

**INTERIM REPORT
26 March – 14 April 2015**

16 April 2015

I. EXECUTIVE SUMMARY

- On 25 February, President Nazarbayev called an early presidential election for 26 April. To be elected, a candidate must receive more than 50 per cent of the popular vote; a potential second round should be held within two months. A 2010 legal amendment exempts President Nazarbayev from the constitutional two consecutive term limit.
- Three candidates have been registered for this election. Of 27 nominees, 15 did not take the mandatory language test or failed to pass it. Several nominees criticized the criteria and process of language testing. Candidates may be nominated by a political party, public organization, or independently, but are required to meet strict eligibility criteria.
- The election is primarily regulated by the Constitution and Election Law. The legal framework was amended in 2014, but prior OSCE/ODIHR recommendations were not addressed.
- The election is administered by a four-tier structure headed by the Central Election Commission. To date, election commissions at all levels have been open and forthcoming with information for the OSCE/ODIHR EOM and all electoral deadlines have been respected. The Election Law does not ensure an overall equitable representation of political parties in commissions.
- Some 9.5 million voters are registered for this election. Voter registration is passive and all citizens over 18 years of age are eligible to vote, except those declared incompetent by a court or those serving prison sentences. Voter lists are compiled through various means by local administrations. Voters can register at polling stations on election day if they can prove their residence in the respective precinct.
- The campaign began on 26 March, but has been hardly visible so far. Despite the president's announced intention not to campaign personally, he has been actively touring the country in his official capacity. Campaign finance provisions do not provide for public reporting prior to election day.
- The law requires objective media coverage of the campaign and provides equal conditions for candidates, including airtime on television, radio and print space in the press. The OSCE Representative for Freedom of Media and OSCE/ODIHR EOM interlocutors criticized closures and sanction of independent media, which endangers media pluralism. The possibility of criminal sanction for defamation, which remain despite recent amendments, stifles the media environment.
- Election-related complaints and appeals can be filed with election commissions and the courts. To date, three complaints were filed with the courts, all of which were dismissed as ungrounded, and none to the CEC. The Prosecutor General is actively monitoring the internet and social media and has issued two warnings for attempts to disgrace the honour and dignity of candidates.

- The OSCE/ODIHR EOM opened on 26 March and consists of a core team of 12 experts based in Astana and 30 long-term observers deployed throughout the country.

II. INTRODUCTION

Following an invitation from the Ministry of Foreign Affairs and based on the recommendation of a Needs Assessment Mission (NAM) conducted from 3 to 6 March, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 26 March.¹ The EOM, headed by Cornelia Jonker, consists of a 12-member core team based in Astana and 30 long-term observers who were deployed throughout the country on 31 March. Mission members are drawn from 24 OSCE participating States. Participating States have been requested to second 400 short-term observers to observe election day procedures.

III. BACKGROUND

In November 2014, President Nursultan Nazarbayev, the country's first and only president, introduced a programme called *Nurly Zhol* (Bright Path) to address economic challenges. It builds on the "Kazakhstan-2050" strategy that aims to create 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 reforms.

On 14 February 2015, the Assembly of the People of Kazakhstan, an advisory body chaired by President Nazarbayev, proposed an early presidential election citing the necessity to avoid holding both presidential and parliamentary elections at the same time. The parliament, together with a national coalition created to implement the "Kazakhstan-2050" strategy, unanimously supported the initiative, stating that it was necessary to give the president a mandate to implement the *Nurly Zhol* programme.² On 25 February, the President set the date for the early presidential election to take place on 26 April. This is the second consecutive presidential election to be held early. The authorities have expressed their commitment to conduct elections in line with national legislation and international standards.

With 83 out of 98 directly-elected seats, President Nazarbayev's *Nur Otan* party holds the majority 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 more than one party in the parliament and nine registered political parties, the president and *Nur Otan* dominate national politics. On 25 December 2014, the Almaty Economic court ordered the suspension of the Communist Party of Kazakhstan's activities.³

IV. THE ELECTORAL SYSTEM AND LEGAL FRAMEWORK

Kazakhstan is a presidential republic with strong powers vested in the president. The president has the authority to appoint and dismiss the prime minister, the prosecutor general, and judges at all levels. The president may also veto legislation passed by the parliament and decisions of the Constitutional Council and dissolve parliament.

¹ All previous OSCE/ODIHR reports on Kazakhstan are at: <http://www.osce.org/odihr/elections/kazakhstan>.

² The National Coalition of Democratic Forces "Kazakhstan-2050" whose members are among others: Party *Nur Otan*, Communist People's Party of Kazakhstan (CPPK), Party *Birlik*, Party of Patriots of Kazakhstan, Democratic Party *Ak Zhol*, Kazakhstan's Social-Democratic Party *Auyl* and the Foundation of Trade Unions.

³ The Ministry of Justice asked the court to suspend the party activities after reviewing the party membership. The review was initiated upon complaints from regional party leaders that the membership list included inaccuracies.

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 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 President Nazarbayev.⁴

Presidential elections are governed by the Constitution, the Constitutional Law on Elections (Election Law) and Central Election Commission (CEC) regulations.⁵ In 2014, the Election Law and other laws regulating aspects of the election process were subject to changes. Amendments to the Administrative Offences Code provided more detailed definitions of electoral offences; however, amendments to the Election Law did not address prior OSCE/ODIHR recommendations including those related to election administration, candidate registration, and complaints and appeals.

V. THE ELECTION ADMINISTRATION

The election is 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).⁶

Commissions at all levels 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. Each organization can nominate one member per commission; however, the Election Law allows a member of an organization to be nominated by another organization.⁷ Party nominations for commission members are also not binding on the *maslikhats*. Moreover, the Election Law does not ensure an overall equitable representation of political parties in commissions at the district or national level.

In commissions visited by the OSCE/ODIHR EOM to date, almost a fifth of the members appointed in 2014 had been replaced. Overall, approximately two-thirds of the members were nominated by political parties and the rest by public associations or superior election commissions.⁸ A number of the commissioners met with by the OSCE/ODIHR EOM were not aware which organization nominated them, or their listed political party affiliation. Women represent half of the members and chair more than a quarter of the commissions visited to date.

All electoral deadlines to date have been respected. Most commissions, including the CEC, were open and forthcoming with information for the OSCE/ODIHR EOM. The CEC has met twenty-four

⁴ Article 42.5 of the Constitution and Article 1 of the 2010 amendments to the “Law on the First President - Leader of the Nation” gives President Nazarbayev special status.

⁵ Other applicable laws include the Law on Political Parties and the Law on Peaceful Assembly, as well as provisions of the Criminal Code, the Administrative Offences Code, the Civil Procedural Code, the Law on Mass Media, the Law on Communications and the Law on Broadcasting. Also, various local regulations related to public assemblies are applicable.

⁶ Including 65 out-of-country polling stations established in 51 embassies and consulates.

⁷ Article 10 of the Election Law provides that “Each political party shall be eligible to nominate one candidate to the corresponding election commission. A political party shall be eligible to nominate to an election commission a nominee who is not a member of the given political party.”

⁸ Public associations include among others: non-governmental organizations, trade unions, and foundations.

times since the election was called and its 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.⁹ All CEC decisions are posted online, but the OSCE/ODIHR EOM noted that some decisions were posted with delay. Training of DEC and PECs is ongoing, with CEC produced manuals and videos. The CEC also developed an extensive voter education programme, with billboards, posters, and TV spots.

VI. VOTER REGISTRATION

All citizens over 18 years of age have the right to vote, except those declared incompetent by a court or those serving prison sentences, irrespective of the gravity of the crime.

Voter registration is passive. There are no uniform means of collecting data for the voter lists. Each *Akimat* (local administration) can compile lists based on data provided by any institution contributing to the population register and from information collected through door-to-door visits. *Akimats* submit the data to the respective TEC twice a year and, in an election year, 20 days before election day. The CEC compiles the data and checks it for possible multiple registrations against a national electronic register.

The number of registered voters was 9,357,483 as of 1 January 2015, and increased to 9,514,988 as of 5 April. The CEC attributed the increase to recent door-to-door verifications. PECs are obliged to make the voter lists available for public review starting on 11 April. Voters can also check the location of their polling stations on the internet.

Up to 30 days before election day, citizens who will be away from their registered residence on election day could apply to be temporarily included in the voter list at their temporary location. In addition, within two weeks before election day voters could apply for an Absentee Voting Certificate (AVC), which allows them to vote in any polling station outside the city, town or village where they are registered. PECs can also register voters on election day if they are not on the voter list but are able to prove residence in the respective precinct.

VII. CANDIDATE REGISTRATION

A candidate must be a Kazakhstani citizen by birth, at least 40 years old, fluent in the Kazakh language, and officially resident in the country for the last fifteen years.¹⁰ Persons serving criminal sentences (including probation), with a criminal record that has not been expunged, or a conviction for a crime or administrative offence involving corruption cannot run for office.¹¹

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 language test, collect supporting signatures, and pay a deposit. 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; four did not appear for the mandatory language test organized by the

⁹ According to the CEC, candidates and proxies are notified about relevant CEC sessions, as required by law.

¹⁰ In 1998, the Constitutional Council defined the constitutional phrase "proficiency in state language" as "ability to read and write correctly, express one's idea with ease and make public speech in Kazakh language".

¹¹ Additionally, those declared incompetent by a court of law are also barred; article 33.3 of the Constitution.

CEC-appointed Linguistic Commission; eight failed this 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.¹²

According to the CEC regulations, the language test consists of a maximum two-page essay, reading with appropriate diction up to three pages of a classical Kazakh poem or prose, and oratory speaking for 15 minutes. The Rules of Procedures of the Linguistic Commission do not indicate how many mistakes are allowed, or what precisely constitutes a mistake.¹³ According to several nominees who failed the test, the assessment criteria are discretionary and the Linguistic Commission went beyond legal requirements in evaluating the nominees' style and knowledge of different subjects.

Following eligibility verification, the seven remaining nominees were to be issued sheets for the collection of candidate support signatures. Each had to collect signatures from at least one per cent of the total number of registered voters (93,012), equally representing at least two-thirds of the regions. Three nominees chose not to pick-up their signature sheets, one collected insufficient signatures, and three collected the required number of signatures.¹⁴ TECs checked the validity of signatures.

Following the submission of the required tax declarations and payment of an election deposit of 1.07 million Kazakhstan *Tenge* (KZT), these three nominees were registered by the CEC as candidates.¹⁵ They are: incumbent President Nazarbayev, nominated by *Nur Otan*; Turgun Syzdykov nominated by CPPK; and the self-nominated Abelgazi Kusainov, Chairperson of the Foundation of Trade Unions and member of *Nur Otan*.

VIII. CAMPAIGN AND CAMPAIGN FINANCE

The official campaign period started on 26 March, the day after the close of candidate registration, and ends at midnight on 24 April with the start of the electoral silence period. In spite of the stated importance of this early election, the campaign is hardly visible so far. OSCE/ODIHR EOM interlocutors emphasized the repression of a genuine opposition in the country, with several prominent critics of the government either imprisoned or living in exile. The president announced his decision not to campaign personally; however, he is actively touring the country in his official capacity.¹⁶ To date, the OSCE/ODIHR EOM has observed eight rallies: four organized on behalf of the incumbent and two by each of the other candidates.¹⁷ In one of Mr. Syzdykov's meetings, the candidate lauded the President for the country's achievements and did not ask meeting participants to support him.¹⁸ The incumbent's platform emphasizes economic reform, political stability, interethnic

¹² The Linguistic Commission consists of five scholars appointed by the CEC to verify the fluency in Kazakh language of presidential candidates.

¹³ 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 Language Commission informed the OSCE/ODIHR 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.

¹⁴ President Nazarbayev collected 560,523 signatures within 3 days, Mr. Kusainov collected 132,152 signatures within 3 days, and Mr. Syzdykov collected 98,384 signatures within 6 days. Mr. Kalybay collected some 40,000 within 8 days.

¹⁵ Approximately KZT 200 = EUR 1. The deposit is returned to those who obtain at least five per cent of votes.

¹⁶ From 26 March to 14 April, the president made 21 appearances at exhibitions, hospitals, cultural centres and industrial plants in Astana and five regions. According to the official website of the President, www.akorda.kz, in the same period in 2014, he made three similar appearances in Astana and Almaty.

¹⁷ The OSCE/ODIHR EOM requested schedules for campaign events from all candidates, and has received these with the exception of the incumbent.

¹⁸ A meeting of candidate Syzdykov on 9 April at the Pavlodar Palace of Culture named after Estay.

accord and social cohesion. The main focus of Mr. Syzdykov's platform is the creation of social equality and the eradication of negative impacts of western values. Mr. Kusainov's campaign focuses on environmental issues and industrial safety. Several OSCE/ODIHR EOM interlocutors stated that they were not familiar with either the names or platforms of candidates other than the incumbent's.

Posters and billboards for the president, both in his capacity as a candidate and the head of state promoting the 'Kazakhstan-2050' and *Nurly Zhol* programmes, are visible throughout the country. Other than official CEC posters, almost no campaign materials have been observed for the other two candidates. Several OSCE/ODIHR EOM interlocutors expressed concerns about the incumbent's institutional advantage.

While freedom of assembly is guaranteed in the Constitution, the "Law on the Procedure for Organizing and Conducting Peaceful Assemblies, Meetings, Marches, Pickets and Rallies" contains a number of limitations on holding 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 executive body 10 days in advance. Several OSCE/ODIHR EOM interlocutors stated that this provision is used to curtail critical activity and freedom of assembly.

The OSCE/ODIHR EOM received information of students and company employees being instructed to vote for the incumbent.¹⁹ This raises concerns about the incorrect use of state administration resources.

To finance their campaign, the Election Law guarantees equal public funds for each candidate. Private financing is also permitted including the candidate's own funds, donations made by citizens and legal entities, and funds allocated by the candidate's nominating body.²⁰ 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.²¹ Candidates are obliged to submit one report on campaign expenditure after the election. Breaches of campaign finance rules may lead to candidate de-registration or the invalidation of election results in a given territory.

IX. MEDIA

The Election Law obliges media to present objective coverage of the campaign and guarantees candidates and political parties equal access to the media. Each candidate is granted funds for 15 minutes of airtime on television and 10 minutes on radio, as well as print space for the publication of two articles in the press. According to the CEC, any airtime given to a candidate outside the news is considered to be campaigning and should be paid for by the candidates. The law does not provide for a limit on paid advertising, it is only constrained by the general campaign spending limits.

The CEC is responsible for overseeing media compliance with the Election Law. The CEC is conducting this task in co-operation with the Committee on Communication, Informatization, and Information (Media Committee). The Media Committee analyses the quantitative coverage of candidates across numerous media outlets (45 TV channels, 11 radio stations, 232 newspapers and

¹⁹ Kostanay and Mangystau regions.

²⁰ Article 58 provides that 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 EUR million), and funds from the nominating body may not exceed KZT 150 million (EUR 750,000).

²¹ 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).

126 online media) and provides its findings to the CEC on a daily basis. While the tone of the coverage is not analysed, one of their foci is on identifying possible defamatory statements in the media.

Although a large number of media outlets operate, several OSCE/ODIHR EOM interlocutors questioned their independence. The OSCE Representative on Freedom of the Media (RFOM) has on several occasions criticized the continued intimidation and closure of independent media in Kazakhstan and the impact this has on limiting media plurality.²² An amended Criminal Code came into force on 1 January and retains provisions that criminalize defamation and insult as well as special protections of officials, in particular, the President and his family, and public officials. The revised Code also contains a provision on spreading false information, with a penalty of up to ten years of imprisonment, while 2014 amendments to the Law on Communications allow the prosecutor to temporarily shut down websites if they distribute information ‘harmful’ to individuals, society and the state, or contains calls for ‘extremist’ activities.

On 28 March, the OSCE/ODIHR EOM commenced qualitative and quantitative monitoring of seven TV channels, one radio station, three online media and five newspapers.²³

X. COMPLAINTS AND APPEALS

The legal framework provides for the right of redress and judicial review to all election participants, but limits the right to appeal final election results to the president, one fifth of the members of parliament, the speakers of both houses of parliament, and the prime minister.

Election-related complaints and appeals may be filed with both election commissions and the courts, with district courts as the first instance courts.²⁴ When a complaint is submitted to a higher election commission and the court at the same time, the court has precedence. All complaints must be considered within five days or immediately if submitted less than five days before elections. During the reporting period a total of three complaints were filed with the courts: two pertaining to candidate registration, and one challenging the president’s decree calling for early elections. All three were dismissed as ungrounded. The CEC has not received any complaints to date.

Allegations of election offenses can be filed with courts, election commissions and public prosecutors, who are also 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 in jail. The General Prosecutor’s Office informed the OSCE/ODIHR EOM that it has issued warnings to two individuals for comments on Facebook that attempted to disgrace the honour and dignity of two of the candidates, President Nazarbayev and Mr. Syzdykov.²⁵

XI. CITIZEN AND INTERNATIONAL OBSERVERS

²² OSCE Representative on Freedom of the Media, November 2014, available at: <http://www.osce.org/fom/127436>.
²³ *Kazakhstan TV, Khabar TV* (state-funded broadcasters), *First Eurasian Channel* (mostly state-funded broadcaster), *Astana TV, Channel 7, Channel 31* and *KTK* (private channels), *Kazakh Radio* (state-funded), www.nur.kz, www.tengrinews.kz, www.zakon.kz (online media), *Egemen Kazakhstan*, *Kazakhstanskaya Pravda* (state-funded), *Caravan, Vremya* and *Zhas Alash* (private newspapers).

²⁴ Two exceptions: complaints against CEC decisions on candidate registration are filed with the Supreme Court and challenges to final results are submitted to the Constitutional Council.

²⁵ These actions are punishable under Article 130 of the Criminal Code with up to two years in prison.

The Election Law provides for citizen and international observers, as well as proxies of registered candidates. The ‘Republican Public Commission for the Control of Elections’ plans to deploy some 9,500 observers. The OSCE/ODIHR EOM is unaware of any other citizen observer group that intends to observe. As of 14 April, 496 international observers from foreign states, the OSCE/ODIHR, Commonwealth of Independent States, Shanghai Cooperation Organization and the Parliamentary Assembly of Turkic-speaking Countries have been accredited.

XII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM opened in Astana with a press conference on 26 March. The OSCE/ODIHR EOM has met with government authorities, the CEC, election contestants, and representatives of political parties, media, civil society, the OSCE Programme Office in Astana and the international community.²⁶

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

²⁶ The OSCE/ODIHR EOM and the OSCE Programme Office in Astana operate separately under their specific mandates.