



**OSCE/ODIHR
Election Observation Mission
Kyrgyz Republic
Presidential Elections
29 October 2000**



Statement of Preliminary Findings and Conclusions

Bishkek, 30 October 2000 – This statement of preliminary findings and conclusions is issued by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) Election Observation Mission (EOM) for the 29 October 2000 presidential election in the Kyrgyz Republic. The statement is issued prior to the completion of the entire electoral process and a complete analysis of the EOM's findings. The OSCE/ODIHR will issue a comprehensive report shortly after the publication of the final election results.

Preliminary Conclusions

The 2000 Kyrgyz presidential election failed to comply with OSCE commitments for democratic elections. In particular, the international standards for equal, free, fair, and accountable elections were not met. This election did not reverse the negative trends identified during the recent parliamentary elections, instead undermining some of its positive features. Democratic development in the Kyrgyz Republic still remains comparatively viable, though increasingly challenged.

While the electoral legislation of 1999 could be further improved, it provides the potential for democratic elections. However, the following implementation failures undermined this potential:

- Although six competing candidates offered the electorate some political choice, the exclusion of prominent opposition leaders, and the restrictive process of candidate registration limited the field. Due to prior criminal convictions, opposition leaders were prevented from participating in the election. The use of a strict language test for candidates and the arbitrary administration of the test further limited the field.
- Pressure exerted against a major domestic election monitoring organisation, the “NGO Coalition for Democracy and Civil Society”, a setback from the parliamentary elections, raised concerns regarding fundamental freedoms. Although eventually a compromise was found, allowing members of NGOs that support the Coalition to observe on the day of election, in some cases they were denied access.
- Executive authorities, mostly at local and regional levels, interfered in the functioning of election commissions and the electoral process in general. The conduct of the Central Election Commission (CEC) raised concern.
- The election campaign did not provide candidates with the possibility to compete on a free and fair basis. While some campaigning possibilities were evident, harassment against opposition candidates was also noted.
- Pressure against independent media aiming to restrict coverage for opposition candidates, and overt bias in State media for the incumbent, further undermined the conditions for a free and fair election campaign.

The positive features of the electoral process in the Kyrgyz Republic include the following:

- The Election Code provides for a remarkable level of transparency for the tabulation of results, allowing observers and candidates the possibility to audit the aggregation of the results from polling station to the CEC level.
- The election commissions at the intermediate levels included a high percentage of women and national minorities.
- The CEC addressed some recommendations of the OSCE/ODIHR through normative acts.
- The civil society remained active in the electoral process despite pressure from the authorities.

On election day, in a majority of precincts observed, the voting process was administered adequately and candidates were well represented. However, irregularities, in some cases serious ones, were noted, including ballot box stuffing, voter registers marked with sets of identical signatures, and local and regional administration officials present in polling stations, often controlling the proceedings or instructing voters.

The remarkable level of transparency for the tabulation of results was marred by serious violations before the results were entered into the computerised system. These violations included, precinct protocols prepared in pencil or blank protocols signed by PEC members, protocols in some cases altered before delivery to the next level up or at the next level commissions, local and regional administration officials present during the results aggregation process, and in some cases, observers denied access to the vote counting and tabulation process.

The OSCE/ODIHR stands ready to work closely with the authorities and civil society in the Kyrgyz Republic to address the concerns identified in this statement.

Preliminary Findings

Background

The 2000 presidential election took place amid debates over the constitutional legitimacy of the incumbent's third term of office, the economic course followed by the country, the future of constitutional framework, and in the aftermath of terrorist attacks in the Fergana Valley.

Despite a ruling of the Constitutional Court permitting the incumbent to run in the 2000 election, questions over the issue remained on the forefront of the political debate. Accumulated economic difficulties, corruption, abject poverty, and ineffective use of foreign loans as well as implementation of social and economic reforms, were largely attributed to the incumbent by opposition candidates. The authorities, on their side, blamed the opposition for destabilising the country in the midst of a threat to its territorial integrity.

Some candidates urged that the constitutional framework of the country required amendments to move towards a stronger parliamentary system from the current presidential one. The authorities strongly rebuffed any such suggestion.

Legislative Framework

In May 2000, the OSCE/ODIHR submitted to the Kyrgyz authorities concerns regarding the legislative framework for the 2000 presidential elections. While the electoral legislation was amended prior to the February 2000 parliamentary elections providing the potential for increased competition and increased role for civil society in the political process, the OSCE/ODIHR recommended further improvements in the following areas that was not addressed for this election:

- **Election commissions** at all levels failed to ensure pluralist representation, and the appointment of the Chairman of the Central Election Commission (CEC) by the President of the Republic who is also a candidate raised serious concerns;
- **Candidate registration** requirements are less than fair and they can be de-registered on unreasonable grounds;
- **Campaigning** conditions may be unequal;
- **Voting** procedures are deficient in parts; and
- Electoral **disputes resolution** process is complex and unfair.

Some of the other recommendations were addressed. The OSCE/ODIHR also cautioned that the conduct of elections in line with OSCE commitments is conditional not only on the improvement of electoral legislation, but also on the proper implementation and interpretation of this legislation. Regrettably, this

warning was not heeded and the 2000 presidential elections failed even though the legislative framework could have provided for a democratic election.

Election Administration

In addition to the Central Election Commission (CEC), seven oblast (province) and Bishkek City commissions (OEC), 53 rayon (district) and smaller city commissions (REC), and 2,090 precinct election commissions (PEC) administered the election.

Women are well represented on OECs (36.1%) and RECs (37.86%) as are national minorities, 25.4% and 25.2% respectively. The equivalent figures for the PECs are not available. However, 50% of OEC members, 57% of REC members, and 50.26% of PEC members were on State or local government payroll. Notwithstanding, the representation of women and national minorities, the controlling number of commission members on government payroll is of serious concern.

The CEC often failed to respond adequately to complaints raised by opposition candidates, while readily taking action on complaints against them, at times even beyond its mandate. The CEC also neglected provisions of the Electoral Code and its own normative acts – resolutions, decisions, and regulations. More significantly, the CEC felt compelled to criticise twice a joint statement issued by three opposition candidates on 12 October, thus revealing unacceptable bias against opposition candidates.

Nonetheless, a significant positive feature of this election was the level of transparency provided in the law for the vote count and tabulation of the results. Any participant in the electoral process, from voters to observers and candidates, could audit the aggregation of the results from polling station to the CEC level. Another positive feature was a nation wide, computerised voter register and data base, supported by UNDP. However, the system still requires refinements, in particular to address duplicate and incorrect entries.

Registration of Candidates

The candidate registration process unfairly limited possibilities for participation in the election. Some leading opposition leaders were prevented from participating prior to the registration process, by virtue of legal proceedings. Daniyar Usenov, the former leader of the People's Party, received a questionable criminal conviction after the parliamentary elections and was therefore ineligible to stand. Felix Kulov, another opposition leader, had a military court acquittal overturned by a higher military court and currently is facing retrial.

In addition, assessing candidates' command of the State language of the Republic is in breach of Article 25 of the International Covenant of Civil and Political Rights, ratified by the Kyrgyz Republic, and Article 5 of the OSCE Copenhagen Document. Even if it is accepted that there may be a reasonable expectation that the President of the Republic should have some knowledge of the State language, the practices of the Language Commission administering the test in fact served to arbitrarily exclude candidates from the presidential election process. This further and significantly reduced the field of candidates.

In the end, two potential candidates were disqualified on the basis of criminal convictions, eight failed the language test, and two refused to take the test. The cumulative effect of these factors was that prominent opposition leaders were denied registration. As a result, voters were offered only limited political choice even with six candidates on the ballot.

Domestic Monitoring Organisations

Prior to the election, a major domestic observer group, the "NGO Coalition for Democracy and Civil Society" supported by some 170 independent NGOs, came under pressure from the CEC, the Ministry of Justice, prosecutors, and government-oriented media, in what appeared to be a co-ordinated attempt to undermine the work and credibility of the Coalition. Following the NGO Coalition's critical evaluation of

the parliamentary elections, the CEC unjustifiably questioned the impartiality of the organisation and their receipt of foreign support, a common practice in societies in transition.

Eventually, the CEC and the Ministry of Justice focused on the name of the coalition, arguing that no such organisation had been registered with the Ministry of Justice. This, despite the organisation's active participation as independent observers and under the same name in the 1999 local government and 2000 parliamentary elections. The Bishkek City Prosecutor also issued two warnings to the head of the NGO Coalition for alleged illegal activities.

Finally, one week prior to election day, the CEC agreed to allow the individual NGOs supporting the Coalition and registered with the Ministry of Justice to observe the process, but not the "Coalition" as such. One such NGO – the "Public Association for Democracy and Civil Society" – using in some cases the NGO Coalition's official seal, accredited 1,950 observers in all seven oblasts. In a letter addressed to lower commissions on 26 October, the CEC equated the Public Association with the NGO Coalition and instructed lower commissions to deny them access on polling day.

The authorities' conduct in the NGO Coalition case raise serious concerns regarding the future of fundamental freedoms in the Kyrgyz Republic.

Election Campaign and Interference by Executive Authorities

Candidates enjoyed some campaigning opportunities, but executive authorities' interference in the activities of opposition candidates undermined free and fair campaigning. Claims by opposition candidates appear to be well founded that local State officials and militia prevented independent meetings from taking place, limited the possibilities for public participation, and harassed participants by taking note of their attendance. Such problems were reported in Bishkek, Chui, Issyk-Kul and Jalal-Abad. In addition, State institutions intimidated some private enterprises producing legitimate campaign materials for opposition candidates.

Bishkek City council regulations adopted in July required candidates to apply to the Mayor's office to post campaign material in public places by providing a copy of the material for prior approval. According to Article 30.1 of the Election Code, only the CEC is entitled to check the content of printed campaign material. In addition to restricting the posting of campaign material to designated sites, the city provided very few public boards where candidates could post such material.

Observers received reports that officials were campaigning on behalf of the incumbent President or using their position to influence employees. For example, at a public meeting the Governor of Jalal Abad openly advocated support for the incumbent President. Furthermore, the incumbent President's campaign benefited from the use of State resources. In Bishkek, Naryn, Chui, Issyk-Kul, State employees could easily obtain leave of absence to work for the incumbent's campaign. Some of the incumbent's campaign offices were located in State administration buildings. Conversely, when State employees were accused of supporting opposition candidates, they were immediately sacked – e.g., in Alamudun Rayon.

Throughout the country, there were reports of pressure on State employees, with rayon and oblast staff compelled to support the campaign of the incumbent President. Some university lecturers were forced to campaign on behalf of the incumbent and claimed they were obliged to contribute to his campaign fund. University authorities in Bishkek, Osh, Jalal-Abad and Naryn threatened students with the loss of accommodation or failed exams if they did not vote for the incumbent.

Presidents of other countries publicly advocated support for the incumbent. Their statements were widely reported by the media in violation of Article 30.7 of the Election Code. Media also reported that the incumbent was involved in charitable acts during the campaign in violation of Article 36.5 of the Election Code. Given the timing and widespread media coverage, these donations had a bearing on the election campaign.

Media

The media environment was characterised by an overwhelming tendency of State-owned and government-oriented private media to exhibit an overt bias in favour of the incumbent President. When opposition candidates were mentioned, it was predominantly in negative terms. The State-owned media failed to comply with its legal obligation to provide balanced and unbiased reporting on candidates. Harassment and intimidation against private media since the parliamentary elections resulted in self-censorship and a notable decrease in the number of independent media able or willing to offer an editorial line independent of or critical of the presidency.

The monitoring results showed clear support by State-owned TV towards the incumbent President by allocating him 68.4% of air time devoted to coverage of the elections. On prime time news, the incumbent received 99.2% of air time related to the elections. The vast majority (87%) of this coverage was positive. Private TV broadcasters generally did not offer a balanced coverage of the campaign. TV Piramida, the most popular national broadcaster, offered the incumbent President 91% of its election coverage, largely ignoring other candidates. The majority of this coverage was positive in tone.

State funded newspapers *Slovo Kyrgyzstana* and *Kyrgyz Tuusu* showed clear bias in favor of the incumbent, both in space and tone of the coverage, and against the three main opposition candidates. These papers also produced some articles discrediting opposition candidates. Some private newspapers provided more coverage for the opposition candidates. *Delo No.*, for example, showed support for candidate Atambaev, devoting to him 18% of election related space, with a majority of coverage positive. *Vecherny Bishkek*, the most popular paper, openly supported the incumbent, allocating him 63% of largely positive coverage, and heavily criticizing other candidates. However, after providing a platform for opposition candidates, some private newspapers, including *Asaba*, *Respublika* and *Delo No.*, were faced with vexatious lawsuits and tax inspections as well as the State-owned distribution network at times refusing to distribute their prints.

CEC interference in the broadcasting of some TV spots resulted in even paid and free advertising time being impeded. The State broadcaster KTR refused to accept a video from candidate Atambaev. In another instance, the CEC offered editorial comments and effectively censored a Tekebaev video. The CEC acted after an alleged complaint by a small group of citizens. It ordered the TV spot changed, even going beyond the substance of the alleged complaint and insisting on the removal of images and commentary which CEC members claimed were not appropriate. Following an incident involving a campaign spot for candidate Tekebaev, the private Piramida TV declined to show any election material in the final two weeks of the campaign, further limiting opposition candidates' possibilities for campaigning.

Election Day

OSCE/ODIHR observers reported from over 500 polling stations in six oblasts and the city of Bishkek, representing 25% of all polling stations around the country. The remote Batkin Oblast was not covered. In a majority of precincts observed, the voting process was administered adequately and candidates were well represented.

However, irregularities, in some cases serious ones, were noted. In Bishkek, 701 ballots were found in the ballot box before the polling station opened. Subsequent summary investigation of this case without consideration to due process of law raises serious concerns. Another case of ballot box stuffing was discovered in Osh. In Bishkek, Chui, Jalal-Abad, and Osh, voter registers were marked with sets of identical signatures in a considerable number of precincts, indicating multiple voting or ballot box stuffing. Across the country, local and regional administration officials, security personnel, and State and private enterprise officials were present in and around polling stations, often controlling the proceedings or instructing voters. In some cases, domestic observers from the "Public Association for Democracy and Civil Society" were denied access to polling stations.

The remarkable level of transparency for the tabulation of results at all commission levels represented an important achievement for this election. Within 24 hours of polling, these results were posted on the CEC

web site. This allowed observers, candidates, and voters to audit the results from precinct to national level. However, this achievement was marred by serious violations before the results were entered into the computerised system.

In 29% of precinct vote counts observed, precinct result protocols were prepared in pencil or PEC members signed blank protocols. Many more such protocols were observed arriving at RECs. Precinct protocols were not always posted publicly as the law requires. In some cases, observers were denied copies of these protocols. Some of the precinct protocols were then altered before delivery to the next level up or at the next level commissions, the RECs. Local and regional administration officials were present during the REC and OEC results aggregation process. In some cases, observers were denied access to the vote counting process at the precinct level, and the tabulation process at the REC and OEC levels. The EOM is in possession of an e-mail message from the CEC dated 29 October at 20:43, instructing RECs to deny observers access to the room where the protocols were entered in the computerised system.

*This statement is also available in Russian. A Kyrgyz translation will be available shortly.
However, the English text remains the only official version.*

Mission Information

The OSCE/ODIHR Election Observation Mission, headed by Mark Stevens (UK), was established on 21 September with a team of 16 international experts and long-term observers. The EOM deployed 104 international observers on election day. Observers reported from more than 500 polling stations out of 2,090 across the country.

The OSCE/ODIHR EOM wishes to thank the Presidential Administration, Ministry of Foreign Affairs, the Central Election Commission and subordinate commissions of the Kyrgyz Republic for their co-operation and assistance during the course of the observation.

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