

INTERIM REPORT
16 July – 4 August 2007

I. EXECUTIVE SUMMARY

- On 20 June 2007, the President called early elections to the *Majilis* of the Parliament (lower house) to be held on 18 August. The election follows the adoption of significant amendments to the Constitution and the Election Law in May and June 2007.
- Under a new election system, 98 of the 107 deputies of the *Majilis* will be elected via proportional representation in a single nationwide constituency. Voters will vote for political parties, and those which surpass the seven per cent threshold will subsequently choose which candidates receive mandates. The remaining nine deputies will not be elected in a popular vote but will be chosen by the Assembly of People, an unelected body, on 20 August.
- The calling of the *Majilis* election came as a surprise to some parties and left parties less than one month following the changes to the legislative framework to adjust to the new election system.
- All seven parties nominating candidates were registered for the election by the Central Election Commission (CEC), which has been conducting frequent, open sessions and has furnished the EOM with information on request. Some parties have complained regarding the extent of their representation on lower level election commissions.
- Parties' campaigns are taking place in a generally calm environment; the election campaign is relatively low key. The campaign material of the ruling *Nur Otan* is the most visible. Some parties are not fully satisfied with the venues designated by local authorities for holding campaign meetings.
- While thus far the electronic media has not covered the election campaign extensively, media has generally presented the views of all political parties. One State-funded and one private TV station are holding debates. As a result of steps taken by the CEC, State-funded media outlets are allocating free airtime. The news broadcasts of most of the TV channels monitored are dominated by positive coverage of *Nur Otan*. One opposition party has complained of censorship and the refusal of some media to air its advertisements.
- Most parties have stressed transparency and integrity of the vote count and aggregation as a major concern. The CEC has adopted an instruction regulating the vote count and aggregation procedures.
- Electronic voting machines will be used in 15 per cent of polling stations accounting for 33 per cent of the electorate. Most parties expressed scepticism regarding the use of e-voting.

II. INTRODUCTION

After the adoption of amendments to the Constitution and the Election Law in May and June 2007, President Nursultan Nazarbayev dissolved the *Majilis* (lower house) of the Parliament on 20 June, and called early elections for 18 August. On the invitation of the Government, the OSCE/ODIHR established an Election Observation Mission (EOM) on 13 July. The OSCE/ODIHR EOM is headed by Ambassador Lubomir Kopaj and consists of 17 core team members based in Astana and Almaty, and 36 long-term observers who are deployed to 14 regional capitals and the cities of Astana and Almaty. Currently, the OSCE/ODIHR EOM is composed of citizens of 26 OSCE participating States. The OSCE/ODIHR has requested the participating States to send 400 short-term election observers.

On 18 August, elections to *Maslikhats* (local councils) will also take place. The EOM will observe these elections only to the extent that they affect the conduct of the *Majilis* election.

The Government of Kazakhstan has frequently stated its intention to hold elections that comply with international standards and have informed the EOM that they have instructed the lower levels of the State administration accordingly.

III. LEGAL FRAMEWORK

Since spring of 2006, the CEC has been engaged in a constructive dialogue with political parties, civil society, and OSCE/ODIHR to follow up on previous recommendations made by the OSCE/ODIHR regarding the legal framework for elections. The CEC informed OSCE/ODIHR that it had drafted proposals that incorporate most of the recommendations but that the calling of early elections interrupted the process of putting these proposals into law. The CEC has assured the EOM that future cooperation and further dialogue with the OSCE/ODIHR on improving the election legislation would take place after the August election.

In May 2007, Parliament adopted significant amendments to the Constitution, a number of which affect the election process. *Inter alia*, the constitutional amendments increased the number of *Majilis* deputies from 77 to 107 and introduced a number of additional changes, including a new electoral system, the reduction of the presidential mandate from seven to five years,¹ removal of term limits for the first President of Kazakhstan, provision to permit the President to engage in political party activity during his/her tenure, and changes to the future composition of the CEC.²

On 19 June, the Election Law was amended, primarily to reflect the relevant changes to the Constitution and to define the election system. Previous *Majilis* elections were held under a predominantly majoritarian election system, with ten seats elected through a proportional system. Under the new legislation, 98 deputies of the *Majilis* are elected in a proportional, closed list system in one nationwide constituency. Voters will vote for political parties, and the parties subsequently choose after the publication of final results which candidates receive any mandates obtained.

To be eligible to receive mandates a party must secure at least seven per cent of the votes of voters who participated in the election. All parties except *Nur Otan* informed the EOM that they consider the 7 per cent threshold to be too high.

In accordance with the constitutional amendments, nine *Majilis* deputies will not be elected in a popular vote but will be chosen by the Assembly of People of Kazakhstan (APK), a body of 364 members formed by the President of Kazakhstan.³ This process will take place on 20 August. The CEC informed the OSCE/ODIHR EOM that the provision for the APK to choose nine *Majilis* deputies was adopted to provide additional representation to national minorities. However, this raises issues with regard to conformity with OSCE commitments.⁴

¹ To apply to the President elected in the next presidential election.

² To apply after the upcoming *Majilis* election.

³ The first President of the Republic is Chairman of the APK for life. The membership of the APK is formed by the Chairman from among representatives of State bodies, national-cultural and other public associations and other persons. The Chair can withdraw membership from any APK member.

⁴ Paragraph 7.2 of the 1990 OSCE Copenhagen Document states that: “the participating States will: permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote”. Paragraph 7.3 states that OSCE participating States will “guarantee universal and equal suffrage to adult citizens”.

The calling of the Majilis election came as a surprise to some parties and left all parties less than one month following the changes to the legislative framework to adjust their party organisations and campaign strategies to take account of the new election system. Some parties noted in particular that the legal prohibition on forming electoral blocs (coalitions), which had been permitted in previous elections, gave them little time to make important decisions on party mergers prior to the start of the candidate registration period.

Some amendments to the legal framework affect the registration of candidates for *Majilis* elections. Political parties can now nominate only their members as candidates, and there is no provision for individual or independent candidates. The names of the candidates must be published by the CEC within ten days of registration, but there is no requirement to display candidate lists at polling stations, and candidate names do not appear on the ballot. As the parties choose after the publication of final results which candidates receive mandates, there is no hierarchy on the list. Candidates are listed in alphabetical order (in Kazakh language).

One constitutional amendment removed a previous ban on imperative mandates. The Constitution now provides that *Majilis* deputies lose their mandate if they resign from or are ejected from the party in whose name they were elected or if the party terminates its activity.

A ban on public meetings between the end of the campaign period and the publication of final results was removed from Election Law in December 2006, implementing a previous OSCE/ODIHR recommendation.

IV. PARTY AND CANDIDATE REGISTRATION

To compete in elections, political parties must have previously registered with the Ministry of Justice, a process which includes the submission of signatures of 50,000 party members. The Ministry checks the documentation and individual supporting signatures, but there is no timeframe for checking the documentation. The Ministry has confirmed to the OSCE/ODIHR EOM that even if the number of signatures exceeds the required 50,000, a single error would be grounds for a rejection of an application. Two prospective political parties, *Alga!* and *Ata-Meken*, submitted registration applications in November and December 2006 respectively. The Ministry has not yet registered either party.⁵

Following recent mergers, seven political parties submitted candidate lists to the CEC. In an inclusive process, the CEC registered all seven parties, with the following number of candidates: *Ak Zhol* (98 candidates), All National Social Democratic Party (ANSDP) (80 candidates), *Auyl* (33 candidates), the Communist People's Party of Kazakhstan (CPPK) (20 candidates), the National Democratic Party *Nur Otan* (126 candidates), the Patriots' Party (11 candidates) and *Rukhaniyat* (9 candidates). Of 400 nominated candidates, 23 were not registered by the CEC, either for not submitting the required documents or on eligibility grounds. There were no complaints from the parties regarding the registration process. The CEC determined the ballot order by drawing lots.⁶ Some 15 per cent of candidates are women.

⁵ *Alga!* first applied for registration in 2005. The application was rejected due to errors in the application documents. The courts upheld the Ministry's decision on appeal.

⁶ The ANSDP will appear first on the ballot followed by *Nur Otan*, the party of Patriots, *Auyl*, *Ak Zhol*, *Rukhaniyat*, and the CPPK.

The Communist Party of Kazakhstan did not nominate candidates for the *Majilis* election in protest of the change from a majoritarian to a proportional election system in which voters do not know which candidates will be elected.

V. ELECTION ADMINISTRATION

The *Majilis* elections will be administered by a four-tier election administration headed by the Central Election Commission (CEC). The second level consists of 16 Territorial Election Commissions (hereafter “Regional Election Commissions” - REC) – one in each of the 14 regions and one in Astana and Almaty cities. The third level consists of 205 District (rayon), Town, and City-district level TECs. They are subordinate to the RECs. On election day, voting and counting will be conducted in 9,730 polling stations administered by Precinct Election Commissions (PEC). All election commissions have seven members.

The REC, TEC and PEC members are selected by the respective *Maslikhats* based on proposals received from political parties and public associations. Parties are entitled to propose one nominee to each commission. According to information received from the CEC on the appointment of commission members to RECs, TECs, and PECs, these commissions contain nominees from among various parties. The OSCE/ODIHR EOM has noted that in practice the actual appointments may give *Nur Otan* more representation than other parties.⁷ The Patriots’ Party, *Ak Zhol*, ANSDP, and *Rukhaniyat* have told the EOM that, in general, they are not well represented among the membership of TECs. The ANSDP has informed EOM observers in various locations that many of its nominees to RECs and TECs were rejected by the *Maslikhats*.⁸

An amendment to the Election Law provides that political parties which do not have a nominee appointed to an election commission may delegate one non-voting ‘representative’ to the commission. Representatives are granted the right to participate in meetings and express opinions, and they enable parties to have access to election-related information. It is evident, however, that the status of these representatives is less than that of full members. All parties running in the *Majilis* elections have appointed representatives to the CEC.

The CEC has been very active in making preparations for the elections and has elaborated numerous rules and regulations, conducted trainings for lower level commissions and launched a voter information campaign. It holds frequent meetings, to which the representatives of the political parties, media and observers are invited. The official CEC website is informative and updated regularly. The EOM enjoys good cooperation with the CEC and holds regular meetings with the commission. The CEC and lower level commissions have furnished the OSCE/ODIHR EOM with information and clarifications as required.

The CEC has established two advisory bodies to discuss complaints, one for media-related complaints (see Media section) and a Working Group for other complaints. The Working Groups recommended that the CEC uphold a complaint made by the ANSDP regarding the representation of the names of parties on the electronic ballot.

In general, REC and TEC members appear to be knowledgeable about the process. RECs and TECs hold few formal sessions, with Chairs and Secretaries dealing personally with most issues that arise. Thus, the commissions have taken few formal decisions. In some regions, the *Akimats*

⁷ For example, in Kostanai Region, the members of one TEC were formally nominated by six different parties and an association, but the EOM received information from the TEC that all seven are Nur Otan party members. A similar situation arose at a number of other TECs in the region.

⁸ For example in Astana, Atyrau, Aktau, and Shymkent regions.

(local government structures) appear to work very closely with the election commissions, which could raise issues of their independence of action.⁹

Most parties met by the OSCE/ODIHR EOM stressed that a major concern was transparency and integrity during the vote count and aggregation of polling results. On 2 August, the CEC adopted an instruction that elaborates the actions of PECs, TECs and RECs after the close of polls and the aggregation of election results after the counting of votes. The new instruction provides that TECs should publish all PEC results on the *Majilis* election in a tabulated form no later than five days after election day, and that RECs should publish the TEC-level results within the same timeframe. The EOM was informed by the CEC that it would publish all protocols on its website.

The *akimats* are responsible for compiling voter registers. According to information given to the OSCE/ODIHR EOM by the CEC, 8,808,093 citizens were registered to vote as of 1 July. From 2 August, voter lists were required to be publicly available at polling centres. In an additional effort to enhance the accuracy of voter lists, the CEC announced that voters will be able to check their individual entries on the voter register on the CEC website. Citizens that will be away from their main residence (i.e. where they are registered as a voter) can apply for an ‘off-the-register certificate’. A detailed CEC instruction provides that the RECs arrange the printing of these certificates which should not exceed one per cent of the respective number of registered voters.

In 2004, Kazakhstan introduced electronic voting (e-voting) as a voting option. The ‘*Sailau*’ e-voting system currently in use was developed by the CEC’s Information Centre and is identical to the system used for the presidential elections in 2005. Documentation about the scope and efficiency of the certification process conducted in 2004 and 2005 remains limited and inconclusive. The CEC has told the OSCE/ODIHR EOM that an independent certification of the voting system is not necessary for the upcoming election as no system modifications have been made since 2005. There have been no independent audits to verify whether the deployed voting machines comply with what was certified in 2004 and 2005.

Some 1,500 polling stations (approximately 15 per cent) will be equipped with e-voting machines. Approximately 33 per cent of the total electorate is registered at these polling stations. Voters at these polling stations choose whether to cast their vote electronically or by paper ballot. In the e-voting system, voters use a touch screen terminal which records their choice on an e-ballot. The votes are downloaded from the e-ballot and recorded on a personal computer that is also used for identifying voters and transmitting turnout data to the CEC. The touch screen that displays the electronic version of the ballot is small and only displays three parties at a time – other parties can only be found by scrolling up and down the screen.

Currently, public demonstrations and functional tests of the e-voting system are ongoing in all parts of the country. Voter information about e-voting is conducted through the broadcast and print media. Most parties met by the EOM were sceptical regarding the use of e-voting. No widespread campaigns against e-voting have been observed so far.

VI. THE CAMPAIGN

To date, save for isolated exceptions, political party campaigns have taken place in a generally calm environment. While the election campaign seems relatively low key, parties have been

⁹ For example in one district in Kostanai Region, the Akim was distributing *Nur Otan* campaign material along with official voter information material.

active in meeting voters in all regions. All parties are engaged in door-to-door campaigning and are displaying campaign material at officially designated stands.

In general *Nur Otan's* campaign material is most in evidence, although ANSDP and *Ak Zhol* materials are also visible. Billboards displaying *Nur Otan's* campaign posters began to appear on the morning of 18 July, the opening day of the campaign period. Two other parties told the OSCE/ODIHR EOM that they were unable to place orders for campaign materials until their official campaign bank accounts were opened on 18 July. The large majority of parties have complained to the EOM about the high costs of campaign material production, the high cost of advertising in the media and unavailability of official stands to display material. *Nur Otan* told the EOM that printed material of some parties - ANSDP, PPK, and *Auyl* - did not contain information on the size of the print-run, as required by law. *Nur Otan* has filed official complaints with the CEC. The EOM has noted some *Nur Otan* campaign material inside polling stations and on public buildings.

In addition to the official *Nur Otan* election campaign rallies, other social/cultural events are taking place which have a political aspect. The EOM is aware of one similar event being organised by *Ak Zhol*. The President has paid visits to some towns and cities during which he called for citizens to vote for *Nur Otan*.¹⁰

The ANSDP has submitted written complaints to TECs alleging delays by the local authorities in designating meeting venues and on the locations of meeting venues. ANSDP also informed the EOM of interference in holding campaign events in a few cases, for example in Aktobe, where nine activists were detained for three hours by police for wearing campaign T-shirts and for displaying handmade placards.¹¹ The police have launched an investigation regarding the theft of a large amount of ANSDP campaign material by unknown persons in Semey.

VII. MEDIA

The Constitution prohibits censorship and provides for free speech and the freedom of information. Nevertheless, in the past, some provisions of the current media legislation have been criticised by international organizations, including the OSCE Representative on the Freedom of the Media.¹² The authorities of Kazakhstan have promised a reform of the media legislation in the future but the election campaign is being conducted under existing legislation.

The Election Law guarantees citizens and public associations the right to conduct unimpeded pre-election campaigns, media access for parties and candidates, and requires media to provide an “unbiased interpretation” of parties’ election campaigns. Parties may place paid campaign advertisements in the media under equal terms with other parties, but there is no provision for free airtime. The CEC has adopted detailed rules for campaigning in the media, including an opportunity to participate in televised debates. At the initiative of the CEC, each party has been allocated 20 minutes of prime time on *TV Khabar*, one hour on state-funded *Kazakhstan Radio*, and 250 lines in both state-funded newspapers, without payment by the parties. The CEC has established the Public Council for Consideration of Informational Disputes (PCCID) to assist in maintaining equal media access. It includes representatives of political parties, mass media and relevant State bodies.

¹⁰ On 4 July 2007, President Nazarbayev became *Nur Otan's* party Chairman.

¹¹ By law, all campaign materials must carry print information.

¹² For example see the Press release of the OSCE Representative on the Freedom of the Media, 26 January 2007. “OSCE Media freedom representative calls for the abolishment of insult laws in Kazakhstan”.

The ANSDP complained to the CEC regarding *TV Khabar's* refusal to air some of the party's paid advertisements.¹³ The PCCID considered that some of the party's campaign adverts and the party's slogan "Return the Country to the People" could lead to social strife - the fomentation of which is prohibited by law. The PCCID referred the matter to the General Prosecutor, and suggested that media outlets refrain from airing the footage on television and internet until the Prosecutor comes to a conclusion. On 30 July, the ANSDP representative resigned from the PCCID in protest. The ANSDP has also filed official complaints alleging that *Kazakhstanskaya Pravda* (state-funded newspaper) had censored the party's article which it had submitted under the CEC initiative to provide free print space.

On 20 July, *Channel 31* started airing a series of debates between two contesting parties at a time.¹⁴ An additional roundtable debate including all seven parties was held on TV Kazakhstan on 3 August. This gave parties the opportunity to debate directly with their political rivals.

On 18 July, the EOM commenced its media monitoring activity. Five TV stations and eleven daily/weekly newspapers are being analysed.¹⁵ Preliminary results indicate that the electronic media has not covered the election campaign extensively. While media outlets have generally presented the views of all political parties, the news broadcasts of most of the TV channels monitored by the EOM are thus far dominated by positive coverage of *Nur Otan*. On 31 July, the media broadcast extensive coverage of President Nazarbayev's activities during which he called citizens to vote for *Nur Otan*.

VIII. DOMESTIC AND INTERNATIONAL OBSERVERS

The electoral framework provides for international and domestic election observation.¹⁶ The domestic NGO "Republican Network of Independent Monitors" (RNIM) began its observation on 9 July. It has long term observers in nine oblasts and in Astana and Almaty. RNIM plans to deploy some 2,200 observers on election day. Another domestic observer group, the "Public Committee for the Control of the Election" plans to deploy a similar number of observers to polling stations throughout Kazakhstan. The NGO "Elections and Democracy" began long term observation in all oblasts and plans to field around 100 observers on election day.

IX. MISSION ACTIVITY

The OSCE/ODIHR EOM has established regular contact with the Ministry of Foreign Affairs, the CEC and other election administration bodies, all political parties, civil society organizations and the diplomatic community. The OSCE/ODIHR EOM has received cooperation from the State authorities of Kazakhstan. The Head of Mission has met with the State Secretary, government ministers, the Prosecutor General, and the Supreme Court. On 27 July, the EOM held the first briefing for embassies of OSCE participating States.

¹³ According to *TV Khabar*, the ANSDP had failed to obtain permission of all persons featured in the spot. The ANSDP argued that since the footage in question was taken from news broadcasts and because the faces of persons shown were obscured to prevent recognition, the spots complied with the law.

¹⁴ The debates take place in Kazakh and Russian languages.

¹⁵ Television: (State funded) Kazakhstan 1, *TV Khabar*; (private): Astana TV, Channel 31, KTK. Newspapers: (State-funded) *Egemen Kazakhstan*, *Kazakhstanskaya Pravda*; (private): *Aikyn*, *Express K*, *Liter*, *Nachnem s Ponedelnika*, *Novoe Pokolenie*, *Panorama*, *Respublika*, *Svoboda Slova*, *Vremya*.

¹⁶ A recent amendment to the Election Law (Art. 20-2) stipulates that "...persons without practical experience of election observation...will not be accredited", which could potentially raise issues of conformity with OSCE commitments.

The OSCE/ODIHR EOM will be joined prior to election day by delegations from the OSCE Parliamentary Assembly and the Parliamentary Assembly of the Council of Europe. The three missions will form the International Election Observation Mission for election day observation. The OSCE Chairman-in-Office has designated the Head of the OSCE Parliamentary Assembly delegation, Senator Consiglio di Nino, as Special Co-ordinator for Short-Term Observers.