



OSCE/ODIHR ELECTION OBSERVATION MISSION
KYRGYZ REPUBLIC
PARLIAMENTARY ELECTION
20 FEBRUARY/12 MARCH 2000

Second Statement of Preliminary Findings and Conclusions

Bishkek, 13 March 2000 - This statement is issued by the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Election Observation Mission for the 20 February/12 March parliamentary elections in the Kyrgyz Republic. This second statement of preliminary findings and conclusions is issued prior to the completion of the aggregation procedures, the resolution of complaints and appeals and the publication of final results. The ODIHR will issue a report after the publication of the final election results.

Preliminary Conclusions

In a first preliminary statement issued on 21 February 2000, the Election Observation Mission (EOM) concluded that political parties and candidates had been prevented from competing in the election on a fair and equal basis, and that a high degree of interference in the process by state officials had marred the pre-election period. The EOM urged the Kyrgyz authorities to address these concerns before the second round. However, the process leading up to the second round of the election was again marred by the interference of state officials, and particularly by the selective use of legal sanctions against candidates. Election day procedures were generally well conducted in most areas, but very serious concerns have emerged in certain constituencies. As a result, the positive conditions for fair and competitive elections, which the existing legislation could have ensured, have been undermined. The EOM therefore concludes that the 2000 Kyrgyz Parliamentary Elections failed to comply with OSCE commitments.

The proliferation of court cases against candidates has continued, resulting in the de-registration of nine candidates between the two rounds, with four cases pending. This has highlighted some weaknesses in the electoral legislation's dispute resolution process and its administration, as election commissions and courts issued a number of inconsistent decisions, which in some instances did not correspond to the evidence and effectively negated the electorate's choice. In a number of cases, election commissions appeared to be under pressure to issue a particular decision regardless of the evidence presented or the fact that the sanction promulgated was disproportionate to the violation. Of note is the de-registration of Daniyar Ussenov, leader of the opposition People's Party, who received over 50% of the votes cast in his district in the first round.

The first round results in constituency 17, in the Issyk-Kul area, were annulled, and two of the four qualifying candidates were de-registered, including one of the remaining opposition candidates due to alleged violations of the law. Whilst violations should be dealt with, similar such allegations were prevalent throughout the country, yet were mostly not addressed or remained unpunished. When considered in conjunction with the series of earlier decisions preventing the participation of several of the main opposition parties in the first round, the cumulative effect has been a serious restriction on the right of opposition parties and candidates to compete in the election.

The interpretation of the Election Code by the CEC, providing for automatic election of a candidate in the event of the withdrawal or de-registration of their second round opponent, is against the spirit of the legislation, which requires a candidate to secure the majority of votes from the registered electorate in order to be elected in the first round. This interpretation also opened the process to abuse, as candidates could be induced or pressured to withdraw and de-registration of a candidate could be sought by unscrupulous opponents or other interested parties.

The tabulation of the results after the first round was not sufficiently transparent. In many instances polling station protocols were not posted on site, and official copies were not always made available to observers and candidate representatives. Irregularities in constituency 44 are of particular note, where observers faced obstacles in trying to follow the process at the Territorial Election Commission (TEC). The chairperson of the TEC acknowledged that irregularities were taking place. She was later forced to resign under pressure from state officials in Talas.

In the second round Kyrgyz voters participated in a full and peaceful manner, and in many parts of the country the voting and counting processes on the day of the election were generally well administered. However, there are again serious concerns regarding the election in constituency 44, where there was a significant increase in the number of advance voters, reports of pressure on the electorate and numerous violations of the procedures for tabulating the results. These factors raise serious questions regarding the results in this district.

The active participation of Kyrgyz civil society in the election continues to be a positive factor in the political process. However, the negative trends identified during the two rounds of this election, notably the manipulation of the legal system for political advantage, the lack of independence of election commissions, bias of state media and interference by state officials in the electoral process should be addressed before the Presidential Elections at the end of the year.

The authorities of the Kyrgyz Republic have decided to establish a working group to consider possible changes to the Election Code. The EOM hopes that the review will involve all of the main political and civic groups in the country. Key aspects of the Code, including, but not limited to, the procedure for regulating the withdrawal or de-registration of candidates, the formation of election commissions, the registration procedures for candidates and parties, and the conditions under which registered candidates can be investigated and prosecuted, require serious consideration and amendment. The OSCE/ODIHR welcomes this decision, and stands ready to assist in the process.

Main Developments after the First Round

First Round Results

In many instances, the aggregation of the results lacked adequate transparency. In violation of the Election Code, many Precinct Election Commissions (PEC) did not post protocols on site. In addition, whilst many observers and representatives of candidates received copies of protocols, this was not always the case, and some copies were not signed and stamped as required. There were particular problems in a number of constituencies.

In constituency 44, in the Talas area, the chairperson of the TEC was forced to resign after the first round. She came under pressure following her public acknowledgement of widespread irregularities in the constituency during the first round, and her insistence on not being part of the manipulation of the results. Even though the opposition candidate Felix Kulov did progress to the second round, there was an attempt to limit the number of votes in his favour. At the TEC, a lack of transparency in the process raised serious concerns and there was evidence of PEC protocols being altered or fabricated.

In constituency 9, in the Jalal Abad region, the reconciled tabulation of the results were questionable given the large number of ballots apparently taken from polling stations by supporters of a previously de-registered candidate as a sign of protest. A large number of complaints were filed in the constituency, but no action was taken. The results declared at some polling stations in certain universities in Bishkek (1 and 5) and Jalal Abad (11) corroborate the concerns raised in the first OSCE statement that students have been under pressure to vote for a specific candidate.

Withdrawal and De-Registration of Second Round Candidates

The de-registration of a candidate after the first round of an election is an extremely grave matter, and should be undertaken only in the event of clear and overwhelming evidence of serious wrongdoing, as effectively the choice of the voters is negated. However, the proliferation of cases against candidates alleged to have violated the Election Code continued between the two election rounds, further restricting the ability of opposition candidates to participate in the election. In addition, the appeals process was not used consistently, with some sanctions levied without regard to its proportionality to the seriousness of the violation. As in the first round, the registration status of candidates was confirmed by courts and election commissions even on the day of the election, causing uncertainty and confusion.

The de-registration of Daniyar Ussenov is of particular concern. The TEC initiated the decision based on a claim that Ussenov had not declared part ownership in a house. The consideration of the case gave the impression that electoral and judicial authorities were intent on securing the de-registration of the candidate without an adequate consideration of the evidence and without considering the proportionality of the sanction to the alleged violation.

The CEC decision to declare a candidate elected in the event of the withdrawal or de-registration of the second round opponent is against the spirit of the Election Code. Legislation requires a candidate to win the support of over 50 percent of the registered electorate in order to secure a first round victory. As a consequence of the CEC decision, a candidate can be elected to Parliament without the required majority, such as in Chui 39, where 90.24 percent of the electorate in the district did not vote for their new representative. Such an interpretation of the law opened the process to abuse, as candidates could be pressured or induced to withdraw in favour of their opponent, again depriving voters of the right to choose their representative. As a consequence of this interpretation up to 17 candidates, nearly 19% of the seats available in the single-mandate constituencies, were elected without securing the required majority.

An international observer was detained for two hours by local police in Jalal Abad whilst observing a demonstration. The police were aware of his status as an observer but claimed he had no right to be present at what they said was an illegal gathering. Such an action against international observers is unacceptable and contrary to a participating State's commitments to the OSCE

The campaign manager of the candidate Felix Kulov was detained in Bishkek by the Ministry of Interior prior to the second round. There was apparently no charge, and the detention prevented the manager from carrying out his duties during a crucial part of the electoral process.

The Second Round

Voting and Counting

As in the first round, Kyrgyz voters participated in fairly large numbers and in a peaceful manner. With the notable and very serious exception of constituency 44, in the Talas area, the process was generally well administered by the Precinct Election Commissions (PEC).

In constituency 44, observers reported widespread violations. An enormous increase in the number of persons voting in advance is highly suspicious. In some polling stations voters were seen showing their marked ballot paper to confirm their vote and PECs uniformly went to the Rayon Administration prior to

taking the results to the TEC. There were also reports of pressure on voters and the work of the TEC was adequately transparent. The legitimacy of the reported results in this area is questionable.

In most other areas PECs worked hard to ensure the proper processing of voters, and the practice of family voting continues to decrease. In some areas there remain problems with the accuracy of voter lists, causing problems for some voters and large numbers of voters being added to additional lists. There was also again noticeable coercion of students, pressuring them to vote for a particular candidate. In constituency 11, in Jalal Abad, for example, students were seen with multiple, pre-marked ballots.

This statement is also available in Russian. The English text remains the only official version

Mission Information

- *Mark Stevens (UK) is the Head of the OSCE/ODIHR Election Observation Mission, which has been present in the country since 12 January 2000, with a team of 17 international experts, covering the pre-election period.*
- *The EOM deployed some 70 international observers on the second round election day, reporting from over 300 polling stations in 24 election constituencies.*
- *The OSCE/ODIHR Election Observation Mission wishes to thank the Ministry of Foreign Affairs of the Kyrgyz Republic for their invitation to observe these elections, and the Central, Territorial and Precinct Election Commissions and political parties for their co-operation during the course of the observation.*

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