INTERNATIONAL ELECTION OBSERVATION MISSION

Republic of Tajikistan — Presidential Election, 6 November 2013

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Dushanbe, 7 November 2013 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA) and the European Parliament (EP).

Gordana Čomić (Serbia) was appointed as Special Co-ordinator by the OSCE Chairperson-in-Office to lead the short-term OSCE observer mission. Margareta Cederfelt (Sweden) headed the OSCE PA delegation and Elisabeth Jeggle (Germany) headed the EP delegation. Paraschiva Bădescu (Romania) is the Head of the OSCE/ODIHR Election Observation Mission (EOM), deployed from 2 October.

The assessment was made to determine whether the election complied with OSCE commitments and international standards for democratic elections, as well as with Tajikistan's international obligations and domestic legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the election process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints and appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report to its Standing Committee at its Winter Meeting in Vienna in February 2014. The EP will present its report in the next meeting of the Committee of Foreign Affairs of the European Parliament.

PRELIMINARY CONCLUSIONS

The 6 November presidential election in Tajikistan took place peacefully, but restrictive candidate registration requirements resulted in a lack of genuine choice and meaningful pluralism. The campaign was formalistic and limited voters opportunity to make an informed decision. Extensive positive state-media coverage of the official activities of the incumbent President provided him with a significant advantage. In a positive step, the Central Commission for Elections and Referenda (CCER) took measures to enhance the transparency and efficiency of the administration of elections. Significant shortcomings were noted on election day, including widespread proxy voting, group voting, and indications of ballot box stuffing.

The presidential election was essentially conducted according to the same legal framework as the 2006 presidential election, despite previous OSCE/ODIHR recommendations aimed at improving the legislation. Existing shortcomings include unduly restrictive candidacy requirements and vague provisions on essential aspects of the election process regarding voter registration, campaigning and election day procedures. Noted restrictions on freedom of speech are not conducive to democratic elections. The legal framework needs to be significantly improved to provide a sound basis for the conduct of democratic elections.

The CCER held regular open sessions, contributing to the transparency of the election process. The CCER members actively discussed issues in a collegial manner and worked within legal deadlines. In a positive step, the CCER adopted some instructions well in advance of the election. However, important procedures were left insufficiently regulated leading, at times, to an inconsistent application of the law. While all registered political parties are represented on the CCER, there are no provisions for balanced representation in the lower-level election commissions, which could

impact transparency. In a welcome step, the CCER obliged all Precinct Election Commissions (PECs) to publicly display copies of results protocols.

The lack of a centralized voter register prevented any nationwide crosschecks for potential multiple entries in the voter lists and the process thus lacked safeguards to ensure the integrity of voter registration. PECs undertook concerted efforts to verify the accuracy of the voter lists through door-to-door campaigns. However, the process of verification was inconsistent due to the absence of clear instructions. The CCER announced that some 4,034,000 voters had been registered by the deadline for voter list compilation.

Six candidates were registered for the election, including the incumbent President. The law does not permit self-nominated independent candidates, which is not in line with OSCE commitments. One nominee, who fell short of the required number of supporting signatures, faced administrative obstacles in the collection of signatures and stated that some voters would not sign in support of her candidature due to fear of government reprisals. The requirement of local authorities to certify the support signature forms effectively removed the right of labour migrants to sign in support of a potential candidate. Restrictive candidacy requirements, as well as the unreasonably high number of supporting signatures required, present significant obstacles that are at odds with OSCE commitments and other international standards for democratic elections.

The campaign was largely indiscernible and appeared to generate limited interest despite efforts by the government to promote public awareness. The incumbent President undertook highly publicized visits throughout the country. The authorities did not provide safeguards against the misuse of administrative resources and the distinction between the state and political parties was often blurred, which is contrary to Paragraph 5.4 of the 1990 OSCE Copenhagen Document. Youth were noticeably absent from the campaign, with the exception of the last days when they were mobilized. Most candidates did not express views opposing the incumbent President. Overall, the campaign was formalistic and devoid of the political debate that is essential to a competitive campaign environment in which voters are provided with a genuine choice.

The state broadcast media allocated an equitable share of free airtime and campaign news coverage to candidates as required by law. However, extensive and positive coverage by the state broadcast media of the incumbent President's official activities provided him with a significant advantage, which is at odds with Paragraph 7.6 of the 1990 OSCE Copenhagen Document. Bias in favour of the incumbent President in the state media and limited accessibility of information from non-state and internet-based media raised concerns.

The election dispute resolution system remained largely untested due to the limited number of formal complaints filed to election commissions and courts. Remedies for violations of electoral rights are generally available in the law, although several OSCE/ODIHR EOM interlocutors expressed a lack of confidence in the effectiveness of the system. Of the few submitted complaints, all were dismissed by the courts on procedural grounds.

There were no women candidates for president, although there was one woman nominee. Women were significantly underrepresented at all levels of the election administration, including at the PECs observed on election day.

National minority issues and inter-ethnic relations were not touched upon during the electoral campaign. Unlike voter information materials, ballots were printed in minority languages.

While the authorities readily accommodated international observers and candidate representatives, they did not fully meet their commitment under paragraph 8 of the 1990 OSCE Copenhagen Document to provide for citizen observer groups and other civil society representatives.

Election day took place peacefully. IEOM observers assessed election day negatively in a significant number of observations. IEOM observers noted a number of violations, including widespread proxy voting, group voting, and indications of ballot box stuffing. Basic reconciliation procedures were not followed during the count. Contrary to CCER instructions, the PECs often did not post the results protocols for public familiarization.

PRELIMINARY FINDINGS

Background

The 6 November presidential election is the fourth since 1994. Constitutional amendments passed in 2003 extended the president's term from five to seven years and allowed the incumbent to stand for two additional consecutive terms. The last presidential election of 6 November 2006 was won by the incumbent President Emomali Rahmon of the People's Democratic Party of Tajikistan (PDPT) with 79.3 per cent of the vote.

Following the last parliamentary elections in February 2010, the PDPT, led by President Rahmon, obtained 54 of the 63 seats in the lower chamber of parliament. Other parties represented in the chamber are the Agrarian Party of Tajikistan (APT), the Communist Party of Tajikistan (CPT), the Islamic Revival Party of Tajikistan (IRPT) and the Party of Economic Reform of Tajikistan (PERT), each with two seats. One seat is held by an independent member of parliament. In total, there are eight registered political parties, three of which are not represented in the parliament: the Democratic Party of Tajikistan (DPT), the Social-Democratic Party of Tajikistan (SDPT) and the Socialist Party of Tajikistan (SPT). In the course of 2013, President Rahmon announced several times that the election would be held "democratically, freely and fairly".

Election System and Legal Framework

The president is directly elected by popular vote for a seven-year term by an absolute majority of votes cast. If no candidate wins an absolute majority, a second round is held between the two candidates with the highest number of votes. The Constitution establishes that more than half of the registered voters must vote for the election to be valid. This requirement could lead to possible cycles of failed elections in case of low turnout.

The legal framework regulating presidential elections consists of the Constitution, the Constitutional Law on Elections of the President (Presidential Election Law, PEL), and relevant provisions of other legislation.[1] The Constitution guarantees the right to elect and to be elected, as well as freedoms of association, assembly and expression. However, undue restrictions on candidate eligibility exist in the law (*see Candidate Registration*). In addition, existing restrictions on freedom of speech[2] and the practice of undermining freedom of association[3] are not conducive to the conduct of democratic elections.

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1 Including the Law on Political Parties, the Law on Assemblies, Rallies, Activities and Demonstrations, the Law on Periodical Print and Other Mass Media, the Code of Administrative Offences, the Procedural Code for Administrative Offenses, the Civil Procedure Code, and the Criminal Code.

2 Articles 137 and 330 of the Criminal Code provide criminal sanctions for publicly insulting the president and state officials.

In 2012 and 2013, the IRPT proposed amendments to lower the percentage of signatures required to support candidacy from five to two per cent and to provide equal representation of political parties in all election commissions. These proposals were rejected at committee level and did not receive a formal reading in parliament.

While the PEL contains some important principles for democratic elections,[4] it does not comprehensively regulate the electoral process. The timeframes for nomination and registration of candidates are unreasonably short. The law does not provide safeguards against the use of administrative resources in elections, does not ensure impartiality, inclusiveness, and independence of election commissions, and does not provide for non-partisan citizen observation. The majority of previous OSCE/ODIHR recommendations remain unaddressed in the law. This presidential election was essentially conducted according to the same legal framework as the 2006 presidential election.[5]

Prior to this election, the Central Commission on Elections and Referenda (CCER) adopted instructions to supplement the legal framework.[6] However, while the guidance provided by the CCER addressed relevant issues, it did not always provide sufficiently detailed regulations on important aspects of the election administration. This underscores the need for continued electoral reform in an inclusive manner.

Election Administration

The presidential election was administered by a three-tiered system of election commissions consisting of the CCER, 68 District Election Commissions (DECs) and 3,158 Precinct Election Commissions (PECs). Additionally, 61 polling stations were established for out-of-country voting in 27 countries.

The CCER is a permanent body and its members were appointed in 2009 for five-year terms. The lower chamber of the parliament appoints 15 members, including the chairperson and the deputy chairperson, based on proposals of the president. While there are no legal provisions for political party representation in election commissions, all registered political parties are represented in the current CCER. This contributes to the inclusiveness and transparency of the election process. Three women serve on the CCER; one of whom is the secretary of the commission.

The CCER held regular sessions open to observers, the media and representatives of candidates. Members actively discussed issues in a collegial manner and took decisions by open voting. The CCER met all legal deadlines and, in a positive step, passed regulations that clarified certain aspects of the electoral process well in advance of the election. However, it did not establish procedures for important parts of the election process such as on the compilation of voter lists, early and mobile

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3 The initiative to form a new political party, the New Tajikistan Party, has been hindered by the detention of its founder, the former Minister for Industry, Zayd Saidov. The UN Human Rights Committee expressed its concern at reports of politically motivated harassment of opposition political leaders. See, concluding observations on the second periodic report at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fTJK%2fCO%2f2&Lang=en .

4 Such as, for example, the prohibition of restrictions of electoral rights as well as equality of campaign opportunities for all candidates.

5 In addition to previous OSCE/ODIHR election observation reports, see the 2006 OSCE/ODIHR Assessment of the Law on Election of the President, available at http://www.osce.org/odihr/elections/tajikistan/20043.

6 The CCER instructions provided guidance on the work of lower-level commissions; on the handling of complaints; on the participation of observers; on the role of candidates and their proxies; and on media coverage of the election campaign.

voting, the printing and distribution of ballots and the counting of votes. Lack of such procedures, at times, led to inconsistent practices in lower-level commissions. On 25 September the CCER adopted a decision requiring PECs to publicly display copies of results protocols, partially addressing a prior OSCE/ODIHR recommendation.[7]

In line with the law, the CCER appointed all 68 DECs upon proposals of the local executive authorities. The OSCE/ODIHR EOM observed that DEC members came from diverse professional backgrounds often with previous experience in election administration. Many of them are affiliated with a political party, primarily with the ruling PDPT.[8] While 21 per cent of the DEC members are women only 5 per cent of these serve as chairpersons, deputy chairpersons, or secretaries.

Within the legal deadline, DECs appointed 3,158 PECs with 7 to 19 members depending on the number of voters registered within the precinct.[9] PECs are logistically supported by the local administration. The nomination procedures for PEC members are not specified in the PEL or in CCER instructions, but most PECs were composed of teachers from the school where the polling station was located.

From 22 October to 5 November, PECs conducted early voting for voters who were away on election day. The voters had to provide reasons for early voting in a separate field on the special ballots used for early voting, which could undermine the secrecy of the vote. The early voting ballots did not contain the names of candidates, requiring voters to write-in the name of the candidate of their choice.[10] PECs also distributed invitations to voters, prepared polling station premises for voting and administered election day procedures.

The CCER and DECs undertook a nationwide training programme for PEC members. One week before election day, the CCER launched a voter information programme via nationwide television channels focusing on voters' rights and election day procedures.

Voter Registration

All citizens over 18 years of age have the right to vote, except those who have been declared incapacitated by a court decision or are imprisoned. The blanket denial of voting rights to those imprisoned is at odds with OSCE commitments and other international standards for democratic elections.[11] There is no central voter register and each PEC compiles a list of voters based on the data provided by local authorities. Citizens are included in the voter lists according to their place of permanent or temporary residence.

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7 The OSCE/ODIHR previously recommended that "All observers should be entitled to obtain an official copy of polling station results protocols."

8 Members of 29 DECs informed the OSCE/ODIHR EOM of the following party affiliations (267 members): 43 per cent affiliated with PDPT, 8.6 per cent with CPT, some 6 per cent with smaller parties and 5.6 per cent are non-partisan. The remaining members interviewed declined to provide any information.

9 An electoral precinct can have from 20 up to 3,000 registered voters.

10 See, for example, section 3.2.1 of the 2002 Council of Europe's Venice Commission Code of Good Practice in Electoral Matters, which states that "freedom of voters to express their wishes" requires voters to "be supplied with ballots bearing names of candidates".

11 Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens, while paragraph 24 provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law." See also paragraph 14 of the 1996 General Comment No. 25 to Article 25 of the International Covenant on Civil and Political Rights (ICCPR) by the UN Human Rights Committee (UNHRC), which requires that grounds for the deprivation of voting rights should be "objective" and "reasonable".

The lack of a centralized voter register prevented any nationwide crosschecks for potential multiple entries in the voter lists. The integrity of the voter lists might have also been affected by some contradictory provisions in the CCER guidelines for PECs.[12] The CCER informed the OSCE/ODIHR EOM that it has been unable to address a prior OSCE/ODIHR recommendation to create a centralized voter register due to a lack of financial resources. The CCER announced that some 4,034,000 voters had been registered as of 18 October, and 4,201,156 voters included in voter lists as of the end of voting, although no breakdown of the data at DEC or PEC level was provided.

PECs undertook concerted efforts to verify the accuracy of voter lists by conducting door-to-door checks, although the process of verification varied due to the absence of clear instructions.[13] The OSCE/ODIHR EOM observed that, at times, PECs also excluded labour migrants, first time voters, and homebound voters from the main voter lists and compiled separate unofficial lists for those categories of voters.[14]

Voter lists were made available at PECs for public scrutiny 15 days prior to election day. From this point until the end of election day, voters omitted from the main voter lists were added to supplementary voter lists on the basis of a passport or another identity document.[15] Voters whose place of residence changed within 15 days prior to election day could request a Voting Right Certificate from the previous PEC and vote in their new place of residence.

Candidate Registration

Citizens who are above 35 years of age, have the right to vote, speak the state language and have resided in Tajikistan for the last 10 years may be nominated for president. Individuals with an "uncleared" criminal record and clergymen are not allowed to stand for election. The residency requirement can be considered excessive while the language proficiency requirement is unclear and potentially discriminatory. Such requirements impose unreasonable restrictions on the right to be elected and are contrary to OSCE commitments and international standards.[16] In addition, presidential nominees are required to collect supporting signatures of at least five per cent of eligible voters to register as a candidate. This voter support signature requirement is unreasonably high.[17]

According to the law, registered political parties, the Federation of Independent Trade Unions, the Union of Youth of Tajikistan and regional councils may nominate candidates. Seven parties

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12 Article 47 of the CCER guidelines for PECs states that voters can be added to supplementary voter lists upon presentation of certificates of employment, driving licenses or certificates of military service. None of these identity documents contain the voters' place of residence. However, Article 72 of the guidelines requires that voters are added to supplementary voter lists upon presenting a document confirming their place of residence.

13 The OSCE/ODIHR EOM observed that most PECs in DECs 6, 9, 10, 11, 12, 13, 16, 53 and 55 requested identity documents for inclusion in the voter lists, but some PECs in DECs 18, 48, 56 and 62 relied on information provided orally by family members.

14 In DECs 23, 35, 36, 51, 56, 58, 60, and 67.

15 See, for example, section 1.2.iv, paragraph 7 of the 2002 Venice Commission Code of Good Practice in Electoral Matters, which recommends that "there should be an administrative procedure - subject to judicial control - or a judicial procedure, enabling electors not on the register to have their names included;[…] In any event polling stations should not be permitted to register voters on election day itself"

16 See paragraphs 7.3 and 24 of the 1990 OSCE Copenhagen Document (noted above) and paragraph 15 of the 1996 General Comment No. 25 to Article 25 of the ICCPR, which states that "persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements".

17 Paragraph 17 of the 1996 General Comment No. 25 to Article 25 of the ICCPR states that "if a candidate is required to have a minimum number of supporters for nomination this requirement should be reasonable and not act as a barrier to candidacy". Section 1.3(ii) of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that "The law should not require collection of the signatures of more than 1% of voters in the constituency concerned".

nominated candidates: the APT, CPT, DPT, IRPT, PDPT[18], PERT and SPT. The law does not permit self-nominated independent candidates, which is not in line with OSCE commitments.[19]

On 31 August, the CCER announced that the number of registered voters was 4,024,914 and set the five per cent threshold of supporting signatures at 210,000.[20] Voters could sign in support of only one nominee,[21] and the nominating bodies had to use signature collection forms certified by the mayors of districts or cities.[22] The same officials then certified the protocols summarizing the results of the signature collection, although the purpose of this certification remained unclear.[23] This procedure excluded the possibility to collect voter support signatures abroad.[24] These procedural hurdles made the collection of signatures even more onerous.

On 2 October three parties – CPT, DPT, and SPT – requested the CCER to extend the deadline for the collection of the signatures set for 7 October. They referred to the lack of time available for collecting the required signatures. The CCER granted their request and the deadline was extended until 10 October, 18:00.

On 10 October, following the registration of six candidates, the CCER announced that signatures could be submitted until the following morning. On 11 October, the IRPT nominee, Ms. Oynihol Bobonazarova, announced that she had collected only 201,326 signatures and would not stand in the election. The IRPT informed the OSCE/ODIHR EOM and reported to the media that they experienced delays in the process due to the unwillingness or unavailability of local officials to certify their signature collection forms[25] and that some voters were reluctant to sign in support of their candidate due to fear of reprisals. The OSCE/ODIHR EOM received numerous credible allegations on the matter.

Over 1.3 million signatures were reportedly submitted to the CCER. Several OSCE/ODIHR EOM interlocutors questioned the organizational capacity of some candidates to collect the required number of signatures.[26] The CCER reviewed the submitted signatures in less than one week. The CCER did not provide clear rules and criteria for the verification of support signatures, which to a certain extent undermined the transparency and fairness of the candidate registration process.

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18 The incumbent President was nominated by the PDPT as well as by the Federation of Independent Trade Unions and the Union of Youth of Tajikistan.

19 Paragraph 7.5 of the 1990 OSCE Copenhagen Document requires participating States to "respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination".

20 Although five per cent of the total number of voters given by the CCER would be 201,246, no candidate contested or complained about the 210,000 signature threshold.

21 Paragraph 77 of the OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulations recommends that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party", available at http://www.osce.org/odihr/77812.

22 According to the CCER Decision No. 39, the forms certified in one district could not be used in another.

23 The PEL and CCER Decision No. 39 do not confer any authority on local officials to verify collected signatures.

24 According to Article 2.c of the 2002 CIS Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms: "Every citizen living or staying in the period of conducting of the national elections beyond the boundaries of their state has the voting rights equal to those pertaining to other citizens of their state. Diplomatic representations and consulate facilities of the state, and their officials support citizens in execution of their voting rights and freedoms". See also section Complaints and Appeals.

25 The OSCE/ODIHR EOM received several reports by IRPT representatives stating that they faced administrative obstacles. On 25 September, the CCER addressed this issue and sent an official letter to the heads of districts and cities with the request to facilitate the process of collection of signatures.

26 Some PDPT officials informed the OSCE/ODIHR EOM that their party helped smaller parties in their effort to collect the required number of signatures.

Campaign

The campaign lacked competitiveness and genuine pluralism. The campaign was largely indiscernible, although it intensified in the last three days. Overall, the campaign appeared to generate limited interest despite efforts by the government to promote public awareness through billboards and media informing voters about the election and inviting them to cast their vote.

According to the PEL, the CCER and DECs are required to ensure equal campaign conditions for all candidates and assist the candidates in organizing campaign events. The CCER approved a countrywide schedule of candidates' meetings with voters. The incumbent President did not participate in CCER-approved meetings, but was represented by his proxies. The OSCE/ODIHR EOM observed nine CCER-approved meetings of candidates or their proxies with voters, all of which were moderated by an election official. Candidates or their proxies introduced themselves and presented their programmes. While well-attended, the events were formalistic, and there was very little debate between the candidates.[27] The OSCE/ODIHR EOM noted a few campaign meetings outside of the pre-defined format held by the CPT, DPT, PDPT and PERT. Youth were generally absent from the campaign, with the exception of some efforts by the PDPT in the last days.

The CCER produced 5,500 standardized posters for each of the six candidates. The CCER's efforts to ensure equal campaign conditions for all candidates are commendable. However the predefined and standardized format of key campaign tools such as meetings with voters and campaign materials did not contribute to a vibrant and competitive campaign.

The campaign lacked substantive debate. Proxies of the incumbent President emphasized achievements in preserving peace and stability and promised further efforts to improve the well-being of the people. Other candidates raised issues related to agriculture, health care, education and migration. Most candidates did not express views opposing the incumbent President or the government. The pluralism of the campaign would have been enhanced by the participation of candidates who presented views opposing the government.[28]

There was a substantial difference between the visibility of the incumbent President and the other five candidates. The incumbent President carried out highly publicized visits throughout the country, where he attended various ceremonies, met with local political, cultural and economic representatives, inaugurated educational, sport, industrial and housing facilities, and distributed gifts. Billboards and posters portraying the incumbent President were widely displayed throughout the country while no street advertising of other candidates was observed.[29]

Paragraph 5.4 of the 1990 OSCE Copenhagen Document provides for "a clear separation between State and political parties". The authorities did not provide safeguards against misuse of administrative resources, and the distinction between the state and political parties was often blurred.[30]

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27 Events in rural areas gathered up to 150 participants while in cities they drew an audience of up to 700 with significant numbers of state employees, such as teachers.

28 Several interlocutors stated to the OSCE/ODIHR EOM that had Ms. Bobonazarova been registered, the campaign would have been more dynamic, the public and the media more engaged and key issues such as constitutional reform would have been brought to the foreground.

29 The OSCE/ODIHR EOM observed the removal of such posters on the day before the election.

30 For example, in several provinces the OSCE/ODIHR EOM observed the local administration campaigning on behalf of the incumbent. In addition some students and teachers informed OSCE/ODIHR observers that they were obliged to attend PDPT campaign events.

Campaign Finance

The PEL guarantees equality of public funding for the electoral campaign to all candidates, but does not address issues relevant for transparent and accountable campaign finance, such as timely reporting on campaign funds and expenditures or oversight of political party and campaign finance. However, prior to the election, the CCER introduced regulations requiring candidates to provide a financial report on the public funds received from the CCER.

Each candidate was entitled to receive TJS 25,000 of public funds from the CCER.[31] Nominating bodies were additionally entitled to spend up to TJS 200,000 each for their candidate's campaign. It remains unclear whether multiple bodies, which nominated the same candidate, were each entitled to spend this amount.[32] All but one political party met with by the OSCE/ODIHR EOM stated that they would spend their own funds for their candidate's campaign.

Media

The broadcast media, which have nationwide coverage and are the dominant source of information in the country, lack independence from the government and echo the government's position without providing analysis or criticism. While the internet and print media offer some variety of views, most voters cannot regularly access such information due to the relatively high cost or limited availability outside of urban centres. Despite an improved legal framework that contributes to media freedom, numerous media interlocutors affirmed to the OSCE/ODIHR EOM that self-censorship is a common journalistic practice due to fear of administrative sanctions and lawsuits.

According to the OSCE/ODIHR EOM media monitoring results,[33] the state-owned media *TV Shabakai 1*, *TV Safina*, and *TV Jahonnamo* allocated an equitable share of airtime to candidates in their news coverage of the CCER-scheduled joint meetings of candidates with voters. In addition, state media broadcast a pre-recorded discussion programme between the five candidates and a proxy of the incumbent President two days prior to election day. All state media also gave all six candidates (or their proxies) an equal share of free airtime and print space for the presentation of their campaign platforms.[34]

However, the incumbent President's activities, in particular his visits to the regions were portrayed by state-owned broadcast media in an extensive, positive and often festive manner, thus providing him with more media coverage than all the other candidates combined. News programmes on *TV Shabakai 1* from the start of the campaign period dedicated 90 per cent of their time (over 15 hours) to the incumbent President, predominantly in his capacity as president; the remaining 10 per cent was equitably distributed among the five other candidates (some 20 minutes per candidate). The

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31 EUR 1 is approximately TJS (Tajik Somoni) 6.5.

32 It is also unclear how this provision applies to state-funded nominating bodies. Representatives of the Federation of Independent Trade Unions which co-nominated the incumbent President explained that they would not spend any funds for the electoral campaign.

33 The OSCE/ODIHR EOM commenced quantitative and qualitative media monitoring of three nationwide television channels, three radio stations and ten newspapers on 8 October. The media which were monitored include television channels: *TV Shabakai 1*, *TV Safina*, and *TV Jahonnamo*; radio stations: *Radio Tojikiston*, *Radio Khovar*, and *Radio Imruz*; newspapers: *Jumhuriyat*, *Sadoi Mardum*, *Narodnaya Gazeta*, *Ozodagon*, *Millat*, *Asia Plus*, *Tojikiston*, *Imruz News*, *Farazh* and *Nigoh*. In addition, selected news casts of radio *Ozodi* and radio *Sadoi Khudzand* were also monitored during the three weeks preceding election day.

34 According to a CCER regulation, up to 30 minutes of free airtime on one of the state broadcast media was to be provided to each candidate. In addition, proxies of each candidate were entitled to 20 minutes. Departing from the CCER regulation, three nation-wide state media provided the candidates with airtime - some 90 minutes per candidate combined. As well, each candidate was offered 10 pages of space in state-owned newspapers of his choice for publication of his electoral platform.

campaign was covered in a similar manner by other state broadcast media. Although there is a legal obligation to air official messages of the president and other state institutions, the extent of this coverage and the lack of a critical editorial approach demonstrated a clear bias in favour of the incumbent President. This challenged the level playing field of the candidates and gave the incumbent President a significant advantage, at odds with OSCE commitments.[35]

Coverage of candidates and their campaign in state newspapers was similar to that of state broadcasters. While some private print media presented a more critical portrayal of the incumbent President and the opposition, overall campaign coverage by private print media was limited and reflected the formalistic nature of the campaign.

The above factors combined brought into question the overall diversity of views accessible to the voters to make an informed choice in contradiction with OSCE commitments.[36]

National Minorities

The main ethnic group in the country are Tajiks, accounting for 84.2 per cent of the population. Other groups include Uzbeks (12.2 per cent), Kyrgyz (0.8 per cent), and Russians (0.5 per cent). Smaller ethnic groups make up the remaining 2.3 per cent of the population.[37]

There are two members of the CCER coming from national minorities. For areas with significant minority populations, ballots were printed in minority languages.[38] However, the CCER produced all voter information material in Tajik.[39] While the lack of voter information materials in Uzbek and Kyrgyz did not cause serious discontent in these ethnic communities, the practice does not correspond to international standards and OSCE commitments.[40] National minority issues and inter-ethnic relations were not touched upon during the electoral campaign. No specific cases of discrimination on ethnic grounds related to the election process were observed or reported.

Complaints and Appeals

Electoral disputes largely fall under the dual jurisdiction of election commissions and courts. The OSCE/ODIHR in its assessment of the PEL previously noted the potential for inconsistent decisions when jurisdictions of election commissions and courts overlap. Election commissions may hear complaints about voter registration as well as decisions, actions and inactions of lower-level election commissions. Courts may hear complaints about violations of electoral rights and appeals on decisions of election commissions. Only candidates may contest election results.[41] The lack of a

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35 Paragraph 7.6 of the 1990 OSCE Copenhagen Document requires participating States to "…provide … political parties … with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities".

36 Paragraph 7.8 of the 1990 OSCE Copenhagen Document requires participating States to "provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process".

37 These figures are based on the state population census of 2010, available at http://www.stat.tj/en/img/526b8592e834fcaaccec26a22965ea2b_1355502192.pdf .

38 The CCER informed that it produced 500,000 ballots in Uzbek, 20,000 in Kyrgyz and 5,000 in Russian languages.

39 Instructions on the participation of observers and media were also published in Russian and English.

40 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". Paragraph 12 of General Comment No. 25 to Article 25 of the ICCPR states that "information and materials about voting should be available in minority languages".

41 Candidates may contest election results in particular constituencies or nationwide at the CCER, which may declare results invalid.

possibility for other stakeholders to appeal the election results is at odds with good electoral practice.[42] The PEL does not provide the possibility to recount votes. In addition to the PEL, the CCER issued an instruction for election commissions on handling complaints.

The election dispute resolution system remained largely untested due to the limited number of formal complaints. According to the CCER, it received and addressed via telephone over 20 complaints from the IRPT regarding obstacles they faced during the signature collection process. The IRPT submitted written petitions to DECs and the CCER and received written replies.[43] The CCER registered complaints separately from other communications, but the criteria for this distinction were unclear, and decisions on election-related issues were made without public hearings.

Judicial remedies for violations of electoral rights are generally provided by law,[44] although several OSCE/ODIHR EOM interlocutors expressed lack of confidence in the effectiveness of the system. The IRPT filed two applications with the Constitutional Court. The first one challenged the conduct of state officials who allegedly obstructed party activities, and was dismissed due to lack of jurisdiction.[45] The second application challenged the PEL provision requiring signature collection forms to be certified by local officials, arguing that this unconstitutionally restricts the right of Tajikistani citizens abroad to sign in support of a prospective candidate. This application was dismissed on procedural grounds without a hearing on the merits.[46] The IRPT complaint to a district court of Dushanbe against the State Committee on Radio and Television Broadcasting and state-owned television channels was also dismissed on procedural grounds.[47]

Citizen and International Observers

The PEL does not provide for citizen observer groups and other civil society representatives, but allows for observation of the election process by bodies that have nominated candidates as well as representatives of the media.[48] The CCER announced that DECs accredited 5,770 citizen observers.

International observers are provided for in law and accredited by the CCER. It accredited 502 observers from international organizations and diplomatic representations in Tajikistan.

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42 See, for example, section 3.3.f of the 2002 Venice Commission Code of Good Practice in Electoral Matters which recommends that all candidates and voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections.

43 Petitions submitted to DEC 26 (Khudzand), DEC 27 (Isfara) and to the CCER, which requested inclusion of IRPT members in electoral commissions, were turned down. One petition to the CCER requested clarification on the procedure for the collection of voter support signatures abroad. The CCER replied that there is no legal basis for voter signature collection abroad.

44 Complaints about violations of electoral rights under Article 260 of the Civil Procedure Code can be filed only within a period of 40 days preceding election day, leaving this remedy unavailable during the first ten days of the signature collection period and on election day itself.

45 The Constitutional Court ruling of 4 October justifiably explained that the Court did not have the authority to review actions of officials as this was within the competence of regular courts.

46 The Court ruled on 17 October that there was clearly "no inconsistency" between the Constitution and the relevant provision of the PEL.

47 IRPT filed a lawsuit on 19 September asking defendants to discontinue a negative broadcasting campaign against the IRPT and apologize. The court declined jurisdiction on 18 October, stating that the claim falls under the jurisdiction of the Dushanbe Commercial Court.

48 Paragraph 8 of the 1990 OSCE Copenhagen Document states that participating States "consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place".

Election Day

Election day took place peacefully. At 10.00 on 7 November, the CCER announced preliminary voter turnout of 86.6 per cent.

Opening procedures were assessed negatively in 10 per cent of polling stations visited. Procedural shortcomings were frequently noted, including ballots not securely stored prior to the opening (20 per cent of observed polling stations), ballot boxes not sealed properly (20 per cent) and not all election materials being present (20 per cent).

IEOM observers assessed the voting process negatively in 14 per cent of observations, which is significant. Proxy voting was observed in 20 per cent of polling stations observed, while indications of ballot box stuffing were noted in 9 per cent of observations. Ballot boxes were not sealed properly in 24 per cent of polling stations observed and a series of seemingly identical signatures on the voter list were observed in 39 per cent of observations.

IEOM observers noted a number of procedural violations, the most widespread concerned a lack of safeguards against multiple voting. In 34 per cent of polling stations visited, voters were allowed to vote without producing an identification document. Cases of multiple voting were observed in 8 per cent of polling stations visited. Group voting was observed in 15 per cent of polling stations, often negatively affecting women. IEOM observers reported isolated cases of attempts to influence voters' choice. There were 58 reports of unauthorized people interfering in or directing the work of PECs.

In 6 per cent of observed polling stations, not all phases of the process were visible to IEOM observers, thereby reducing the transparency of the process. Candidate representatives were present in 64 per cent of polling stations observed. Some 333 polling stations observed (42 per cent of observed polling stations) were not readily accessible for people with disabilities.

The count was observed negatively, with 34 per cent of the observed polling stations assessed as bad or very bad, indicating serious problems. Indications of ballot box stuffing were noted in 16 counts observed. In seven polling stations observed, police or local authorities interfered in the count. The vote count often lacked transparency. IEOM observers reported that in 13 polling stations observed, they did not have a clear view of counting procedures. In half of the polling stations observed (23 cases), the PEC did not post the results protocol for public familiarization as required by the CCER.

In most observations, counting procedures were not followed. Ballots were not determined in a reasonable and consistent manner in seven counts observed. In 15 counts observed, PECs had difficulties completing the results protocol, while in 17 cases the protocol was not completed in ink as required. A significant proportion of PECs did not perform basic reconciliation procedures, including not counting the number of signatures on the voter lists in 25 of the observed counts, and not correctly counting the ballots cast against a candidate in 20 cases. IEOM observers noted that in 49 per cent of polling stations observed, PEC members were not familiar with counting procedures.

In many cases, safeguards against possible manipulations were circumvented, such as ballot boxes not being shown to be securely sealed before they were opened in 10 cases. In 27 cases unused ballots were not counted and cancelled before opening the ballot boxes. Pre-signed protocols were observed in 44 observed cases.

IEOM observers observed the tabulation process in 48 of the 68 DECs. In 9 DECs the process was assessed negatively. Procedural shortcomings noted included PECs filling in protocols at the DEC premises (observed in 21 cases) and PECs correcting protocols at the DEC premises (26 cases). IEOM observers were restricted in their observations in six cases.

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

MISSION INFORMATION & ACKNOWLEDGEMENTS

Dushanbe, 7 November 2013 – The OSCE/ODIHR EOM opened in Dushanbe on 2 October. It includes 13 experts in the capital and 16 long-term observers deployed throughout Tajikistan.

On election day, 221 observers from 37 countries were deployed, including 178 long-term and short-term observers deployed by the OSCE/ODIHR, as well as 34 parliamentarians and staff from the OSCE PA and 9 from the EP. Opening was observed in 82 polling stations and voting was observed in 687 polling stations across the country. Counting was observed in 61 polling stations. The tabulation process was observed in 48 DECs.

The observers wish to thank the authorities of the Republic of Tajikistan for the invitation to observe the election, the Central Commission on Elections and Referenda for its co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs and other authorities for their assistance and co-operation. The observers also wish to express appreciation to the embassies and international organizations accredited in Tajikistan for their co-operation and support.

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