhstan are available at: [www.osce.org/odihr/elections/kazakhstan](http://www.osce.org/odihr/elections/kazakhstan).

citing the necessity to avoid holding both presidential and parliamentary elections at the same time in 2016. Other authorities and members of parliament also stated the need to give the president a new mandate to implement economic stimulus programmes to counter an adverse external economic climate. On 24 February 2015, the Constitutional Council confirmed the exclusive right of the president to unilaterally call early elections and, on 25 February, the President set the date for the early presidential election to take place on 26 April. This was the second consecutive presidential election to be held early. The authorities expressed their commitment to conduct elections in line with national legislation and international standards.

President Nazarbayev's *Nur Otan* party holds 83 out of the 98 directly-elected seats in the *Majilis* (lower chamber of the parliament), while *Ak Zhol* and the Communist People's Party of Kazakhstan (CPPK) hold eight and seven seats respectively. Despite having three parties in the parliament and six other registered political parties, the President and *Nur Otan* dominate national politics. Six parties, including all parliamentary parties, endorsed the incumbent's candidature for this election.<sup>3</sup> No new party has been registered since 2007, while in 2013 the *Rukhaniyat* party was officially merged with the *Birlik* party. In 2012, the leader of the unregistered opposition *Alga* party was sentenced to seven-and-a-half years in prison on criminal charges of "inciting social discord", and the activities of the party were banned. On 25 December 2014, the Almaty Economic Court ordered the suspension of the Communist Party of Kazakhstan's (CPK) activities.<sup>4</sup> *Azat* and the National Social Democratic Party (NSDP) decided not to field a candidate for this election.

Several OSCE/ODIHR EOM interlocutors stated that Kazakhstan's policy of ensuring stability and economic prosperity prevails over the protection of fundamental freedoms. This *de facto* results in a monopoly of political power and there is lack of a genuine opposition in the country, with several prominent critics of the government either imprisoned or living in exile. The current consolidation of political power threatens the development of genuine political pluralism, as committed to in the 1990 OSCE Copenhagen Document.<sup>5</sup>

#### IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

Kazakhstan is a presidential republic, with the president having authority to appoint and dismiss the prime minister, the prosecutor general, judges at all levels and all heads of local executive authorities. The president may enact legislation, as well as veto laws passed by parliament and decisions of the Constitutional Council. The president can dissolve the parliament, and has the exclusive and unlimited competence to call for an early presidential election at any time.

The president is directly elected for a five-year term by an absolute majority. If no candidate receives above 50 per cent of the votes cast, a second round election between the two candidates with the highest number of votes is held within two months. There is a constitutional limit of two consecutive terms that can be served by any one individual. This restriction does not apply to the incumbent, as the

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<sup>3</sup> These parties also form a National Coalition of Democratic Forces, which was established to support "Kazakhstan-2050". The coalition members are: *Nur Otan*, CPPK, *Birlik*, Party of Patriots of Kazakhstan (PPK), *Ak Zhol*, *Auyl*, as well as the Federation of Trade Unions.

<sup>4</sup> The suspension was initiated by the Ministry of Justice based on complaints from regional leaders of the Communist Party of Kazakhstan (CPK) that the membership list included inaccuracies.

<sup>5</sup> In paragraph 3 of the 1990 OSCE Copenhagen Document participating States "reaffirm that democracy is an inherent element of the rule of law. They recognize the importance of pluralism with regard to political organizations".

First President.<sup>6</sup> The special legal status and protection enjoyed by the president limits the possibility of a level playing field, as required by OSCE commitments.<sup>7</sup>

*Provisions granting the first President privileged legal status, including the exclusive and unrestricted right to call an early presidential election, should be reconsidered to ensure equality of all individuals before the law and to actively promote a level playing field for all candidates.*

Presidential elections are governed by the Constitution, the Constitutional Law on Elections (Election Law) and Central Election Commission (CEC) regulations. Other applicable laws include the Law on Political Parties, and the Law on Peaceful Assemblies, as well as provisions of the Criminal Code, the Administrative Offences Code, the Civil and Civil Procedure Code, the Law on Mass Media, the Law on Communications and the Law on Broadcasting. Kazakhstan is a party to major international and regional instruments related to the holding of democratic elections.<sup>8</sup>

In 2014, the Election Law and other laws regulating aspects of the electoral process were subject to change. Amendments to the Administrative Offences Code provided more detailed definitions of electoral offences, and the CEC issued regulations on procedures for sealing ballots boxes and verifying signatures, partially addressing previous OSCE/ODIHR recommendations. However, amendments to the Election Law and other laws did not address previous OSCE/ODIHR recommendations, including on freedoms of expression, assembly and association, the formation of election commissions, removal of restrictive candidate registration requirements, and clarification of complaints and appeals processes.

CEC regulations did not adequately address areas that are not fully regulated in the Election Law or provide additional clarity where the law did not sufficiently elaborate procedures, including on candidate registration and election day. The lack of clarity contributed to an inconsistent implementation of procedures by election commissions.

*CEC regulations should adequately supplement the legal framework to ensure consistency in procedures implemented by lower-level commissions.*

The legal framework provides a technical basis for the conduct of elections, overall. However, the shortcomings identified in this report, including undue restrictions on fundamental freedoms of assembly and expression, underscore the need for further legal reform to provide necessary conditions for the conduct of democratic elections in line with OSCE commitments and other international obligations and standards.<sup>9</sup>

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<sup>6</sup> Article 42.5 of the Constitution, introduced in 2007; Article 53.3 of the Election Law and Article 1 of the Law on the First President - Leader of the Nation, both amended in 2010.

<sup>7</sup> Amongst others, this also includes the ability to challenge results and the inviolable protection of the president's honour and dignity. Paragraph 7.6 of the 1990 OSCE Copenhagen Document commits participating States to provide "the necessary legal guarantees to enable [electoral contestants] to compete with each other on a basis of equal treatment before the law and by the authorities". See also Article 25 of the International Covenant on Civil and Political Rights (ICCPR) and Article 2(b) of the Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States (CIS Convention).

<sup>8</sup> Including the 1966 ICCPR, 1979 Convention for Elimination of All Forms of Discrimination against Women, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 2003 Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities, and the 2002 CIS Convention. Kazakhstan is also a member of the Council of Europe's Venice Commission.

<sup>9</sup> Paragraph 4 of the 1990 OSCE Copenhagen Document commits participating States to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration on Principles and other [O]SCE commitments".

*A comprehensive review of the current legal framework for elections and fundamental freedoms should be undertaken to bring legislation in line with OSCE commitments and other international obligations and standards and to address past and present OSCE/ODIHR recommendations. Reform should be undertaken in open consultation with all stakeholders.*

## V. ELECTION ADMINISTRATION

The election was administered by a four-tiered system comprised of the CEC, 16 Territorial Election Commissions (TECs), 208 District Election Commissions (DECs), and 9,741 Precinct Election Commissions (PECs), including 65 PECs in diplomatic missions in 51 countries.

By law, all commissions have seven members appointed for a five-year term. The CEC chairperson and two members are appointed by the president, with the Senate and *Majilis* each appointing two members. The current CEC has six members, two of which are women. All were re-appointed in February-March 2015 and one position is vacant. TEC, DEC and PEC members were appointed by the corresponding *Maslikhats* (local councils) in March 2014, based on nominations from political parties and, in case of insufficient proposals, from public associations, and then from superior election commissions.<sup>10</sup> Parties not represented on commissions could appoint non-voting representatives for the election period. Women represented more than half of the members and chaired more than a third of the TECs, DECs, and PECs visited by the OSCE/ODIHR EOM.

The Election Law does not effectively provide for balanced political party representation in the mid- and lower-level commissions. Although each party or public association can nominate one member per commission, *Maslikhats* are not bound by these nominations.<sup>11</sup> Moreover, the Election Law allows a member of one organization to be nominated by another organization. In practice, many commission members visited by the OSCE/ODIHR EOM were *de facto* affiliated with *Nur Otan*, which also held almost all chairperson positions.<sup>12</sup> This raised concern about the impartiality of the lower levels of election administration, challenging international standards.<sup>13</sup> Further, a number of the commissioners met with by the EOM were not aware of which organization nominated them, of their listed party affiliation, or how the appointment process was conducted.

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<sup>10</sup> Election commission members represented political parties (85.2 per cent), public associations (13.4 per cent), or were nominated by the superior commission (1.3 per cent). *Nur Otan* was the party with most representatives (14.2 per cent, which was the maximum possible), followed by *Birlík*, *AK Zhol*, *Auyl* and CPPK (13.5 per cent each), PPK (12 per cent), CPK (4 per cent), and National Social Democratic Party (NSDP) (0.4 per cent).

<sup>11</sup> For example, across the country, NSDP had only 115 commission members from the 3,397 it nominated and held no chairperson, deputy or secretary position. Another example is in Almaty City where the *Maslikhat* appointed the newly established Nauryzbai DEC and members for 42 PECs - six political parties (*Ak Zhol*, *Auyl*, *Birlík*, CPPK, *Nur Otan*, and PPK) and two public associations (Afghan War Veterans Union and Centre for Civic Initiative) nominated candidates that were accepted, but all NSDP and Afghan War Veterans Union nominations were rejected. Also in Almaty region, CPPK had no chairperson position out of the 729 commissioners appointed.

<sup>12</sup> The OSCE/ODIHR EOM was made aware that commissioners were members of *Nur Otan*, while being nominated by other organizations, in several commissions: all 7 members in 1 TEC, 4 DECs and 3 PECs; 6 members in 4 DECs and 1 PEC; 5 members in 1 TEC, 2 DECs and 5 PECs; 4 members in one TEC, 2 DECs and 2 PECs; 3 members in 4 DECs and 3 PECs. The chairperson, deputy and secretary in TEC Zhambyl were *Nur Otan* members, although nominated by other representatives, so were the chairperson and deputy chairperson in TEC Kyzylorda.

<sup>13</sup> Paragraph 20 of the 1996 United Nations Human Rights Council (UNHRC) General Comment No. 25 to Article 25 of 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”. Section 2.3.e. of the 2002 Council of Europe Commission for Democracy through Law (Venice Commission) 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”.



*To enhance impartial election administration, steps should be taken, in law and practice, to guarantee the inclusive composition of election commissions at all levels. Consideration could be given to ensure proportionate representation of all political parties, including in leadership positions. The principle that one political party has one member in a commission should be adhered to.*

Superior election commissions can also appoint temporary replacements to fill vacant positions until new commission members are appointed. The Election Law does not specify the criteria for such temporary replacements, nor require that the replacement comes from the same organization. In commissions visited by the OSCE/ODIHR EOM, more than a fifth of the members appointed in 2014 were replaced this year.

More than half of the election commissions visited by the OSCE/ODIHR EOM were located in local government buildings and the leadership of more than a third of the PECs visited were also supervisors of the commission members in their regular jobs.<sup>14</sup> This could affect the independence of election commissions' activities, as commissioners could face potential conflict of interests.

*Measures to increase the independence of election commissions should be taken, particularly to address potential conflict of interests when hierarchical employment relations are replicated in the composition of PECs.*

Preparations for the election were efficiently administered; all electoral deadlines were respected and election commissions, including the CEC, were generally transparent in their work. CEC sessions were open to observers, proxies and the media. The CEC did not publish agendas prior to sessions; however, this is not required by the law. According to the CEC, candidates and proxies were notified about relevant CEC sessions, as required by law. All CEC decisions were posted online, albeit a few with delay.

The CEC produced manuals and videos for training election commissions. More than half of the members of election commissions visited by the OSCE/ODIHR EOM were trained. However, election commissions had varied interpretations of the law due to a lack of practical training programmes, detailed instructions and procedural clarifications, particularly on candidate signature verification, the recording of Absentee Vote Certificates (AVCs), counting and tabulation of results, and observer access to all aspects of the electoral process. Also, the transparency of the process and the effectiveness of the CEC's supervision was limited by the lack of centrally gathered data on the composition of the commissions and other important elements, such as the number of AVCs issued, the number of observers, as well as counting and tabulation results.

*To improve uniform application of procedures and enhance the transparency of the work of the election administration, the CEC should exercise its supervisory role by, amongst other things, further developing its regulations, providing practical training programmes, and standardizing the collection of data from lower level commissions.*

The CEC also developed an extensive voter education programme, with television spots, billboards, and posters. In an inclusive manner, voters could check their registration details and the location of their polling stations on the Internet or by calling special hotlines.

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<sup>14</sup> For example, PECs located in schools, often included the school director as chairperson and teachers as members. This was the case in about 20 per cent of the entire Pavlodar region but in some areas of Pavlodar such as Lebyazhi District it reached 60 per cent.

## VI. VOTER REGISTRATION

All citizens over 18 years of age have the right to vote, except those declared mentally incompetent by a court or those serving prison sentences, irrespective of the gravity of the crime. The blanket denial of voting rights to all those imprisoned or declared mentally incompetent is an unreasonable restriction that is at odds with international obligations and OSCE commitments.<sup>15</sup>

*The blanket withdrawal of suffrage rights of citizens serving prison terms regardless of the severity of the crime committed should be reconsidered to ensure proportionality between the limitation imposed and the severity of the offense committed. The blanket restrictions on the suffrage rights of persons declared mentally incompetent should be removed or decided on a case-by-case basis, depending on specific circumstances.*

Voter registration is passive, according to voters' place of residence. There are no uniform means of collecting data for the voter lists. Each *Akimat* (local administration) maintains their own voter list that is compiled on the basis of data provided by any institution dealing with the population register and from information collected through door-to-door visits. They submit data about registered voters to the respective TEC twice a year, electronically and in hardcopy. In addition, 20 days before an election, *Akimats* should forward voter lists to the CEC who maintain a nationwide electronic voter list to check for possible multiple registrations.<sup>16</sup>

Voters could verify and request changes of their data or inclusion in the voter lists at PECs starting on 11 April. In addition, PECs could also register voters on election day if they were not on the voter list but were able to prove residence in the respective precinct. According to the CEC, changes to voter lists during the familiarization period and on election day will be reflected in the permanent voter lists maintained by the *Akimats*. Voter registration on election day is not in line with good practice and could result in multiple voter registrations.<sup>17</sup>

*In line with good practice, consideration could be given to removing the possibility for voters to register on election day to avoid the possibility of multiple registrations. A legal deadline for closing voter lists could be introduced, with additional entries permitted only in accordance with clearly defined legal requirements, subject to judicial control.*

Voters could also apply to be included in a voter list according to their temporary residence (up to 30 days before election day), or request to vote at any polling station outside the city, town or village where they are registered, by Absentee Voting Certificate (AVC).<sup>18</sup> The CEC did not collect or publish information on the number of AVCs issued or used on election day, limiting transparency. In

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<sup>15</sup> 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 14 of the 1996 UNHRC General Comment No. 25 to the ICCPR states that grounds for deprivation of voting rights should be “objective and reasonable”. Article 29 of the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD) requires states to “guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others”.

<sup>16</sup> The verification was made using a database of the Ministry of Justice. The CEC verifies all data for any duplication using the criteria of name, surname, patronymic, and unique personal identification number.

<sup>17</sup> Section 1.2.iv of the 2002 Venice Commission's Code of Good Practice in Electoral Matters recommends that “there should be an administrative procedure - subject to judicial control - or a judicial procedure, allowing for the registration of a voter who was not registered; the registration should not take place at the polling station on election day”.

<sup>18</sup> AVCs were issued from 15 days before election day until 18:00 on 25 April. In a decision on 17 April, the CEC amended AVC procedures to allow those affected by recent floods to vote.

eight per cent of polling stations observed, PEC members failed to retain the AVC to safeguard against multiple voting and in 33 cases did not count the number of AVCs used.

*Detailed regulations on the use and control of AVCs should be developed to enhance transparency and safeguard against potential abuse. Accountability for the printing, distribution and use of AVCs could be enhanced, possibly through the introduction of serial numbers on AVCs. These numbers should be recorded by PECs in the result protocols and checked.*

Voter lists for 571 special polling stations were compiled, including at medical centres, detention centres, remote locations and out-of-country polling stations. PECs were instructed to remove voters on special voter lists from their regular voter lists. The deadline for finalizing these voter lists (the day before election) is inconsistent with the timeline for ballot distribution (several days before election), effectively meaning that PECs might not have sufficient ballots to issue to voters on election day.<sup>19</sup>

*The Election Law should be amended to harmonize the timeline between the finalization of special voter lists and the distribution of ballot papers.*

The final number of registered voters was 9,547,864, including 28,967 voters who were registered on election day. The voter registration process provided for the participation of eligible voters in the electoral process. Most OSCE/ODIHR EOM interlocutors did not express concerns about the inclusiveness and accuracy of the voter lists. Nevertheless, after the CEC verification against possible multiple registrations, there was no centralized cross-checking mechanism to ensure that a voter is only on one voter list as required by law, weakening the integrity of voter lists.<sup>20</sup> In addition, there is no post-election audit of the voter lists to identify possible incidents of multiple voting, particularly from special polling stations.

*In line with previous OSCE/ODIHR recommendations, the CEC should ensure a centralized cross-checking mechanism to ensure that each voter is registered at only one polling station before and on election day. Uniform procedures for compiling data for voter registration need to be detailed and consistently implemented. In particular, it is important to incorporate mechanisms that ensure that voters registered at special polling stations are excluded from the voter lists of the polling stations of their residence.*

## VII. CANDIDATE REGISTRATION

A candidate must be a citizen of Kazakhstan by birth, at least 40 years old, fluent in the Kazakh language, and officially resident in the country for the last 15 years. Persons serving criminal sentences, with a criminal record that has not been expunged, or a conviction for a crime or administrative offence involving corruption cannot run for office.<sup>21</sup> Limitations based on the length of residency and the blanket restriction of those convicted of a crime are contrary to OSCE commitments and other international obligations and standards.<sup>22</sup>

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<sup>19</sup> For example, the ballots for the out-of-country polling stations were sent three-four days prior to election while each polling station is supposed to be provided as many ballots as registered voters plus one per cent extra.

<sup>20</sup> Article 25.3 of the Election Law stipulates that "... citizen can be enrolled only in one voter register". Paragraph 21 of the 1996 UNHRC General Comment No. 25 to the ICCPR states that "the principle of one person, one vote must apply". See also paragraph 7.3 of the 1990 OSCE Copenhagen Document.

<sup>21</sup> Additionally, those declared incompetent by a court of law are also barred; Article 33.3 of the Constitution.

<sup>22</sup> Paragraph 15 of the 1996 UNHRC General Comment No. 25 to the ICCPR states that "any restrictions on the right to stand... must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as... residence..." See also paragraphs 7.3 and 24 of the 1990 OSCE Copenhagen Document.

*Candidate eligibility requirements should be amended so as not to unduly limit the right of citizens to seek public office. Consideration should be given to removing the residency requirements and ensuring that any restrictions on the right to stand for those with criminal convictions are proportionate to the severity of the offence.*

A candidate may be self-nominated or nominated by a public association, including a political party. To be registered, nominees must have their eligibility verified by the CEC, pass a Kazakh language test organized by a CEC-appointed Linguistic Commission,<sup>23</sup> collect supporting signatures, submit tax declarations, and pay a deposit equivalent to 50-times the minimum wage (some EUR 5,300 for this election).<sup>24</sup>

Candidate nomination was from 26 February to 15 March. There were 25 self-nominated candidates and 2 nominated by political parties. Two nominees were women, and one was ethnic Uzbek. The CEC had up to five days to verify nominees' eligibility. Two were rejected for being below the minimum age; three withdrew; eight failed the language test; four did not appear for the test; three presented themselves in front of the Linguistic Commission but refused to take the test on the grounds of not agreeing with the Commission's composition or the testing procedure; and seven passed the test.

The Rules of Procedures of the Linguistic Commission do not indicate how many mistakes are allowed or what precisely constitutes a mistake.<sup>25</sup> Several nominees informed the OSCE/ODIHR EOM that they felt the assessment criteria were discretionary and that the Commission went beyond legal requirements in evaluating the nominees' style and knowledge of different subjects.<sup>26</sup> It is also not clear what accommodation would be made for persons with physical or sensory disabilities.<sup>27</sup>

Following eligibility verification, the seven remaining nominees were to be issued sheets for the collection of candidate support signatures. Commendably, the CEC reduced the periods of issuing sheets from five to two days and for TEC verification of signatures from ten to five days. However, the timeline for candidate registration gives late nominees fewer days to collect signatures.<sup>28</sup>

Each nominee had to collect signatures from at least one per cent of the total number of registered voters (93,012 for this election), equally representing at least two thirds of the regions. To verify signatures, TECs check every entry against population databases in co-operation with local

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<sup>23</sup> The Linguistic Commission consists of five scholars.

<sup>24</sup> The deposit was 1.07 million Kazakhstan *Tenge* (KZT); approximately KZT 200 = EUR 1. The deposit is returned to those who obtain at least five per cent of votes.

<sup>25</sup> Paragraph 3 of the 1996 UNHRC General Comment No. 25 to the ICCPR states that "no distinctions are permitted between citizens in the enjoyment of these rights on the grounds of... language". Article 2.b of the 2002 Commonwealth of Independent States Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms (CIS Convention) states that "the right of a citizen to elect and be elected... shall be given effect without any limitations of discriminatory nature on the basis of... language...".

<sup>26</sup> A nominee informed the OSCE/ODIHR EOM that he failed the test with 22 mistakes, 6 were on the essay, and others were stylistic. However, the Linguistic Commission informed the EOM that up to eight mistakes are allowed on the essay and the other two parts are evaluated pass/fail. The same nominee passed the same test with no mistakes in 2005 and failed it in 2011. The Constitutional Council defined the constitutional phrase "proficiency in state language" as the "ability to read and write correctly, express one's idea with ease and make public speech in Kazakh language".

<sup>27</sup> Paragraph 41.1 of the 1991 OSCE Moscow Document commits OSCE participating States "to ensure protection of the human rights of persons with disabilities". See also Article 29 of the 2006 CRPD.

<sup>28</sup> For example, a candidate nominated on 15 March would have had to submit signatures by 20 March. In this five-day period the nominee's eligibility was to be verified (which can take up to five days), signature sheets were to be issued (which can take up to two days), and signatures were to be collected.

institutions.<sup>29</sup> A CEC decision from 9 March on signature verification provided limited guidance for the TECs and no clarification on what constitutes a duplicate signature.

*The legal framework should be amended to establish clear, objective and reasonable criteria for candidate registration. This includes the verification of supporting signatures and the evaluation of language fluency. The timelines for the candidate registration process should be revised, in order to ensure that all nominees enjoy equal opportunities, regardless of their nomination date.*

Three candidates were registered for the election: President Nazarbayev, nominated by *Nur Otan*, with 560,523 signatures submitted and verified within three days; Turgun Syzdykov, nominated by CPPK, with 98,384 signatures submitted and verified within six days; and Abalgazi Kusainov, Chairperson of the Federation of Trade Unions and member of *Nur Otan*, with 132,152 signatures submitted and verified within three days.<sup>30</sup> One self-nominee collected some 40,000 signatures within 8 days. The other nominees chose not to collect their signature sheets. Signature sheets were destroyed ten days after the registration of a candidate, in accordance with CEC procedures.

Although there was no deregistration of candidates in this election, the Election Law continues to provide extensive criteria for possible deregistration of candidates, challenging the principle of proportionality and at odds with Paragraph 24 of the 1990 OSCE Copenhagen Document.<sup>31</sup>

*Consideration should be given to amend the law to stipulate that a candidate may be deregistered only for serious violations, clearly defined by the law.*

## VIII. ELECTION CAMPAIGN

The official campaign period started on 26 March, the day after the close of candidate registration, and ended at midnight on 24 April with the start of the electoral silence. The incumbent decided not to campaign personally. Despite the stated importance of the early election, the campaign was largely indiscernible, lacked competitiveness and appeared to generate negligible public interest. While the existence of three candidates constituted an appearance of political variety, it did not provide voters with a genuine choice between political alternatives. Several OSCE/ODIHR EOM interlocutors stated that they were not familiar with the names or platforms of candidates other than the incumbent's.

The OSCE/ODIHR EOM observed 19 rallies: 10 organized on behalf of the incumbent, 6 for Mr. Kusainov and 3 for Mr. Syzdykov. The OSCE/ODIHR EOM requested schedules for all candidates' campaign events, but received only limited advance information from proxies acting on behalf of the incumbent's campaign. The incumbent's electoral platform emphasized political stability, economic reform, inter-ethnic accord and social cohesion. It also highlighted the incumbent's achievements and offered assurances of prosperity. The main focus of Mr. Syzdykov's platform was the creation of social equality and the condemnation of the negative impacts of "western values" on Kazakhstan. Environmental pollution and industrial safety were the key pillars of Mr. Kusainov's campaign. The two latter candidates did not address political or economic issues concerning Kazakhstan and openly

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<sup>29</sup> Including the Passport Services of the Ministry of Interior, Centre for Public Services, Migration Service, and Prosecutor's Office.

<sup>30</sup> For example, Astana City TEC verified 27,420 signatures in some 12 hours and found 130 to be invalid. North Kazakhstan TEC verified 26,904 signatures in one and a half days, and found 51 to be invalid.

<sup>31</sup> Possible reasons for deregistering a candidate include campaigning while using an official or professional position; campaigning before registration, or in the silence period; and the distribution by the candidate and/or his proxies of false information discrediting the honour and dignity of other candidates or undermining his business reputation.

lauded the President for the country's achievements. All observed campaign events were formalistic and devoid of a political debate, contributing to non-competitive campaign environment.

Although the incumbent announced his decision not to campaign personally, he actively toured the country during the campaign in his official capacity. From 26 March to 18 April, the incumbent made 32 appearances at exhibitions, hospitals, cultural centres and industrial plants in Astana, Almaty and seven regions.<sup>32</sup> Posters and billboards of the incumbent, both in his capacity as a candidate and as head of state promoting the "Kazakhstan-2050" and *Nurly Zhol* programmes, were visible throughout the country. The incumbent's campaign materials bore a striking resemblance with the promotion materials of these state-funded programmes. Other than official CEC posters, almost no campaign materials were observed for the other two candidates.

Many *Nur Otan* regional offices are co-located with state institutions. All regional heads of local administration are members of *Nur Otan* party. Government officials, including university rectors appointed by the President, took an active role in the incumbent's campaign events. This, together with the incumbent's institutional advantage and the fact that he drew on a broad network of public sector employees, blurred the line between state and party, which is at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document.<sup>33</sup>

*The authorities should develop safeguards to ensure a clear separation between the state and party, so as to prevent candidates from unduly using the advantage of their office for electoral purposes. It is recommended that party and campaign offices are not co-located in buildings with state institutions.*

The OSCE/ODIHR EOM received information from students and company employees of being instructed by supervisors to volunteer for the incumbent's campaign, attend campaign events held on his behalf, and vote for him.<sup>34</sup> A number of initiatives were launched to encourage voter participation, underlying the importance of a high turnout to ensure a strong mandate for the president. Several interlocutors informed the OSCE/ODIHR EOM of credible instances of state resources being used by local authorities and university administration to pressure electorate to turn out in high numbers, linking failure to do so with disciplinary measures or loss of financial benefits.<sup>35</sup> This raises concerns

about voters' ability to cast their vote "free of fear of retribution" as required by paragraph 7.7 of the 1990 OSCE Copenhagen Document.<sup>36</sup>

*Efforts should be made to ensure that voters are able to cast their vote "free of fear of retribution". Senior public officials could make clear statements that no pressure on public employees will be tolerated and that no citizen should fear for their employment or social benefits as a result of supporting or not supporting any political party or candidate.*

While freedom of assembly is guaranteed in the Constitution, the Law on Peaceful Assemblies contains limitations on holding outdoor public assemblies. A request to hold a public event, including information about the nature and organizers of the event, has to be submitted to the relevant local

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<sup>32</sup> According to the official website of the President, [www.akorda.kz](http://www.akorda.kz), in the same period in 2014, he made three similar appearances in Astana and Almaty.

<sup>33</sup> Paragraph 5.4 of the 1990 OSCE Copenhagen Document provides for "a clear separation between the State and political parties; in particular, political parties will not be merged with the State".

<sup>34</sup> Almaty city, Kostanay, Mangystau and Zhambyl regions.

<sup>35</sup> Akmola, Pavlodar, East Kazakhstan, Mangystau and Zhambyl regions as well as Almaty city.

<sup>36</sup> Paragraph 7.7 of the 1990 OSCE Copenhagen Document provides that "OSCE participating States will ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution".

executive body ten days in advance. The obligation to ask for permission is not in line with international standards and good practice.<sup>37</sup> Almost no requests were made to conduct open-air events in 2015. Restrictions on the freedom of assembly effectively led to a cessation of political expression through peaceful public gatherings.

*In order to promote an open campaign environment and in line with the previous OSCE/ODIHR recommendations, the Law on Peaceful Assemblies should be amended to require a simple notification procedure, with appropriate exceptions for spontaneous assemblies, instead of the current authorization requirement.*

From 7 April until the end of the election campaign, a group of citizens, led by an unsuccessful presidential nominee, gathered in front of the presidential administration to request a meeting with the President in his capacity as a candidate. A number of people, including the nominee and one journalist, were detained in connection with the gathering, further calling into question the respect of freedom of assembly.<sup>38</sup>

## IX. CAMPAIGN FINANCE

The Election Law guarantees equal public campaign funds for each candidate. Private financing is also permitted including from the candidate's own funds, donations made by citizens and legal entities, and funds allocated by the candidate's nominating body.<sup>39</sup> As self-nominated candidates are not entitled to the latter source of funding, the maximum amount of financing a candidate can receive, and subsequently spend, differs for party and self-nominated candidates.<sup>40</sup> This challenges paragraph 7.5 of 1990 OSCE Copenhagen Document, which provides equal rights for independent and party candidates.<sup>41</sup> Other sources, including anonymous and foreign donations are prohibited.

*Consideration should be given to adjust campaign finance rules so that all candidates are subject to the same contribution limits as a means to level the playing field between independent candidates and those nominated by parties or other public associations.*

Campaign funds must be administered through a dedicated bank account, opened by the CEC. The CEC is responsible for overseeing campaign finance, on the basis of weekly reports from banks and one report from each candidate on campaign contributions and expenditures that is due five days after the election. There are no requirements for the candidate to report or the CEC to publish any campaign

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<sup>37</sup> 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 1996 UNHRC General Comment No. 25 to the ICCPR states: "Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected". Paragraph 4.1 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Freedom of Peaceful Assembly recommends that any "legal provision should require the organizer of an assembly to submit a notice of intent rather than a request for permission". See, also: UN Human Rights Council "Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association" (16 June 2015), A/HRC/29/25/Add.2, paragraph 59.

<sup>38</sup> Essenbek Ukteshbayev in co-operation with the public association "Housing for the People".

<sup>39</sup> A candidate's own funds may not exceed KZT 107 million (EUR 535,000 approx.), donations may not exceed KZT 320 million (EUR 1.6 million), and funds from the nominating body may not exceed KZT 150 million (EUR 750,000).

<sup>40</sup> President Nazarbayev and Mr. Syzdykov, nominated by political parties, could receive up to KZT 577 million (EUR 2.9 million) each. Mr. Kusainov, self-nominated, could receive KZT 427 million (EUR 2.1 million).

<sup>41</sup> Paragraph 7.5 of the 1990 OSCE Copenhagen Document commits OSCE participating States to "respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination".

finance information prior to election day. This limits transparency of campaign financing and voters' ability to make an informed choice.<sup>42</sup>

*Consideration could be given to requiring the submission and publication of interim finance reports before election day to inform voters of the financing of campaigns prior to casting their vote.*

The law bans charitable actions by candidates once elections are announced.<sup>43</sup> On 17 March, the incumbent donated KZT 111,576,000 (EUR 557,880) from the "Silk Road Peace Prize" he received to the Public Association *Miloserdie* and the Foundation for the Development of the State Language.<sup>44</sup> The CEC informed the OSCE/ODIHR EOM that it considered the President to have been acting in his official capacity. This action blurred the line between State and candidate.

Sanctions for breaches of campaign finance rules are defined in the Administrative Offences Code, which provides for fines of up to KZT 99,000, as well as in the Election Law, which provides for de-registration of candidates and the invalidation of results for any violation.<sup>45</sup> The lack of criteria and proportionate measures in the Election Law may lead to arbitrary decisions.

*Campaign finance rules could be strengthened by providing more clearly defined and proportionate sanctions for established violations.*

According to the CEC, all three candidates submitted financial reports to the CEC within five days of the announcement of election results, meeting the legal deadline. While the campaign fund of President Nazarbayev was larger than that of the other candidates, none of the candidates reached the contribution or spending limits. No breaches of campaign rules were identified by the CEC. Article 34.4 of the Election Law requires the CEC to publish in the mass media information about the amount and sources of funding of each candidate within ten days of the announcement of election results. OSCE/ODIHR EOM media monitoring indicated that the information was not made readily available in media by this deadline. Once the information was posted on the CEC website it did not provide detailed information on the amount and source of campaign contributions or the amount and purpose of campaign expenditures.<sup>46</sup>

*To enhance transparency, the Election Law could be amended to provide that detailed financial reports are made publicly available and posted on the CEC website.*

## **X. MEDIA**

### **A. MEDIA ENVIRONMENT**

The media environment suffers from a general lack of independent sources and a restrictive legislative framework that profoundly endangers freedom of expression and contributes to a stifled public debate.

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<sup>42</sup> Article 7.3 of the 2003 UN Convention Against Corruption calls on states to "consider taking appropriate legislative and administrative measures... to enhance transparency in the funding of candidatures for elected public office".

<sup>43</sup> Article 27.9 of the Election Law states that from the moment elections are called, candidates "...are forbidden to carry out charitable actions except the conduct of entertainment and sports events".

<sup>44</sup> See: [http://www.akorda.kz/en/page/page\\_219393](http://www.akorda.kz/en/page/page_219393).

<sup>45</sup> Articles 116, 117 and 125 of Administrative Offences Code, and Article 34 of the Election Law.

<sup>46</sup> According to the information on the CEC website: President Nazarbayev spent KZT 572 million, Mr. Sydykov 284 million and Mr. Kusainov 69 million. President Nazarbayev received 320 million from donations, and he invested in the campaign 106 million from his own resources. He was the only candidate that received funds from the party that nominated him, to the amount of KZT 150 million. Mr. Syzdykov's election fund of KZT 283 million consisted solely of donations, while Mr. Kuzainov's election fund amounted to KZT 69 million, 56 million of which were donations.



While there is more than 2,500 media outlets registered, most privately owned, many are dependent on state financing which is partly due to a small advertising market. The leading media outlets are either state-owned or considered to be closely affiliated with the ruling party. A number of Russian television channels also enjoy high popularity. There is no public service broadcaster in Kazakhstan.

There are only a few independent media sources offering diverse views; independent viewpoints are particularly lacking among television outlets that serve as main source of political information. Numerous sanctions, including closure of media and blocking of access to websites, has resulted in limited editorial independence and a media environment where political pluralism is virtually absent.<sup>47</sup> Threats of legal action and other forms of intimidation restrict media's ability to report freely.

*State authorities should refrain from any interference in the activities of media and journalists, between and during election periods. Media should be able to operate free from any intimidation or pressure, including excessive or arbitrary lawsuits and disproportionate administrative actions.*

## **B. LEGAL FRAMEWORK**

Although the Constitution guarantees freedom of expression and prohibits censorship, the Criminal Code retains defamation and insult as well as special protection of the president, his family, and various public officials, which is contrary to international standards as well as previous OSCE/ODIHR and OSCE RFoM recommendations.<sup>48</sup> The Code also contains a provision on spreading false information, with a penalty of up to ten years of imprisonment. In combination with frequently used defamation provisions in the Civil Code, which can carry substantial fines, the legal framework induces self-censorship and limits the freedom of speech.<sup>49</sup>

*Criminal defamation provisions should be repealed in favour of civil sanctions designed to restore the reputation harmed, rather than compensate the plaintiff or punish the defendant. Sanctions should be strictly proportionate to the harm caused and the use of non-pecuniary remedies should be prioritized.*

A 2009 amendment to the Mass Media Law classified websites (including blogs, chat rooms, and web forums), as regular mass media outlets, thus becoming subject to media-related regulations and sanctions. Further, a 2014 amendment to the Law on Communications allows the prosecutor to temporarily shut down websites if they distribute information 'harmful' to individuals, society and the state, or contain calls for 'extremist' activities. Several OSCE/ODIHR EOM interlocutors expressed concerns that these amendments may be applied in a way that further stifles public debate.

The Law on Broadcasting tasks government bodies with the implementation of state broadcasting policy. Broadcasting licenses are granted by Committee under the Ministry of Culture, Information and Sport. Another state body, The Committee for Communication, Informatization and Information under the Ministry of Investment and Development (Media Committee), is responsible for overseeing broadcast media. While the regulators are provided with broad discretionary powers, there are very few specific procedures for execution of these powers, including sanctions. In addition, the law does not address public accountability of the oversight bodies.

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<sup>47</sup> See: OSCE Representative on Freedom of the Media (RFoM), November 2014, [www.osce.org/fom/127436](http://www.osce.org/fom/127436), April 2014, <http://www.osce.org/fom/117595>; and September 2013, <http://www.osce.org/fom/105946>. See also: UNHRC "Concluding Observations on Kazakhstan" (19 August 2011), CCPR/C/KAZ/CO/1, paragraph 25. Paragraph 36 (Human Dimension) of the 1994 OSCE Budapest Document states that "independent and pluralistic media are essential to a free and open society and accountable systems of government".

<sup>48</sup> See paragraph 47 of the 2011 UNHCR General Comment No. 34 to Article 19 of the ICCPR. Article 46.1 of the Constitution is at odds with Article 19.2 of the 1966 ICCPR and paragraph 9.1 of the 1990 OSCE Copenhagen Document. See also, OSCE RFoM, June 2014, available at: <http://www.osce.org/fom/119562>.

<sup>49</sup> Article 143 and 187 of the Civil Code. There is no ceiling on compensation in civil suits for defamation.

*Consideration could be given to establishing an independent professional supervisory body which should be empowered to grant licenses in a publicly transparent manner and to oversee broadcast media outside and during electoral periods. This oversight should include monitoring based on a rigorous methodology able to reflect media compliance with the law. In addition, the body should be provided with an appropriate, proportionate and effective sanction mechanism.*

The Election Law requires media to present objective coverage of the campaign and guarantees candidates equal access to the media. Each candidate was granted, and made use of, funds for 15 minutes of airtime on television and 10 minutes on radio, as well as the publication of two articles in the press.<sup>50</sup> These time slots and print space can be used in the media outlet of the candidate's choice. The law provides the opportunity for paid advertising, without any limitation apart from those imposed by the overall campaign expenditure limit.

Article 27(7) of the Election Law requires media to abstain from distributing information “discrediting the honor, dignity and professional reputation of a candidate”. At the same time, this provision does not define what can be considered a violation of this requirement, thus it could be applied in a manner that would violate a person's right to free speech and expression.

*As previously recommended, the authorities should consider amending the law to remove formulations that can prevent critical and vibrant public debate and be arbitrarily applied.*

The CEC was responsible for overseeing media compliance with the law and conducted this task in co-operation with the Media Committee. The Media Committee analysed the quantitative coverage of candidates across traditional media outlets (45 television channels and 232 newspapers) and numerous online sources (117 political websites and some 450 websites of various associations and public figures, including YouTube and social networks). While the tone of the coverage was not analysed, focus was given to identification of possible defamatory statements. As publicly reported, the Media Committee did not find any media violations.

### C. MEDIA MONITORING FINDINGS



According to the OSCE/ODIHR EOM media monitoring results, the broadcast media's coverage of the campaign was visible but imbalanced.<sup>51</sup> Candidates were given nominally equal coverage, but the incumbent was also extensively covered in his official capacity, thus contributing to an uneven playing field. Altogether, the coverage of the incumbent was approximately twice as much as that of other candidates.

The state-funded *Kazakhstan TV* and *Khabar TV* dedicated a comparable portion of political prime time news coverage to all three candidates, with 20 and 18 per cent to Mr. Syzdykov, 19 and 18 per cent to Mr. Kusainov and 15 and 14 per cent to Mr. Nazarbaev. However, the coverage differed in its tone; for Mr. Nazarbaev it was overwhelmingly positive, regularly featuring expressions of support from citizens, while the tone was mostly neutral for the other two candidates. In addition, both channels almost always started their prime time news programmes with reports about the President in

<sup>50</sup> Mr. Syzdykov and Mr. Kusainov used their television free air-time on *Khabar TV* at 11:00 in the morning on 16 and 17 April respectively, President Nazarbaev used it on *Kazakhstan TV* and *Khabar TV* at 21:30 (prime time) on the last day of the campaign, 24 April.

<sup>51</sup> On 28 March, the OSCE/ODIHR EOM commenced quantitative and qualitative monitoring of seven television channels: *Kazakhstan TV* and *Khabar TV* (state-funded), *First Eurasian Channel* (mostly state-funded), *Astana TV*, *Channel 7*, *Channel 31* and *KTK* (private); one radio station, *Kazakh Radio* (state-funded); three online media, [www.nur.kz](http://www.nur.kz), [www.tengrinews.kz](http://www.tengrinews.kz), and [www.zakon.kz](http://www.zakon.kz); and five newspapers, *Egemen Kazakhstan*, and *Kazakhstanskaya Pravda* (state-funded), *Karavan*, *Vremya* and *Zhas Alash* (private).

his official capacity, devoting to him an additional 26 and 31 per cent of political news coverage, in a positive and neutral tone.

Most monitored television channels, as well as two official state-funded newspapers, had a similar pattern in their election coverage with information on the incumbent's official activities visibly prevailing (most notably on *First Eurasian Channel* with 37 per cent). A number of monitored media dedicated their attention almost exclusively to official information on the work of the authorities (president, government, local governments, and the CEC). In particular, such an approach was observed in monitored online media, with the President covered extensively (most notably on [www.nur.kz](http://www.nur.kz) with 61 per cent), while information on other candidates was largely absent. The newspaper *Zhas Alash* was the only monitored media outlet that showed a different approach, with overwhelmingly critical coverage of the President and the authorities.

Although the campaign was visible in nationwide and local media, there were no debates or interviews and virtually no in-depth analysis. In addition, the CEC interpreted the Election Law in a manner that any airtime given to a candidate outside the news was considered as campaigning and should be paid for by the candidates. This, in combination with the media's perception of their role to strictly comply with the principle of equal opportunity, restricted editorial freedom and did not encourage analytical coverage or critical public debate. The lack of comprehensive campaign information considerably limited the opportunity for voters to make a well-informed choice.

*The Election Law could be amended to encourage media to provide more diverse and analytical campaign information to voters. Formats of election coverage and decisions on paid election-related material should depend solely on the media's own editorial policy.*

The broadcast and print media, including state-funded outlets, selectively covered the election assessments of different observation groups. While positive comments from individual foreign politicians observing election day were frequently aired, the preliminary findings and conclusions of the OSCE/ODIHR EOM were either not covered or selectively mentioned. This limited the opportunity for citizens to receive balanced and objective information on the conduct of elections.

## **XI. COMPLAINTS AND APPEALS**

Election-related complaints may be filed by all electoral participants with either superior election commissions or courts within ten days from the day of the decision, action or inaction. Courts must consider complaints within five days or immediately if submitted less than five days before the election. Election commissions have three days for consideration of complaints.

The Election Law provides specific jurisdiction over complaints and appeals in three cases: complaints against CEC decisions on candidate registration are to be filed with the Supreme Court; presidential candidates can appeal a CEC refusal to declare a winner with the Supreme Court; and final results may be challenged before the Constitutional Council.<sup>52</sup> The right to appeal the final results is limited to the president, the prime minister, the speakers of both houses of the parliament or one fifth of members of parliament. Limitations on the right to appeal final election results are not in line with international good practice.<sup>53</sup>

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<sup>52</sup> Respectively, Articles 59.8, 66.3 and 68.1 of the Election Law.

<sup>53</sup> Section II.3.3.f of the 2002 Venice Commission's Code of Good Practice in Electoral Matters recommends 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".

*The Election Law should be amended to allow voters to directly appeal the election results in their constituency and all electoral contenders to appeal the final results with the Constitutional Council.*

The law is clear that courts have precedence when a complaint is submitted to both courts and election commissions at the same time. Still, since both have the authority to consider first instance claims, it is possible for the same complaint to be brought before several fora. The Election Law, the Civil Procedure Code, and the Criminal Code each regulate different aspects of the electoral dispute process.<sup>54</sup> Several OSCE/ODIHR EOM interlocutors expressed different understandings as to which court was competent to hear complaints against the different levels of election commissions. The lack of clarity in the appeal procedure and the potential conflicts of jurisdiction do not ensure the right to effective remedy as required by OSCE commitments and are not in line with good practice.<sup>55</sup>

*To provide legal certainty, the legal framework should be amended to eliminate dual jurisdiction and simplify the election-related complaints and appeals process by establishing a singular, hierarchical process. All relevant complaints and appeals provisions in various laws should be consolidated or clearly and comprehensively referenced in the Election Law.*

The possibility of a timely and effective remedy may also be undermined by the lack of consistency in regards to timelines for filing and considering complaints and appeals, particularly considering deadlines established by the electoral calendar. Complaints on key aspects of the election process, including candidate registration, could remain unresolved even after election day.<sup>56</sup> Also, the current deadlines allow an appeal requesting the annulment of an election be lodged after the CEC has officially registered the winning candidate.<sup>57</sup> The CEC announced final results on 28 April and the president was inaugurated on 29 April, both events took place before the deadlines to file complaints against final results had expired.

*Deadlines for complaints and appeals should be adjusted to guarantee a timely and effective remedy. The timeline for announcing election results should ensure that all appeals are resolved before the CEC officially registers the winner.*

For this election, few formal complaints were submitted. In the pre-election period, six complaints were filed with the courts; three pertained to candidate registration, one challenged the president's decree calling for an early election, one challenged the formation of election commissions, and one was filed by a citizen who mistakenly thought that his name had been excluded from the voter list. All

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<sup>54</sup> For example, Astana district court has jurisdiction over any complaint against the CEC and, according to the Chairperson of the court, this includes decisions on candidate registration but the Election Law states that candidate registration claims be filed with the Supreme Court. Also, Article 274 of the Civil Procedural Code stipulates that rulings on any election matter come into force immediately and are not subject to appeal, while OSCE/ODIHR EOM interlocutors, including the CEC, stated that first instance district court decisions, including those on election matters, are subject to appeal at the discretion of the sitting judge.

<sup>55</sup> Paragraph 5.10 of the 1990 OSCE Copenhagen Document states that "everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity". Section II.3.3.c of the 2002 Venice Commission's Code of Good Practice in Electoral Matters recommends that "the appeal procedure and, in particular, the powers and responsibilities of the various bodies should be clearly regulated by law, so as to avoid conflicts of jurisdiction (whether positive or negative). Neither the appellants nor the authorities should be able to choose the appeal body".

<sup>56</sup> For example, complaints against CEC decisions on candidates' eligibility criteria, including the outcome of the language test, could remain pending until 11 April, well after the deadline for the submission of support signatures expired, and the start of the official campaign, and making it possible for a complaint on candidate registration to be resolved after 26 April.

<sup>57</sup> Article 68.1 of the Election Law provides that election petitions can be filed "within ten days after summarizing of the results of the election", while article 66.1 mandates the CEC "to register the elected president within seven days from the date of an election."

complaints were dismissed as ungrounded. There were no complaints filed on or after election day to the courts. The CEC did not receive any complaints during the whole electoral process.

Allegations of election offenses can also be filed with public prosecutors, who are proactively monitoring media, the Internet and social media networks to ensure compliance with the law. Sanctions for breaches of electoral rules include fines, correctional labour, and up to seven years imprisonment. The General Prosecutor's Office issued warnings to two individuals for comments on Facebook that were interpreted as attempts to disgrace the honour and dignity of two of the candidates, President Nazarbayev and Mr. Syzdykov. Such warnings represent a challenge to freedom of expression. During the entire process, one complaint was filed with a prosecutor who acted immediately to include in the voter list the name of a couple that had initially been omitted.

## **XII. ELECTION OBSERVATION**

In accordance with OSCE commitments, the Election Law provides for observation by citizen and international observers, as well as proxies of registered candidates. The 'Republican Public Commission for the Control of Elections in the Republic of Kazakhstan' (RPCCE) announced plans to deploy observers in every polling station (some 9,500 observers). Several OSCE/ODIHR EOM interlocutors questioned the independence of this observer group, citing lack of transparency in its funding. Other citizen observer groups stated they would not observe the election, because of a lack of purpose to observe an election without genuine competition as well as lack of funding opportunities, due to a short timeframe under which this election was called.

On election day, citizen observers were present in 63 per cent of polling stations visited by the OSCE/ODIHR EOM, (two thirds were from RPCCE), and in 14 out of 77 tabulation centres observed. The incumbent registered a significantly greater number of proxies, as compared to the two other candidates.<sup>58</sup> According to the CEC, 858 international observers were accredited.

Throughout election day, numerous PECs, DEC's and TECs did not provide OSCE/ODIHR EOM observers with the possibility for meaningful observation. In seven per cent of polling stations observed during voting, observers were obliged to be seated or remain in designated areas. The transparency significantly decreased during counting, with observation being limited or prevented in 21 per cent of cases, as well as in 21 out of the 71 tabulation centres observed.

*As previously recommended, measures should be taken to ensure unrestricted access of citizen and international observers to the entire electoral process, including voting, counting, and tabulation.*

## **XIII. ELECTION DAY**

Election day generally proceeded in an orderly manner, but serious procedural errors and irregularities were observed throughout the voting, counting and tabulation processes. Numerous indications of ballot box stuffing were noted throughout the day.

### **A. OPENING AND VOTING**

The opening of polling stations was assessed as good or very good in all but three observations. All but 11 polling stations observed opened on time. While the greater part of opening procedures were followed, some procedural errors were noted: the ballot box seal numbers were not recorded in the

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<sup>58</sup> Mr. Kusainov had 214 proxies, Mr. Syzdykov had 238 proxies and Mr. Nazarbayev had 28,770 proxies.

PEC opening protocol in 9 cases observed, and the number of received ballots was not announced to observers in 22 cases. Unauthorized persons were present in 12 cases; in 2 of which, they were interfering with or directing the work of PECs.

The process, however, deteriorated during voting. The voting process was assessed as bad or very bad in 11 per cent of observations, which is significant. Serious irregularities were noted, including indications of ballot box stuffing in 47 cases, series of seemingly identical signatures on the voter lists (12 per cent of observations), group voting (7 per cent), proxy voting and improperly sealed ballot boxes (4 per cent each), cases of multiple voting (2 per cent), and voters being pressured for whom to vote (1 per cent), which included persons filming voters coming in and out of polling stations. Measures against possible multiple voting were not always respected by PECs. This included not retaining the AVC (8 per cent) or signing the voter list when issuing the ballot (3 per cent).

Throughout the voting process, important procedures were not followed in nine per cent of polling stations observed, including: not signing ballots before being issued to voters (nine per cent), which should make them invalid when counted; voters not marking their ballots in secrecy or their choice being visible when casting the ballot (seven per cent); and voters voting without proper ID (four per cent). Unauthorized persons were present in six per cent of polling stations observed, and in two cases they were interfering with the work of the PEC. Further, overcrowding was reported inside five per cent of polling stations observed and almost half of the polling stations observed were not accessible to voters with disabilities.

*Measures should be taken to guarantee the integrity of the voting process. In particular, steps should be taken to ensure the equality and secrecy of the vote (including ballot box security and folding of ballot papers), as well as protection against undue influence on electoral choices.*

## **B. COUNTING**

The vote counting was assessed as bad or very bad in almost half of the 95 polling stations observed (46 cases); this is a substantial figure. Significant procedural problems were noted, including PECs not determining the numbers of: voters based on signatures on the voter list (in 46 polling stations observed), absentee voters (33 cases), ballots issued by each PEC member (57 cases) and signed requests for mobile voting (28 cases). Additionally, PECs did not cancel unused ballots in 20 observed cases, did not mix the ballots from mobile and stationary ballot boxes (33 cases), did not cross-check the protocol's control equations (40 cases), and did not correctly fill in the protocol (21 cases). PECs had difficulties filling in protocols (in 80 polling stations observed), and in 10 cases they pre-signed the protocol. There were indications of ballot box stuffing (4 cases), and seals of ballot boxes were not intact (3 cases). Unauthorized persons were present in 87 cases; in 4 cases they were interfering with or directing the work of PECs. Collectively, this meant that an honest count, as required by paragraph 7.4 of the 1990 OSCE Copenhagen Document, could not be guaranteed.<sup>59</sup>

Several days before election day, TEC North Kazakhstan decided that 97 polling stations could close earlier on logistical grounds. The TEC stated that it did so to allow distant PECs to have time to arrive at DEC in time for the tabulation, which is a usual practice but contrary to the law. It is unclear to what extent registered voters were notified about such changes.

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<sup>59</sup> Paragraph 7.4 of the 1990 OSCE Copenhagen Document commits participating States to “ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public”.

### C. TABULATION AND ANNOUNCEMENT OF RESULTS

The tabulation process was negatively assessed in 18 of the 95 DEC's observed. Compliance with procedures varied between districts, indicating a lack of clear guidelines. A number of key procedures were not followed, including PECs completing protocols at the DEC premises at 27 DEC's visited. Figures in the PEC protocol were not always reconciled correctly in 42 DEC's observed. In 22 DEC's visited, PEC protocols were changed without a formal decision. Most DEC's tabulated the PEC results electronically, but OSCE/ODIHR EOM observers were not allowed to observe the computer tabulation, diminishing the transparency of the process.

Transparency was further limited as PEC results protocols were not posted for public scrutiny, as required by law, in more than a quarter of the cases observed. Also, three DEC's declined to provide their tabulation protocols to the OSCE/ODIHR EOM.

The OSCE/ODIHR EOM collected 144 PEC protocol results; 111 DEC tabulation protocols and 12 DEC results tabulation sheets (forms used by DEC's to aid in the calculation of result figures for inclusion in the protocols); and 8 TEC protocols. Of these, 26 PEC, 12 DEC and 3 TEC protocols contained mathematical errors. In various protocols reviewed, a total of 145 polling stations showed 100 per cent turnout, and 12 had a turnout higher than 100 per cent.

Additional and substantial discrepancies were observed when reviewing other tabulation documents. For example, the election results as recorded in 21 PEC counting protocols differed from the respective DEC tabulation sheets in all but one case. In addition, the tabulation protocol of TEC Almaty City contained discrepancies with the corresponding its DEC's tabulation protocols. While these differences may have been the result of official recounts, the OSCE/ODIHR EOM was not informed of any recounts being ordered or of any complaint against results being discussed by a DEC, TEC or the CEC.

*Comprehensive and practical training programmes should be developed, with a particular emphasis on the completion of result protocols and the use of mathematical verification formulas, to ensure the accuracy of counting and tabulation protocols.*

The CEC announced voter turnout at regular intervals during the day, culminating in a final voter turnout of 95.2 per cent. This varied between 97.6 per cent in Atyrau region and 78.3 per cent in Almaty city. OSCE/ODIHR EOM observers estimated that the number of voters casting their ballots was lower than officially reported.<sup>60</sup> Analysis of the CEC turnout figures reported during election day show that some regions were processing between 186 and 270 voters per hour at all polling stations within a given time period, when the OSCE/ODIHR EOM observed between 43 and 65 voters being processed per hour.<sup>61</sup> Turnout was, on average, 24 per cent higher in polling stations where series of seemingly identical signatures were observed on the voter list.

The final number of registered voters was 9,547,864, including 28,967 voters who were registered on election day. Final results were announced on 28 April, showing that Mr. Nazarbayev won in the first

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<sup>60</sup> Throughout election day, OSCE/ODIHR EOM observers estimated the number of voters that voted during their stay in each polling station observed. These numbers were used to estimate the total turnout and then compared with the turnout figures given by the authorities.

<sup>61</sup> Turnout in Almaty region increased from 26.1 per cent to 60.7 per cent between 10:00 and 12:00; an increase of 34.6 percentage points. During that period, 327,025 voters voted in the Almaty region or an average of 3.1 voters per minute. South Kazakhstan at 12:00 had 32.6 per cent and at 14:00 had 77.3 per cent, an increase of 44.7 percentage points in two hours; in this period, 560,766 voters voted in the South Kazakhstan or 4.5 voters per minute. Atyrau region had 11.1 per cent at 10:00 and 47.5 at 12:00, an increase of 36.4 percentage points; in this period, 110,902 voters voted in Atyrau region or 4.0 voters per minute.

round having received 97.7 per cent of the votes. The CEC did not publish results broken down by district or polling station, which diminished the overall transparency of the process.<sup>62</sup>

*To enhance transparency and accountability, election results should be published disaggregated by district and polling station, including the number of registered voters and those how voted, as well as the number of votes cast for each candidate. This could be published on the CEC website and in the media.*

#### **XIV. RECOMMENDATIONS**

These recommendations, as contained throughout the text, are offered with a view to enhance the conduct of elections in Kazakhstan and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. The OSCE/ODIHR stands ready to assist the authorities of Kazakhstan to further improve the electoral process and to address the recommendations contained in this and previous reports.<sup>63</sup>

##### **A. PRIORITY RECOMMENDATIONS**

1. A comprehensive review of the current legal framework for elections and fundamental freedoms should be undertaken to bring legislation in line with OSCE commitments and other international obligations and standards and to address past and present OSCE/ODIHR recommendations. Reform should be undertaken in open consultation with all stakeholders.
2. To enhance impartial election administration, steps should be taken, in law and practice, to guarantee the inclusive composition of election commissions at all levels. Consideration could be given to ensure proportionate representation of all political parties, including in leadership positions. The principle that one political party has one member in a commission should be adhered to.
3. Candidate eligibility requirements should be amended so as not to unduly limit the right of citizens to seek public office. Consideration should be given to removing the residency requirements and ensuring that any restrictions on the right to stand for those with criminal convictions are proportionate to the severity of the offence.
4. The authorities should develop safeguards to ensure a clear separation between the state and party, so as to prevent candidates from unduly using the advantage of their office for electoral purposes. It is recommended that party and campaign offices are not co-located in buildings with state institutions.
5. State authorities should refrain from any interference in the activities of media and journalists, between and during election periods. Media should be able to operate free from any intimidation or pressure, including excessive or arbitrary lawsuits and disproportionate administrative actions.

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<sup>62</sup> Section 3.2.xiv of the 2002 Venice Commission's Code of Good Practice in Electoral Matters recommends that "results must be transmitted to the higher level in an open manner".

<sup>63</sup> In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations".



6. Criminal defamation provisions should be repealed in favour of civil sanctions designed to restore the reputation harmed, rather than compensate the plaintiff or punish the defendant. Sanctions should be strictly proportionate to the harm caused and the use of non-pecuniary remedies should be prioritized.
7. As previously recommended, measures should be taken to ensure unrestricted access of citizen and international observers to the entire electoral process, including voting, counting, and tabulation.
8. To enhance transparency and accountability, election results should be published disaggregated by district and polling station, including the number of registered voters and those how voted, as well as the number of votes cast for each candidate. This could be published on the CEC website and in the media.

## **B. OTHER RECOMMENDATIONS**

### **Legal Framework**

9. Provisions granting the first President privileged legal status, including the exclusive and unrestricted right to call an early presidential election, should be reconsidered to ensure equality of all individuals before the law and to actively promote a level playing field for all candidates.
10. CEC regulations should adequately supplement the legal framework to ensure consistency in procedures implemented by lower-level commissions.

### **Election Administration**

11. Measures to increase the independence of election commissions should be taken, particularly to address potential conflict of interests when hierarchical employment relations are replicated in the composition of PECs.
12. To improve uniform application of procedures and enhance the transparency of the work of the election administration, the CEC should exercise its supervisory role by, amongst other things, further developing its regulations, providing practical training programmes, and standardizing the collection of data from lower level commissions.

### **Voter Registration**

13. The blanket withdrawal of suffrage rights of citizens serving prison terms regardless of the severity of the crime committed should be reconsidered to ensure proportionality between the limitation imposed and the severity of the offense committed. The blanket restrictions on the suffrage rights of persons declared mentally incompetent should be removed or decided on a case-by-case basis, depending on specific circumstances.
14. Detailed regulations on the use and control of AVCs should be developed to enhance transparency and safeguard against potential abuse. Accountability for the printing, distribution and use of AVCs could be enhanced, possibly through the introduction of serial numbers on AVCs. These numbers should be recorded by PECs in the result protocols and checked.
15. The Election Law should be amended to harmonize the timeline between the finalization of special voter lists and the distribution of ballot papers.

16. In line with good practice, consideration could be given to removing the possibility for voters to register on election day to avoid the possibility of multiple registrations. A legal deadline for closing voter lists could be introduced, with additional entries permitted only in accordance with clearly defined legal requirements, subject to judicial control.
17. In line with previous OSCE/ODIHR recommendations, the CEC should ensure a centralized cross-checking mechanism to ensure that each voter is registered at only one polling station before and on election day. Uniform procedures for compiling data for voter registration need to be detailed and consistently implemented. In particular, it is important to incorporate mechanisms that ensure that voters registered at special polling stations are excluded from the voter lists of the polling stations of their residence.

### **Candidate Registration**

18. The legal framework should be amended to establish clear, objective and reasonable criteria for candidate registration. This includes the verification of supporting signatures and the evaluation of language fluency. The timelines for the candidate registration process should be revised, in order to ensure that all nominees enjoy equal opportunities, regardless of their nomination date.
19. Consideration should be given to amend the law to stipulate that a candidate may be deregistered only for serious violations, clearly defined by the law.

### **Campaign and Campaign Finance**

20. Efforts should be made to ensure that voters are able to cast their vote “free of fear of retribution”. Senior public officials could make clear statements that no pressure on public employees will be tolerated and that no citizen should fear for their employment or social benefits as a result of supporting or not supporting any political party or candidate.
21. In order to promote an open campaign environment and in line with the previous OSCE/ODIHR recommendations, the Law on Peaceful Assemblies should be amended to require a simple notification procedure, with appropriate exceptions for spontaneous assemblies, instead of the current authorization requirement.
22. Consideration should be given to adjust campaign finance rules so that all candidates are subject to the same contribution limits as a means to level the playing field between independent candidates and those nominated by parties or other public associations.
23. Consideration could be given to requiring the submission and publication of interim finance reports before election day to inform voters of the financing of campaigns prior to casting their vote.
24. Campaign finance rules could be strengthened by providing more clearly defined and proportionate sanctions for established violations.
25. To enhance transparency, the Election Law could be amended to provide that detailed financial reports are made publicly available and posted on the CEC website.

### **Media**

26. Consideration could be given to establishing an independent professional supervisory body which should be empowered to grant licenses in a publicly transparent manner and to oversee broadcast

media outside and during electoral periods. This oversight should include monitoring based on a rigorous methodology able to reflect media compliance with the law. In addition, the body should be provided with an appropriate, proportionate and effective sanction mechanism.

27. As previously recommended, the authorities should consider amending the law to remove formulations that can prevent critical and vibrant public debate and be arbitrarily applied.
28. The Election Law could be amended to encourage media to provide more diverse and analytical campaign information to voters. Formats of election coverage and decisions on paid election-related material should depend solely on the media's own editorial policy.

### **Complaints and Appeals**

29. The Election Law should be amended to allow voters to directly appeal the election results in their constituency and all electoral contenders to appeal the final results with the Constitutional Council.
30. To provide legal certainty, the legal framework should be amended to eliminate dual jurisdiction and simplify the election-related complaints and appeals process by establishing a singular, hierarchical process. All relevant complaints and appeals provisions in various laws should be consolidated or clearly and comprehensively referenced in the Election Law.
31. Deadlines for complaints and appeals should be adjusted to guarantee a timely and effective remedy. The timeline for announcing election results should ensure that all appeals are resolved before the CEC officially registers the winner.

### **Election Day**

32. Measures should be taken to guarantee the integrity of the voting process. In particular, steps should be taken to ensure the equality and secrecy of the vote (including ballot box security and folding of ballot papers), as well as protection against undue influence on electoral choices.
33. Comprehensive and practical training programmes should be developed, with a particular emphasis on the completion of result protocols and the use of mathematical verification formulas, to ensure the accuracy of counting and tabulation protocols.

**ANNEX I: FINAL RESULTS<sup>64</sup>**

Registered voters	9,547,864	
Voted	9,090,920	
Mobile voting	152,016	
Voter turnout	95.22%	
<b>Candidate</b>	<b>Votes</b>	<b>Percentage</b>
Kusainov Abelgazi Kaliakparovich	57,718	0.64
Nursultan Nazarbayev	8,833,250	97.75
Syzdykov Turgun Iskakovich	145,756	1.61

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Source: CEC website, [http://election.kz/portal/page?\\_pageid=73,2281243&\\_dad=portal&\\_schema=PORTAL](http://election.kz/portal/page?_pageid=73,2281243&_dad=portal&_schema=PORTAL).

**ANNEX II: LIST OF OBSERVERS IN THE INTERNATIONAL ELECTION  
OBSERVATION MISSION**

**OSCE/ODIHR Short-term Observers**

Johannes	SCHALLERT	Austria
Heike	WELZ	Austria
Philipp	HERMANN	Austria
Charlotte	HELLETZGRUBER	Austria
Sona	ALIYEVA	Azerbaijan
Azar	HASRAT	Azerbaijan
Jan	KNOOPS	Belgium
Louis	SIMOEN	Belgium
Céline	ROMIJN	Belgium
Boris	SEKULIC	Bosnia and Herzegovina
Alma	TUZLIC	Bosnia and Herzegovina
Barbora	CARDONA SEVCIKOVA	Czech Republic
Martin	SVAROVSKY	Czech Republic
Petr	SVEPES	Czech Republic
Birgit	HJORTLUND	Denmark
Stig	SKOVBO	Denmark
Kirsten	LIND	Denmark
Hanne Birgit Elmelund	GAM	Denmark
Jørgen Elneff	POULSEN	Denmark
Mashu Dimma	POULSEN	Denmark
Kirsten	JOERGENSEN	Denmark
Lars Johan Helledie	JENSEN	Denmark
Bente	RASMUSSEN	Denmark
Per Rendbaek	ANDERSEN	Denmark
Erik	NIELSEN	Denmark
Ingrid Margrethe	POULSEN	Denmark
Evelin	KRÖLOV	Estonia
Atte Juhana	LAUERMA	Finland
Aarno Artsi	ALANNE	Finland
Rami Tapio	KOLEHMAINEN	Finland
Helena Annika	VIRKKUNEN	Finland
Marjaana Sanna Maria	RäF	Finland
Petri Jouko	VARJOS	Finland
Niina Johanna	SIPINEN	Finland
Katja-Helena	GREKULA	Finland
Rosalie	LAURENT	France
Stephan	LEWANDOWSKI	France
Julie	GODIGNON	France
Diane	JEREMIC	France
Mathieu	BOULEGUE	France
Caspar Johannes	HAMACHER	Germany
Fritz Horst	BALKE	Germany
Uwe	DANAPEL	Germany
Michael	ICKES	Germany
Friedhelm	BALTES-MEYER ZU NATRUP	Germany

Helmut Julius	GOESER	Germany
Stefan	KOEPPE	Germany
Helmuth Josef	SCHLAGBAUER	Germany
Wolfgang Bernhard	GRAF VON SCHMETTAU	Germany
Oliver	FRITZ	Germany
Elisabeth Adele	SCHMITZ	Germany
Reinhold Stephan	OSTERHUS	Germany
Mohammad Amin	LOUDEN	Germany
Heike	WIESCHIOLEK	Germany
Heinz	NÄGELE	Germany
Edith Maria	MUELLER	Germany
Kai	SCHAEFER	Germany
Hartwig Guntram	KABOTH	Germany
Joachim Gustav	TSCHESCH	Germany
Susanne	GREITER	Germany
Fritz	BIRNSTIEL	Germany
Julia Franziska	RUPPEL	Germany
Judith Theresia	BRAND	Germany
Dagmar	HOFMANN	Germany
Melanie	BREITER	Germany
Jürgen	BINDER	Germany
Yuna Gwenaelle	RAULT D'INCA	Germany
Arno Gregor	HUEBNER	Germany
Johannes	HEILER	Germany
Regina	CORDES LARSON	Germany
Ulrike Annelore	NEUNDORF	Germany
Jutta Gisela	KRAUSE	Germany
Bernhard Thomas	HECK	Germany
Helmuth	LAGES	Germany
Reinhard	HESSE	Germany
Christoph	WIEDEMANN	Germany
Sabine	HäUßLER	Germany
Volker	WEYEL	Germany
Sebastian	MAYER	Germany
Rainer Werner	KLEFFEL	Germany
Györgyi	BEZDÁN	Hungary
Magor	ERNYEI	Hungary
Zsófia	ELEK	Hungary
Heiðar Örn	SIGURFINNSSON	Iceland
Helga	HAUKSDOTTIR	Iceland
Kieran Andrew	DALTON	Ireland
Fergus	GLEESON	Ireland
Marga	FOLEY	Ireland
John Ignatius	BURKE	Ireland
Deirdre	BOURKE	Ireland
Alessandra	NERVI	Italy
Kanat	TOLYONOV	Kyrgyzstan
Zhaniia	AGIBAEVA	Kyrgyzstan
Algirdas	GOSTAUTAS	Lithuania
Lina	MOGENYTE	Lithuania

Judith Petrina	KIERS	Netherlands
Peter	HENDRIKS	Netherlands
Margaretha	VAN DEN HEUVEL	Netherlands
Djeyhoun	OSTOWAR	Netherlands
Turid Smith	POLFUS	Norway
Øystein	WIJK	Norway
Gunnar	BAUSTAD	Norway
Berit Bachen	DAHLE	Norway
Thorbjørn	BJORVATN	Norway
Kristina	JOHANSEN	Norway
Ewa	KOŁODZIEJ	Poland
Elzbieta	SWIDROWSKA	Poland
Maria-Magdalena	BUDKUS	Poland
Grzegorz	LEWOCKI	Poland
Aleksandra	JAROSIEWICZ	Poland
Júlio Miguel	DA SILVA IRIA	Portugal
Constantina-Raluca	ZANFIR	Romania
Calin - Adrian	PRODAN	Romania
Adrian Claudiu	BOURCEANU	Romania
Yuliana	PETRENKO	Russian Federation
Irshat	FAKHRITDINOV	Russian Federation
Mariia	SVIDERSKAIA	Russian Federation
Ekaterina	SAITGARIEVA	Russian Federation
Alexander	IGNATOV	Russian Federation
Vladimir	SIMAGIN	Russian Federation
Anastasia	KRUGLOVA	Russian Federation
Igor	GLADKIKH	Russian Federation
Denis	MIKERIN	Russian Federation
Feodosiy	VLADYSHEVSKIY	Russian Federation
Vsevolod	PEREVOZCHIKOV	Russian Federation
Maxim	SIZOV	Russian Federation
Tamara	IAKOVLEVA	Russian Federation
Andrey	BORODIN	Russian Federation
Stepan	ANIKEEV	Russian Federation
Stanislav	PRITCHIN	Russian Federation
Kudina	TUAEVA	Russian Federation
Ivan	KHOROSHEV	Russian Federation
Igor	INYUSHKIN	Russian Federation
Ekaterina	SHCHEGLOVA	Russian Federation
Yulia	KOROTUN	Russian Federation
Dmitry	VETROV	Russian Federation
Oxana	MIKHAYLOVA	Russian Federation
Dmitry	FILATKIN	Russian Federation
Valentina	TERESHKOVA	Russian Federation
Pavel	KOPCHENKOV	Russian Federation
Andrei	ERMOLENKO	Russian Federation
Alexander	PASHEDKO	Russian Federation
Andrei	EGOROV	Russian Federation
Enver	AKHMEDOV	Russian Federation
Lev	TARSKIKH	Russian Federation

Svyatoslav	TERENTYEV	Russian Federation
Dmitry	BAGDULIN	Russian Federation
Evgeny	LOGINOV	Russian Federation
Aslan	BOTASHEV	Russian Federation
Alexander	VLADYCHENKO	Russian Federation
Konstantin	GUZ	Russian Federation
Maria	NIKIFOROVA	Russian Federation
Daniil	DEVYATKIN	Russian Federation
Vilyam	SMIRNOV	Russian Federation
Vladislava	FADEEVA	Russian Federation
Dmitry	GROSHEV	Russian Federation
Alexander	BEDRITSKIY	Russian Federation
Sergey	OVERCHENKO	Russian Federation
Alexander	CHETVERIKOV	Russian Federation
Mikhail	KORMACHEV	Russian Federation
Pavel	ARTAMONOV	Russian Federation
Andrey	KOLESNIKOV	Russian Federation
Gennady	RYABKOV	Russian Federation
Vladimir	KIREEV	Russian Federation
Victor	EVSEEV	Russian Federation
Stanka	TADIN	Slovenia
Jose Luis	GONZÁLEZ GARCÍA	Spain
Lucia	FERREIRO PRADO	Spain
Loreto Del Pilar	AVELLO BLÁZQUEZ	Spain
Elena	GARCIA CABRERA	Spain
Francisco Javier	BURGOS CALVIÑO	Spain
Rashideh Yusuf	MUSTAFA CHICO	Spain
Loïc Alexis	DEGEN	Switzerland
Barbara Silva	EGGER MALDONADO	Switzerland
Khadidja	HADJ SAID	Switzerland
Cornelia	STEINER	Switzerland
Hasan Ali	KARASAR	Turkey
Ahmet Asim	ARAR	Turkey
Anna Christine	GLEESON	United Kingdom
Mark Burnidge	WALLER	United Kingdom
David	McARDLE	United Kingdom
Ben Graham	JONES	United Kingdom
David John	HARRISON	United Kingdom
Jeffrey Dennis	LOWE	United Kingdom
Lewis James	EMMERTON	United Kingdom
Richard John	EMMERSON	United Kingdom
Valerie Louisa	SOLOMON	United Kingdom
Stephen Spencer	PAUL	United Kingdom
David	GODFREY	United Kingdom
Melanie Jane	LEATHERS	United Kingdom
Thomas	KELLY	United States
John Tyler	OBORN	United States
Marilyn	STEMPLER	United States
Besa	RIZVANOLLI	United States
Tanya	KARPIAK	United States



Karin	ACCORINTI	United States
Parastou	HASSOURI	United States
Christopher	KALIL	United States
Gela	SULI	United States
Zachary	CANTRELL	United States
Urania	PETIT	United States
Aaron	JOHANSON	United States
Andre	JASSE	United States
Robert	HYAMS	United States
Shauna	DOZIER	United States
Raleigh	QUESENBERRY	United States
Kiarash	EHFAD	United States
Annisa	WANAT	United States
Ward	CROMER	United States
Claire	KAISER	United States
Vernon	NELSON	United States
Nancy	LUBIN	United States
Garrett	MONTI	United States
Laura	LOCKARD	United States
James	ARMSTEAD	United States
Gregory	SLOTTA	United States
Carol	WAHL	United States
Howard (Jonathan)	BEMIS	United States
Philip	DANIEL	United States
Michael	ROSENTHAL	United States

### Long-term observers

#### OSCE/ODIHR EOM Core Team

Cornelia	JONKER	Netherlands	Head of Mission
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#### OSCE/ODIHR Long-term Observers

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Sinisa	Bencun	Bosnia and Herzegovina
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Matti Tapio	Heinonen	Finland
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Thomas	Holzer	Switzerland
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Stella Mary	Hellier	United Kingdom
Linda Flynn	Beekman	United States
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## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)).