

INTERIM REPORT 1
21 November–2 December 2007

I. EXECUTIVE SUMMARY

- Pre-term elections for Parliament (*Jogorku Kenesh*) will be held in the Kyrgyz Republic on 16 December 2007, following the adoption of a new Constitution and a new Election Code (EC) by referendum on 21 October 2007. The EC establishes that in pre-term parliamentary elections, the time schedule of electoral deadlines is shortened by one-third.
- These elections are administered by a four-tiered election administration, headed by the Central Election Commission (CEC). This includes nine Oblast and City Election Commissions (OECs), 56 Rayon and Town Election Commissions (RECs), and more than 2,000 Precinct Election Commissions (PECs).
- All 90 seats will be contested in a single, nationwide constituency based on proportional representation with closed party lists. Party candidate list quotas for gender, for ethnic groups other than Kyrgyz, and for youth have been introduced.
- Parties are eligible for the allocation of seats if they simultaneously overcome two thresholds, both representing a percentage of the number of registered voters nationwide. One is a five per cent national threshold and the other is a 0.5 per cent threshold in each region. The CEC resolution on application of this second threshold has been contested in the courts by the *Ak Jol* party, affiliated with the President.
- Both the Constitution and the EC establish that parliamentary deputies lose their mandates if they leave the party, are dismissed from it, or if the party terminates its activities.
- Of some 100 registered parties, 50 officially indicated their intention to contest the elections. Of these, 22 subsequently applied for registration to these elections with the CEC - 12 were registered, three withdrew before the end of the registration period and seven were refused registration.
- Voter lists are to be provided to PECs for public scrutiny on 28 November. Few PECs visited by the OSCE/ODIHR EOM had received the voter lists within this deadline. On 29 November, the CEC declared that the number of voters in the country was 2,689,341.
- The election campaign officially began on 26 November. State-funded media are to provide free airtime and space to candidates and political parties. At the time of writing this report, provision of free media access has yet to commence. The OSCE/ODIHR EOM has begun its media monitoring of the campaign on six TV stations, two nationwide radio stations, and in twelve print media.
- Thirty-eight precincts will be established for voters abroad. Furthermore, the CEC decided that mobile voting will be implemented in places abroad that have been qualified as being the “location frequently attended by voters for long hours”, such as markets.

II. INTRODUCTION

On 22 October, following a referendum on a new Constitution and a new Election Code, the Kyrgyz President dissolved Parliament and called pre-term parliamentary elections for 16 December 2007. Following an invitation from the Ministry of Foreign Affairs of Kyrgyzstan, and the deployment of a Need Assessment Mission¹, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on 21 November 2007 established an Election Observation Mission (EOM) for the 16 December elections. Led by Mr. Nikolai Vulchanov, it consists of a 12-member core team based in Bishkek and 20 long-term observers (LTOs), drawn from 20 OSCE participating States. LTOs were deployed on 24 November throughout the country. Participating States have been requested to second 250 short-term observers to observe voting, counting and tabulation. The OSCE/ODIHR EOM has been receiving good co-operation from the authorities and from other election stakeholders, as well as the OSCE Centre in Bishkek and the international community.

III. POLITICAL CONTEXT

Following two years of political instability, including street protests in autumn 2006 and spring 2007, President Kurmanbek Bakiev called a referendum on a new Constitution and a new Election Code (EC). Both were passed on 21 October 2007. On 22 October, the President dissolved Parliament, in accordance with the 2003 Constitution, and called pre-term parliamentary elections for 16 December 2007, to be held under the new Election Code.

According to interlocutors, the OSCE/ODIHR EOM has been informed that the likely leading contestants will include *Ak Jol* ('Bright Path', affiliated with the President), *Ata Meken* ('Fatherland', led by former Parliamentary Speaker Tekebaev), and the Social-Democratic Party of Kyrgyzstan (SDPK, led by former Prime Minister Atambaev).²

IV. ELECTION SYSTEM

These elections will be held under a new electoral system, perceived by representatives of the Kyrgyz authorities as an important step for furthering democracy. Article 54 of the new Constitution has expanded the number of parliamentary mandates from 75 to 90, with a five-year term of office. Article 69.4 of the EC establishes that in pre-term parliamentary elections, the time schedule of electoral deadlines is shortened by one-third.

The new EC establishes, for the first time in Kyrgyzstan, a system of fully proportional representation based on one nationwide constituency and closed party lists. Article 77.2 states that in order for parties to be eligible for seat allocation, they must receive at least five per cent of votes calculated against all registered voters nationwide. The same article also establishes a regional threshold of not "less than 0.5% of votes of voters, included in voter lists, in each oblast, cities of Bishkek and Osh". With regard to this second threshold, the CEC adopted a resolution³ stating that the "calculation of the percentage of votes should be performed from the number of voters included in the voter list of the single [nationwide] constituency".

¹ See OSCE/ODIHR Needs Assessment Mission report:
http://www.osce.org/documents/odihhr/2007/11/27920_en.pdf

² All political party names are transliterations or translations of the official party titles, as reflected in candidates lists published by the state newspaper *Erkyntoo* on 27 November 2007.

³ CEC Resolution, No. 125, dated 19 November. In accordance with the EC Art.10.1.1, the CEC ensures uniform application of the EC.

Ten political parties wrote to President Bakiev regarding this CEC resolution and stated that the 0.5 per cent should be calculated for each oblast and, in the cities of Osh and Bishkek, from the number of voters registered in each of these administrative units. On 28 November, the Bishkek inter-district court upheld the CEC's resolution, following a suit filed by *Ak Jol*.

Article 57 of the Constitution and Article 78 of the EC establish that parliamentary deputies lose their mandate if they leave the party, are dismissed from it, or if the party terminates its activities.⁴ Article 72.3 of the new EC introduces a quota and party list distribution order for gender (of no more than 70 per cent of one) and quotas for ethnic groups other than Kyrgyz, and for youth (15 per cent each).

V. ELECTION ADMINISTRATION

The pre-term parliamentary elections are administered by a four-tiered election administration, headed by the CEC. It further comprises seven Oblast Election Commissions and the Bishkek and Osh City Commissions (OECs), 56 Rayon and Town Election Commissions (RECs) and more than 2,000 Precinct Election Commissions (PECs).

For these elections, the CEC has created three internal working groups, which involve external experts and observers: on party registration, on finance issues, and on campaigning. With a view to increasing transparency, the CEC has established two Public Reception Desks⁵ within its premises to facilitate communication with election stakeholders, including voters. Four political parties⁶ have nominated members with an advisory vote to the CEC. The CEC's website is updated on a regular basis.⁷

RECs were formed by 30 October, within legal deadlines. On 20-23 November, the CEC conducted training of RECs in conjunction with international organizations providing technical assistance to the Kyrgyz election administration. On the basis of data provided by the CEC, the OSCE/ODIHR EOM has noted that the membership of RECs overall include:

- some 42 per cent women;
- some 15 per cent from ethnic groups other than Kyrgyz;
- some 32, 20 and 14 per cent REC members, nominated by *Ak Jol*, *Ata Meken*, and SDPK, respectively;
- *Ar-Namys* (Dignity), *Glas Naroda* (Voice of the People), and *Turan* (an ancient Iranian name for the region of Central Asia) did not nominate any REC members.

Following delegation of responsibility by the CEC to RECs,⁸ the RECs formed 2,242 precincts by the 18 November deadline. According to EC Article 11.3, PECs were appointed in accordance with the 25 November deadline. The CEC is training PEC members in co-operation with international organizations.

On 18 November, the CEC passed a resolution to establish 38 precincts abroad.⁹ These precincts include 28,896 voters, to date. Furthermore, the CEC also decided that mobile voting will be implemented in places abroad that have been qualified as being the "location frequently attended by

⁴ Legal provisions do not prohibit a party from including candidates in its list who are not party members, provided they are not members of another political party.

⁵ *Obshchestvennaya Priyomnaya*

⁶ The Party of Communists of Kyrgyzstan (PCK), *Ak Jol*, *Ata Meken*, *Ar-Namys*.

⁷ www.shailoo.gov.kg

⁸ CEC Resolution No. 106, dated 3 November 2007.

⁹ CEC Resolution No. 124-a, dated 18 November 2007.

voters for long hours”, such as markets.¹⁰ Such procedures have not been envisaged inside the country.

VI. VOTER REGISTRATION

On 29 November, the CEC declared the number of voters in the country to be 2,689,341 and it has decided to print 2,717,172 ballot papers; 2,051,352 of these will be in Kyrgyz, while the remainder will be in Russian. According to EC Article 23 voter lists are to be provided to PECs for public scrutiny by 28 November. Spot checks by the OSCE/ODIHR EOM to a number of PECs indicated that few PECs had received the voter lists by this date. EC Article 22.10 stipulates that once voter lists are delivered, they cannot be changed.

Some PEC members told OSCE/ODIHR EOM observers that voter lists should be returned to the local administration after approximately one week from delivery, so that corrections could be made following a door-to-door verification by PEC members. Some PECs were observed to be closed during working hours.

One political party expressed its concerns to the OSCE/ODIHR EOM about the registration of voters in Batken region.

VII. REGISTRATION OF PARTY CANDIDATE LISTS

EC Articles 25.3 and 72.3 state that in order to register, political parties must submit candidate lists to the CEC containing no less than 90 and no more than 100 candidate names. Article 72.5 states that following submission, the lists may not be changed. The only exception permitted is for candidates that are withdrawn. In this case, candidates are replaced in line with EC Article 72.3.¹¹ Articles 73.1-2 state that prior to registration, parties must pay an electoral deposit of 500,000 KGS (approx. EUR 10,000) from their electoral fund, which is refunded to those parties that pass the threshold requirements.

Of some 100 registered parties,¹² 50 officially indicated their intention to contest the 16 December elections. Of these, 22 subsequently applied for registration with the CEC by the 18 November deadline and 12 were registered.¹³ In addition, three withdrew¹⁴ before the end of the registration period and seven were refused registration.¹⁵ Of those, five¹⁶ were on the grounds of not meeting the requirements for gender distribution, EC Article 72.3.¹⁷ However, one registered candidate list, as published by the state paper *Erkyntoo*, contained four male candidates in a row.¹⁸ At the same

¹⁰ Mesta Preimushestvennogo Prebyvaniya Izbirateley, CEC Resolution No. 121

¹¹ The question of whether a party can add new candidates to the list to replace candidates who are withdrawn, or whether they must be replaced by candidates already in the registered list, remains to be clarified.

¹² Political parties are officially registered by the Ministry of Justice.

¹³ The 12 registered parties are: *Aalam* (Universe – Party of Non-Party Members), *Ak Jol*, *Ar-Namys*, *Asaba* (Banner), *Ata Meken*, *ErK* (Free Kyrgyzstan), *Erkendik* (Freedom), *Glas Naroda*, *Novaya Sila* (New Force), *PCK*, *SDPK*, *Turan*.

¹⁴ They are *Tynchtyk* (Peace), Party of Veterans and the Youth of Kyrgyzstan, and *Jany Mezgyl* (New Time).

¹⁵ They are the Communist Party of Kyrgyzstan in the CPSU (CPK), the Peasants’ (Farmers’) Party of Kyrgyzstan, the Green Party of Kyrgyzstan, the Party of War Veterans in Afghanistan and Participants of other Local Battle Conflicts, *Rodina* (Fatherland), *Taza Kom* (Clean Society), and *Zamandash* (Compatriot).

¹⁶ These are the CPK, the Green Party, the Party of War Veterans in Afghanistan and Participants of other Local Battle Conflicts, *Taza Kom* and *Zamandash*.

¹⁷ EC Art.72.3 requires that the lists should contain “no more than 70 per cent of individuals of the same sex, with the difference in the placement on the list of women and men being no more than 3 positions”.

¹⁸ The party in question declined comment. *Erkyntoo* advised the OSCE/ODIHR EOM that it had been provided with the list in question by the CEC. The CEC, in turn, told the OSCE/ODIHR EOM that the inconsistency was the result of an error by the party.

time, another party had requested the CEC to withdraw one of their candidates from their list, in order to remedy the gender order in their list. However, the CEC refused to consider this request and the party was not registered.

Another party, perceived by some as being affiliated to a non-Kyrgyz ethnic group, was refused registration by the CEC¹⁹ on the grounds that Kyrgyz citizenship data was missing for some nominees on the submitted candidate list, thus failing to comply with EC Article 25.3.²⁰ Yet another party was refused registration by the CEC on issues surrounding their electoral deposit and on gender composition of their candidate list.

All refusals of registration by the CEC were appealed to court. All seven suits were filed to the *Pervomayskiy* District Court of Bishkek. In all seven cases, the court upheld the CEC's resolution to refuse registration. Some parties have expressed the possibility of seeking further legal remedy.

According to registered party lists provided by the CEC, the total number of candidates running is 1,179 and 456 of these were women. CEC sessions on the issue of registration were attended by media, party representatives, and domestic and international observers. During these sessions, some CEC members expressed their concerns of limitations on their access to official documents.

In accordance with EC Article 27.11, on 27 November the CEC published candidate lists for 10 of the 12 registered parties in the state paper *Erkyntoo*. At the time of writing, the candidate lists of the remaining two parties are yet to be published.²¹ Upon evaluating the candidate lists of the registered political parties, the OSCE/ODIHR EOM found that one of them fell slightly short of the 15 per cent quota requirement on different ethnic group representation.

VIII. CAMPAIGN ENVIRONMENT

According to EC Article 31.1, the election campaign begins on the day following the completion of the registration period, 26 November. The campaign started with billboards and posters appearing on the morning of 26 November for *Ak Jol*, *Ata Meken*, and SDPK in Bishkek and throughout the country. These parties also held opening rallies. *Asaba*, *Erkindik*, and *Turan* have also been visible in some regions. Parties were preparing and have held some meetings with voters.

The OSCE/ODIHR EOM has met a number of parties to date, both in Bishkek and in the regions. Most parties met by OSCE/ODIHR EOM thus far have expressed their concern regarding the shortened election timeframe and their abilities to organize their campaigns in such a short time. Some parties have voiced concerns regarding the possibility of electoral malfeasance on election day. Election stakeholders have also stated their concerns to the OSCE/ODIHR EOM over perceived ambiguities in the new Election Code.

¹⁹ CEC Resolution No. 138, dated 25 November 2007. This resolution was based on a letter sent by the Department of Passport and Visa Control (DPVC) in response to a request from the CEC. The letter stated that it was impossible to determine Kyrgyz citizenship due to a lack of data in the list of certain candidates. In the subsequent court hearing, the CEC claimed that it had sent a complete candidate list to the DPVC, while DPVC representatives stated that they had received a list with only the names of the candidates concerned from the CEC, without other data. The court ordered the DPVC to ascertain the citizenship of the candidates in question on the basis of passport copies provided to the court. Notwithstanding that the DPVC confirmed the citizenship for all concerned the court supported the CEC's refusal of registration on other grounds.

²⁰ EC Art.25.3 requires parties to submit candidate lists with "no less than the number of mandates established for distribution by the proportional system". EC Art.75.5 prohibits any changes to the candidate list after it has been submitted. However, an exception is given where candidates are dropped from the list; in this case, the EC states that "...another member of the given political party shall replace the removed candidate..."

²¹ Those remaining to be published are the *Ata Meken* and the PCK.

IX. MEDIA

According to EC Article 32.1-2, political parties and candidates have the right to free airtime on state-funded TV and radio in the time from 20:00 to 00:00 (prime time). The total amount of free airtime is to be no less than 1 hour on “working days” and is to be distributed on an equal basis amongst the registered candidates and political parties. Similarly, EC Article 33 states that printed state-funded periodicals are to provide, on equal conditions, free print space for materials submitted by candidates and political parties of no less than one A4 page during the time of the campaign. A week into the campaign, provision of free media access has yet to commence.

EC Article 30.10 states, only in general terms, that “candidates and political parties shall be guaranteed equal conditions of access to the mass media”. It also provides rules for paid airtime or print space, both in state-funded or private media. EC Article 30.9 provides a measure of clarity as to what is to be considered election campaigning.²² The CEC informed the OSCE/ODIHR EOM that it does not have the means to conduct a comprehensive media monitoring during the campaign in order to assess compliance with these provisions.

On 24 November, the OSCE/ODIHR EOM commenced media monitoring of the election campaign. This includes six TV channels (KTR, *ElTR*, Channel 5, *Pyramida* NTS and NBT), and two nationwide radio stations (KTR, *Azattyk*; during their main news). In terms of print media, twelve newspapers will be monitored (in Kyrgyz: *Aalam*, *Agym*, *Kyrgyz Tuusu*, *Erkin Too*, *De Facto*. in Russian: *Slovo Kyrgyzstana*, *Vecherni Bishkek*, *MSN*, *Delo Nomer*, *Komsomolskaya Pravda*, *Argumenti i Fakti*, *Litsa*). The monitoring will include both quantitative and qualitative analysis.

X. COMPLAINTS AND APPEALS

EC Article 54 establishes several complaint venues for election related complaints, including superior election commissions, courts, prosecutors and the police.²³ The CEC has set up a Working Group on Informational Disputes and Other Issues of Informational Coverage of Elections (Working Group). This Working Group, *inter alia*, is responsible for preliminary review of campaign-related complaints. At the time of writing, the CEC has yet to begin resolving the formal complaints it has received. The CEC has issued warnings, signed by the chairperson, to three parties regarding the inadmissibility of early campaigning. As of 30 November, the General Prosecutor’s Office (GPO) has received five formal complaints. The GPO has informed the OSCE/ODIHR EOM that it has forwarded all of these complaints to CEC, as they are within the CEC’s competence.

XI. DOMESTIC AND INTERNATIONAL OBSERVERS

To date, the CEC has thus far accredited 83 international observers from the OSCE/ODIHR, OSCE PA, the CIS Election Observation Mission, the Shanghai Cooperation Organization and bilaterally from various foreign representations. A number of domestic groups, such as the Coalition for Democracy and Civil Society, Citizens against Corruption, *Taza Shailoo*, *Interbilim*²⁴ and others have indicated to the OSCE/ODIHR EOM their intentions to field large observation efforts

²² EC Art.30.9: “Appeals to vote for a given candidate, list of candidates, or against them; expression of preference with regard to a given candidate or political party, in particular to which candidate or a political party a given voter is going to give his vote; description of possible consequences of election or failure to elect a given candidate or list of candidates; distribution of information with obvious prevalence of data on a given candidate or a political party”.

²³ EC Art.54 establishes that PEC Resolutions must first be appealed to superior election commissions, and only the resolutions of superior election commissions can be appealed either to the CEC or to courts.

²⁴ Transparent Elections and Inter-Knowledge, respectively.

throughout the country. These NGOs are focusing on long-term observation, training of observers, and voter education.

XII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM opened its office in Bishkek on 21 November 2007. The head of Mission has met the Ministry of Foreign Affairs, the Chairperson of the CEC, and other officials, and Ambassadors of OSCE participating States. The OSCE/ODIHR EOM has established regular contact with the CEC, the diplomatic community, and the main political parties. It has conducted initial meetings with many registered political parties, civil society, election administration bodies, the media, and other interlocutors, including the OSCE Centre in Bishkek. A first briefing for representatives of the diplomatic community and international organizations accredited in Kyrgyzstan was held on 27 November. The twenty LTOs have established regular contact with election administration and election stakeholders at regional level. For election day observation, the OSCE/ODIHR EOM will be joined by a delegation from the OSCE Parliamentary Assembly. The OSCE Chairman-in-Office may designate a political figure as a Special Co-ordinator to lead the short-term OSCE observer mission.