



Office for Democratic Institutions and Human Rights

KYRGYZ REPUBLIC

PRESIDENTIAL ELECTION

30 October 2011

OSCE/ODIHR Election Observation Mission
Final Report



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I. EXECUTIVE SUMMARY

Following an invitation from the Ministry of Foreign Affairs of the Kyrgyz Republic, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 16 September. The OSCE/ODIHR assessed the election process for compliance with OSCE commitments and other international standards for democratic elections as well as with the legislation of the Kyrgyz Republic. For election-day observation, the OSCE/ODIHR joined efforts with observer delegations from the OSCE Parliamentary Assembly (OSCE PA), the European Parliament (EP) and the Parliamentary Assembly of the Council of Europe (PACE).

The 30 October presidential election was conducted in a peaceful manner, but shortcomings underscored that the integrity of the electoral process should be improved to consolidate democratic practice in line with international commitments. Candidate registration was inclusive, giving voters a wide choice, and the electoral campaign was open and respected fundamental freedoms. These elements, however, were overshadowed by significant irregularities on election day, especially during the counting and tabulation of votes.

The election was held under a new legal framework. In drafting the legislation, many recommendations of previous OSCE/ODIHR election observation missions were incorporated. However the legal framework still does not meet certain OSCE commitments.

The Central Election Commission (CEC) conducted the technical preparation for the elections in an adequate manner, considering the timeframes established by the legal framework. However, it lacked transparency and efficiency in approving and publishing its regulations. While decision-making sessions were open to the public, the CEC regularly conducted internal working sessions behind closed doors, contrary to the law. The CEC did not publish minutes of its sessions, which could have increased transparency and accountability. The CEC was also not forthcoming in providing information to OSCE/ODIHR EOM observers, thus limiting international observation efforts.

With 86 candidate nominations submitted, the CEC faced a considerable challenge of reviewing registration documents in a timely manner to meet tight legal deadlines. Courts found that the CEC did not correctly follow procedures in the processing of these registrations and reversed nine CEC denials of registration. The ensuing signature verification conducted by the CEC regarding these nine submissions produced inconsistent results. This called into question the integrity of the process.

The decision to create a unified voter registration system under the auspices of the CEC marked an improvement. However, the overall quality and accuracy of voter lists continues to be of

¹ The English version of this report is the only official document. Unofficial translations are available in Kyrgyz and Russian.

concern. Inconsistencies in registration procedures and a lack of transparent and formal regulations on managing the voter registration system were noted as serious shortcomings by the OSCE/ODIHR EOM. Consequently, a considerable number of voters may have been disenfranchised on election day.

Positively, the previous possibility of adding voters to voter lists on election day was abolished by the new legal amendments. Additionally, voters had the option to vote at their actual place of residence, regardless of their permanent registration. Such changes enabled the participation of migrant voters to a greater extent than in the past. Due to ongoing problems with voter registration, however, adequate measures were not in place to ensure that this provision would not be open to abuse. Despite an active voter education campaign by the CEC, the OSCE/ODIHR EOM noted a lack of awareness on the part of many voters regarding the recent changes in the voter registration procedures.

The campaign took place in a generally calm environment despite underlying tensions. Electoral contestants were able to conduct their campaign activities without hindrance, and in another positive development, freedom of assembly and expression were respected throughout the country during the campaign. Allegations of the misuse of institutional authority in the form of pressure and intimidation were raised throughout the pre-election period, which somewhat undermined confidence on the part of certain stakeholders in the electoral process.

The CEC control-revision group made a concerted effort to enforce the legal provisions on campaign finance and did so in an unbiased manner. While the legal requirements were adhered to through the weekly publishing of campaign finance summaries on the CEC website, detailed information on the campaign finance incomes and expenditures was not made available for public scrutiny, in line with international good practice.

Overall, a wide range of electoral information was available to voters in the media. However, a lack of independent editorial coverage undermined the quality of information available to voters to make an informed choice. Regrettably, most broadcast media refrained from covering the candidates outside of free and paid campaign spots and did not engage in analysis. This was due to a cautious interpretation of unclear legal provisions. State-funded media generally met their obligation to provide free media space to all contestants. Political debates enabled candidates to convey their views and platforms to voters. Nevertheless, certain candidates were given preferential treatment by moderators. Several international news channels were taken off the air on the basis of a new legal provision, which reduced access to information.

The adjudication of disputes by the CEC lacked transparency. Electoral complaints were primarily submitted by parties and presidential contestants. The limited number of complaints filed and the lack of complaints from regular voters underscored a lack of public trust in adjudicating bodies, as reported by various OSCE/ODIHR EOM interlocutors. The combination of a new and untested electoral legislation and the absence of a Constitutional Chamber resulted in citizens being unable to challenge the constitutionality of key provisions; this deprived citizens of the right to an effective remedy.

The lack of adequate integration policies and slow progress in improving the security situation in areas populated by national minorities created a general sense of apprehension and isolation among these communities. As a consequence, involvement of national minorities in electoral campaign activities was rather limited. Electoral materials were available only in Kyrgyz and

Russian, which somewhat limited the access to information in minority languages and contradicted OSCE commitments.

The election day proceeded in a calm atmosphere without violence and the voting process was assessed positively, overall. However, a number of serious violations were reported by observers, such as ballot box stuffing, multiple and family voting, and vote buying. A considerable number of voters were not able to find themselves on voter lists, which became an issue on election day. The situation deteriorated during counting and tabulation, with a significant number of polling stations assessed negatively by observers. In many cases, observers were restricted from observing the counting and tabulation. The negative observations noted and unduly high turnout figures in some polling stations cast certain doubt and raised concern regarding the level of integrity required for such a democratic contest.

On election day, voters tended to complain about violations of their rights to candidate representatives or domestic observers, rather than filing official complaints that would require responses from election commissions. The 127 complaints received by the CEC on election day and in the aftermath were reviewed in a slightly more open fashion than pre-election complaints. The majority, however, were dismissed or referred to other bodies for consideration without a substantial review of the facts.

In a positive move, the CEC posted the preliminary results, broken down by polling station, on its website on election night. On 12 November, the CEC announced the final election results: Mr. Atambaev received 62.52 per cent of the votes and was declared the newly-elected President. Voter turnout was announced at 61.28 per cent. While all 12 CEC members signed the CEC protocol, 4 of the CEC members added dissenting opinions. The main issue raised was the lack of CEC action in investigating potential discrepancies in some Precinct Election Commission (PEC) protocols that did not match CEC published results. The inauguration of the newly-elected President took place on 1 December.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Ministry of Foreign Affairs of the Kyrgyz Republic, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 16 September. The OSCE/ODIHR EOM was led by Corien Jonker and consisted of a 14-member core team based in Bishkek and 28 long-term observers deployed to all regions. For election-day observation, the OSCE/ODIHR joined efforts with observer delegations from the OSCE Parliamentary Assembly (OSCE PA), the European Parliament (EP) and the Parliamentary Assembly of the Council of Europe (PACE). Walburga Habsburg Douglas, Head of the OSCE PA delegation, was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term observer mission. The EP delegation was led by Inese Vaidere and the PACE delegation was led by Nursuna Memecan.

On election day, 385 observers from 40 OSCE participating States were deployed across the country. They visited some 870 of the 2,289 polling stations and observed the 49 of the 58 Territorial Election Commissions (TECs). The electoral process was assessed for its compliance with OSCE commitments and other international standards for democratic elections, as well as

with domestic legislation. This final report follows a Statement of Preliminary Findings and Conclusions released at a press conference on 31 October 2011.²

The OSCE/ODIHR EOM wishes to thank the authorities of the Kyrgyz Republic for the invitation to observe the election, and the Ministry of Foreign Affairs, the Central Election Commission (CEC), as well as representatives of political parties, the media, civil society, and other interlocutors in the Kyrgyz Republic for their co-operation. The OSCE/ODIHR also wishes to express its appreciation to the OSCE Centre in Bishkek and to diplomatic representations of OSCE participating States and international organizations in the Kyrgyz Republic for their support and co-operation throughout the course of the mission.

III. BACKGROUND

Following the adoption of a new Constitution via a 27 June 2010 referendum, the 2011 presidential election marked the final step in the transition period after the 2010 events, which led to the ouster of President Bakiev.

On 30 June, the parliament scheduled the presidential election for 30 October 2011. As a result of the June 2010 constitutional referendum, the incumbent President Roza Otunbayeva was confirmed in office for a limited term that expired at the end of 2011 and was not entitled to stand in the upcoming election.³

Five political parties are represented in the *Jogorku Kenesh* (parliament), based on the 10 October 2010 parliamentary election results. A governing coalition of three parties: *Ata-Jurt* (28 seats), the Social Democratic Party of Kyrgyzstan (26 seats), and *Respublika* (23 seats) was established, while *Ar Namys* (25 seats) and *Ata-Meken* (18 seats) remained in opposition.⁴

The OSCE/ODIHR provided a cautiously optimistic assessment of the 2010 constitutional referendum and the 10 October 2010 parliamentary elections, despite some evident shortcomings.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The new legal framework, which resulted from an extensive reform of the electoral legislation, includes the 2010 Constitution, the newly adopted Constitutional Law on Presidential and Parliamentary Elections (hereinafter, electoral law) and the Law on Election Commissions to Conduct Elections and Referenda (hereinafter, law on election commissions), CEC instructions and decisions, and related legislation governing the activities of media, non-governmental organizations and political parties. This was the first presidential election held under the new legal framework.

² The OSCE/ODIHR EOM also published two interim reports. For previous OSCE/ODIHR reports, see: <http://www.osce.org/odihr/elections/kyrgyzstan>.

³ Government Decree 39 of 19 May 2010 approving the Law on Enactment of the Constitution of the Kyrgyz Republic defined Ms. Otunbayeva as President for a transitional period until 31 December 2011.

⁴ This coalition was redefined following the announcement of the 2011 presidential results.

The 2010 Constitution introduced a semi-parliamentary system of government, giving the parliament the power to decide on the structure and composition of the government and on matters of war, while the president retained certain key powers such as the right to veto legislation and appoint the heads of defence and the security agencies.

The president is elected for a six-year term in a direct and secret ballot and is limited to one term in office. To stand, candidates must fulfill the following requirements: be a citizen of the Kyrgyz Republic without other citizenship; be resident in the country for at least 15 years in total; be between the ages of 35 and 70 years; be proficient in the Kyrgyz language; not have a conviction on record or be found legally incompetent by a court. In order to be elected, the successful candidate must receive more than half of the votes cast. If no candidate wins, the two highest-placed candidates take part in a second round to be conducted no earlier than two weeks from the day election results are officially determined.⁵

The law denies the right to stand to those with a criminal conviction on record. It also denies the right to vote to those incarcerated. Neither limitation takes into account the severity of the crime committed, contrary to international commitments. Furthermore, those older than 70 years are also prevented from standing in a presidential race. This provision raises questions with regard to OSCE commitments for non-discrimination.⁶

In the drafting of the new electoral legislation, many recommendations of previous OSCE/ODIHR election observation missions were incorporated.⁷ Still, the legal framework falls short of fully meeting all OSCE commitments in the areas of freedom of expression, transparency of campaign finance, and through the limitation of candidacy rights and the inclusion of numerous and broad grounds for revocation of candidate registration, including after the election.⁸

Following a 7 April 2010 presidential decree, the Constitutional Court was dissolved. A new Constitutional Chamber of the Supreme Court envisioned in a law adopted on 13 June 2011 has yet to be established.⁹ While the Supreme Court continued to hear appeals of lower court decisions, the lack of a Constitutional Chamber meant interested parties had no opportunity to challenge the constitutionality of the law or of CEC decisions during this election. Three presidential nominees indicated their intention to challenge the constitutionality of the articles covering the language exam, and CEC instructions on the collection and verification of signatures, but were not able to do so. Objections to the process of selecting judges for the Supreme Court and Constitutional Chamber meant that the Supreme Court was not operational during the period in which the election was taking place.

⁵ The law does not envisage a maximal date for the holding of a second round.

⁶ Paragraph 7.5 of the Copenhagen Document stipulates that OSCE participating States ensure “to respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.”

⁷ For instance, the number of required signatures for registration was reduced, the possibility for a person to be added to the voter list on election day was eliminated, and the previous prohibition on international observers expressing their opinions on the elections prior to the end of voting was lifted.

⁸ See also the OSCE/ODIHR and Venice Commission Joint Opinion on the Draft Laws can be found at: <http://www.osce.org/odihr/80842>.

⁹ Law on the Constitutional Chamber of the Supreme Court, 13 June 2011.

V. ELECTION ADMINISTRATION

The 2011 presidential election was administered by a three-level system: the CEC, 58 TECs¹⁰ and 2,318 Precinct Election Commissions (PECs).¹¹ The new law on election commissions streamlined the procedures to provide for the more efficient work of commissions at all levels and a more pluralistic composition.

The CEC is elected for a term of five years by the parliament and consists of 12 members. The president, the parliamentary majority, and the parliamentary opposition each nominate four members. No more than 70 percent of the CEC members may be of the same gender and there are four female CEC members. The CEC's work was conducted in an adequate manner, in general, considering the timeframes established by the legal framework. However, there was a considerable lack of transparency and efficiency in approving and publishing its regulations. While decision-making sessions were open to the public, the CEC regularly conducted internal working sessions behind closed doors, contrary to the law.¹² The CEC did not publish minutes on the CEC sessions, which could have increased transparency and accountability.¹³ The CEC was also not forthcoming in providing information to OSCE/ODIHR EOM observers, thus limiting international observation efforts.¹⁴

TECs and PECs, formed for two-year terms, comprise political party representatives and representatives elected by local self-governing bodies (*keneshes*). Women constituted 37 per cent of TECs and 54 per cent of PECs members.¹⁵ The OSCE/ODIHR EOM observed a considerable number of both TEC and PEC members resigning in some areas, mostly due to lack of financial remuneration.¹⁶ Operational preparations for the election, such as the formation of lower-level election commissions, training of election commission members, ballot printing, distribution of polling materials to lower tiers were generally done on time.

The PEC training program was completed according to schedule and the OSCE/ODIHR EOM observed that it was generally of good quality and well-conducted, although training sessions were short in duration. The CEC also carried out a two-day training for TEC system administrators, including training on the use of fax machines to transmit PEC protocols to the CEC.¹⁷ The CEC adopted a regulation on "Organization, Order and Determination of Results of Voting on Presidential Elections of the Kyrgyz Republic". However, the CEC failed to develop a practical, user-friendly and thematically structured handbook with illustrated instructions to guide the work of the election administration at all levels, which could have assisted lower-level election commissions in their work and increased their understanding of procedures. Implementation of election day procedures drew particularly negative comments from observers.

¹⁰ 57 TECs for the in-country voting and one TEC for the out-of-country voting.

¹¹ 2,289 PECs for the in-country voting and 29 PECs for the out-of-country voting.

¹² This contradicts Article 16 of the law on election commissions.

¹³ Article 18 of the law on election commissions provides for minutes to be signed by all members present at a session. It does not, however, stipulate that minutes are to be also published.

¹⁴ The CEC very often did not provide the OSCE/ODIHR observers with the information requested and information on the time and agenda of the CEC sessions was extremely difficult to obtain.

¹⁵ As per the TEC and PEC compositions published on the CEC website.

¹⁶ Resignation rates in some areas were quite significant in some TECs: Dzhety-Oguz, Karakol, Tupskiy, Ak-Suuskiy, Ton, Balykchy, and Osh city.

¹⁷ The CEC appoints one system administrator for each TEC, whose primary responsibility is to provide logistical and technical support to commissions, as well as to maintain, update and verify the voter lists.

On the positive side, the CEC introduced a ballot template, also known as a tactile ballot, to enable the visually impaired to vote without assistance. There was one such set available at each PEC. The CEC also prepared separate information for voters about candidates in Braille.

Observers were not permitted to observe the printing of the 3,051,000 ballots. The CEC claimed this was for security reasons and did not disclose ballot security measures. The ballot paper format was finalized when the list of registered candidates still numbered 23, after which 7 withdrew and their names had to be crossed-out by hand in PECs. This led to an additional burden for PECs on election day and increased the possibility of voter confusions or error.

The CEC conducted voter education on the changes in the electoral law, in particular on voter registration procedures. They produced a number of TV and radio spots, programs, and posters in both Kyrgyz and Russian. Voters were also informed via Internet news sites and by text messages. Moreover, while updating voter lists, CEC mobile verification teams were tasked to distribute voter invitations, which included the voter's name and polling station address. A number of civil society organizations were also supplementing CEC education activities through voter information and conducting a variety of awareness activities. Despite this active voter education campaign, OSCE/ODIHR EOM observers reported a lack of awareness on the part of many voters about the recent changes in voter registration procedures.

VI. VOTER REGISTRATION

Under the new electoral law, the CEC assumed responsibility for managing voter lists, and a unified system of voter registration was introduced.¹⁸ These legal changes are noted improvements. New features include compiling voter information at a national level and using personal identification (ID) numbers to uniquely identify voters. The CEC also attempted to merge several data sources to have more accurate voter data. This merged database, however, was not used, as there were certain irreconcilable inconsistencies. Instead, the CEC reverted to using voter data from previous voter lists, which were only partially updated since 2001.

Two fundamental changes were introduced to voter registration procedures that directly affected voters. The possibility to be added to the voter lists on election day was abolished.¹⁹ Additionally, the electoral law established the concept of an "electoral address" that allowed voters to vote at their actual place of residence, regardless of their permanent registration. These changes could potentially contribute to reducing electoral fraud and enabling the participation of migrant voters.

However, the overall quality and accuracy of voter lists continues to be of significant concern. The late introduction of new database software and the late start of voter registration activities limited the CEC's ability to crosscheck data and remedy errors. In addition, inconsistencies with registration procedures and a lack of transparent and formal regulations on managing the voter registration system were noted as serious shortcomings. Consequently, a considerable

¹⁸ Previously, voter registration was based on information from the civil registry, where local system administrators updated voter lists using the state automated system for elections (*Gas Shailoo*).

¹⁹ In previous elections voters could be added to a supplemental voter list on election day. Voters must now be in a voter list at least 10 days prior to election day in order to vote.

number of voters may have been disenfranchised on election day with only a partial explanation available.

The CEC deleted all voters born before 1920 and voters with incomplete information related to their year of birth from voter lists.²⁰ After this review, any voters mistakenly removed had to reapply for inclusion. An unknown number of voters were also removed by TEC system administrators attempting to reduce duplications or deceased voters without proper CEC procedures. Some voters who were removed were on previous voter lists, but not included on final lists. Additionally, the CEC altered registration procedures midway through the registration process and obliged all voters to provide personal ID numbers with applications for registration and rejected those applications submitted without. Voters who were removed or not included in voter lists were not systematically notified by the CEC.

The final number of voters for election day was announced as 3,032,681.²¹ Prior to the election, voter lists were largely available at PECs for review upon request, although infrequently posted. Voters could apply to the PECs to have their data corrected, to be included in the voter list, or to vote by electoral address. The CEC processed more than 270,000 voter applications by election day.²² Time and resource limitations pushed the CEC to continue updating the final voter lists after the 27 October deadline as some TECs were overwhelmed by the high number of applications; at least one TEC was not able to process all applications.²³ The CEC also relied on mobile verification teams that went door-to-door and updated voter data, although implementation varied among districts.²⁴

It is estimated that more than 700,000 citizens reside abroad, yet only 38,056 of these registered to vote. Out-of-country voting took place at 29 polling stations in 23 countries. Polling stations were only opened at diplomatic representations, a positive change compared with the previous practice of opening polling stations at diverse locations abroad. While recognizing improvements in the legal framework to introduce safeguards for voting abroad, further efforts can be explored to improve enfranchisement.

VII. CANDIDATE REGISTRATION

In order to register as a candidate, presidential nominees were required to establish an electoral fund, deposit 100,000 Kyrgyz *Som* (some 1,686 EUR)²⁵ pass a Kyrgyz language exam, and submit 30,000 signatures in support of their candidacy.

By the 16 August deadline, a total of 86 candidate nominations were submitted to the CEC: 18 from political parties and 68 from self-nominated candidates, including 6 female candidates.²⁶

²⁰ During the verification period approximately 40,000 voters were deleted in total, with the number of incorrect deletions unknown.

²¹ On 27 October, the CEC announced the total number of voters as 3,034,046, which was slightly altered in the post-election announcement.

²² More than 106,000 applications for inclusion in voter lists; 147,000 to vote by electoral address; and 18,900 applications for corrections.

²³ Incomplete processing of voter applications was reported by the CEC and OSCE/ODIHR EOM in Osh City (estimates range from 800 to 3,000 applications).

²⁴ Mobile teams consisted of one member each from the PEC, the local authorities and civil society.

²⁵ At the time of writing, the exchange rate between the EUR and the Kyrgyz *Som* was 1:59.30.

²⁶ According to information provided by the CEC on 26 September 2011.

Among the 86 initially nominated, only two candidates were of non-Kyrgyz ethnic origin. Both non-Kyrgyz candidates as well as four of the female candidates withdrew at an early stage of the registration period.

The CEC decided that a random sampling of 20 per cent of submitted signatures would be scrutinized by a working group. A CEC-established language commission conducted the language tests, which were broadcast live on public television. Nominees were required to show their ability to read, write and “express their thoughts” in the Kyrgyz language.²⁷

Following the 25 September deadline for registration, nine candidates appealed the CEC decision to deny registration for lack of sufficient support signatures. The court found that the procedures for verification of the signatures were not correctly followed by the CEC.²⁸ The CEC conducted a new signature verification in which four more candidates were found to have the necessary signatures, thus raising serious questions about the CEC methodology for signature verification. Of five complaints challenging the findings of the language commission or the decision of the CEC to deny registration based on language exam results, none was successful.

Candidates registered after the deadline were deprived of an equal amount of time for campaigning. A different timeframe for candidate registration would allow equal campaigning time for all candidates.

As of 10 October, when the ballot design was decided, 23 candidates were registered (none female), 13 were self-nominated, and 10 were nominated by political parties. By the 27 October deadline for withdrawals, 7 candidates had withdrawn.

VIII. ELECTION CAMPAIGN

The campaign took place in a generally calm environment despite underlying tensions. Campaign activities increased in the last two weeks prior to the election day. Electoral contestants were able to conduct their campaign activities without hindrance either from the authorities or from other parties. Freedom of assembly and expression were respected throughout the country during the campaign.

However, political tensions remained high in the country, with the political discourse focused on distinctions between the northern and southern regions of the country. The discourse was at times characterized by an increased use of nationalist rhetoric by some politicians and media. The lack of public confidence in institutions dealing with elections remained a concern. In particular, there was a marked lack of trust in the judiciary and law enforcement bodies.

Most electoral contestants used neutral language and urged their supporters to conduct themselves in a calm and non-violent manner. However, there were a number of instances of strong rhetoric and inflammatory language. One candidate used explicitly nationalist rhetoric in

²⁷ As per Article 51 of the electoral law.

²⁸ The *Pervomaiski* District Court found that deadlines were not met, candidates were not notified of the date and time of verification, stamps and signatures were missing on verification documents, and procedures for the use of handwriting expert analysis were not defined.

his address at several campaign rallies.²⁹ No serious violent incidents were reported in the course of the campaign.

Levels and types of campaign activities of candidates differed considerably. Candidates campaigned through the use of billboards, banners and posters, public rallies and leafleting as well as media. They focused their activities on urban areas, with less evidence of canvassing in the rural areas. Only six candidates were highly visible in printed campaign materials and in the number of rallies conducted.³⁰ The average attendance at their rallies ranged from 250 to 600 people. On several occasions three candidates managed to attract considerably larger public support (up to 15,000).³¹

The campaign was somewhat driven by personality rather than issues. While most candidates adopted issue-focused platforms, their policy prescriptions typically lacked specificity. The main campaign topics included economic development and unemployment, corruption and rule of law, the form of governance, the state of infrastructure, migration, security and the unity of the country. A number of candidates advocated a revival of the “*Kurultay*” (Supreme Council of the Peoples of Kyrgyzstan).³²

The dynamics of the electoral contest were shaped by negotiations between candidates. OSCE/ODIHR EOM interlocutors opined that the purpose of this was to trade withdrawals by some candidates for promises of future positions from stronger candidates, often in the last weeks of the contest.

Allegations of misuse of institutional authority in the form of pressure and intimidation were raised throughout the pre-election period, which undermined confidence in the electoral process.³³ In some cases, university students and staff were pressured to submit applications to vote by electoral address.³⁴ Moreover, in a few of these cases, they were also reportedly directed to vote for one candidate in particular. Limited instances of intimidation and attempted coercion were reported from staff at other academic institutions and by healthcare workers.

IX. CANDIDATE AND CAMPAIGN FINANCING

The CEC’s control-revision group made a concerted effort to enforce the legal provisions on campaign finance and did so in an unbiased manner.³⁵ The group conducted audits of the

²⁹ The OSCE/ODIHR EOM observed Mr. Tashiev’s rallies in Karakol on 1 October, in Bazar-Korgon on 14 October, in Kara-Kulja on 15 October, in Jalal-Abad on 16 October, in Osh on 18 October, in Kerben on 20 October and in Batken on 21 October.

³⁰ Mr. Atambayev, Mr. Baibolov, Mr. Kalmatov, Mr. Madumarov, Mr. Suvanaliev and Mr. Tashiev.

³¹ According to the OSCE/ODIHR EOM reports, Mr. Atambaev organized 10 rallies attended by 800 to 15000 persons, Mr. Madumarov was able to organize five rallies with number of people attended ranging from 700-2500, and Mr. Tashiev on eight occasions gathered between 700-5500 persons.

³² Traditional assemblies of the peoples of Kyrgyzstan convened irregularly and lacked legal status.

³³ On 29 September the parliament adopted a decree on “Measures to ensure the implementation of the Law on Presidential and Parliamentary Elections”, reinforcing the electoral law and imposing strict measures in cases such resources are misused.

³⁴ OSCE/ODIHR EOM reports from Bishkek and Karakol.

³⁵ As required under article 42 of the electoral law, the CEC established an audit group on 16 July to control all funds allocated for the elections from the central budget and all campaign contributions and expenditures of presidential candidates. The group consists of six members, including a specialist from the state tax authority. It is headed by a member of the CEC.

accounts of all registered candidates, and spot checks for payment documentation upon receipt of complaints. In accordance with electoral legislation the CEC required candidates to submit three reports on contributions and expenditures.³⁶ Additionally, the electoral law requires financial institutions where candidates have established electoral funds to report to the audit group on a weekly basis. The CEC confirmed that with limited exceptions all financial institutions and candidates complied with reporting deadlines.³⁷

On a weekly basis, the CEC published information on campaign finances, summaries of candidate finances, overall amounts received, spent and remaining. However, detailed information on the sources of contributions, amounts of each contribution and expenditures per candidate was not available for public scrutiny; this is not considered good practice. The control-revision group was notably forthcoming with information for international observers providing the necessary details to facilitate observation in this area. According to the information provided by the CEC, all candidates respected the spending limit as stipulated by law (50 million *Som*).

X. MEDIA

A. MEDIA LANDSCAPE

The positive changes in the media environment since April 2010, including the decision to establish a public broadcaster and decriminalize libel were commended by the OSCE Representative on Freedom of the Media.³⁸ Nevertheless, several concerns, such as the safety of journalists, self-censorship and level of professionalism, remain. In addition, vulnerability of the media to political interference is perceived as a danger to preserving media freedom achievements.³⁹

B. LEGAL FRAMEWORK

The CEC accredited a total of 40 TV and radio stations and 103 print media to cover the campaign. Initially, it did not accredit news agencies, arguing that online media do not fall under the legal definition of media. On 16 August, the parliament reversed the CEC position, concluding that online media could cover the campaign, referring to Article 22(13)(4) of the electoral law that enables campaigning via other forms not prohibited by the law.

The CEC established a working group on media, as an advisory panel to facilitate the CEC's legal obligation to oversee media compliance with the electoral rules. Throughout the campaign it adjudicated 25 media-related complaints, mostly based on its own monitoring. Consequently, the working group issued in total 11 written and 6 verbal reminders on the necessity to comply

³⁶ CEC instructions 15 July 2011 require one report to be submitted with the candidate's registration documents, the second no later than 10 days prior to election day, and the final no later than 10 days following polling.

³⁷ Four candidates Mr. Aitikeev, Mr. Isabekov, Mr. Kolubaev and Mr. Matubraimov received official warnings from the CEC for failing to submit their second campaign finance reports by the 20 October deadline.

³⁸ See the statement at <http://www.osce.org/fom>.

³⁹ On 19 October, the Speaker of parliament signed the law nationalizing Channel 5 to transform it into a parliamentary broadcaster. The law was twice returned by the President and criticised by the media NGOs and experts.

with campaign rules. Although well-intended, such preventive measures bore no legal force, as the electoral law did not foresee such competence of the panel. Based on the proposal of the working group, the CEC warned two papers (*De Facto*, *Fabula*) and cancelled the registration of another (*Sayasat Press*).

Public and state-funded media generally adhered to their obligation to provide free media space of various format for registered candidates.⁴⁰ However, both public and state-funded channels (*KTRK*, *EITR*) only launched their free programs some two weeks after the official campaign start despite the requirement to provide free airtime from the beginning.⁴¹

Both *KTRK* and *EITR* held televised debates, as required by law. Debates organized by public television aimed to attract large audience and to allow for an interactive live format, including questions from citizens. While *KTRK* provided an important forum for informing the electorate, it also faced numerous complaints claiming that the moderator was biased towards certain candidates.⁴² As well, Mr. Atambaev was allowed to change the date of his debate, since his initial opponent withdrew.⁴³

A ban introduced by Article 22(16) of the electoral law on campaigning via foreign media caused controversy. Local TV providers complained that it is technically difficult to comply with the law that requires foreign broadcasts to be recorded and aired with a delay. Consequently, Bishkek cable operator *Ala TV* decided to take off its cable package several news channels, including BBC, CNN and Euronews. At the same time, however, some other foreign channels, such as Russian *RTR*, *RTR 24* or *TV Center*, as well as *Deutsche Welle* continued to be aired live.⁴⁴ The OSCE/ODIHR and the Venice Commission in their joint opinion underscored that there is no legitimate basis for such a limitation and that it is not in line with OSCE commitments.

C. MEDIA MONITORING FINDINGS



On 22 September, the OSCE/ODIHR EOM commenced its media monitoring based on a qualitative and quantitative analysis of six television channels, two radio stations, two news agencies and ten newspapers.⁴⁵

The campaign was visible in the media from its official start on 25 September. Media devoted most of its attention to coverage of the government, presidential activities and technical aspects of the election represented by the CEC.

⁴⁰ Public television *KTRK* organized debates, round tables and addresses; state-funded television *EITR* organized debates and addresses, and public Kyrgyz Radio offered interviews and addresses.

⁴¹ The allocation of the free slots into the formats proposed by the media was established in the CEC lottery, as required by law, on 6 October.

⁴² Mr. Madumarov and Mr. Tashiev.

⁴³ Mr. Atambaev's initial debate was scheduled for 25 October. The CEC allowed him to take part in the last debate held by *KTRK* on 27 October, in spite of fact that there was another debate on 26 October, and that initially he was scheduled to take part in the debate on 27 October organized by another state-funded television *EITR*.

⁴⁴ Russian First Channel was aired with a delay.

⁴⁵ *KTRK* (public broadcaster), *EITR* (state-funded television), *Channel 5*, *NBT*, *NTS* and *Osh TV* (Osh - based), *Kyrgyz Radio* and *Radio Azattyk*; news agencies *Kabar* and *Aki Press*; newspapers *Kyrgyz Tuusu* (state-funded), *Alibi*, *De Facto*, *Jany Agym*, *Super-Info*, *Uchur* (in Kyrgyz), *Slovo Kyrgyzstana* (state-funded), *Delo No.*, *Moskovskiy Komsomolets* and *Vecherniy Bishkek* (in Russian).

Regrettably, unclear provisions in the electoral law regarding equal conditions for all contestants were interpreted cautiously by the media.⁴⁶ Most of the broadcast media were concerned that regular information could be perceived as campaigning and refrained from editorial coverage of the candidates in news and information programs. As a result, the public was mainly informed via the numerous paid advertisement spots and free programs allocated to candidates. In addition, OSCE/ODIHR EOM media monitoring showed that in many instances, paid coverage was not clearly identified as such. This may have misled the audience about the nature of the content.

Principal broadcasters, including public *KTRK*, offered viewers almost daily reports on the performance of the Acting Prime Minister, both in his official and party capacities. *KTRK* devoted 24 per cent of its political coverage to the government, with a significant part devoted to the achievements of the interim government. Such reporting was often associated with Prime Minister Atambaev, who took a leave during the campaign as one of the candidates.

State-funded *EITR* took a similar approach, devoting 21 per cent of its political news coverage to the government, mostly positive in tone. *NTS* covered activities of the government more extensively than other monitored channels, with about 37 per cent. Channel 5 showed a visible preference for Mr. Atambaev through several promotional reports aired in its news program.

While public Kyrgyz Radio overwhelmingly covered activities of the authorities in its news program, Radio *Azattyk* offered regular information on the campaign events, including reports from the rallies. Overall, the station presented a balanced portrayal of the candidates, devoting comparable coverage to Mr. Atambaev, Mr. Tashiev and Mr. Madumarov, both in tone and time.

Although the print media offered its readers a wider range of information, many of them displayed an unbalanced portrayal of the contestants. The state-funded newspapers (*Kyrgyz Tuusu*, *Slovo Kyrgyzstana*) usually published short official information, without commentary or analysis.

XI. PARTICIPATION OF NATIONAL MINORITIES

Following the June 2010 events, the inter-ethnic situation, particularly in the south of the country “appears to be – on the surface – more stable, but this stability is fragile” according to the OSCE High Commissioner on National Minorities.⁴⁷

According to the 2009 census, ethnic Kyrgyz constitute 71 per cent of the population. The biggest ethnic minority groups are Uzbeks (14.5 per cent) concentrated in the south and Russians (9 per cent), living mainly in the north of the country. Relatively small but still sizable minorities include Tatars (1.9 per cent), Uyghurs (1.1 per cent) and Tajiks (1.1 per cent).

⁴⁶ While the CEC established its advisory working group and empowered it to oversee media conduct during the campaign, the panel did not conduct any systematic monitoring of broadcast media. Neither body adopted guidelines how to interpret the electoral law.

⁴⁷ Statement of the OSCE High Commissioner on National Minorities at the 868th Plenary Meeting of the OSCE Permanent Council (16 June 2011), <http://www.osce.org/hcnm/78915>.

The lack of adequate integration policies and slow progress in improving the security situation in areas populated by national minorities creates a general sense of apprehension and isolation among these communities. As a consequence, involvement of national minorities in election campaign activities was rather limited. They avoided participating in rallies and other public outreach events.

Candidates limited their campaign to distributing printed campaign materials through Uzbek community leaders. Reportedly only three candidates printed a small amount of campaign material in Uzbek language.⁴⁸

National minority issues and inter-ethnic relations did not feature prominently in the election campaign, with some candidates calling for the nation's unity without specifically addressing matters pertaining to integration or participation of national minorities.

During the election campaign, freedom of movement and assembly were respected in minority-populated areas. Some cases of intimidation of ethnic Uzbeks in Osh and Jalal-Abad regions were reported by members of minority communities. However, overall neither systematic anti-minority campaigning nor intimidation of minorities was carried out during the election campaign period.

The ethnic make-up of TECs corresponded to the ethnic composition of the total population in respective districts. However, in some areas with a large ethnic Uzbek population, members of this national minority were underrepresented in TECs.⁴⁹ There was one CEC member from the Kazakh national minority.

The CEC produced all electoral materials in two languages – Kyrgyz and Russian. Even though it did not cause major discontent among representatives of other ethnic groups, this practice does not entirely correspond with international standards and OSCE commitments.⁵⁰ It may also result in the *de facto* disenfranchisement of citizens from national minorities who do not have sufficient command of either Kyrgyz or Russian.

XII. COMPLAINTS AND APPEALS

According to the electoral law, complaints or appeals can be filed with election commissions, the judiciary, and law enforcement agencies. Pre-election day complaints or appeals were primarily submitted by political parties, candidate representatives, or nominees who were denied registration.⁵¹ The limited number of complaints submitted to the election commissions, courts and law enforcement and the lack of complaints from regular voters indicated a lack of public trust in these institutions, a trend confirmed by multiple OSCE/ODIHR EOM interlocutors.

⁴⁸ Mr. Baibolov, Mr. Suvanaliev and Mr. Tashiev.

⁴⁹ For example, TECs in Osh City, Kara Suu and Ozgon.

⁵⁰ General Comment 25 adopted by the United Nations Human Right Committee in 1996 states that “information and materials about voting should be available in minority languages.” Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that “persons belonging to national minorities have the right (...) to disseminate, have access to and exchange information in their mother tongue.”

⁵¹ In one isolated case following a Madumarov rally on 17 October 13 complaints were submitted to the district prosecutor by rally attendees all complaining about two specific statements of Madumarov.

Prior to election day, 48 complaints and appeals were submitted to district and inter-regional courts, the vast majority of which were related to the registration of candidates. Additionally, courts reviewed two CEC warnings related to campaigning, one dispute related to campaign materials, two appeals of CEC instructions, one case of vote buying, and two challenges to the legitimacy of the CEC. The challenges to the current composition and authority of the CEC were not considered on substance, but rejected for lack of jurisdiction and missed deadlines. Most court decisions were appealed to the Supreme Court.

The delayed access to full information on the complaints being considered by the CEC limited the OSCE/ODIHR EOM's observation in this regard. The CEC does not have a mechanism for specifically tracking all complaints received and the action taken on them. The CEC reported having received 28 complaints prior to election day related to campaign violations, candidate registration and creation of TECs/PECs. Based on a summary prepared by the CEC, six complaints were answered within the allotted three-day time period, often through referrals to other bodies or restatements of the legal provisions to those accused of violations. The electoral law gives concerned parties the right to be informed of the time and place of the review of complaints, present evidence and provide explanations. However, in practice this was not the case.

Amongst the complaints reviewed by the CEC, two alleged mayoral interference in campaign activities and one alleged that students were forced to register to vote on the basis of an electoral address by state university administrators.⁵² In response, the CEC only requested the two mayoral offices to investigate the matter and to inform what measures were taken, and reminded the university of the requirements contained within the election legislation. The CEC did not receive any response from the two mayoral offices.

The prosecutor's office focused on reviewing the activities of local administrations and issuing warning letters reminding the local government bodies and state institutions of their legal responsibilities to assist with the establishment and operation of the PECs. In a positive effort, a working group was established under the Prosecutor General to consolidate information on complaints received and assist district prosecutors in their consideration of the matters. By election day, 36 complaints were submitted to prosecutor's offices across the country and 18 criminal investigations were on-going. Criminal cases were opened based on complaints received, but no cases were initiated by the prosecutor's office, although the electoral law gives the prosecutor the authority to do so.

XIII. DOMESTIC AND INTERNATIONAL OBSERVERS

The electoral law allows for both domestic and international observers to monitor the entire election process. Domestic observers were largely unhindered in their observation of both the pre-election and election day observation and some 3,000 such observers were deployed by various domestic organizations.

The CEC accredited 792 international observers from various organizations, including the OSCE/ODIHR, the OSCE PA, PACE, EP, the Commonwealth of Independent States, and the

⁵² The two cases were related to incidents in Bishkek and Jalal-Abad respectively.

Shanghai Co-operation Organization. The presence of both international and domestic observers increased the transparency of the process.

This was limited, however, by the CEC's 11 July decision to accredit international observers only 30 days before election day. This limited the ability of "ODIHR to play an enhanced role in election monitoring, before, during and after elections".⁵³ The accreditation procedure for international observers was also overly complicated and burdensome, and certain checks undertaken by the CEC did not appear to be legally grounded. This led to a situation where a large number of OSCE/ODIHR observers were only accredited after they had already been deployed to the field and could have led to the undermining of the entire observation effort, at a significant cost to OSCE participating States who had seconded these observers.⁵⁴

XIV. ELECTION DAY

Election day proceeded in a calm atmosphere without violence. The names of a considerable number of voters were not found in the voter lists and a number of cases of ballot box stuffing, multiple and family voting, vote buying, and bussing of voters were noted. The situation deteriorated during the counting and tabulation, with a significant number of polling stations assessed negatively by observers. In a number of cases, protocols were altered or even filled out by higher-level commissions, against legal procedures. Many observers were restricted in their efforts to follow the counts and tabulations.

The various serious irregularities observed, coupled with a suspiciously high voter turnout in some polling stations, raise significant concern as to the overall integrity of the electoral process. Violations and shortcomings should be properly investigated and addressed by the authorities to enhance public trust in the process.

A. POLLING PROCEDURES

Voting was conducted in an orderly and transparent manner, overall across the country. Observers assessed opening procedures as very good and good in 96 per cent of the polling stations visited. The voting process was assessed positively in 93 per cent of the polling stations observed. However, a number of cases of serious violations were reported: evidence of vote buying was observed in 13 cases, group voting was seen in 120 cases and multiple voting in 30 cases of the observed polling stations. Cases of ballot stuffing were noted during the voting in 11 of the polling stations.

A high number of domestic observers present at polling stations, including party representatives and non-party observers, was reported by observers. Candidate representatives were present in 99 per cent of the polling stations observed and in 69 per cent of the polling stations there were domestic non-party observers present.

⁵³ 1994 Budapest Summit Document, section VIII, para 12; available at www.osce.org/mc/39554

⁵⁴ According to article 3 (1,2) of the CEC Regulations for the International Observers' Status and Activities No. 14, dated 11 July 2011 the international organizations should submit application for the accreditation of their observers to the MFA of the Kyrgyz Republic, which in turn after verifying the accreditation documents should deliver them to the CEC. See paragraph 8 of the OSCE 1990 Copenhagen Document.

In a high 26 per cent of the polling stations observed, there were unauthorized persons present.⁵⁵ There was a clear correlation between a negative assessment of polling procedures and the presence of unauthorized persons. In polling stations with the presence of unauthorized persons, the process was rated as negative in 11 per cent of the polling stations observed and in PECs where unauthorized persons were not noted, the negative assessment went down to 5 per cent.

Across the country, polling was overshadowed by the poor quality of voter lists. In many PECs, voters did not find themselves on voter lists. Such cases ranged from a few voters to more than 100. In at least a few areas (Chui, Osh City, Karakul, Kochkor, Naryn), PECs allowed voters to vote although they were not on the voter lists. This was done contrary to the electoral law and CEC instructions, yet reportedly with TEC approval. While the CEC instructed the PECs to collect information on voters not included in voter lists, complete information on the number of voters turned away was not available.

OSCE/ODIHR observers saw voters being refused the right to vote in 446 cases (40 per cent of observations): in 78 cases, voters did not have a proper ID; in 341 cases, voters were not on the voter lists; 9 voters were already inked; and 18 for other reasons.

In addition to mobile observer teams that visited a number of polling stations during election day, the OSCE/ODIHR EOM deployed stationary teams that each stayed in a single polling station throughout election day. The voter turnout in the polling stations observed by the stationary teams was lower than the reported turnout in other PECs observed.⁵⁶ This may be an indication of manipulation in those polling stations where there were no international observers present throughout the day.

B. COUNTING

The vote count was observed in 134 polling stations across the country. The process worsened during the counting and was assessed more negatively than the voting. The counting process was evaluated as bad and very bad in 38 PECs (29 per cent of observed polling stations); particularly negative assessments were given in Osh, Talas and Batken.

Candidate representatives were present in all of the PECs observed and in 93 of observed polling stations there were domestic observers. Unauthorized persons were observed to be present in 48 of the polling stations observed during counting, with uninvited police dominating. These unauthorized persons interfered in counting procedures in 17 of these cases. In 21 cases observers were restricted in their observation.

Observers noticed the following during the counting at the PECs: results protocols were not filled out completely in 14 cases of observed polling stations; observers were not given a results protocol in 22 cases; results protocols were not posted for public scrutiny in 48 cases; and materials and results protocols were not transported immediately after counting to the TEC in

⁵⁵ Uninvited police in 185 cases, citizen's patrols in 102 cases, military in 51 cases and local officials in 48 cases.

⁵⁶ The difference in turnout was significant with an increased turnout of 6.9 per cent in polling stations without stationary observers.

23 cases of observed polling stations. Indication of ballot box stuffing was reported in 13 cases during the counting process.

Procedural violations were also observed during the opening of the mobile ballot boxes: in 39 polling stations, the mobile ballots were not invalidated when more ballots were found in the mobile ballot box than ballots issued to voters. Indications of mobile ballot box stuffing were observed in 6 of the observed cases.

In 34 cases, there was no clear view of the counting procedures and in 18 cases, observation of the counting process was restricted.

C. TABULATION

The tabulation process was observed in 49 out of 58 TECs. In half of the observed TECs, the tabulation was assessed as bad and very bad. A high number of candidate representatives and domestic non-party observers at the TECs were reported by observers. However, tabulation at the TECs lacked transparency and the observation was often obstructed (18 cases). Observers could not entirely observe the data entry into the Election Information System in 31 instances. In 39 cases, the presence of unauthorized persons was reported. The OSCE/ODIHR EOM observers reported that PEC recounts were required in 21 cases.

XV. ANNOUNCEMENT OF RESULTS AND POST-ELECTION DEVELOPMENTS

A. ANNOUNCEMENT OF RESULTS

In a positive move, the CEC published preliminary results on election night on its website, as they arrived by polling station. After preliminary results from all polling stations were published, the CEC announced a 61.29 per cent turnout.⁵⁷

The CEC formed a working group for the receipt of TEC protocols. The CEC's responsibility to receive and review the protocols was transferred to this working group, which only had the authority to receive the protocols. By 8 November, the CEC had received 56 out of 58 TEC protocols. The CEC explained the delay in the delivery of the protocols as being due to distance and the location of the TECs.⁵⁸

On 12 November, the CEC decided on the final results. According to these, Mr. Atambaev received 62.52 per cent, Mr. Madumarov, 14.78 per cent, and Mr. Tashiev, 14.32 per cent. All other candidates garnered less than one per cent of votes cast. As a result, Mr. Atambaev was certified as the victor. While all 12 CEC members signed the resulting CEC protocol, 4 of the CEC members added their dissenting opinions. The main issue raised by them was the lack of CEC action in investigating discrepancies between some PEC protocols and the final results published by the CEC, which did not match. These discrepancies were based on complaints submitted by candidate representatives in three TECs.⁵⁹

⁵⁷ See at <http://www.shailoo.gov.kg>.

⁵⁸ One of these was for Oktyabrski TEC in Bishkek.

⁵⁹ These PECs were located in Oktyabrski, Jayil and Sokuluk TECs.

The OSCE/ODIHR EOM ran a comparison between the PEC protocols obtained in those polling stations where it had observed a vote count and the data posted on the CEC's website. The comparison revealed that in nine cases, the data posted on the CEC website differed significantly from the PEC result protocols collected by OSCE/ODIHR EOM observers on election night. In all cases, the changes increased the number of votes for Mr. Atambaev, sometimes by a several hundred votes. A table comparing the two sets of data can be found in Annex II. In response to a request for clarification, the CEC informed the OSCE/ODIHR EOM that it would only review irregularities or inconsistencies if submitted in context of an official complaint.

B. POST-ELECTION DEVELOPMENTS

Following election day, Mr. Atambaev stated his readiness to talk to all political forces, including his two main opponents. He also noted that "these elections will become the first step towards the unity of the country."⁶⁰

On 31 October, two of the presidential candidates, Mr. Tashiev and Mr. Madumarov, declared that they did not recognize the election results. The same day, Mr. Tashiev's supporters blocked the Bishkek-Osh road near Jalal-Abad. Some 200 supporters of Mr. Madumarov blocked the same road in Ozgon on 1 November. In the days following, the two candidates' supporters joined together in their protest actions.

The parliamentary speaker held a series of post-electoral consultations with the main candidates.⁶¹ He highlighted that all issues need to be solved within the legal framework and that the other candidates should accept the people's decision.

On 4 November, Mr. Tashiev called on his supporters to stop protesting, while reiterating the mass violations that had taken place on election day. Mr. Madumarov's supporters issued a similar statement on 8 November. That same day, all protests ceased. The inauguration of the new President took place on 1 December.

C. POST-ELECTION COMPLAINTS

Voters predominantly documented their inability to vote and violations of their rights in statements submitted to candidate representatives or domestic observers, and only rarely themselves complained to PECs. Such statements can be used as supporting evidence in official complaints, but alone do not require a response from an election commission. Only a small number of voters turned away on election day filed official complaints with the election commissions or courts.

District courts reviewed eight cases related to voters not being on the voter list from voters (4), military institutions (1), detention center (2), and a presidential candidate (1). All were rejected or lost on appeal.

On election day and in the three days immediately following, the CEC received a total of 127 complaints, 65 of which related to voters not being on the voters lists. The CEC took the

⁶⁰ www.akipress.kg.

⁶¹ Mr. Keldibekov met with Mr. Asanbekov, Mr. Baibolov, Mr. Bakir-uulu, Mr. Kalmatov, Mr. Madumarov, Mr. Suvanaliev, and Mr. Tashiev.

decision to review each case individually and responded to voters based on the specific facts of their cases. Other cases, including those related to ink quality and application procedures, actions of the PECs, and use of administrative resources, were reviewed by a working group consisting of three CEC members and CEC staff. The CEC was more open in its review of these post-election complaints than pre-election complaints, allowing observers to attend working group meetings and at times inviting complainants to state their case. Still, the majority were rejected for missing deadlines, referred to other bodies for consideration, or answered with a restatement of the relevant legal provisions.

The CEC received documentary evidence of discrepancies in protocols from multiple candidate representatives and domestic observers. The working group proposed opening the tamper-proof bags to check the second copy of original protocols and remove any doubt concerning the credibility of the results. This was rejected by the CEC, with a suggestion that the issue be considered by the courts. As no properly formatted complaints were submitted to the courts, the issue was never fully considered and the sealed bags were never opened.

Only one complaint was received on election day by prosecutors across the country. Since election day, the CEC has referred three matters to the Prosecutor General for further investigation and possible criminal prosecution. All three matters involved discrepancies between figures in the protocols.

Following the official announcement of results, three complaints were submitted to the district court, one from a voter and two from domestic observers. The two cases submitted by domestic observers related to discrepancies in protocols were rejected for deficiencies in how they were formulated and the facts of the discrepancies were not considered by the courts.

XVI. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities, political parties and civil society of the Kyrgyz Republic, in further support of their efforts to conduct elections fully in line with OSCE commitments and other standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. OSCE/ODIHR stands ready to assist the authorities of the Kyrgyz Republic to further improve the electoral process and in following up on the recommendations contained in this and previous reports.

A. PRIORITY RECOMMENDATIONS

1. In order to prevent serious violations such as ballot box stuffing and falsification of results in the future, the tradition of impunity has to end. Thus, the authorities should take all allegations seriously and investigate them fully, bringing those who are proven to have been involved in violations of the electoral law to justice.
2. The CEC should not add additional administrative barriers in the process of the implementation of the electoral law by interpreting it in a restrictive manner. Rather, its clarifications of legal provisions should facilitate the process.
3. The CEC should develop complete regulations on the unified voter registration system. These should outline the concept of updating voter lists, including management and

responsibility at all levels. Clear and timely procedures should be developed that detail all steps of updating and maintaining voter lists.

4. The CEC should review and clarify the way in which the most recent update of voter lists was implemented to determine when and how many voters were mistakenly removed from voter lists prior to these elections. It should also explore possibilities to reinsert those voters mistakenly removed.
5. Training for election commission members needs further enhancement. The CEC should develop a practical, user-friendly and thematically structured handbook (a “TEC and PEC manual” / step-by-step guide) well in advance of the next election, with instructions to guide the work of the election administration at all levels. It should especially focus on counting, protocol completion and tabulation procedures.
6. The current, unrealistically short timelines in the electoral law should be amended to allow for the adjudication of appeals between the closure of candidate registration and the start of the campaign period.
7. Consideration should be given to limiting candidate withdrawals only up to the point that the CEC takes the decision on the format of the ballot.
8. The electoral law should be amended to provide for equitable coverage of contestants in news and current affairs programs as well as for independent editorial coverage of the campaign events. Clear guidance from the oversight body on how to implement such provisions would also be beneficial.
9. The complaints and appeals process should be formalized at all levels of election commissions, with a standard complaint form developed for use by complainants. A publicly viewable tracking mechanism for the processing of complaints and an educational program for election commission officials and the public on where and how to submit the complaints and on the complaint adjudication process, in general, should be considered.
10. To further comply with OSCE commitments, the removal of limitations on candidacy rights should be considered: removing upper age limits, reducing 15-years residency requirement, and restricting those with criminal convictions based on the severity of the crime.
11. In line with OSCE commitments, the electoral law should provide for unrestricted observation of the entire election process and the rights of observers should not be restricted through CEC decisions or administrative barriers. In particular, the CEC decision to accredit international observers only 30 days prior to election day should be revoked and international observers should be accredited upon application.

B. OTHER RECOMMENDATIONS

Legal framework

12. Freedom of expression should be respected by lifting current restrictions on campaigning by foreign or stateless individuals or through foreign media.

Election administration

13. The CEC should increase the transparency of its work by abandoning the practice of holding internal working meetings behind closed doors. All meetings should be public and minutes should be published on the CEC website.

14. The CEC should (as provided by the law) allow the observers to follow the printing of ballots and their transportation to TECs.
15. The CEC should consider enhanced, increased and diversified voter education to ensure that election participants understand and have confidence in the election process.
16. Payment of an adequate salary to election officials, including all PEC members, could be considered.
17. Parliament should refrain from interfering in the electoral process by issuing instructions to the CEC; such actions compromise the independence of the election administration.

Voter Registration

18. The CEC should establish a separate department with staff devoted only to dealing with voter registration activities.
19. The electoral law should provide for a regular update of voter lists. The CEC should consider introducing a practice of a regular update of voter registration through PEC chairpersons and secretaries with the support of TEC system administrators and CEC representatives at TECs. This should allow reviews of voter data throughout the year at specific locations. Other institutions dealing with citizens' data registration should also be required to provide updated voter information.
20. The electoral law should be amended to allow finalizing and publishing final voter lists well before an election day to provide voters with the possibility to verify whether all applications have been processed and reflected in voter lists. Voters should be issued a receipt when submitting their applications, with notification on when applications were received and processed by PECs/TECs.
21. Consideration could be given to using additional avenues to allow voters to check their registration data (i.e., by personal ID number, including via the internet, SMS or telephone).
22. Should the decision be taken to continue using mobile verification teams, consideration should be given for their longer deployment prior to an election day. More resources should be allocated to PECs with a larger number of voters, in particular with many migrant voters.
23. The practice of printing a second copy of preliminary voter lists for PECs should be reinstated. This will ensure that all PECs have a copy available to display for public review and would increase overall transparency.

Candidate registration

24. The requirement of both signatures and electoral deposits for candidate registration goes too far and may prevent legitimate candidacies. The registration requirement should be met through either the collection of signatures or payment of an electoral deposit. Although the amount of an electoral deposit should be sufficient to discourage spurious candidates, the deposit amount should be carefully calibrated not to result in the denial of suffrage rights.
25. The validity of signatures should be checked only up until the point that it is established that there are sufficient valid signatures or that there are no more signatures to check.

Campaign finance

26. The public discourse would benefit from improved transparency of campaign finances. The electoral law should be amended to provide for specific regulations on what information should be included in candidates' financial reports. Detailed information on candidates' incomes and expenditures should be publicly available for scrutiny.

Media

27. Consideration should be given to establishing an independent regulatory body that would ensure compliance with campaign coverage rules. Such a body should be empowered to conduct systematic media monitoring.
28. Implementation of free airtime and space allocation should be at the sole discretion of media outlets, without any interference from the electoral or other authorities.
29. The need for special accreditation for media outlets to cover the electoral campaign should be reconsidered, since all the media are required to obtain a registration or license in order to perform their professional activities.

Election Day

30. The PECs should strictly implement the election day procedures contained in the electoral law and should display election results protocols for public scrutiny.

Complaints

31. The Prosecutor's office should focus on criminal violations of the electoral law and use the authority provided by law to initiate investigations.
32. To increase accountability, additional training events could be conducted for interested stakeholders to increase their capacity regarding the submitting of formal complaints over alleged violations of the electoral law.
33. The legal provisions on public hearings should be fully implemented in order to increase transparency and building trust in the complaints and appeals system.

National Minorities

34. Sufficient representation of national minorities in the election administration should be ensured, especially in the areas compactly populated by national minorities.
35. Consideration could be given to providing voter information and election materials in minority languages, especially in the areas populated by those minorities. This would enhance the understanding of the electoral process for all communities.

Election Observation

36. The accreditation for international observers should be simplified to make clear which organization is in charge of it. The criteria and procedures for accreditation should be made more clear and straightforward.

ANNEX I: FINAL OFFICIAL ELECTION RESULTS⁶²

1. Names of Presidential Candidates		#	%
	1. Kurmanbek Osmonov	2,452	0.13
	2. Kamchybek Tashiev	266,189	14.32
	3. Anarbek Kalmatov	13,609	0.73
	4. Kubanychbek Isabekov	3,239	0.17
	5. Bakir Uulu Tursunbai	15,195	0.82
	6. Torobai Kolobaev	1,941	0.1
	7. Kubatbek Baibolov	15,427	0.83
	8. Marat Imankulov	5,578	0.3
	9. Almazbek Atambaev	1,161,929	62.52
	10. Arstanbek Abduldaev	8,770	0.47
	11. Sooronbay Dyikanov	1,339	0.07
	12. Omurbek Suvanaliev	16,143	0.87
	13. Adahan Madumarov	274,639	14.78
	14. Akbaraly Aitikeev	2,081	0.11
	15. Temirbek Asanbekov	17,232	0.93
	16. Almazbek Karimov	1,305	0.07
	"Against all"	13,419	0.72
2. Number of voters in lists at polling stations		3,032,666	
3. Number of ballots received by PECs		3,036,449	
4. Number of signatures of voters who received ballots		1,858,632	
5. Number of voters who participated in voting		1,858,632	
6. Number of early voters		525	
7. Number of voters who voted outside the polling station		63,632	
8. Number of cancelled ballots		1,177,817	
9. Number of valid ballots		1,820,487	
10. Number of invalid ballots		38,145	

Information taken from the CEC website 14 November 2011

⁶² These final results as recorded on 14 November differ from subsequent update published on the CEC website. According to that update, Mr. Atambaev received 63.24 per cent and the number of “against all” was 0.51 per cent.

ANNEX II: COMPARISON OF ELECTION RESULTS CONTAINED IN PEC PROTOCOLS AND DATA PUBLISHED BY THE CEC AFTER THE ELECTION.

OSCE/ODIHR EOM observer teams received official copies of PEC results protocols at some 140 polling stations where they were present for the counting of votes. Of these, the results in nine protocols reflect significant differences from the certified results subsequently posted on the CEC website. The comparison of the results for each of the nine polling stations is as follows:

Polling Station 1115, Oktyabr'skiy TEC (Bishkek):

	Adahan Madumarov	Almazbek Atambaev	Almazbek Karimov	Anarbek Kalmatov	Akbaraly Aitikeev	Arstanbek Abduldaev	Bakir Uulu Tursunbai	Kamchybek Tashiev	Kubanychbek Isabekov	Kubatbek Baibolov	Kurmanbek Osmonov	Marat Imankulov	Omurbek Suvanaliev	Sooronbay Dyikanov	Temirbek Asanbekov	Torobai Kolobaev	"Against All"	Voter Turnout
PEC Protocol	54	897	1	12	1	10	1	51	6	22	0	8	27	4	20	2	31	1156
CEC Data	54	1629	1	12	1	10	1	51	6	22	0	8	27	4	20	2	31	1888

Polling Station 1129, Oktyabr'skiy TEC (Bishkek):

	Adahan Madumarov	Almazbek Atambaev	Almazbek Karimov	Anarbek Kalmatov	Akbaraly Aitikeev	Arstanbek Abduldaev	Bakir Uulu Tursunbai	Kamchybek Tashiev	Kubanychbek Isabekov	Kubatbek Baibolov	Kurmanbek Osmonov	Marat Imankulov	Omurbek Suvanaliev	Sooronbay Dyikanov	Temirbek Asanbekov	Torobai Kolobaev	"Against All"	Voter Turnout
PEC Protocol	40	693	0	11	0	2	1	24	1	18	2	3	13	0	17	0	15	858
CEC Data	40	1432	0	11	0	2	1	24	1	28	2	3	13	0	17	0	15	1607

Polling Station 1140, Oktyabr'skiy TEC (Bishkek):

	Adahan Madumarov	Almazbek Atambaev	Almazbek Karimov	Anarbek Kalmatov	Akbaraly Aitikeev	Arstanbek Abduldaev	Bakir Uulu Tursunbai	Kamchybek Tashiev	Kubanychbek Isabekov	Kubatbek Baibolov	Kurmanbek Osmonov	Marat Imankulov	Omurbek Suvanaliev	Sooronbay Dyikanov	Temirbek Asanbekov	Torobai Kolobaev	"Against All"	Voter Turnout
PEC Protocol	2	896	--	1	--	--	--	1	--	1	--	--	--	--	4	--	1	--
CEC Data	2	1057	0	1	0	0	0	1	0	1	0	1	0	0	4	0	1	1070

Polling Station 1147, Oktyabr'skiy TEC (Bishkek):

	Adahan Madumarov	Almazbek Atambaev	Almazbek Karimov	Anarbek Kalmatov	Akbaraly Aitikeev	Arstanbek Abduldaev	Bakir Uulu Tursunbai	Kamchybek Tashiev	Kubanychbek Isabekov	Kubatbek Baibolov	Kurmanbek Osmonov	Marat Imankulov	Omurbek Suvanaliev	Sooronbay Dyikanov	Temirbek Asanbekov	Torobai Kolobaev	"Against All"	Voter Turnout
PEC Protocol	44	817	0	4	0	0	1	43	0	8	0	2	22	0	47	2	7	---
CEC Data	44	1032	0	4	0	0	1	43	0	8	0	2	22	0	47	2	277	2121

Polling Stations 7215, Sokuluk TEC (Chui):

	Adahan Madumarov	Almazbek Atambaev	Almazbek Karimov	Anarbek Kalmatov	Akbaraly Aitikeev	Arstanbek Abduldaev	Bakir Uulu Tursunbai	Kamchybek Tashiev	Kubanychbek Isabekov	Kubatbek Baibolov	Kurmanbek Osmonov	Marat Imankulov	Omurbek Suvanaliev	Sooronbay Dyikanov	Temirbek Asanbekov	Torobai Kolobaev	"Against All"	Voter Turnout
PEC Protocol	111	803	0	64	0	5	0	96	1	54	1	0	53	0	4	1	6	1206
CEC Data	47	1297	3	31	4	0	6	31	5	7	4	6	13	4	5	2	10	1483

Polling Stations 7222, Sokuluk TEC (Chui):

	Adahan Madumarov	Almazbek Atambaev	Almazbek Karimov	Anarbek Kalmatov	Akbaraly Aitikeev	Arstanbek Abduldaev	Bakir Uulu Tursunbai	Kamchybek Tashiev	Kubanychbek Isabekov	Kubatbek Baibolov	Kurmanbek Osmonov	Marat Imankulov	Omurbek Suvanaliev	Sooronbay Dyikanov	Temirbek Asanbekov	Torobai Kolobaev	"Against All"	Voter Turnout
PEC Protocol	145	1123	0	10	2	3	8	33	1	5	1	0	12	0	4	1	9	1365
CEC Data	25	1478	0	37	2	1	3	32	11	5	6	12	10	1	11	0	8	1648

Polling Stations 7231, Sokuluk TEC (Chui):

	Adahan Madumarov	Almazbek Atambaev	Almazbek Karimov	Anarbek Kalmatov	Akbaraly Aitikeev	Arstanbek Abduldaev	Bakir Uulu Tursunbai	Kamchybek Tashiev	Kubanychbek Isabekov	Kubatbek Baibolov	Kurmanbek Osmonov	Marat Imankulov	Omurbek Suvanaliev	Sooronbay Dyikanov	Temirbek Asanbekov	Torobai Kolobaev	"Against All"	Voter Turnout
PEC Protocol	63	1098	---	3	3	2	2	71	2	1	---	13	17	1	21	2	7	1308
CEC Data	84	1996	12	69	1	4	17	85	17	9	6	8	25	2	4	4	9	2374

Polling Station 7241, Sokuluk TEC (Chui):

	Adahan Madumarov	Almazbek Atambaev	Almazbek Karimov	Anarbek Kalmatov	Akbaraly Aitikeev	Arstanbek Abduldaev	Bakir Uulu Tursunbai	Kamchybek Tashiev	Kubanychbek Isabekov	Kubatbek Baibolov	Kurmanbek Osmonov	Marat Imankulov	Omurbek Suvanaliev	Sooronbay Dyikanov	Temirbek Asanbekov	Torobai Kolobaev	"Against All"	Voter Turnout
PEC Protocol	77	1158	0	1	1	4	1	22	0	10	0	1	10	0	9	0	7	1301
CEC Data	35	1710	2	85	0	0	8	41	11	8	16	14	68	0	20	0	19	2048

Polling Station 7366, Kara Balta TEC (Chui):

	Adahan Madumarov	Almazbek Atambaev	Almazbek Karimov	Anarbek Kalmatov	Akbaraly Aitikeev	Arstanbek Abduldaev	Bakir Uulu Tursunbai	Kamchybek Tashiev	Kubanychbek Isabekov	Kubatbek Baibolov	Kurmanbek Osmonov	Marat Imankulov	Omurbek Suvanaliev	Sooronbay Dyikanov	Temirbek Asanbekov	Torobai Kolobaev	"Against All"	Voter Turnout
PEC Protocol	16	637	1	3	0	0	0	3	1	7	1	3	3	2	4	0	11	699
CEC Data	16	1086	1	3	0	0	0	3	3	7	1	3	3	2	4	0	11	1148

ABOUT THE OSCE/ODIHR

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

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

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

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

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

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

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

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

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