



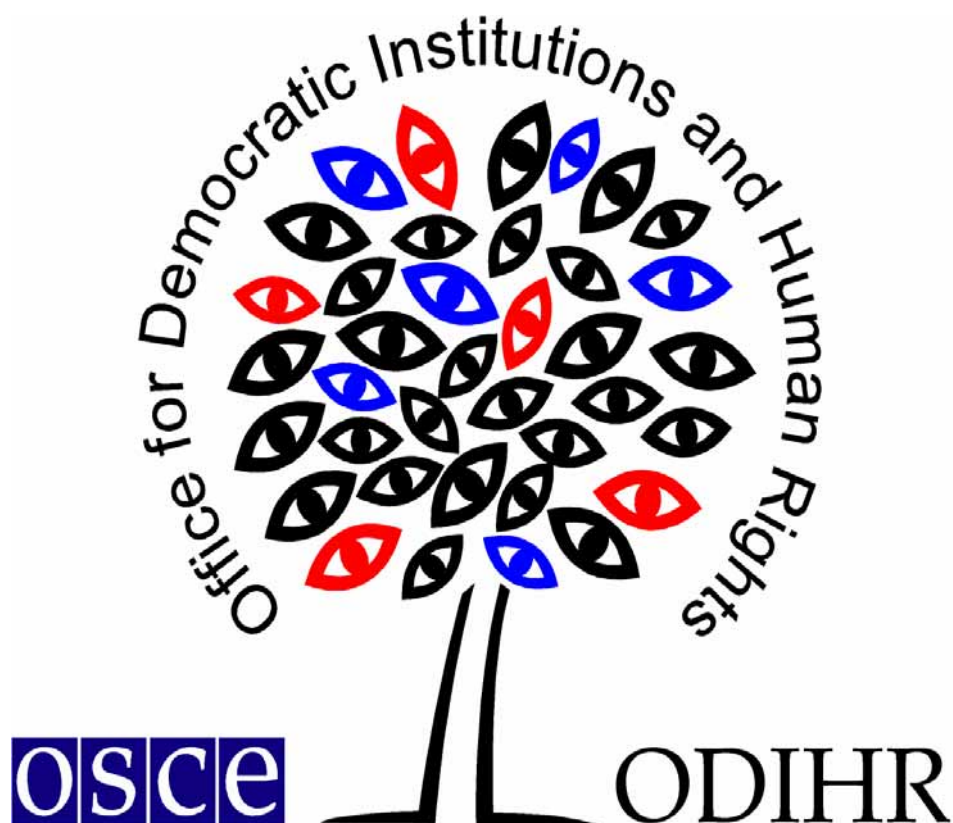
Office for Democratic Institutions and Human Rights

THE KYRGYZ REPUBLIC

PARLIAMENTARY ELECTIONS

27 February and 13 March 2005

OSCE/ODIHR Election Observation Mission Final Report



Warsaw
20 May 2005

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KYRGYZ REPUBLIC
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Final Report¹

I. EXECUTIVE SUMMARY

In response to an invitation by the Ministry of Foreign Affairs of the Kyrgyz Republic (Kyrgyzstan), the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Observation Mission (EOM) in mid-January to observe the 27 February 2005 elections to the Jogorku Kenesh, the newly established unicameral Parliament. A second round of elections on 13 March 2005 was observed on a more limited scale by the OSCE/ODIHR EOM. The parliamentary elections were assessed in terms of their compliance with domestic legislation, the 1990 OSCE Copenhagen Document, and other international standards for democratic elections.

The 27 February 2005 and 13 March parliamentary elections in the Kyrgyz Republic, while more competitive than previous elections, fell short of OSCE commitments and other international standards for democratic elections in a number of important areas. The conduct of the second round of elections demonstrated some technical improvements over the first round, but significant shortcomings remained. The events which followed the second round of elections, and resulted in the departure and ultimately the resignation of President Akaev, are discussed in this report only to the extent that they relate to the election process.

The improvements, albeit limited in these elections, included the fact that voters were offered a real choice among contesting candidates in a large number of constituencies. However, the competitive dynamic was undermined throughout the country, noticeably in the lead up to both rounds of voting, by widespread vote-buying, de-registration of candidates, interference with independent media, and a low level of confidence in electoral and judicial institutions on the part of candidates and voters.

Substantial shortcomings in both rounds included the following:

- Comments of senior officials, including the President, repeatedly warning of potential civil war, associating opposition calls for non-violent protest with extremism and at times pointing at independent media, had a negative effect on the pre-election environment;
- Widespread and publicly acknowledged vote-buying undermined the principles of fair and equitable competition and was in violation of domestic law;
- Inconsistent and disproportionate de-registration of candidates, often on minor technical grounds;
- Limited voter access to diverse sources of information, further aggravated by restrictions on media broadcasting and newspaper production;
- Administrative interference in the election process by officials;
- Inaccurate, poorly-maintained and, at times, inaccessible voter lists, which contributed to lack of confidence in the electoral process;

¹ This report is available in Kyrgyz and Russian, but the English version remains the only official one.

- Occasional infringement of fundamental freedoms necessary for a meaningful election, including freedom of assembly and expression;
- Pressure on university students and teachers to support favoured candidates;
- A fragmented complaints and appeals process, resulting in inconsistent application of the Election Code and lack of clarity in the determination of final results;
- An unduly restrictive application of the Election Code, including cancellation of the right to candidacy of five former diplomats on questionable grounds.

Aspects of the process that indicated progress included:

- A partially improved legal framework;
- Competitive races in many constituencies, providing voters with a genuine choice;
- Provisions for free air-time on the State media that permitted candidates a meaningful opportunity to convey their message;
- A relatively well-developed and active civil society, contributing to the electoral process, most notably through a sizable presence of domestic observers;
- The efficient work of the Central Election Commission (CEC) and most of the Territorial Election Commissions (TECs);
- TEC-organized voter meetings, which were popular with voters and featured considerable voter interaction with candidates;
- The introduction of transparency measures, such as marking voters fingers with ink as a confidence building measure and use of transparent ballot boxes, although the latter raised concerns with regard to the secrecy of the vote due to unfolded ballots;
- Transparency was further enhanced, since the CEC published polling station result protocols on the Internet on the morning after the votes, and domestic observers and candidate proxies were largely able to receive copies of polling station result protocols.

Both election days were generally peaceful and orderly. Voter turnout during both rounds was approximately 60 percent. While observers did not report widespread patterns of irregularities during polling on election day itself, incidents of vote-buying, infringement of the secrecy of the vote, pressure on student voters, multiple voting, and voter intimidation were directly observed. Observers also noted inaccurate voter lists, unauthorized persons in polling stations, and family voting. During the vote reconciliation, there was considerable use of pencils to complete the polling station result protocols, and in some cases the protocols were left blank. Such instances undermined confidence in the integrity of the vote reconciliation.

At the time of release of this report, new elections were to be held in three constituencies, and the outcomes of several others were still under legal challenge.

This report offers a number of recommendations, including the need for further improvements to the Election Code. Since the 1999 parliamentary elections, Kyrgyzstan has taken some steps towards meeting OSCE commitments and other international standards for democratic elections. However, a number of outstanding issues remain to be addressed. Many of the recommendations have already been presented to the authorities of Kyrgyzstan in the form of interim recommendations in advance of the early presidential election.² However, a

² “OSCE/ODIHR Interim Recommendations for the Kyrgyz Republic Early Presidential Election”, <http://www.osce.org/odihhr>.

commensurate level of political will to ensure an impartial and professionally administrated implementation of the law is critical for the conduct of elections in accordance with OSCE commitments. The OSCE/ODIHR continues to stand ready to support the authorities and civil society of Kyrgyzstan to further improve its electoral process.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The OSCE/ODIHR EOM to Kyrgyzstan was established on 17 January 2005. The Mission was headed by Ambassador Lubomir Kopaj (Slovak Republic) and was composed of a 12-member core team based in Bishkek, as well as 18 long-term observers based in eight locations throughout Kyrgyzstan.

For the first round of elections on 27 February, the OSCE/ODIHR EOM was joined by 175 short-term observers, including 11 from the OSCE PA, 2 from the European Parliament and 50 locally recruited observers from the embassies of OSCE participating States to form the International Election Observation Mission (IEOM). The IEOM reported from some 650 polling stations out of a total of over 2157 country-wide. IEOM observers were present in all regions of the country. Mr. Kimmo Kiljunen (Finland), Head of the OSCE Parliamentary Assembly (OSCE PA) delegation, was appointed as Special Co-ordinator by the OSCE Chairman-in-Office to lead the short-term observers. Mr. Francesco Enrico Speroni (Italy) headed the delegation of the European Parliament.

For the second round of elections on 13 March, the OSCE/ODIHR EOM maintained its core team and long-term observers. Election day observation was conducted by 82 observers, including 40 short-term observers from embassies of OSCE participating States.

The OSCE/ODIHR Final Report should be read in conjunction with the Statement of Preliminary Findings and Conclusions issued on 28 February 2005; the pre-election Interim Report issued on 11 February 2005; and the OSCE/ODIHR Needs Assessment Mission report of December 2004.

The OSCE/ODIHR wishes to express its appreciation to the Ministry of Foreign Affairs and the Central Election Commission, as well as to other authorities, the OSCE Center in Bishkek, civil society organizations, international organizations, and the resident embassies and consulates of OSCE participating States, for their co-operation and assistance throughout the course of the mission.

III. POLITICAL BACKGROUND

Kyrgyzstan is a presidential republic. The 27 February 2005 elections were the first parliamentary elections held since the amendment of the Constitution in 2003. These amendments substantially altered the structure of the Jogorku Kenesh (Parliament) and its method of election. The elections were held in the context of intensive discussions surrounding the next presidential elections, at that time scheduled for October 2005.

The political party structure of Kyrgyzstan is relatively fragmented and in an ongoing process of development. Most political parties are centred on a single individual rather than focused

on a party policy platform. The major pro-government political parties were Alga Kyrgyzstan! and Adilet, which together nominated 65 percent of the total number of candidates nominated by political parties. The former was founded in 2003 and widely associated with the President Akaev's daughter, Bermet Akaeva, while Adilet was run by the Head of the Presidential Administration. Many opposition parties were grouped in four coalitions: the People's Movement of Kyrgyzstan, the Civic Union for Fair Elections, Jani Bagit (New Direction), and Atajurt (Fatherland). All four were formed during 2004. These coalitions, together with other opposition parties such as the two communist parties and Ar-Namys, associated with the then-imprisoned Feliks Kulov, formed a Forum of Political Forces which pledged to cooperate during the campaign. Nevertheless, over 80 percent of candidates who applied for registration were self-nominated rather than party nominated.

The role of political parties was much reduced in the electoral process, mostly limited to the nomination of candidates. Political parties and movements played a limited role in the campaign, due to the combined effect of relatively limited political party development and the nature of competition in a majoritarian electoral system.

In the immediate post-election period, public protests due to alleged violations and irregularities, some of which commenced even before election day, eventually led to the takeover of government buildings in several cities, and ultimately to the ouster of President Akaev on 24 March. For a short period of time, both the outgoing and the newly elected Parliaments operated in parallel. The outgoing Parliament, due to the President's absence from the country, appointed Mr. Kurmanbek Bakiev, an opposition leader, as the Prime Minister and the acting President until a presidential election could be conducted.

On 26 March, the CEC legitimized the newly elected Parliament, with a number of constituencies remaining subject to resolution of complaints and appeals. The outgoing parliament dissolved. The newly elected parliament confirmed the appointment of Mr. Bakiev. President Akaev subsequently submitted his resignation to Parliament, which was accepted on 11 April. The newly elected parliament scheduled the presidential election for 10 July 2005.

IV. LEGISLATIVE FRAMEWORK

A. BACKGROUND

The legal framework for the parliamentary elections includes the Constitution, the Election Code, the Law on the Central Election Commission, CEC regulations and other legislation. The Election Code has been amended at least 17 times since 1999, with ten amendments made since January 2004, including the late passage of amendments on 21 January 2005.³

The extent to which amendments to the Election Code can have a positive impact on the election process is ultimately determined by the level of political will exhibited by institutions and officials responsible for implementing and upholding the law in a professional and impartial manner. However, the improvements represented by previous amendments were often undermined by poor and inconsistent implementation.

³ Due to late passage of amendments, an OSCE/ODIHR assessment of the Election Code is still pending.

B. ELECTION SYSTEM

The new unicameral Parliament consists of 75 deputies elected in single-mandate constituencies for five year terms. In order to be elected, a candidate must poll more than half of the votes of the voters who participated in the vote⁴. If no candidate in a constituency succeeds in winning in the first round, the two leading candidates contest a second round, held within two weeks, in which a majority vote prevails.

Voters are also given the option to vote “Against all” candidates. According to Article 46.3, if the votes “Against all” constitute the highest number of votes, the election is declared void and a repeat election should be called excluding the participation of the previous candidates. Furthermore, the Election Code fails to advise how to resolve a situation where a second round should be held, with votes “Against all” constituting the second highest number of votes.

C. SUMMARY ASSESSMENT OF THE ELECTION CODE

Amendments to the Election Code that represented improvement included:

- Provisions for access of domestic non-partisan observers to follow the process;
- Increased transparency of polling station procedures, including use of ink to mark voters’ fingers as a confidence-building measure and prevention against possible multiple voting, and introduction of transparent ballot boxes;
- Institution of a second round in constituencies where no candidate has received an absolute majority during the first round;
- Introduction of a common starting date for the election campaign for all candidates;
- Enhancing pluralism of the composition of election commissions.

However, further improvements are needed in the Election Code to bring it more closely in line with OSCE commitments, including:

- Enhancing guarantees for freedom of speech;
- Enhancing further pluralism in the composition of election commissions;
- Removing any possibility of de-registering candidates on minor technical grounds;
- Removing possibilities for suspension or cancellation of the mandates of elected candidates;
- Introducing a clear distinction between public information and campaign material in the media;⁵
- Providing full access by all domestic observers and proxies to the election process;
- Introducing a single and comprehensive hierarchical system of handling complaints to ensure a timely and effective response to concerns by all election stakeholders at all stages of the electoral process;
- Removal of the option to vote “Against all” candidates, thereby ensuring that voters take responsibility for the body which is being elected.

⁴ Article 75.2 of the Election Code.

⁵ Additional information on the legislative framework for the media is provided in Section VIII below.

D. FREEDOM OF ASSEMBLY

A Constitutional Court decision of 14 October 2004, in reference to the Law on The Right of Citizens to Assemble Peacefully, Without Arms, Freely Conduct Meetings and Demonstrations, found provisions of this law requiring organizers of public gatherings to seek prior permission from the authorities to be unconstitutional. This represented progress towards meeting OSCE commitments on freedom of assembly.

V. ELECTION ADMINISTRATION

A. ELECTION COMMISSIONS

A three-tier election administration was responsible for the conduct of the elections. It comprised the Central Election Commission (CEC), the 75 Territorial (Constituency) Electoral Commissions (TECs) and some 2,160 Polling Station Election Commissions (PECs).

The CEC consists of 12 members and a Chairperson. Six members are appointed by the President; six members are appointed by Parliament and the Chairperson is appointed by the President with the consent of the Parliament⁶. This method of forming the CEC provides the President with particularly strong influence over the decision making process at the CEC. In general, the CEC worked in an efficient manner. However, concerns remain regarding its independence from the executive authorities, as well as the transparency in the performance of the entire election administration.

In some cases, the procedure for the adoption of CEC decisions remained unclear for observers and mass media representatives alike. At times, the CEC failed to inform the public about its decisions. Moreover, citing a delay in repair works, it continued to be located within the premises of the Presidential Administration, despite long-standing pledges to relocate in separate premises in order to underscore its position as an independent body.

Amendments to the Election Code provide for a more inclusive composition of TECs and PECs by reserving up to 1/3 of the positions to political party nominees and limiting the positions for public employees to a maximum of 1/3. However, the law was not fully and uniformly implemented. Analysis of the composition of TECs indicated that although political parties were represented at 27.2 percent, a number of party nominees were not included as TEC members.

The Election Code further stipulates that the principles of forming PECs are the same as those relevant to TECs. However, OSCE/ODIHR EOM observers, as well as other interlocutors, reported that these principles were not always followed. Often, PEC members seemed unaware of which political party or NGO they were representing. At times, the numbers of public and municipal servants exceeded the legally specified 1/3 quota.⁷ Domestic observers

⁶ The Constitution, Articles 46.6.5 and 58.1.17.

⁷ For example, TEC 8, PECs 1137, 1138, 1141, 1142, 1145, 1147, 1148, 1149, 1150, and 1151.

reported cases where state employees, such as schoolteachers, dominated the composition of respective PECs⁸.

Furthermore, it was reported to the OSCE/ODIHR EOM that nominees from truly competitive political parties were denied representation on commissions in favour of parties with only a perceived marginal political presence; this occurred for example in the case of most nominations to TECs in Bishkek City. Such an approach undermined positive amendments to the Election Code.

The amendments also increased representation of NGOs and “voter gatherings” for nominating TEC and PEC members and decreased the number of state and municipal employees, with the result that only 14.4 percent of TEC members were state or municipal employees. However, local authorities and candidates frequently employed this provision of the law to nominate people directly dependent on them in order to strengthen their influence on the decision-making process within commissions. As a result, commissions were, in some cases, apparently manipulated in order to de-register particular candidates.⁹

While the majority of TECs were co-operative with the OSCE/ODIHR EOM, some failed to operate in a transparent manner. Lack of transparency was evident within some TECs, as information was not always shared equally among members. Candidates and their proxies were not always informed in a timely manner about TEC sessions or decisions. TEC decisions did not always meet professional standards or fully follow provisions of the Election Code.¹⁰

B. ADMINISTRATION OF THE ELECTIONS

In general, the technical preparation of the elections by the various levels of election commissions in the majority of constituencies appeared to be conducted largely in accordance with the requirements of the law. The training programme for PECs, with international support, appeared to increase the effectiveness of these commissions. In addition, voter meetings organized by the TECs were popular with voters and featured considerable voter interaction with candidates, including extensive participation of women.

However, the OSCE/ODIHR EOM noted shortcomings, including:

- A few days prior to the first round, following a request from TEC 75, the CEC decided to postpone elections in this constituency, on the grounds that protests (road blocks) in response to de-registration of candidates had prevented the necessary preparations. This decision appeared to lack legal grounds. Additionally, observers could not find any significant problems in the preparedness of polling stations in this constituency.
- The CEC approved instructions that all election documentation, including additional voter lists, should be packed, sealed and filed in archives immediately after the first round. This decision impeded the updating of voter lists, as required by the Election Code and the

⁸ For example, TEC 49, PEC 454, where 11 out of 15 commission members were schoolteachers.

⁹ For example, TEC 33 de-registered candidate Mr. Kadyrbekov just days before the second round vote

¹⁰ For example, the decisions on registration and de-registration of candidate Mr. Bolturukov (TEC 71) or the decision to register Ms Otunbaeva as a candidate in TEC 1 and the same day revocation of this decision.

Regulation on the “Shailoo” State Registration System (GAS “Shailoo”), and resulted in substantial delays.¹¹

- Overall, 2.67 million ballot papers were printed for the first round of elections and 1.57 million for the second round. While the EOM had an opportunity to observe the printing process, domestic observers and candidate proxies were not able to do so. The absence of election stakeholders may have undermined public confidence in this phase of the election process.

Following a late decision by Parliament on 18 January, the CEC decided not to proceed with out-of-country voting for Kyrgyz citizens abroad. The CEC rationale for this decision was that since the 27 February elections were held in single-mandate constituencies, assignment of voters to constituencies and respective ballot distribution would be problematic. Furthermore, Article 20.5 of the Election Code provides for formation of polling stations abroad, but refers to the creation of voter lists for out-of-country voting only in the context of presidential elections, Article 21.8. While the CEC decision may have been appropriate, the law should be amended to clearly state the will of the legislature with regard to voting of Kyrgyz citizens abroad.

C. VOTER LISTS

Prior to the elections, the authorities attempted to update the voter lists. However, serious doubts remain regarding their accuracy. This component of the electoral process was universally recognized as problematic by domestic interlocutors and remained substantially unresolved during the elections. The poor quality of voter lists led to the widespread use of additional voter lists before and on election day of both the first and second round. According to CEC statistics, more than 10 percent of voters who cast their votes in the first round, and just under 10 percent in the second round, were included in additional voter lists. Notably, in the past including the 2000 parliamentary elections, it was less than two percent according to official reports.

Voters’ rights to familiarize themselves with the voter lists were limited due to the failure of many PECs to commence work by 2 February, as required by the law. Delivery of voter lists was often delayed both before the first and second round of elections, ostensibly due to problems with the aging GAS “Shailoo” system for voter registration and tabulation of results, as well as the updating process before the second round. Prior to the second round, new equipment and software were installed at all local stations of the GAS “Shailoo”, and training was conducted for operators. While the tabulation was generally improved, the quality of voter lists in the second round did not significantly improve.

Limitations on the transparency of voter registration and confusion regarding the accuracy of the voter lists were partly caused by election officials’ differing interpretations of international commitments and domestic laws regarding access to the voter lists. The CEC Chairperson considered voter lists to be confidential data and restricted access to verification of the data to only the voter and his/her family members, and rather inconsistently, to

¹¹ Subsequently, under a CEC resolution dated 3 March 2005, TECs were ordered to extract additional voter lists from the archives in presence of candidate proxies in order to make copies and to then return them to the archives.

neighbours. Article 22 of the Election Code provides for a general right of familiarization for the public, and the CEC interpretation appears to restrict the legal rights of voters.

Limiting access to voter lists significantly decreased public trust in their quality and hence in the election process. The OSCE/ODIHR EOM noted that even those PECs that in previous elections had provided access to voter lists only permitted limited access to them for the 2005 parliamentary elections. Furthermore, voters were not always able to gain access to the lists for simple operational reasons. Observers reported that a substantial portion of PECs were closed during normal opening hours, or that PEC members on duty did not have keys to the safes in which the lists were kept.

Major allegations regarding the accuracy of the voter lists, some of which were confirmed directly by OSCE/ODIHR EOM observers, included:

- The presence of names of deceased or even non-existent voters in the voter lists;
- Double or multiple entries, despite assurances by the CEC that they had been removed at the central level, such as names of residents included in voter lists for different polling stations or at times in different constituencies, and students included in their temporary and permanent residence;
- Voters illegally registered at the addresses of non-residential facilities; and
- Complaints that changes made to the voter lists as required by law were not entered into the GAS “Shailoo”.

The poorly defined process of updating the lists was itself the subject of concern. While the law tasks local administrations (*akimats*) with the responsibility for compiling accurate voter lists in a timely manner, there are no sanctions for failure to achieve this objective. However, in a positive step that was not explicitly required by the Election Code, the CEC undertook to improve the quality of the voter lists by requesting *akimats* to check voter list accuracy by 17 February, for the first round, and by 10 March, for the second round.

A number of PECs demonstrated initiative by conducting door-to-door canvassing to improve the quality of the voter lists. However, the majority of PECs remained passive with regard to complaints related to the accuracy of the lists. In some cases PECs, ignoring their duties and not using their rights, referred voters to the TECs or other bodies.

In the first round of elections, some PECs added voters to additional voter lists rather than make corrections of misspellings in the original ones. This tendency remained in the second round but was observed in fewer cases. This practice increases the likelihood of distorting the voter lists.

VI. CANDIDATE REGISTRATION

The first round of elections was contested by 389 of the 425 originally registered candidates. Twenty-three candidates withdrew, and 12 were de-registered before election day. One candidate died prior to election day. In the second round, 42 races were contested between the top two candidates from the first round. Political parties put forward only 74 of the 425 candidates initially registered.

In general, there were few complaints filed during candidate registration. However, high profile cases pertaining to five former diplomats illustrated what appears to have been an undue restriction on the right to candidacy, rather than an interpretation that encouraged inclusive participation. The former diplomats were denied registration on the grounds that they did not meet the permanent, in-country residency requirement of five years prior to candidate nomination. This requirement is based on Article 56.1 of the Constitution and stipulated in the Election Code under Article 69.1.

While the legal procedures appear to have been formally respected, the fact remains that these cases involved former diplomats, whose fundamental role is to be posted abroad by the respective government to serve its interests internationally. In addition, some of the former diplomats appear to have had formal residence in Kyrgyzstan for the period of time in question. In previous elections, former diplomats were successfully registered as candidates to the Parliament, albeit under prior legal provisions. Several interlocutors claimed that the denial of registration was politically motivated, as some of the former diplomats had expressed views that differed from those of the incumbent government prior to submission of candidate registration papers.

Although the Election Code was amended with the intent to introduce a complete and all-inclusive list of reasons for de-registration, the respective provisions of the Election Code remain open for abuse. The OSCE/ODIHR EOM observed four cases in which candidates were de-registered for minor technical violations.¹² For example, one candidate was de-registered on the grounds that an alleged proxy had started campaigning three hours prior to the start of the official campaign period. In another case, a candidate was de-registered for missing information on campaign materials. In contrast, in numerous other cases candidates received only a warning for having committed similar or more serious violations, including vote-buying and intimidation of voters.

As regards candidate registration, the Election Code was applied inconsistently by some courts and TECs, and gave the appearance of indicating preference for particular candidates over others. The practice of de-registration for minor violations unreasonably limits voter choice and is an example of disproportionate and inconsistent sanctions. It appears that the problem partially stems from the lack of clear and precise de-registration provisions in the Election Code.

In a number of instances, the CEC representatives petitioned against de-registration of candidates in courts. However, the courts did not always take the CEC position into consideration.

¹² Three cases in the first round: TEC 45 - Ms Turgunbaeva, TEC 71 - Mr. Bolturukov, and TEC 16 - Mr. Asrankulov, and one case in the second round: TEC 33 - Mr. Kadyrbekov.

VII. CAMPAIGN

A. BACKGROUND

Many of the constituencies had competitive races, with voters in most constituencies having considerable choice going into the election campaign. The campaign took place in an environment largely free from incidents of violence, although the second round was coloured by protests across several parts of the country.¹³ These protests focused both on allegations of electoral violations in the first round, as well as on calls for the dismissal of the President, early presidential elections, and complete annulment of the parliamentary election results. While most candidates reported no systematic impediments to their campaigns, there were problems in specific constituencies, and claims of vote-buying and administrative interference on behalf of particular candidates were widespread.

A number of non-violent public protests directly related to the election process took place prior to the first round, notably in constituencies 34 and 75. The protests were organized in response to the de-registration of candidates in these constituencies and lasted a few days, until the Supreme Court upheld the decision to de-register the candidates. Demonstrators dispersed in a relatively orderly fashion. Law enforcement officers monitored the demonstrations but did not generally intervene.

Throughout January, the opposition held a series of small demonstrations in Bishkek City centre, in support of the five former diplomats who had been denied registration. Further demonstrations in support of fair elections took place on 19 February in an officially sanctioned location, and in support of freedom of expression on 21 February. In most instances, organizers of the protests faced legal charges for minor administrative violations.

The authorities alleged that such public meetings could lead to destabilization and possible civil war. Frequent references by senior government figures to recent political events in Ukraine and Georgia were made throughout the election process. The President himself, and other high State officials, often made reference to the unwelcome reception that similar events would meet in Kyrgyzstan, linking events in these two countries to extremism and foreign 'interference.' Both elements had negative consequences for the election environment in terms of responsible and open public debate and citizens' participation.

Despite acknowledgement from civil society groups that the Election Code was improved over the 2000 parliamentary elections, a general lack of confidence in the election process was expressed to the OSCE/ODIHR EOM, by a wide range of stakeholders and government representatives. Overall confidence in the efficiency of electoral commissions, courts, and other institutions was largely symbolic. Interlocutors indicated a high degree of pessimism with regard to achieving redress from these institutions. This distrust also appeared to contribute to the various protests that took place both before and after the first round of voting.

¹³ Jalal-Abad, Osh, Naryn, Uzgen, Issyk-Kul, and Talas.

B. FREEDOM OF ASSEMBLY AND EXPRESSION

The right to freedom of assembly, guaranteed under the Constitution, was a significant issue in the campaign before and after both rounds of the elections. On a number of occasions, especially at the start to the electoral contest, the authorities tried to actively discourage meetings of citizens who sought to express their criticism of the political situation.

First, in the wake of a Constitutional Court decision which found provisions of the law¹⁴ requiring organizers of public gatherings to seek permission from the authorities to be unconstitutional, a Bishkek City Council decision required that organizers inform the authorities about public assemblies at least 10 days in advance.¹⁵ As the intention of the Constitutional Court decision was to liberalize the regime for public gatherings, the City Council decision appeared to diminish the Constitutional Court ruling and be unreasonably restrictive of freedom of assembly, particularly during an election period.

Also, the use of provisions of the Administrative Code to prosecute peaceful protestors in Bishkek in the run up to the first round of elections restricted freedom of assembly. Police frequently detained protestors, and courts upheld charges on minor administrative violations, which were supplemented by minor fines. Although the sanctions were not severe, they had the effect of discouraging public expression of views during the election period.

In other parts of the country, the freedom of assembly generally appeared to have been better respected. The authorities in Jalal-Abad reacted to public demonstrations in a more balanced manner. They allowed participants to gather freely and to express their political positions openly. When protestors occupied the “oblast” administration building, the authorities acted in a restrained manner, accepting third party mediation.

C. INVOLVEMENT OF STATE AUTHORITIES IN THE ELECTION PROCESS

During the campaign, abuse of administrative resources was apparent at various levels. There was direct confirmation that government officials were campaigning for particular candidates, engaging in activity to de-register others, and intimidating voters.¹⁶ The CEC issued warnings for such activity in TECs 1, 5, 17 and 61.

A number of candidates experienced difficulty in meeting students at universities across the country, while others appeared to enjoy easier access. Documented cases of variable treatment of candidates by university administrations resulted in unequal access to diverse campaign information for students, thus limiting informed choices. Some students, on condition of anonymity, told OSCE/ODIHR EOM observers that they had been pressured by university officials to vote for particular candidates. They were given to understand that they could ultimately be expelled if they did not comply, and were not confident of the secrecy of their vote.

Some teachers also alleged pressure to campaign for particular candidates favoured by their management. In Osh, lecturers at a university told observers of being forced to mobilize

¹⁴ Law on The Right of Citizens to Assemble Peacefully, Without Arms, Freely Conduct Meetings and Demonstrations.

¹⁵ Bishkek City Kenesh, Decision 12 of 11 January 2005.

¹⁶ This was acknowledged by the Governor of Issyk-Kul oblast to EOM observers.

students on behalf of certain candidates and of being threatened with job loss if they did not comply. Other teachers claimed that their salaries had been docked for a particular candidate's campaign fund and that they felt unable to complain formally about this for fear of losing their jobs. The OSCE/ODIHR EOM was not able to verify these claims.

D. VOTE BUYING

Allegations of vote buying by candidates and their proxies impacted highly on the campaign environment. The CEC Chairperson publicly expressed concerns over widespread vote buying, and observers even witnessed an instance of vote buying. Vote buying is prohibited by law and at least three candidates were de-registered on this basis. Electoral commissions considered numerous complaints on this issue; however, their decisions were highly variable and inconsistent.

Vote buying significantly reduced public confidence and contributed to the protests that followed both the first and second rounds of the elections. All election stakeholders openly recognized the problem, but little was done to end this malpractice. Article 26.2 of the Criminal Procedure Code places the initiation of cases regarding this and other instances of election-related crime, such as falsification of election documents, outside the authority of the prosecutor. As far as the OSCE/ODIHR EOM was able to determine, no criminal charges have been brought against any individuals for vote buying. The lack of legal competence for prosecutors to pursue criminal charges before a court for such election-related crimes limits accountability and contributes to an atmosphere of impunity.

E. CAMPAIGN TO VOTE "AGAINST ALL"

On two occasions, in constituencies 34 and 75, candidates who appeared to be wrongfully de-registered chose to campaign among voters to vote "Against all" candidates, and in both cases the campaigns were successful. This led to declaring the elections in these constituencies void by the respective TEC, in line with the law.

VIII. MEDIA

A. BACKGROUND

Freedom of expression has been challenged significantly over recent years in Kyrgyzstan, both through a number of libel lawsuits filed by state officials and through attacks against journalists. The media environment was characterized by limited professional standards in journalism, financial instability and a practice of paying journalists to present a particular viewpoint.

According to information provided by the Ministry of Justice, there are more than 1,300 media outlets registered in Kyrgyzstan. However, only around 200 – 400 of these are functional. The main broadcaster is the state-funded *KTR* (Kyrgyz Television and Radio Corporation) broadcasting in both Kyrgyz and Russian languages. Despite the fact that most interlocutors identified state radio as the media outlet with the widest coverage, state television is considered to be the primary source of information. Radio *Azattyk* (*Liberty*) broadcasting from Germany, with coverage in rural areas, served partially as an alternative

source of information. Russian channels (*RTR*, *ORT*) are popular in the north, and in the south there is a significant overlap of channels from Uzbekistan.

As regards print media, the newspapers *Slovo Kyrgyzstana* and *Kyrgyz Tuusu*, each with the status of official papers of the Kyrgyz government, have the widest circulation. *Vecherniy Bishkek* is the only daily paper in the country and with a clear pro-governmental affiliation. *Vecherniy Bishkek* belongs to the media holding allegedly owned by former President Akaev's son-in-law. The holding also includes *KOORT TV*, *Airek* advertising agency, *Kyrgyz Info* information agency, and *Love* radio. The most well known independent newspaper is *MSN*.

While television is the main source of information there are no television channels that could be considered as independent. Despite the opening in 2003 of the first independent printing house, with the support of foreign donations, newspaper coverage is limited or non-existent outside the urban areas, with most newspapers having small local circulation. The overall lack of independent media during the election campaign raised concerns regarding voters' access to diverse information.

Reported cases of economic pressure, as well as hostile statements from senior government officials against media due to their editorial lines, discouraged the establishment of independent media. In December 2004, the head of a ministerial department, who was also a candidate, asked the prosecutor in Bishkek to open a criminal case against the opposition affiliated newspaper *MSN* for alleged monopolistic activity, with a penalty up to five years in prison.¹⁷ On the night of January 9, the entrance to the apartment of the editor-in-chief of the pro-opposition newspaper *Res Publica* was vandalized. On 14 February, the presidential press secretary accused *MSN* of standing "against free and fair elections" for publishing a story claiming to expose the extent of the presidential family's alleged assets. On 17 February, President Akaev appeared on the state media in an address to the nation, in which he announced his intention to sue *MSN* on the grounds that "the newspaper's position is akin to systematic information terror."¹⁸

The operation of the independent printing house, the only independent printing house in Kyrgyzstan, was suspended on 22 February, as electricity was cut off by an involvement of the state Severelektro company. The printing house provided services to over sixty Bishkek based and regional newspapers, including *MSN* and *Res Publica*. Production was restored by means of generators, but the capacity of the press facility was reduced by 70 percent. Although the authorities denied a political motivation for the power cut, Severelektro fully restored the electricity supply on 8 March, a day after a press conference in which their representative said that responsibility for the power shortage lay fully upon the printing house itself.

On 24 February, three days before the elections, an agency under the state Kyrgyz Telecom stopped broadcasting *Azattyk* radio with no prior warning. The agency said that the disruption of broadcast was motivated by a public auction that had been announced for a rental of the signal transmitters, although the auction was not scheduled to be held until 10 March.

¹⁷ Mr. Zhuravlev, a candidate of *Alga, Kyrgyzstan!* in constituency 5, was Head of the Department for Anti-Monopoly Policy under the Ministry of Economic Development, Industry and Trade.

¹⁸ "Ala-Too" news programme, KTR TV, 17 February, 20.00 (in Russian) / 21.30 (in Kyrgyz).

Consequently, at the end of the campaign and during significant public protests in rural areas, broadcasting of the *Azattyk* signal was sharply limited to a few urban areas. This restricted voter access to an independent information source at a critical time of the campaign.

B. LEGISLATIVE FRAMEWORK

The general framework for media is set out in a number of legal documents.¹⁹ Article 16 of the Constitution guarantees the freedom of expression and speech, freedom to receive, transform and distribute information, and prohibits censorship. At the same time, Articles 127 and 128 of the Criminal Code still contain provisions on slander and insult, despite a number of efforts to remove them. According to Article 7 of the Law on Professional Activities of Journalists, journalists are obliged to provide objective information.

Articles 30–36 of the Election Code provide detailed provisions governing the conduct of electronic and print media during a pre-election campaign, *inter alia* providing for free and paid broadcast time and print space to candidates, based on equal conditions. The state media were obliged to allocate to candidates fixed amounts of time and space, free of charge, from the start of the official campaign.²⁰ At the same time, at least one-third of a given time had to be devoted to televised debates.

Prior the first round, the state broadcaster *KTR* adhered to its legal requirements to grant free time for candidates, including allocation of time for debates. Nonetheless, the requirements to provide airtime during prime time, and to refrain from comments on candidates' speeches, were not completely fulfilled in television broadcasts. Prior to the second round, the state media did not provide free time to candidates due to an alleged lack of funds. Despite the provisions of the Election Code, according to which election commissions should be financed through the state budget in order to reimburse media expenditures, the CEC informed the OSCE/ODIHR EOM that most resources were exhausted. The possibility to disseminate their political platforms free of charge was for many candidates the only chance to communicate with electorate through the media.

Article 31.3 of the Election Code bans publication of opinion polls from the beginning of the campaign, an undue restriction on voter access to information. In addition, the prohibition of "other election related research" is vague and open to restrictive interpretation.

C. MEDIA MONITORING

The OSCE/ODIHR EOM monitored the media through the official campaign periods, starting on 2 February and 3 March respectively, conducting qualitative and quantitative analyses of prime time programmes of six television channels²¹, the morning news of two radios²² and eleven Kyrgyz and Russian language newspapers were also monitored.²³

¹⁹ *The Law on Mass Media* (1992), *the Law on Professional Activities of the Journalists* (1997), and *the Law on Administrative Penalties* (1998).

²⁰ The official election campaign started on 2 February and prior to the second round on 3 March.

²¹ *KTR, KOORT, Mir, NBT, Pyramid* and *Osh TV*.

²² *KT* and *Radio Azattyk*,

²³ *Aalam, Agym, Delo Nomer, Erkin Too, Kyrgyz Tuusu, MSN, Res Publica, Slovo Kyrgyzstana, Vecherniy Bishkek, Argumenty i Fakt* and *Komsomolskaja Pravda*.

The Election Code, and its inconsistent interpretation by the CEC, appeared to have introduced a lack of clarity between the role of the media in providing information about candidates and actual campaigning on their behalf. As a result, the prime time television news coverage of the campaign remained low key and did not inform about the contestants in a comprehensive manner. Furthermore, the Election Code does not contain an obligation to identify campaign materials, which generated confusion between informational and campaign materials.

Most media monitored by the OSCE/ODIHR EOM failed to provide impartial and fair coverage of the campaign. Almost all monitored media paid extensive attention to the authorities, mainly to the President, rather than to the role of the Parliament or the candidates. Although the proportion given to the authorities was reduced prior to the second round, most media presented negative information against certain candidates, rather than offering balanced coverage.

State media devoted favourable and heavy coverage, in tone and quantity respectively, to the activities of President Akaev and the government, thus benefitting candidates with a pro-government orientation. During the campaign, *KTR* television and radio provided 33 percent and 46 percent of prime time news to the President respectively, exclusively positive or neutral. Moreover, the President's addresses to different social groups in which he stressed the authorities' contribution to Kyrgyzstan's achievements were fully broadcast by *KTR* at the beginning of the campaign period. Additionally, *KTR* television devoted almost 35 percent of its coverage to the Presidential administration and the government together, while in radio it was more than 32 percent, all positive or neutral in content.

State media demonstrated a clear bias during the election campaign period. Overall, there was no balance in the presentation of different political platforms, and *KTR* referred to the "opposition" in an overwhelmingly negative manner. Of particular note was the discussion programme "Sayasat" (Politics) that was introduced shortly before the campaign period began. Chaired by the then State Secretary Mr. Ibraimov, the programme was used to criticize political figures and media representatives who expressed views different from those of the authorities.

State media almost fully ignored public protests during the campaign. When protestors were shown, they were marginalized or characterized negatively, with no opportunity to present their own views. Another failure of balance and objectivity on *KTR* concerned their presentation of the IEOM Statement of Preliminary Findings and Conclusions, as well as an interview with the Head of the OSCE/ODIHR EOM. Both were significantly distorted, reporting only the positive aspects of the IEOM assessment. A correction regarding the interview was eventually aired.

The private channel *KOORT TV* offered positive coverage of the pro-presidential party *Alga, Kyrgyzstan!* and its candidates, as well as the self-nominated candidates Bermet Akaeva (the President's daughter) and Yuriy Danilov. The station also used its program "Press Review" to attack the opposition and broadcast 'black propaganda' items against several opposition candidates.²⁴ Other TV channels, including *Piramida* and *NBT*, adopted a similar approach by

²⁴ Eight candidates in constituencies 4, 5 and 7.

devoting the bulk of their main news coverage to the authorities and portraying opposition candidates negatively.

By contrast, *Azattyk* radio provided more balanced coverage with a greater diversity of opinions. It allocated 16 percent to the President that was rather negative in its content. Self-nominated candidates were given 20 percent of even-handed news coverage, and roughly equal attention was given to the various political parties and civil society groups.

The print media offered more diverse information albeit with polarized views, demonstrating bias either by supporting the authorities (*Slovo Kyrgyzstana*, *Kyrgyz Tuusu* and others), supporting specific parties (*Vecherniy Bishkek*) or alternatively by heavy criticism of them (*MSN*).

Some media did not respect the election silence period that started 24 hours prior to voting. On the eve of the first round, *KTR* broadcast highly negative material about opposition representatives, including candidates Ms Ajibekova, Mr. Akun, and Mr. Bakiev. *KOORT TV* violated the silence period prior to both rounds, by broadcasting discrediting news items against Mr. Karabekov (both rounds), a candidate in constituency 11, and against Mr. Maripov (prior the second round), a candidate in constituency 1. *NBT* aired the same materials during the election silence.

On the positive side, *KTR* devoted more than the prescribed time to informational election programmes with participation of CEC representatives. The state broadcaster also aired voter education clips prepared by both state and non-governmental organizations.

IX. COMPLAINTS AND APPEALS

The amended Election Code does not establish a clearly defined complaints and appeals process with a single hierarchical structure of responsibility. The fragmented system offers multiple avenues for seeking legal redress, including election commissions, courts, and prosecutors. Decisions, actions or inaction of election commissions can be appealed to either, or both, a superior election commission or a district court. Lower court decisions can be appealed to the Supreme Court. If the complaint has been filed in the court, the superior commission that has received the complaint stops its review until the court decision takes effect. Public prosecutors are responsible for overseeing the legality of the election process. The prosecutors and law enforcement authorities must review complaints from election stakeholders within three days. On the day before the election, and the day of voting itself, they must respond immediately.

Most candidates met by the OSCE/ODIHR EOM expressed a deep lack of confidence in the system, and a tendency to resort to alternative and informal means of solving election disputes. Despite this, the number of complaints to election commissions and courts, especially prior to and after the second round of elections, was substantial.

The CEC provided the OSCE/ODIHR EOM with an analysis of the complaints it considered; however, access to the full text of the complaints was limited. The resolution of complaints and appeals at the CEC appeared to be conducted in a non-transparent and non-inclusive manner. Most complaints were resolved by the “Working Group on Supervising the Rules of

Campaigning” (Working Group) or other ad-hoc groups created within the CEC, thus bypassing the full CEC. Only a few of the complaints filed with the CEC were reviewed in open session and were subject to discussion and vote by the commission.

In one instance related to a set of complaints filed in the period between the two rounds of elections in constituency 3, the CEC acted vigorously and conducted a thorough investigation. It discovered a range of election fraud, including falsification of election documents. However, the CEC did not invalidate the election in constituency 3, despite the findings and recommendations of the CEC investigative group. This demonstrated both the CEC potential to effectively investigate violations, which remained largely dormant throughout the election, and the inconsistencies in the CEC complaint resolution process.

The Working Group operated in an autonomous fashion, sometimes even at odds with the full CEC membership. In one case followed by the OSCE/ODIHR EOM, a candidate de-registered by a lower court decision in constituency 45 appealed to the Supreme Court. Although the CEC requested that the decision of a lower court be overruled, the Working Group’s separate submission to the court contradicted the CEC arguments. The mode of functioning of the Working Group undermined the accountability of the entire CEC.

The role of the CEC Chairperson in the complaint process, on occasion, appeared to extend beyond the limits of his authority. He acknowledged to the OSCE/ODIHR EOM that he influenced complainants in one case to withdraw their complaints with suggestions that both candidates would be de-registered. In another case, EOM observers were present at a meeting of the CEC conducted on 1 February to address two complaints. A press release was distributed just prior to the meeting, which appeared to pre-determine the decisions. This raises questions regarding fully inclusive participation in the decision-making process within the CEC, as well as undermining the principle of transparency in addressing complaints.

The court system served as an important venue for complaints, a number of which were appealed all the way up to the Supreme Court. Overall, the process of complaint resolution by courts was problematic and marked by a number of controversial decisions. Along with allegations of pressure on judges by candidates and authorities, this raises serious concerns about the independence and objectivity of courts, as well as their ability to effectively address election-related disputes.

In some cases, candidates filed complaints with the courts late in the process with the purpose of having opponents de-registered. The Supreme Court upheld several of the de-registrations, despite the fact that grounds for de-registration were often not well evidenced or concerned minor infractions, and despite the fact that the CEC argued against de-registrations in some of these cases.

The Supreme Court also decided to de-register Mr. Kulbaev, a candidate in constituency 3 in the run up to the first round, and Mr. Andashev in constituency 59 in the period between the two rounds of election. This was in contradiction to Article 56 of the Election Code, which provides for a five day moratorium on candidate de-registration prior to election day.

In constituency 34, in a particularly disputed contest, the “Against All” option received the most votes and the TEC declared the election void, in line with Article 46.3 of the Election Code. Following an appeal by the candidate that had received the highest number of valid

votes, the district court declared the “Against All” votes invalid, and the Supreme Court upheld this decision. The arguments of the district court were that de-registered candidates had campaigned in favour of the option to vote “Against all”, including by illegal means.

There were cases in other constituencies, such as constituency 11, where court decisions were ignored after the events of 24 March and commissions made decisions contradicting both the court rulings and the law. The practice of ignoring court decisions appears to be a direct result of politically motivated decisions by courts and election commissions.

A significant number of complaints and appeals calling into question the first round election results were made to higher level election commissions and the courts. These remained outstanding late into the period between the two rounds of elections. The length of the complaint and appeal process, albeit within legal deadlines, contributed to delays in preparations for the second round and uncertainty as to whether any election process would be required in at least four constituencies.

Some decisions taken by election commissions and courts altered the results and the outcome of the first round of elections, and in constituency 33 and 59 resulted in de-registration of candidates. Contradictory public statements by the CEC and the relevant TECs, shortly before election day, as to whether there would be an election in these constituencies added to the uncertainty. Appeals regarding the first round of elections extended beyond the second round.

Following court cases, results of individual polling stations in a number of constituencies were declared invalid, leading to repeat voting in order to determine the winner in those constituencies. Courts ordered some of the repeat votes after candidates had already received their mandate, e.g., constituencies 11, 39, 55. In constituency 6, the winning candidate was replaced after he had received a mandate, due to a court decision that invalidated results of two polling stations in the constituency without repeat voting. As the Election Code provides for repeat voting in polling stations when a winner cannot be determined due to invalidation of results, the decision of the courts did not appear to be in line with the law.

Cases in which the mandates of elected deputies are revoked due to post-election court decisions highlight the need to streamline the complaints and appeals process.

As of 17 May, 2005, disputes in at least four constituencies remain unresolved because the Supreme Court is not functioning. The Supreme Court has been occupied since late April by supporters of some candidates. They are petitioning against the Supreme Court’s decisions and demanding the dismissal of the Court.

X. PARTICIPATION OF WOMEN

While there is no legal discrimination against women presenting their candidacy for election, in 60 percent of the constituencies there were no female candidates. Of the 389 candidates, 39 (10 percent) were women and 78 percent of them contested the elections as independent candidates.

Three women candidates initially won mandates in the Parliament.²⁵ This is only 4 percent of the total composition and represents a decrease compared to the outgoing Parliament. All three women were elected from Bishkek City. All seven female deputies from the outgoing Parliament stood as incumbents and only one was re-elected. Considering that women constitute 50.6 percent of the population of Kyrgyzstan, they are significantly under-represented in the Parliament.

Despite this result, there was an active participation of the NGO community in promoting and supporting women's increased participation in the electoral process. Both the female candidates and those working to promote women in politics complained of a lack of interest on behalf of the authorities in supporting women in politics.

The new electoral system, where all deputies are elected from single mandate constituencies, appears to impact negatively on women's participation in elections in the Kyrgyz context. In the 2000 elections, a proportionally larger number of women were candidates on party lists (23 percent of all such candidates), than were candidates in single member constituencies (10 percent of all such candidates). Of the 15 members elected via the party list system in 2000, 20 percent were women, whereas only 4.5 percent of those elected via the single member constituencies were women. Moreover, the 2005 election results have demonstrated a marked decrease in women's representation in parliament.

Finally, women comprised 23 percent of the CEC membership (3 women members) but were well represented in election administration at lower levels.

XI. PARTICIPATION OF MINORITIES

National minority issues appeared to be a factor in the election process in certain regions of the country. Of the 389 candidates that contested the first round of elections, some 88 percent were Kyrgyz, 5 percent were Uzbeks, and 4 percent were Russians. In comparison with the overall demographic figures, national minorities were significantly underrepresented as candidates. Nevertheless, the final composition of the parliament ensured a certain level of representation to national minority groups. To date, according to official information, the Parliament includes 60 Kyrgyz, 7 Uzbeks, 3 Russians and 3 other deputies.²⁶

Allegations were made during the course of the election process of gerrymandering of constituencies in order to favour one ethnic group over another. Other interlocutors indicated that the decision to redraw constituency boundaries was taken by parliamentary deputies to protect their own interests, rather than on ethnic grounds. Regardless of motive, this lack of confidence partially derives from the non-transparent manner in which constituency boundaries were drawn.

Concern was also raised regarding late proposals to redraw constituency boundaries that might have affected national minority participation. Although the Supreme Court finally rejected this proposal, it contributed to voter uncertainty during the course of the process.

²⁵ Since some mandates are still challenged, the number of women in parliament may further decrease.

²⁶ These figures may change, due to remaining unresolved disputes, repeat votes and new elections.

Redrawing of constituency boundaries proved potentially divisive in areas where significant national minorities were present. The division of Uzgen city in the Osh province into three constituencies effectively divided the 90 percent Uzbek population between three different constituencies and attached them to predominately Kyrgyz rural areas, where they were in the minority.²⁷ Of the 21 candidates that stood across the three constituencies, none were Uzbeks, indicating that the redrawing of boundaries had the effect of discouraging participation of the Uzbek population.

XII. DOMESTIC OBSERVERS

The amended Election Code has improved the ability of non-partisan domestic observers to carry out their activities. However, Article 17.4 of the Election Code unduly restricts the activities of domestic observation groups in the pre-election period, preventing legal access to key elements of the process such as voter lists and the sessions of election commissions. However, in a departure from an overly strict interpretation of the law, many election commissions at all levels provided NGO observation groups with access prior to election day.

Two major domestic, non-partisan, civic groups, the Coalition for Democracy and Civil Society and the Association of NGOs and Non-Commercial Organizations, both fielded long-term and short-term observation missions. Both groups had a widespread presence on election day, although this decreased during tabulation of the vote.

IEOM observers noted in some cases that domestic observers were restricted in their ability to observe the polling process in a meaningful way, as they were required to sit at a considerable distance from the checking of ink, confirmation of voter identification, and other procedures. Such practices undermine the transparency and public confidence provided by domestic observation.

XIII. OBSERVATION OF ELECTION DAYS

A. VOTING

For the first round of elections on 27 February, some 2,160 polling stations were established to serve the voters across Kyrgyzstan. IEOM observers visited more than 650 polling stations in all oblasts.

Election day was mainly peaceful and orderly. Voter turnout as reported by the CEC was 60 percent. While no pattern of widespread irregularities was reported during polling on election day itself, incidents of vote buying, infringement of the secrecy of the vote, pressure on students, multiple voting, and voter intimidation were directly observed.

In polling stations observed, most observer teams reported that the opening procedures commenced in a timely manner (81.3 percent). Delays were insignificant and mostly due to technical reasons. Candidate proxies and domestic observers were noted at the opening in 98.7 percent of polling stations observed. However, in 42.7 percent of the polling stations

²⁷ Myrza-Aki constituency 37, Zhazy constituency 38, and Kurshab constituency 39.

observed, unauthorized persons were present at the opening, mainly police officers and representatives of the local authorities.

In 89 percent of polling stations visited, observers assessed the voting process as ‘good’ or ‘very good.’ However, in a notable 11 percent of polling stations visited, the voting process was evaluated as ‘poor’ or ‘very poor.’ The main problems observed were inaccurate voter lists (observers reported additions to the voter lists in 80 percent of polling stations visited), unauthorized persons in 17.5 percent and family voting in 10 percent of polling stations visited.

At the same time, positive factors were observed, such as largely well-organized PECs, no shortages of election materials, and use of transparent ballot boxes to enhance voters’ confidence. However, the use of transparent ballot boxes raised an issue of secrecy of the vote depending on whether ballot papers were folded properly.

The presence of candidate and domestic non-partisan observers during voting was noted at 99.8 percent and 92 percent respectively in polling stations visited, although domestic non-partisan observers in particular were sometimes limited in their ability to observe all aspects of the polling procedure. Voters’ fingers were marked with ink in 98 percent of cases, although it often slowed the voting process. Observers noted that ink checking was not always done in a thorough manner. There was a calm atmosphere at most polling stations, although tension was noted in some of those which were subject to overcrowding and queues due to the inking process. Voters signed the voter lists in most cases observed (99 percent of observations), and PECs checked voter identification (98 percent).

B. COUNTING

Observers assessed the vote count as ‘poor’ or ‘very poor’ in 11 percent of polling stations observed. The proportion of PEC members’ understanding of the counting procedures were regarded as either ‘poor’ or ‘very poor’ in 19 percent of observations, an increase in comparison to their knowledge of the polling procedures. The process of producing the protocols was often lengthy and confusing for the PEC members. In some polling stations, PEC members had noticeable difficulties in filling out the protocols. Several observers reported what appeared to be deliberate attempts to delay the vote count in order to induce observers to leave.

There was considerable use of pencils to complete the results protocols, and in some cases, the protocols were signed blank. In one polling station, it was observed that the PEC Chairperson produced four different copies of the protocol. In some polling stations, observers were kept at a distance from the counting; in others they noted that counting procedures were not always followed. Other problems included the presence of unauthorized persons in 28 percent of counts observed and failure to publicly post the results protocols in 33 percent of the observations.

Observers reported that 97.1 percent of entitled persons received the signed and stamped copies of the protocol in polling stations observed.

C. TABULATION OF RESULTS

The tabulation process at TECs was notable for the fact that PECs were required to conduct recounts at 20 percent of TECs visited. The presence of domestic observers at the TEC, in 31 percent of visits, was markedly lower than for the opening, voting and counting processes in the polling stations. Observers were able to observe the data input into the GAS “Shailoo” in 96 percent of cases. Problems with the functioning of the GAS “Shailoo” or with data input were observed in 23 percent of cases.

In a positive development that enhanced transparency, the CEC published most PEC results protocols on the Internet the morning following the elections. However, the PEC results were removed from the CEC website a week after election day which undermined transparency. The OSCE/ODIHR compared PEC protocols’ data from the CEC website with copies of result protocols obtained from polling stations. There were minor divergences, which appeared to have been made at TECs in order to make PEC result protocols correspond to accounting mechanisms programmed into the GAS “Shailoo” tabulation software. No cases of significant alteration of results were observed, but the practice of altering protocols on an informal basis is problematic, in particular if changes are introduced by officials who are not members of the respective PEC.

D. SECOND ROUND

On 13 March, 42 constituencies were contested between the top two candidates from the first round. The CEC preparations for the second round were generally efficient. However, the accuracy of the voter lists remained a problem. While the CEC announced that updated voter lists, including all changes made during the first round, would be given to all polling stations, observers found that voter lists often had not been properly updated. As a result, in some cases more than 10 percent of voters were added to additional voter lists.

The OSCE/ODIHR EOM did not conduct a statistical analysis of observation reports during the second round of voting.

On election day, observers reported that voting procedures were generally followed in polling stations observed. Although domestic observers provided widespread coverage, in some instances they faced restrictions on their positioning in polling stations, which prevented them from observing all aspects of election day proceedings in a meaningful way. At times, candidate proxies appeared to be overly assertive and controlling. Vote buying and groups of unidentified individuals appearing to co-ordinate voters outside of polling stations were observed. Observers also received multiple allegations of voters being transported to more than one polling station.

In general, counting procedures appeared to be followed, but observers again noted protocols being filled out in pencil or blank signed protocols being transferred to the TECs. In some instances, OSCE/ODIHR EOM and domestic observers were prevented from viewing all aspects of the counting process or were denied copies of protocols. No significant problems were observed with regard to operation of the GAS “Shailoo”.

Most result protocols were published on the CEC website on the morning following the election. Observers repeated the procedure of comparison of copies of the protocols obtained

with results in the Internet. Overall, the majority of protocols on the Internet were identical to the copies of protocols received by observers or diverged only insignificantly from these protocols. However, in several cases, the divergence was large enough to impact the outcome of elections in specific polling stations.

XIV. ANNOUNCEMENT OF RESULTS AND POST-ELECTION DEVELOPMENTS

In the first round of voting, the election was conducted in 74 constituencies,²⁸ and 32 candidates were elected. In constituency number 41, where there were only two candidates, a court invalidated the results in three polling stations. Although initially a repeat vote was ordered by a court, the mandate from this constituency was eventually awarded to one of the candidates without conducting a repeat vote.

Many of the 13 March second round results from the 42 constituencies contested were challenged in court. At the same time, the protests which had been ongoing prior to the elections intensified after the second round, at times directly due to alleged electoral violations or irregularities, with protestors taking control of local government buildings in the south of Kyrgyzstan. The protests, which appeared to be in part a response to charges of electoral violations or irregularities, and which were apparently caused by a combination of other political and economic factors, soon spread to other regions of the country.

The CEC issued a decision on 22 March to register the newly elected deputies, 69 out of 75, to the Parliament, and the first session of the new Parliament was held immediately after the formal issuing of mandates.

On 24 March, a generally peaceful gathering by the opposition marched to the Government Building with demands for invalidation of elections and the resignation of President Akaev. After a skirmish with pro-government protestors, who apparently attempted to provoke the demonstrators, the anti-government demonstrators took over the government building. This turn of events appeared to be unexpected for all parties involved. Police efforts to restore order were limited, and the police gradually abandoned the scene. President Akaev left the country.

On the same evening, the Supreme Court, on appeal from a number of candidates, made a decision to invalidate, on procedural grounds, the CEC decision to register the deputies of the new Parliament. The Court's decision provided the legal grounds for the outgoing Parliament to convene a session. The Prime Minister gave his written resignation. The outgoing Parliament, due to the President's absence from the country, appointed Mr. Kurmanbek Bakiev, an opposition leader, as the acting Prime Minister and the acting President, an appointment later confirmed by the newly elected Parliament.

For a short period of time, both the outgoing and the newly elected Parliaments operated in parallel. On 26 March, the CEC legitimized the newly elected Parliament, with a number of constituencies remaining subject to resolution of complaints and appeals. The outgoing Parliament dissolved. President Akaev submitted his resignation to Parliament, which was accepted on 11 April.

²⁸ The CEC postponed the election in constituency 75 for three weeks, see Section V B.

The current status of the newly elected Parliament is detailed in Annex 1.

XV. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities of the Kyrgyz Republic with a view to achieve their stated objective to conduct elections in line with OSCE commitments and other international standards for democratic elections. These recommendations include most of the recommendations already contained in the “OSCE/ODIHR Interim Recommendations for the Kyrgyz Republic Early Presidential Election” issued on 12 April 2005, as well as some additional recommendations based on further analysis of the conduct of the parliamentary elections.

A. LEGAL FRAMEWORK

Freedom of Speech

1. Paragraph (2) of Article 36 could be interpreted to prohibit campaign speech and political discussion on important social problems and issues in the country. This paragraph should be reformulated so that it cannot be applied to limit legitimate political discourse during the campaign.
2. Paragraph (6) of Article 36 prohibits campaign materials “that can damage dignity, honor or business reputation of candidates.” This limitation on free expression of political opinions prevents a robust and vigorous campaign, which is critical to election campaigning in a democracy. It is recommended that paragraph (6) of Article 36 be amended to comply with international standards on freedom of expression. Paragraph (3) of Article 57 should be amended for the same reasons.
3. Paragraph (3) of Article 31 prohibits the publication in the mass media of “the results of public opinion polls, forecasts of election results, other research materials in connection with the elections from the moment of candidates’ registration.” This provision should be amended to reflect the general international practices on opinion polling. The reference to “other research materials” should be deleted, and the prohibition on opinion polls and “forecasts of election results” should be limited to a more reasonable period, such as seven days prior to the close of polling on election day.

Election Commissions

4. The Election Code and the Law on the Central Election Commission should be amended to substantially broaden and guarantee the representation of political parties on election commissions, including the CEC, and to limit the power of the President in selecting and appointing its members.
5. Any provisions for replacement of election commission members provide for: (1) written notice to the commission member of the proposed grounds for removal, (2) a hearing before an appropriate tribunal to contest the challenged removal, (3) a voting requirement

greater than simple majority in order to support the removal, and (4) the right to appeal to a court to challenge a decision for removal.

6. Paragraph (7) of Article 11 provides that that “State and municipal employees, and employees of municipal bodies, may not comprise more than one-third of the total number of election commission members.” The OSCE/ODIHR has previously commented that precinct and district election commissions have been dominated by employees of official bodies. At a minimum, this can lead to the perception of partiality, as these persons are beholden to state authorities. In the absence of substantial confidence in the election process, the inclusion of such persons in election commissions should therefore be more limited. In addition, no more than one third of the members should come from any one institution.

Candidate Registration

7. The Election Code makes no provision for the possibility of a candidate to correct a defect in registration documents. Candidates should not be denied registration based on a defect in documents where the defect can be corrected in a timely manner. It is recommended that Articles 63, 73, 83, and 91 of the Code be amended to provide that in cases where the respective election commission identifies incorrect or incomplete information, it shall immediately notify the applicant, who shall have 48 hours to submit corrected information. The election commission should be required to consider re-submitted documents within 24 hours, and either register the candidate or issue a motivated decision on the refusal to register.
8. De-registration of a candidate should only be permitted in the most serious circumstances. To improve clarity, such conditions should be specified in the Election Code.
9. The provisions on residency requirement in Art. 69 of the Election Code and Art. 56 of the Constitution should be amended to ensure that the right to candidacy is not unduly restricted.
10. Post-election cancellation of candidate registration is generally contrary to OSCE election-related commitments. It is recommended that Article 56 of the Code be amended to allow post-election cancellation only where the elected candidate does not meet requirements for candidacy under the Constitution.

Voting

11. In order to achieve a more inclusive environment for national minorities during the election, Article 39 should be amended to provide that ballots are also printed in the Uzbek language. This would facilitate the participation of this significant national minority in the elections.
12. It is recommended that Article 41 be amended to clearly regulate early voting and to ensure that observers have a reasonable opportunity to observe the early voting process.

13. The option to vote “against all” candidates should be removed from the Electoral Code. As a matter of principle, voters should be encouraged to vote *for* their preferred candidate or party, and thereby take responsibility for the body which is being elected.

Counting

14. The procedure in paragraph (6) of Article 44 for counting ballots in mobile ballot boxes requires that all ballots in a mobile ballot box be invalidated if the number of ballots in the mobile ballot box exceeds the number of written applications requesting to vote outside the premises. This provision treats voters unequally and discriminates against mobile voters because this invalidation requirement does not apply to regular ballot boxes. The same counting rules must apply to all voters. Further, the existence of one ballot too many is not a sufficient justification for invalidating all mobile ballots.
15. Once the total number of ballots cast has been established, the ballots from the conventional ballot box and the mobile ballot box should be mixed together before the commencement of the vote count to determine the overall polling station results.
16. Only ‘valid votes’ should be taken into consideration in determining the outcome of an election, since invalid votes fail to express political choices.

Announcement of Results

17. Paragraph (22) of Article 44 provides that the enlarged copy of the precinct (polling station) protocol “shall be posted for general information in the place, established by the precinct election commission.” It is recommended that paragraph (21) be amended to provide that the protocol shall be posted at the polling station. It is also recommended that a similar provision be included in paragraph (7) of Article 45 for the posting of any election commission protocol.
18. The Election Code should clearly specify procedures in the event that only one candidate is standing.²⁹

Complaints and Appeals

19. A clearer and more streamlined complaints and appeals system should be introduced. Challenges to decisions of election commissions should be filed in only one forum designated by the Code – either a court or a higher election commission. If the forum designated by the Code is an election commission, then the Code must provide that the right to appeal to a court is available after exhaustion of the administrative process.
20. Article 46.6 makes it impossible to challenge fraudulent results where the fraud is discovered after the protocols have been signed. This provision should be removed from the Code.

²⁹ Election Code stipulates the possibility of only one candidate standing in the second round of elections, however, it is silent regarding such a situation in the first round.

International Support

21. It is recommended that paragraph (1) of Article 50 be amended to ensure that the prohibition on foreign funding cannot be applied to preclude international or domestic organizations from full engagement in support of observation activities, including the training of observers, deployment of personnel, compilation of data, fact finding, and subsequent analyses and reporting.

Rights of Observers

22. Observation should include the right to observe the entire electoral process, including all activities, meetings, and decision making in election commissions, before, during, and after elections, by both domestic party and non-partisan observers, as well as international observers. Paragraphs (2) and (6) of Article 17 should be amended accordingly.

Accountability for Legal Violations

23. Instances of administrative interference in the election process, violation of the Electoral Code and of associated rights, should be prosecuted to the full extent of the law. The Criminal Procedure Code should be amended to grant the public prosecution the authority to initiate criminal cases for election related violations.

Media

24. The Election Code should be amended to clarify the difference between ‘informing’ and ‘campaigning’ in relation to media coverage of the election campaign;
25. The Election Code should be amended such that media should not be held responsible for "unlawful" statements made by candidates. The Election Code should be amended with provision clearly stating that responsibility for the content of the free and paid advertisements lies solely on the contestants.
26. The Code should require that all free and paid airtime should be clearly identifiable.

B. ELECTION ADMINISTRATION

27. The existing plan to move the CEC and the GAS “Shailoo” main server out of the Presidential White House should be completed rapidly. This is justified by two factors. First, in the interest of creating an independent CEC, it is important to ensure a separation between the electoral administration and the State administration, wherever possible. In addition to being independent, the CEC must be perceived as independent by the public. Secondly, the CEC is a public institution accountable to citizens and subject to the requirements of openness, transparency, and accessibility. This requires that the CEC be located in premises which are accessible to citizens and which do not discourage citizens from actively attending sessions of the CEC. Citizens, as well as accredited observers and electoral participants, have the right to observe how the CEC conducts its daily business in administering elections and protecting suffrage rights. This right is denied when the CEC is located in premises that are difficult for citizens to access.

28. The independence of lower election commissions must also be established and ensured. It is important to separate the TECs from the premises of rayon and oblast administrations, where not prevented by limitations of infrastructure.
29. Individuals employed by the same institution should not constitute more than one-third of the members of the same election commission. This recommendation could be implemented through a CEC instruction during this interim period, and eventually included in the Electoral Code as a permanent provision.
30. The CEC should immediately publish all of its written regulations.
31. All sessions and meetings of the CEC and its working groups and tasks groups should be public. The CEC should, no later than twenty-four (24) hours before a session, publicly post on its website and at the main entrance to its office a notice for each CEC session. The notice should include an agenda of all items and matters to be considered at its session.
32. During the entire election time period and until final publication of the election results, the CEC should hold regular sessions at pre-scheduled times and hold additional sessions as necessary during this period.
33. The CEC should thoroughly and completely consider all written matters presented to it, regardless of the form and including complaints, appeals, applications, requests, and letters, and should provide a written decision in response. Although working groups and individual members of the CEC may provide advice to the CEC, all decisions must be made by the CEC only.
34. The CEC should maintain a register for all complaints and appeals, which should be registered immediately upon their presentation to the CEC. The CEC register for complaints and appeals should be publicly accessible for observers, electoral participants, and citizens. The register should be kept current and maintained in a format that permits observers, electoral participants, and citizens to follow developments in the respective case, and check on its status. The full text of complaints and appeals should be available for public scrutiny.
35. Every decision should be made in an open session of the CEC. When reaching a decision, the CEC should first attempt to make each decision by consensus.
36. Every decision of the CEC should, within 24 hours, be recorded in writing and signed by the Chairperson of the CEC, and a copy of the written decision should be maintained in the office of the CEC and available for public inspection and copying. A copy of the decision should be provided to all CEC members, each person, candidate, or political party (election bloc) affected by the decision, and any voter who requests a copy of the decision. All decisions should be recorded in a CEC Decisions Register for access by the public.
37. The CEC should make available on its website copies of all decisions, the register for complaints and appeals, and the CEC Decisions Register.

38. The CEC should issue written instructions for a uniform procedure to be followed by the oblast and Bishkek and Osh city electoral commissions when verifying signatures in support of candidates.
39. Written minutes of all CEC sessions and meetings should be produced within 24 hours after their completion and made accessible to the public.
40. All electoral contestants and accredited observers should be permitted access to the printing of ballot papers, in order to ensure confidence and transparency. Recognizing the potential for large numbers of people who may want to observe this stage of the electoral process, and certain security concerns, the CEC should establish an equitable basis upon which accredited observers and candidate representatives can have access to these procedures.

C. VOTER LISTS

41. Voter lists should be revised and updated. There should be a thorough crosscheck at the regional and national levels for duplicate entries and misspellings.
42. GAS “Shailoo” administrators should be authorized to initiate voter list checks for their accuracy and completeness.
43. The CEC should issue written instructions to ensure that copies of voter lists are displayed at PECs and TECs for public viewing access. Civil society groups, electoral participants, and voters should be able to initiate checks of the voter lists during the election campaign. Such an instruction would be consistent with the requirement in the Electoral Code that “lists of voters at precinct stations shall be presented for general familiarizing and additional updating”.
44. The CEC should consider undertaking a nationwide education and assistance campaign, with particular focus on voters and regional and local administration, to make clear rights and responsibilities regarding the provision of timely and accurate information for voter lists.

D. CAMPAIGN

45. Constitutional principles, OSCE commitments, and international standards ensuring the right to assembly should be fully upheld, and any limitations of this right should be in strict proportion to any danger posed.
46. In accordance with domestic law, candidates, political parties, and civil society organizations should be permitted to freely organize public meetings, rallies and other gatherings, barring a clear and present danger to national security, to other citizens, or to themselves. There should be an impartial, accessible and equitable procedure for determining the venue in the event of a dispute.
47. The practice of using minor administrative penalties to discourage the fundamental right of assembly should cease.

E. ELECTION DAY PROCEDURES

48. The use of transparent ballot boxes, while a positive step overall, can lead to violations of secrecy of the vote if ballots are not folded properly. The CEC should issue written instructions for a uniform procedure, directing how a voter should fold a marked ballot before placing the ballot in the ballot box. This procedure should ensure that each citizen's right to secrecy of the vote is protected.
49. The CEC should issue written instructions for uniform procedures and guidelines for the layout of polling stations in order to ensure each citizen's right for secrecy of the vote and that observers have a meaningful opportunity to observe the election process.

F. DOMESTIC OBSERVERS

50. Prior to the presidential elections, the CEC should issue written instructions to ensure that observers (both domestic and international) are provided full access to the entire election process, including access to election commission meetings and electoral documentation and materials, commencing from the day of the observer's accreditation. Observers should be able to inspect documents, attend meetings, and observe election activities at all levels, and to obtain copies of decisions, protocols, tabulations, minutes, and other documents. Such an instruction would be consistent with the requirement in the existing Electoral Code that "the activities of election commissions shall be public and open," and consistent with OSCE commitments. This recommendation should eventually be included in the Electoral Code as a permanent provision.

G. VIOLATIONS

51. An election commission member or other person, who obstructs, hinders, or interferes with an observer who is engaged in legitimate observation, should be held strictly accountable under the law.

H. GENDER AND NATIONAL MINORITY ISSUES

52. Serious consideration should be given as to how to facilitate the increased participation of women in the electoral process, and ultimately their representation in parliament.
53. Redrawing of constituency boundaries should take place through an inclusive procedure, and in an accountable and transparent manner.
54. Additional efforts should also be undertaken to provide election-related information in the languages of significant minority populations.

I. MEDIA

55. State authorities should refrain from any kind of interference in the activities of media and their representatives. Pressure, such as lawsuits, verbal attacks and denunciations further discourage establishment of a free media environment. State authorities should also ensure sufficient resources for conducting all election processes, such as the allocation of free broadcast time and print space in media.

56. The authorities should transform the State broadcaster into an independent public service media organization. A law governing the public service broadcaster should:
- a. Clearly define the scope of its work and establish concrete public service requirements;
 - b. Oblige the broadcaster to provide citizens with impartial and balanced information in the news and other information programmes;
 - c. Establish a system of appointments to the management that will be sufficiently independent of the state authorities.
57. Consideration should be given to the transformation of the State Commission for Radio Frequencies into an independent and impartial body with a clear mandate to oversee the media. This new body should have responsibility to consider complaints and ensure compliance with legal obligations. Its membership should be diverse, including media professionals, civil society, judicial bodies, the government and political parties.

ANNEX 1. CURRENT STATUS OF PARLIAMENT

As of 17 May 2005, 72 deputies hold a mandate. New elections will be held in the three remaining constituencies. However, repeat votes in a number of polling stations are to be held at least two other constituencies. There are five more constituencies where winners may change or have not yet been finally determined. Table 1, below, indicates the unresolved constituencies.

Table 1

| Constituency | Status |
|---------------------|---|
| 34, 75 | New elections are to be held. Past elections were declared invalid and void respectively, since votes “Against all” candidates constituted the highest numbers of votes in both constituencies. |
| 1 | New election to be held, as per CEC decision. |
| 55 | A repeat vote, to be held in 15 precincts, is postponed to an undetermined date. |
| 11 | A repeat vote was scheduled in a number of precincts. However, the candidate already awarded the mandate was de-registered before the repeat vote, and the TEC announced the other candidate a winner. While the TEC appeared to exceed its authority, as the declaration of a winner is the CEC responsibility, the latter did not overrule the TEC decision. The case remains unresolved. |
| 6 | Deputy replaced by a court decision, a court case is pending. |
| 21, 39, 44 | All three awaiting court decisions. Repeat votes are possible in 21 and 39. |

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (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 Document).

The 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 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The 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 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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).