



Office for Democratic Institutions and Human Rights

KYRGYZ REPUBLIC

PRESIDENTIAL ELECTION
10 July 2005

OSCE/ODIHR Election Observation Mission
Final Report



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I. EXECUTIVE SUMMARY

In response to an invitation from the Minister of Foreign Affairs, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) observed the 10 July 2005 early presidential election in the Kyrgyz Republic. The OSCE/ODIHR assessed the election in terms of its compliance with domestic legislation, the 1990 OSCE Copenhagen Document, and other international standards for democratic elections.

The 10 July 2005 early presidential election marked tangible progress by the Kyrgyz Republic towards meeting OSCE commitments, as well as other international standards for democratic elections. This was the case in particular during the pre-election period and the conduct of voting, although the quality of the election day process deteriorated somewhat during the counting of votes. Fundamental civil and political rights, such as freedom of expression and freedom of assembly, were generally respected throughout the election process.

The authorities issued statements and undertook commensurate actions discouraging the use of administrative resources on behalf of the incumbent, exhibiting political will to conduct an election process more closely in line with OSCE commitments. Consequently, the use of administrative resources to favour the incumbent was largely absent, or unsolicited.

The participation in the campaign of six candidates including Kyrgyzstan's first-ever woman presidential candidate, offered voters a degree of choice. However, the candidacy of acting President Kurmanbek Bakiev was dominant and was significantly better resourced than his opponents. An agreement between Mr. Bakiev and Mr. Felix Kulov, whereby the latter did not present his candidacy, was generally viewed as a stabilizing factor in the political process, although it also reduced to an extent the degree of competition. Political parties had a limited impact on the campaign.

The media operated with considerable freedom of expression and without apparent interference, and the authorities initiated a transformation of the State-funded media aimed at minimizing political influence. The improved media environment provided the field of candidates with opportunities to exchange views and present their messages to voters, including in a series of live televised debates.² However, Mr. Bakiev received extensive coverage, and considerably more news coverage than the other candidates.

While previous amendments to the Election Code addressed a number of OSCE/ODIHR recommendations, further improvements are needed in order to bring it more closely in line with OSCE commitments. The system for the election of the president includes a combination

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

² Candidate debates were rebroadcast with subtitles in Uzbek language on private television in Osh, which was a significant step in promoting the further inclusion of the Uzbek minority in the election process.

of significant legal hurdles, such as the 50 per cent turnout requirement to consider the election successful, the need for prospective candidates to collect 50,000 valid signatures in conjunction with a financial deposit, and a language test for prospective candidates.

The Central Election Commission (CEC) did not fully meet the challenge of administering an election within an expedited timeframe, given that the environment within which to organize the election was at times uncertain. There were lapses in presenting clear instructions and applying regulations and an occasional lack of transparency. There was a degree of inconsistency in the CEC's approach towards different candidates in enforcing candidate registration and campaign rules. On a positive note, the CEC moved its offices out of the premises of the Government House, acting on a specific previous recommendation offered by OSCE/ODIHR and other international organizations.

The approach of the authorities in the formation of lower-level election commissions was generally inclusive, although on occasion a formalistic approach appeared to prevail over the spirit of inclusive representation. There was a high level of civic participation in making nominations to and participating in election commissions. Lower levels of the election administration performed relatively efficiently during the pre-election period, although transparency could have been enhanced.

While concerted efforts were made to improve voter lists, it became apparent shortly before and on election day that particular aspects of the revision of voter lists breached legal provisions. In addition, the unexplained fluctuations of the number of voters on the main voters list up to and including election day, in turn raises questions about the accounting of ballots.

There were relatively few election complaints and appeals. Civil society organizations were active as domestic observers and in highly visible voter education and mobilization efforts.

Election day was peaceful, and the conduct of voting was for the most part free of serious problems. However, some procedural problems that occurred could have been avoided through more effective training of polling station commission (PEC) members. Of greater concern were some observed instances of serious irregularities, including cases of ballot stuffing and some implausible increases in turnout figures, although such serious irregularities were limited. There were no observed cases of vote buying.

The quality of the process deteriorated during the vote counting and tabulation of results. Some PECs were observed tampering with result protocols. Nevertheless, the CEC's publication of most PEC result protocols on the Internet the morning after the elections, together with the fact that domestic observers and candidate proxies were generally able to receive protocols at PECs, constituted an important step towards enhancing transparency.

The authorities of Kyrgyzstan should take steps to consolidate the progress made and to further improve the election process. The OSCE/ODIHR stands ready to support the authorities of the Republic of Kyrgyzstan in their efforts to conduct elections in line with OSCE Commitments. This report offers recommendations for further improvement of the election process. However, the present recommendations do not reproduce previously issued OSCE/ODIHR recommendations that have been only partly implemented and therefore remain valid.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The OSCE/ODIHR EOM to the Kyrgyz Republic early presidential election was established on 2 May 2005. The Mission was headed by Ambassador Lubomir Kopaj (Slovak Republic) and was composed of a 17-member core team based in Bishkek, as well as 26 long-term observers deployed in all seven regions of Kyrgyzstan.

For the election on 10 July, the OSCE/ODIHR EOM was joined by 299 short-term observers, including 21 from the OSCE Parliamentary Assembly (OSCE PA) and 9 from the European Parliament, to form the International Election Observation Mission (IEOM). Mr. Kimmo Kiljunen (Finland), Head of the OSCE PA delegation, was appointed as Special Co-ordinator by the OSCE Chairman-in-Office to lead the short-term observers. Mr. Albert Jan Maat (Netherlands) headed the delegation of the European Parliament.

The observers in total represented 43 OSCE participating States. Observers reported from more than 1,300 polling stations out of a total of approximately 2,150 countrywide.

The OSCE/ODIHR Final Report should be read in conjunction with the Statement of Preliminary Findings and Conclusions issued on 11 July 2005, and the OSCE/ODIHR Interim Recommendations for the Kyrgyz Republic Early Presidential Election.³

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

III. POLITICAL BACKGROUND

The parliamentary elections in February and March 2005 in the Kyrgyz Republic were assessed as falling short of OSCE commitments and other international standards for democratic elections. The irregularities in the election process contributed to public protests which ultimately led to the ouster of President Askar Akaev on 24 March and his departure from the country.

The outgoing parliament, due to the President's absence from the country, appointed Mr. Kurmanbek Bakiev, an opposition leader, as the acting Prime Minister and acting President until a presidential election could be held. On 26 March the CEC certified the newly-elected parliament, which confirmed Mr. Bakiev's appointment. Mr. Akaev tendered his resignation on 7 April, which was accepted by parliament on 11 April. The parliament scheduled the early presidential election for 10 July.

The dynamic of the presidential race was shaped by an agreement on 12 May between acting President Bakiev and Mr. Felix Kulov, a leading opposition leader released from prison following President Akaev's ouster.⁴ The agreement stipulated Mr. Kulov's withdrawal from

³ Both documents are available at www.osce.org/odihr-elections/15526.html

⁴ In 2000 Mr. Kulov, a former Minister of Interior and Head of National Security, announced his intention to run for the presidency, but the following month he was arrested and on 22 January 2001 he

the electoral race and his immediate appointment as First Vice Prime Minister. Both parties committed to fair and transparent elections, and agreed that Mr. Bakiev, if elected president, would appoint Mr. Kulov as Prime Minister. The agreement stipulated that after registration as a candidate Mr. Bakiev would leave office to campaign. While many interlocutors viewed this agreement as key to maintaining stability in the country, the agreement lessened the degree of electoral competitiveness.

The early presidential election proceeded against a background of discussion of constitutional reform, a response to the extensive presidential powers accumulated by former president Akaev in the 2003 constitutional referendum. The reform was directed *inter alia* towards considerable rebalancing of the respective powers of the president, parliament and prime minister, in favour of the parliament and prime minister.⁵ A 114-member Constitutional Council published draft amendments to the Constitution on 9 June for public discussion.

IV. LEGISLATIVE FRAMEWORK

The legal framework for the presidential election includes the Constitution of the Kyrgyz Republic, as amended following the 2003 referendum, the Law on the Central Election Commission, and the Election Code. Since 1999, the Election Code has been amended some 18 times. Although some amendments to the Election Code mark progress, further improvements are required to bring it more closely in line with OSCE commitments.

The OSCE/ODIHR has made recommendations for the improvement of the legal framework for the presidential election as part of its previous reports on elections, including the Interim Recommendations for the Early Presidential Election and in its Final Report on the February-March 2005 parliamentary elections. No draft legislation based on these recommendations was discussed in Parliament prior to the early presidential election, but Parliament amended the Election Code on 30 June to extend polling station opening hours by two hours during summer time.

The term of office of the president is five years, but the Constitution provides for an early presidential election three months from the early termination of the president's mandate. The Election Code further provides that in the event of an early presidential election, the timelines in the election calendar are shortened by one quarter.⁶

The Election Code, based on Constitutional provisions, stipulates that if no candidate receives at least 50 per cent of the vote in the election, a second round must be held between the two candidates receiving the most votes (Art. 65.3 and 66.1).

There are substantial legal hurdles in the system for electing a president. At least 50 per cent turnout of registered voters is required in order for a presidential election to be considered successful.⁷ In case of failure to meet the minimum turnout requirement in either round, the

was sentenced by military court to seven years' imprisonment on corruption charges. After his release from prison, Mr. Kulov initiated legal action that resulted in him being exonerated.

⁵ The agreement between Mr. Bakiev and Mr. Kulov contained a provision requiring the initiation of constitutional reform by October 2005.

⁶ Art. 58.6 of the Election Code. For example, if for a regular election the deadline of signature collection for nominees is 50 days before the election, in an early election it is 38 days before the election.

⁷ Article 44 of the Constitution and related articles of the Election Code (Art. 65.3 for the first round and Art. 66.4 for the second round).

entire election must be repeated (Art. 67). The law thus creates the potential for a cycle of failed elections, and may be conducive to electoral malfeasance.

Another hurdle, exacerbated by the reduced timeframe for the early presidential election, is the requirement in Art. 62.1 for a nominee to obtain 50,000 signatures (approximately 2 per cent of registered voters) in support of his or her candidacy, doubling the amount suggested by international best practice.⁸ Furthermore, Art 63.3 requires that a candidate provide a financial deposit, which is returned if he or she receives at least 15 per cent of the vote.

Finally, based on the constitutional provision that the President have “command of the State language” (Article 43.3), the Election Code provides that prospective candidates must pass a Kyrgyz language test. The Constitution does not specifically require a language test, and the OSCE/ODIHR has previously recommended that the requirement for such a test be reconsidered.⁹

The Election Code provides that in addition to the choice between candidates on the ballot paper, voters are also offered the option to vote “against all” candidates. Since elections are about representation, this is an option difficult to reconcile with a standard definition of representative democracy, as “against all” implies that voters may choose not to be represented at all.

Amendments to the Election Code in 2004 provide for transparency measures, such as the inking of voters’ fingers to deter multiple voting (Art. 40.1), and the use of transparent ballot boxes (Art. 10.1.3).

V. ELECTION ADMINISTRATION

A. ELECTION COMMISSIONS

The presidential election was conducted by a four-tier election administration headed by the CEC. It further comprised seven Oblast Election Commissions and the Bishkek and Osh City Election Commissions (hereinafter OECs), 56 Rayon and Town Election Commissions (RECs/GECs), and finally over 2,150 Precinct Election Commissions (PECs). The CEC is a standing body appointed for a five-year term and comprises a Chairperson and 12 members. The Chairperson and six members are appointed by the President and the remaining six members by parliament. The CEC’s composition was changed slightly when acting President Bakiev on 11 April appointed Mr. Tuygunaly Abdraimov, previously a CEC member, to the post of CEC Chairman, and on 3 May appointed a replacement CEC member.

The OECs, the level of commissions immediately below the CEC, are also standing bodies appointed for a five-year term. Their role involved verification of signatures submitted by nominees, oversight of voter list updating (including exclusions connected to registration for out-of-country voting), and provision of technical support and training to the lower-level commissions.

⁸ See the “Code of Good Practice in Electoral Matters – Guidelines and Explanatory Report” of the Venice Commission of the Council of Europe, October 2002, available at [http://venice.coe.int/docs/2002/CDL-AD\(2002\)023rev-e.asp](http://venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.asp)

⁹ OSCE/ODIHR Final Report on Kyrgyz Republic Presidential Election 2000.

Establishment of the lower-level commissions formed specifically for these elections was accomplished on time, and with an approach largely oriented towards diversity and inclusiveness. While political party-nominated members comprised 22 per cent of commission members, less than the 33 per cent permitted by the Election Code, political parties attributed this to their own competing priorities or to lack of time to make nominations up to the full quota. Women made up over a third of REC/GEC members.

CEC announcements in the media encouraged political parties, NGOs and voter gatherings to make nominations to PECs, which were formed by 16 June, and in most cases the local administrative bodies forming the PECs took the position not to reject any such nominees. More than 50 per cent of PEC members were new. While the number of public and municipal employees was significantly lower than in past elections, at around 12 per cent, political parties' nominees comprised only around 14 per cent of PEC members. The number of women PEC members was around 52 per cent.

The OSCE/ODIHR EOM did not hear any significant criticism about REC/GEC or PEC formation,¹⁰ although it observed that formation of some PECs was based on a formalistic approach not reflecting the spirit behind the requirement for inclusive representation. For example, in some PECs political party-nominated members were found to be unfamiliar with their nominating body or not attending PEC meetings. In some cases the number of PEC members from the same institution was half or more of its total membership. The CEC Chairman had made public statements that such circumstances, although not illegal, were to be avoided, but the CEC apparently did not issue written instructions to this effect. The OSCE/ODIHR has previously recommended that no more than one third of PEC members come from any one institution.

PEC members received training about their functions and responsibilities, supported by international donors. However, observation prior to and on election day suggested that in some cases PEC members had difficulties in clearly understanding the law and CEC instructions as regards public familiarization with voter lists, counting procedures, and especially filling the result protocols. Some PEC members told IEOM observers that the counting of results and completing of results protocols had not been sufficiently emphasized in the training.

B. ADMINISTRATION OF THE ELECTIONS

Promptly after the elections were called, the CEC issued a Calendar Plan on preparing and conducting the election. Thereafter, however, the CEC's performance would have benefited from more efficiency. Lack of sufficient organization was only partly excusable by the reduced timeframe for the conduct of the election and by disruption arising from the CEC's move to new premises during this period.

The CEC's work was not entirely transparent, including failure to give advance notice of sessions to observers and not always publishing its decisions. The CEC occasionally went into closed session, with no disclosure of the topics to be discussed. One CEC member made an oral complaint on 3 June against the Chairman that the CEC was in breach of its own

¹⁰ Except for PECs for out-of-country voting, see subsection B, below.

regulations by not taking all decisions in open session. Moreover, at times, the CEC did not always perform as an impartial body.¹¹

The CEC gave unclear instructions on the deadline for nominees to submit signatures, to the detriment of one nominee's registration bid (see Section VI, Registration of Candidates, below), and apparently did not correct through the mass media misinformation regarding the voters' right to sign for more than one nominee. Important deadlines in the electoral calendar were not followed, including delay in adopting the format of the ballot paper, which the CEC should have done on 17 June; the printing of ballots, which should have taken place on 29 June but started on 26 June without the required regulation signed by the CEC Chairman; and failure to distribute voter lists to all PECs by the deadline of 21 June.

The CEC also did not provide clear instructions to enforce uniformity of procedures. For example, it did not regulate the size of the sample that OECs should extract from the nominee-collected signatures for the purposes of verification. The CEC's approach to the printing of Absentee Voting Certificates (AVCs) demonstrated inefficiency and poor planning. It initially ordered only 8,750 AVCs (0.3 per cent of the total number of voters) and then a further 44,000 some days later.¹²

The CEC took some steps to improve the transparency of the election process. The CEC moved out of the Government building into new premises, as recommended by the OSCE/ODIHR and other international organizations on numerous occasions. In the meetings that the OSCE/ODIHR EOM was able to observe, the CEC appeared to increase the inclusiveness of its decision-making process by making the body more collegial, notwithstanding the transparency concerns noted above. The CEC's Working Group on Control over the Campaign (hereafter, Working Group) also conducted its activities in a more transparent manner. The CEC continued the commendable practice of posting provisional results by polling station on its website as those became available.

The OSCE/ODIHR EOM found the work of the OECs during the pre-election period to be generally efficient and open, with the exception of the Issyk-Kul OEC, where there was a delay in providing legitimately requested information to OSCE/ODIHR EOM long-term observers. RECs/GECs generally worked efficiently in the pre-election period, and while they occasionally lacked transparency, no intentional obstruction to observers was noted. Some PECs did not comply with their obligation to be open during fixed hours in the pre-election period. (For issues relating to the conduct of RECs/GECs and PECs on election day see Section XIII, below.)

¹¹ Before the conclusion of the legal appeal process against the CEC's decision not to register Mr. Baryktabasov as a candidate, the CEC Chairman made apparently politically-weighted statements about Mr. Baryktabasov's citizenship, several times reading the citizens' oath of allegiance in front of the media. The CEC website included a page entitled "Documents which prove Mr. Baryktabasov's Kazakhstan citizenship," but made no analogous presentation of the grounds for refusing registration to any other unsuccessful nominee.

¹² AVC's are used by voters voting away from their home electoral precinct. The initial number printed was obviously insufficient to meet the likely demand, especially given that the CEC and civil society groups were conducting an educational campaign about the right to use an AVC. For example, Karasuu REC (Osh oblast) initially received only 324 AVCs for distribution among 118 PECs with a combined total of over 178,000 registered voters. Despite the extra printing of AVCs and the educational campaign, not all of PECs had AVCs to distribute, and others were not aware of what to do with AVCs or who had a right to receive one. Eventually fewer than 9,000 AVCs were issued.

Out-of-country voting was organized in 38 polling stations abroad.¹³ The handling of preparations for out-of-country voting was problematic, including abrogation by the CEC of its own 10 June deadline for accepting registration of voters and the acceptance of voter lists from out-of-country that did not meet the legal requirements. The data of voters registered abroad did not always reach the relevant REC/GEC before the deadline for printing the voter lists so that the names of such voters could be removed from the voter list at their place of registered permanent residence.

A total of 55,000 ballots were sent to the out-of-country PECs, including 5,000 printed and distributed in the week before the election. The OSCE/ODIHR EOM is not aware that the CEC ever published a final total of voters registered out-of-country; however, the last total provided by the CEC was less than the 37,655 who eventually voted. The number of ballots distributed for out-of-country voting therefore breached the legal requirement that the number of ballot papers distributed to PECs should exceed the number of registered voters by no more than 0.5 per cent.

There were visible voter education efforts by the CEC and the NGO community. These included TV commercials, billboards and leaflets that invited voters to participate in the election, appeals to younger voters to participate, invitations to voters to check that they were correctly included in the voter lists, advocacy against vote buying, and appeals for a fair electoral contest.

C. VOTER LISTS

Between the parliamentary elections of February-March 2005 and the presidential election, significant efforts were made to improve the quality of voter lists. These included corrections by local authorities as well as the removal of several thousand duplicated records. At the end of election day, 2,670,530 voters were registered on the original voter lists and on additional voter lists, an increase of about 2 per cent as compared to the parliamentary elections. Four per cent of all registrants were on the additional voter lists, which represents a decrease in the numbers of voters on the additional voter lists compared to the parliamentary elections.

Regulations for compiling voter lists remain incomplete or unclear, and leave room for interpretation and possible manipulation. To be eligible for entry on the voter list a person must have registered permanent residence (“propiska”) at an address located in a given precinct. While the transfer of information from the propiska system to voter lists is well defined, other procedures remain largely unregulated. These include data submission by local authorities, the use of temporary propiska, accounting for registrants who moved without changing their propiska, corrections after printing of the official voter lists, amending the additional voter list, supervision of out-of-country registration, and data checks in the state automated registry system known as GAS Shailoo.¹⁴

The law requires that voter lists must be publicly displayed during the 15 days prior to election day. While in many places this was not implemented, voter lists were available, with very few exceptions, to be viewed inside polling stations. The Shailoo website that allows checking of the voter list on the Internet was mostly unavailable until the last day before the

¹³ The OSCE/ODIHR EOM did not observe out-of-country voting, except for the preparations that took place in Kyrgyzstan.

¹⁴ For example, lists of identified duplicate entries were often not forwarded to REC/GEC GAS Shailoo operators.

election. Spot checks by the OSCE/ODIHR EOM of the voter list accessible on the Internet indicated that many duplicates at rayon/town, oblast/city and State level remained undetected.

It became apparent shortly before and on election day that particular aspects of the revision of voter lists breached legal provisions. Voter list checks by local authorities were in many cases based on de-facto residence rather than residence registered by propiska, and many PECs were found to be making pencil annotations in voter lists that voters were known to be absent. Both approaches led to the removal of persons on the basis of their known absence from the country, despite retaining formal residence registration and outside the provisions for out-of-country voting.

There were unexplained fluctuations in the officially announced number of registered voters up to and including election day. As of 26 June, when printing of ballots started, the number of voters on the voter lists countrywide was 2,691,478. Yet the number of voters on the voter lists at the start of election day was 2,555,246,¹⁵ and the number of voters in the main voter lists at the end of voting was 2,562,603, with a further 107,927 on the additional voter lists.

This raises concerns, since the only change to the main voter lists on election day should be reduction in numbers due to possible deletions of names, such as those of deceased voters. This increase in the number of registered voters occurred despite widespread evidence that voters' names were deleted on election day on the basis of their de facto absence from their precinct. Given the 50 per cent turnout threshold, there could have been some incentive to increase the percentage turnout by decreasing the number of registered voters (see also Section IV, Legal Framework).

The law requires that the number of ballot papers printed for the presidential election should be equal to the number of registered voters plus half a per cent reserve ballots. The OSCE/ODIHR EOM was concerned about ballot paper security during printing and on election day. Ballot papers were printed in a central facility, and the CEC discovered at the printing house 15,000 ballot papers in excess of the number it had ordered printed. These extra ballot papers were destroyed.

On election day, countrywide, the OSCE/ODIHR EOM observed that PECs were using two figures for the numbers of registered voters: the numbers of entries on the actual voter list for the precinct, and a lower figure obtained after deduction of the names of those voters marked in the voter list as absent. It was the latter figure that was generally recorded in the results protocol as the number of registered voters. There was widespread evidence that the RECs/GECs had used the latter figure also as the basis for allocating ballot papers to PECs. As the nationwide total of ballot papers printed had been based on the number of voters recorded in voter lists, the proper accounting for the surplus of ballot papers retained at RECs/GECs remains unclear.

VI. REGISTRATION OF CANDIDATES

A. NOMINATION, SIGNATURE COLLECTION AND SIGNATURE VERIFICATION

¹⁵ CEC website, www.shailoo.gov.kg.

NOMINATION

Presidential candidates could be nominated in one of three ways: self-nominated; by a group of at least 100 voters associated by a common place of residence or work; or by a registered political party or electoral bloc. Of a total of 22 nominations, there were 10 nominations by voters' gatherings, 9 self-nominations and only 3 nominations by political parties. Five nominations were not formally accepted by the nominees themselves, and two were withdrawn, leaving 15 nominees as of 26 May.

SIGNATURE COLLECTION

Once a nomination had been made to the CEC, and as soon as the CEC had registered the nominee's authorized representatives, each nominee could begin signature collection. The Election Code gives the CEC up to five days to register authorized representatives. While the CEC acted within this deadline, some nominees complained that it took longer to register some nominees' representatives than those of others, with the effect of further shortening the time available to them to collect signatures.¹⁶ Thirteen nominees engaged in signature collection.

The CEC did not uphold a formal joint complaint by eight nominees concerning incorrect information being spread among voters that they could sign for only one nominee. The problem was publicly acknowledged by the CEC Chairman, although effective remedial measures, for example through the media, appeared lacking. Several nominees or their representatives around the country told the OSCE/ODIHR EOM that signature collectors for Mr. Bakiev spread such wrong information,¹⁷ and incorrect information was also directly stated to the OSCE/ODIHR EOM by one of Mr. Bakiev's district campaign team leaders.

There was a lack of clarity about the date by which signatures should be submitted to the OECs for the first stage of verification. The deadline as presented in the CEC Election Calendar was variously interpreted by CEC officials and OECs as either 1 or 2 June, with different interpretations by the OECs also of the time for close of submissions.¹⁸ Consequently, not all nominees were able to submit all of the signatures they had collected, and some sought legal redress with the courts.¹⁹

SIGNATURE VERIFICATION

The process of signature verification was transparent, although there was a low presence of nominees' authorized representatives to observe the process. However, the process lacked uniformity. The CEC permitted OECs either to verify all signatures from each nominee or

¹⁶ See also Section IX, Complaints and Appeals.

¹⁷ It is impossible to assess whether the collectors were misinformed, or it was intentional disinformation.

¹⁸ For example, Issyk-Kul OEC set the deadline for submission of signatures as 17.00 hrs on 1 June, while Naryn and Jalal-Abad OECs set the deadline as 00.00 hrs on 2 June.

¹⁹ For example, Mr. Amanbay Satybaev's authorized representative was refused when he attempted to submit signatures to Naryn OEC at 0910 hrs on 2 June. Ms. Gaysha Ibragimova, who by 1 June had submitted just under 50,000 signatures, filed a legal complaint against the CEC on this matter. On 9 June, the Pervomaysky court in Bishkek ruled in her favour that the deadline for signature submission was 2 June and ordered signatures collected for her in Bishkek that were pending submission to be accepted and verified by the responsible OEC and the CEC. See also Section IX, Complaints and Appeals.

verify a random sample of the signatures. All OECs chose the latter approach.²⁰ However, the random sample size was not stipulated by the CEC, and consequently the samples ranged from 10 per cent in Issyk-Kul to 30 per cent in Osh city and Jalal-Abad. Each OEC appeared to apply its chosen sample size consistently for all nominees, with the exception of the Batken OEC.²¹ The OECs delivered all signatures to the CEC for further verification by a CEC working group. From each nominee's signatures the CEC chose a sample of 2.2 percent of the total number that each OEC had certified as valid.

The only nominee not to surpass the 50,000 signature threshold following the verification exercise was Ms. Ibragimova, for whom the verification of samples by OECs and the CEC led to invalidation of 4,620 of the 52,145 signatures she submitted. However, Ms. Ibragimova's representatives did not express objections to the verification process itself.

B. LANGUAGE TEST

The Election Code requires that all nominees pass a Kyrgyz language test. The test was conducted by a Linguistic Commission (LC) created by CEC resolution and approved by parliament. The CEC resolution required that all nominees pass the test not later than 10 days from the date of the submission of their nomination documents, and that each nominee's language test be broadcast live on the State TV channel. The first language test was planned for May 7, but was postponed for a week due to "technical problems with live broadcasting." This prompted criticism from the persons due to take the test that day. Thereafter, the CEC replaced the 10 day deadline with a provision for holding language tests "up to the registration deadline," and the tests took place between 14 May and 4 June.

Some of the nominees met by the EOM criticized the language test per se, or for the way in which it was conducted. The language test included three parts – writing, speaking and reading. All members of the commission publicly commented on the examinees' Kyrgyz language abilities.

A problem with the rules was exposed by the test taken by nominee Dr. Jenishbek Nazaraliev, where the adjudication of the eight LC members present produced a tie. The impasse thus created was resolved only by Dr. Nazaraliev's decision to withdraw from the nomination process. The CEC amended the regulations to prevent a recurrence of a deadlock. All of the 12 nominees who took the test passed it. Two nominees, Mr. Nazyrbek Nishanov and Mr. Amanbay Satybaev, were allowed to take the language test on 4 June despite it already being clear that they had not gathered the minimum number of signatures. However, in similar circumstances, the same opportunity was refused to the nominee Mr. Kubanychbek Apasov.

While the application of the language test did not directly result in the non-registration of any nominee, the existence of the test may have dissuaded some individuals from presenting their candidacy. As noted above, the OSCE/ODIHR has previously recommended that the language test for potential presidential candidates be reconsidered.

²⁰ CEC Regulation on signature collection and verification. Verification is according to 37 criteria. Main reasons for invalidation included signatures made by other persons; signatory's name or address absent; lack of complete date of birth if signatory turned 18 during 2005, and signatory younger than 18.

²¹ According to figures provided to the OSCE/ODIHR EOM, the Batken OEC determined that it would check 25 per cent of signatures, but in practice it checked 23 per cent of signatures for Ms. Ibragimova, Mr. Sharipov and Ms. Umetalieva, and 28 per cent of signatures for Mr. Jeksheev

C. REGISTRATION

The CEC registered seven candidates: five on 11 June (Mr. Tursunbay Bakir uulu, Mr. Keneshbek Dushebaev, Mr. Jypar Jeksheev, Mr. Jusupbek Sharipov and Ms. Toktayym Umetalieva) and two on 13 June (Mr. Akbaraly Aitikeev and Mr. Kurmanbek Bakiev). Mr. Dushebaev and Mr. Jeksheev were political party nominees, and the others were either self-nominated or voters' group nominees. Mr. Sharipov withdrew his candidacy on 23 June.

Following discussion at both the 11 and 13 June CEC sessions, Mr. Urmatbek Baryktabasov was refused registration on the grounds that he was a citizen of Kazakhstan, as confirmed in documents the CEC had received from the authorities of Kazakhstan. Mr. Baryktabasov's authorized representatives denied this.²² On 13 June, the CEC also formally refused registration to five nominees who had failed to collect the necessary number of signatures.

VII. THE ELECTION CAMPAIGN

The candidates were generally able to conduct their campaigns without obstruction and were limited only by their financial resources.²³ Freedom of assembly and freedom of expression were respected during the campaign, although the CEC created a minor obstacle to one candidate's campaigning by its not entirely consistent approach to enforcing the rules for campaign materials. On 6 June, Acting President Bakiev made a televised statement that use of administrative resources to his advantage during the election would not be permitted, and that government officials doing so would be doing him a "disservice." This position was reiterated in an 18 June presidential decree that obliged all levels of the state administration not to interfere in the electoral process and recommended the CEC to avoid arbitrary application of the Election Code.

The campaign environment was affected by events on 17 June, when several hundred people protesting the non-registration as a candidate of Mr. Baryktabasov stormed and briefly occupied the Government House in Bishkek, before being removed by riot police and dispersed from the city centre. Later that day acting President Bakiev issued a statement, widely disseminated through the media, that the organizers of the 17 June events would be prosecuted. He also associated the events of 17 June with his absence as acting Prime Minister since the previous day, and he consequently declared that he was rescinding his decision to take leave from that post, although he reinstated that decision the next day.²⁴

²² Citizenship of another state is not stipulated in the Election Code as a reason for refusing registration, but hiding citizenship of another state is cited as a reason for deregistration. Kyrgyzstan does not recognize dual citizenship, but the holding of a second citizenship by a Kyrgyz citizen appears to be tolerated. See also Section IX, Complaints and Appeals.

²³ Although some candidates stated that there were impediments to their electoral campaign, such as the removal of posters in Jalal-Abad (Mr. Bakir uulu), attacks on campaign staff in Talas (Mr. Umetalieva), removal of posters from taxis in Osh (Mr. Jekseev), their claims were not confirmed by the OSCE/ODIHR EOM. The candidates did not file complaints on these matters.

²⁴ Presidential candidates are required by law to leave state or government office during the election campaign, although this provision does not include the Prime Minister, and an incumbent President is explicitly exempt. In addition to Mr. Bakiev's taking leave as acting Prime Minister, Mr. Bakir uulu temporarily stepped down from his post as national human rights Ombudsman, and Ms. Umetalieva stepped down from her position of chairwoman of the association of NGOs and NCOs, although the law does not refer to NGO leaders.

A major consequence of the 17 June events was a visible strengthening of Mr. Bakiev's alliance with Mr. Kulov. On 18 June they issued a joint statement that reiterated their commitment to their May agreement, and on 20 June Mr. Kulov announced that he would be stepping down as the First Vice Prime Minister to participate in Mr. Bakiev's campaign.

The public association "Mekenim Kyrgyzstan," chaired by Mr. Baryktabasov, was accused by the authorities of orchestrating the 17 June protests. A search and sealing of "Mekenim Kyrgyzstan" offices across the country followed. A search warrant for Mr. Baryktabasov was issued, charging him with an attempt for violent change of the constitutional order. The events of 17 June and their aftermath, as well as three serious violent incidents just before the start of the campaign involving politicians or persons linked to them, contributed to an uncertain security situation in the pre-election period.²⁵

To promote support for the constitutional reform, parliament called on presidential candidates to support the draft constitutional amendments. At the initiative of the Speaker of Parliament and Chair of the Constitutional Council, Mr. Omurbek Tekebaev, this support was to be expressed in a televised address in parliament and by signing a pledge. In deciding this, parliament had suggested debate on postponement of the presidential election to autumn 2005 if candidates did not express their support for the draft constitutional amendments. All candidates except Ms. Umetalieva signed the pledge.²⁶

Mr. Bakiev's election campaign was very well resourced, its extensive infrastructure and high visibility differing markedly from that of his five competitors. His campaign involved well-attended and organized rallies, use of leaflets, billboards and TV advertising. Mr. Bakiev used government vehicles during the campaign, as permitted by legal provisions for ensuring the security of the head of state, although the use of a government helicopter to travel in certain parts of the country gave him a significant practical advantage in reaching voters, compared to his competitors.

Campaigning by other candidates could be characterized as low-key, and their regional headquarters infrastructures were basic or non-existent. The other candidates initially relied on collective meetings that were organized by the OECs and conducted by RECs/GECs in accordance with a schedule confirmed by the CEC. According to the EOM, at the initial stage of the campaign they were better attended and saw participation of up to five candidates. However, the interest of the public, as well as the attendance by candidates themselves, somewhat declined as election day drew closer. There were isolated problems with the organization of some of these meetings.²⁷

On 23 June police searched two campaign offices of Mr. Bakir uulu in Osh oblast, allegedly for evidence of ties between the candidate and the radical Islamic group Hizb ut-Tahrir. Mr.

²⁵ Member of Parliament Jirgalbek Surabaldiev was killed in central Bishkek by unknown gunmen on 10 June. On 9 June some 150 people attacked a market in the town of Karasuu, Osh oblast, as part of a dispute with Bayaman Erkinbaev, a Member of Parliament, businessman and withdrawn presidential nominee. On 13 June, in Osh city, protesters against Mr. Erkinbaev clashed with his employees outside his hotel, resulting in at least five people being shot, one fatally.

²⁶ Ms. Umetalieva claimed that the pledge favoured parliament over the people.

²⁷ On 28 June, in Tash-Komur (Jalal-Abad oblast), Mr. Aitikeev, Mr. Bakir uulu and Mr. Jeksheev arrived to attend a collective meeting, only to be informed by the GEC chairman and the mayor that they were not aware of this meeting being planned. According to the candidates a meeting in the nearby town of Mayлуу-Suu had to be cancelled for the same reason the day before. The CEC publicly criticized the organizational lapse by local administrations in Jalal-Abad oblast.

Bakir uulu's campaign staff officially protested that the searches might have an adverse effect on his campaign and reputation.²⁸

All printed campaign materials had to be submitted to a CEC working group for scrutiny that they did not breach the rules for campaigning. Mr. Bakir uulu was recommended by the working group to make changes to the materials he submitted, including removal of a photograph of the candidate with the Mufti of Central Asia, which delayed the printing of his campaign materials. There appeared to be an inconsistency in the working group's approach towards Mr. Bakir uulu and Mr. Bakiev, since it did not comment when the latter's campaign materials submitted to it included a campaign newspaper from 15 June featuring a photograph of Mr. Bakiev with the Mufti of Russia. Nevertheless, on 28 June the working group commented on an incorrect marking of Mr. Bakiev's campaign posters. After a second notification from the working group, Mr. Bakiev's campaign corrected the posters and removed them before election day.

OSCE/ODIHR EOM observers in five oblasts noted that, before election day, Mr. Bakiev's posters and other campaign materials were displayed in the premises of 20 PECs, in breach of the Election Code. Otherwise, there was no evidence during the campaign of unequal treatment of candidates from the side of state or electoral authorities.

VIII. THE MEDIA

A. BACKGROUND

The general media atmosphere underwent change since the ouster of President Akaev in March. Previously, there had been a deficit of alternative information sources, specifically no independent television channels, and reported cases of pressure against media. Although structural challenges remained, such as lack of funding and limited professional standards in journalism, certain processes aimed at improving the media sphere were initiated.

While according to the Ministry of Justice there are more than 1,300 media outlets registered, in reality fewer than half of them are operating. In general, citizens' access to media appears relatively limited, especially outside the capital. State-funded *KTR* (Kyrgyz Television and Radio Corporation) covers most of the territory and is considered to be the primary source of information. Prior to the election, the state-controlled Kyrgyz Telecom provided almost all remote areas, which had been hitherto unable to receive the signal of State television, with the necessary equipment. On 1 July the Ministry of Transport and Communication announced a similar project to extend the reception of State-funded radio.

Newspaper circulation is limited or non-existent outside urban areas. The newspapers with the widest circulation are three State-funded publications—*Slovo Kyrgyzstana*, *Kyrgyz Tuusu* and *Erkin Too*, the country's only daily *Vecherniy Bishkek*, and recently also *Agym*, which is notable for being critical of the authorities.

In the aftermath of the March events, the most visible recent media problem – the high degree of political influence on the editorial policy of the State-funded media – was criticized by civil society and became one of the priorities for the acting authorities. As a result, there were

²⁸ A letter of 25 June 2005 signed by Mr. Bakir, chairman of the Southern regional headquarters of Mr. Bakir uulu, was sent to the Prosecutor General, Acting Minister of Interior, and others.

media-reform initiatives aimed at introducing modern and transparent legislation regulating public service media and general broadcasting conditions, including efforts to establish a public television channel with diverse representation in its controlling bodies and to eliminate subsidies for State-run newspapers. The main steps were the establishment of a Working Group on reforming the State-funded media,²⁹ a well attended NGO-organized Media Forum,³⁰ and discussions on the draft Law on Broadcasting in parliamentary committee.

A new television channel, *NTS*, was launched in March, and many media outlets began redefining their editorial policy. On 20 June an independent Kazakh TV company, Channel 31, announced the purchase of Kyrgyzstan's *NBT* channel.

B. LEGAL FRAMEWORK FOR THE MEDIA

Various laws govern the media environment,³¹ with the Election Code as the main basis for conducting an election campaign through the media. Article 16 of the Kyrgyz Republic Constitution guarantees freedom of expression and speech, freedom to receive, transform and distribute information, and prohibits censorship. At the same time, the Criminal Code in Articles 127 and 128 still contains provisions on slander and insult, despite continuing discussion and media and civil society initiatives to remove them. As set out in Article 7 of the Law on Professional Activities of Journalists, journalists are obliged to provide objective information.

The Election Code provides all candidates with the right of free airtime and print space in the State-funded media in order to convey their political platforms. Through a lottery, the CEC allocated free time on the State-funded *KTR* for advertising spots, individual speeches and debates. Although only Mr. Bakir uulu and Mr. Jeksheev used all available formats, all candidates participated in a series of three debates, aired live during the last week of the campaign, each of which paired two candidates.³² However, two candidates, including acting President Bakiev, did not appear at a final joint debate, broadcast on July 8 in addition to the planned schedule. This was a missed opportunity for the electorate to hear the views of all candidates, and deprived the other candidates of a limited chance to address questions and comments directly to Mr. Bakiev on his performance in office.

Generally, *KTR* adhered to the legal requirements regarding candidates' free time allocation; the CEC's information programmes, and live broadcasting of the nominees' language proficiency tests.

Article 31.3 of the Election Code still contains a restrictive provision banning publication of opinion polls from the beginning of the election campaign. Private television *NBT* aired results of a phone-in poll of support for the presidential candidates for four days from 27 June. The poll was stopped as a result of a telephone warning by the CEC.

²⁹ The Working Group was established on 25 May by Decree of acting President Bakiev and composed of thirteen members, including politicians, representatives of state bodies, State-funded media and NGOs.

³⁰ Jointly organized by Internews, Soros Foundation and USAID on May 31.

³¹ *The Law on Mass Media* (1992), *the Law on Professional Activities of the Journalists* (1997), *the Law on Administrative Penalties* (1998).

³² Mr. Jeksheev with Ms. Umetalieva, Mr. Bakir uulu with Mr. Duishebaev, and Mr. Aitikeev with Mr. Bakiev.

C. MEDIA MONITORING

The OSCE/ODIHR EOM monitored primetime programmes of six television channels,³³ morning news of two radio stations,³⁴ and twelve Kyrgyz and Russian language newspapers,³⁵ using qualitative and quantitative analysis. The monitoring exercise started on May 26, with a special focus on the official election campaign from 14 June. The EOM sought to assess whether the media provided impartial and balanced coverage of the contestants and other aspects of the political and campaign environment.

Although the election legislation contains provisions governing the conduct of electronic and print media during the official campaign, it remains unclear about the media's role in providing information about contestants and campaigning on their behalf. Although the CEC, together with the United Nations Development Programme (UNDP), tried to motivate media election reporting by means of a journalists' competition, the CEC's rigorous interpretation of the media's role in providing information about contestants and campaigning on their behalf appeared to discourage commentary and thorough critical analysis by the media.

The election news coverage was generally low-key, both in national and regional media. Candidate-related coverage in most media monitored by the EOM was characterized by very extensive reporting on Mr. Bakiev's activities, presenting him mostly in his capacity of acting President rather than as a candidate. Overall, the attention given to Mr. Bakiev in most media, including the State-funded media, was beyond what was reasonably proportional to his role as acting head of state.

Outside the free time, in their news bulletins the State-funded television and radio during the official campaign allocated 83 and 85 per cent of their candidate-related news coverage respectively to Mr. Bakiev, exclusively neutral and positive in tone.³⁶ In the week before the election, State-funded television screened two special feature programs which promoted his personal contribution to the recent political changes and developments in Kyrgyzstan.³⁷

Private electronic media adopted a similar approach by devoting to Mr. Bakiev the overwhelming majority of their candidate-related news coverage. For example, *NBT* and *Piramida* gave him 84 and 81 per cent of candidate-related coverage respectively, almost all positive and neutral in tone. *KOORT* and *Radio Azattyk* presented some critical remarks about Mr. Bakiev, but nonetheless his portrayal was also mostly neutral and positive and accounted for 75 and 72 per cent respectively of candidate-related news coverage on these two outlets.³⁸

While the other candidates were granted limited news coverage, they had access to the electronic media through televised debates, other use of free airtime, and paid advertising.

While the print media offered a wider range of information, most of them also displayed an unbalanced picture. The acting President enjoyed preferential treatment, both in terms of space and tone, while little coverage was given to the others. All three State-funded

³³ *KTR, KOORT, NBT, NTS, Piramida* and *Osh TV*.

³⁴ *KTR Radio* and *Radio Azattyk*

³⁵ *Aalam, Agym, Argumenty i Fakty, Delo Nomer, Erkin Too, Komsomolskaya Pravda, Kyrgyz Ruhu, Kyrgyz Tuusu, MSN, ResPublica, Slovo Kyrgyzstana, Vecherniy Bishkek*.

³⁶ News coverage of Mr. Bakiev in his capacity as acting President was 60 per cent of his total coverage on State-funded television and 52 per cent of his total coverage on State-funded radio.

³⁷ The two programs were "*New government, new initiatives*" and "*Hard way to truth*".

³⁸ News coverage of Mr. Bakiev in his capacity as acting President was, as a percentage of total coverage, 51 per cent on *NBT*, 64 per cent on *Piramida*, 32 per cent on *KOORT* and 32 per cent on *Radio Azattyk*.

newspapers exhibited clear bias in favour of Mr. Bakiev, allocating him more than 90 per cent of candidate-related coverage, mostly neutral and positive in tone.³⁹ While the Russian language weekly newspaper *Argumenty i Fakty* presented fairly balanced treatment of contestants, its impact remained limited due to low circulation.

A number of media outlets showed interest in covering other aspects of the political scene, as seen in the amount of coverage of the activities of parliament, which in certain media was greater than the coverage of presidential candidates. As a positive development, the State-funded television introduced several programmes after the March events to discuss the work of parliament as well as other political and social questions.⁴⁰

There were no observed media violations of the campaign silence period in effect for 24 hours before the start of voting.

IX. COMPLAINTS AND APPEALS

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

The general environment for handling complaints in the courts was affected by issues remaining from the parliamentary elections, including ongoing court cases. The Supreme Court was occupied and therefore not functioning for several weeks up to 13 June, and the backlog of cases that built up appeared to affect the prompt handling of complaints related to the presidential election. In two instances the Supreme Court heard an appeal in a case related to candidate registration in the presidential election later than five calendar days after it was lodged, breaching the requirement in the Election Code.⁴¹ Delays in resolving cases have a negative effect on the election process, especially in early elections when all timeframes are shortened, and such shortcomings do not contribute to confidence in the judiciary. There was an element of formalism in the approach taken by the courts towards appeals, but also poor legal argument by complainants' representatives in some cases.

The OSCE/ODIHR EOM did not observe political motivation from the side of the court in any of the election related appeals. Nevertheless, both the courts and the CEC appeared not to take a fully balanced and consistent approach towards two nominees who pursued court complaints against non-registration as candidates, Ms. Ibragimova and Mr. Baryktabasov.

³⁹ Coverage of Mr. Bakiev in his capacity as acting President was in all three State-funded newspapers more than 70 per cent of his total coverage.

⁴⁰ For example, the show "Unpleasant Questions", together with *Radio Azattyk*.

⁴¹ Art. 55.10 of the Election Code. Ms. Ibragimova's appeal to the Supreme Court was filed on 14 June and was heard on 22 June. Mr. Satybaev's appeal was filed on 23 June and heard on 30 June.

As a positive step, the CEC posted on its website an analysis of complaints received by the commission. However, this analysis was not always up to date, thus diminishing the positive effect of this transparency measure.

A. COMPLAINTS AND APPEALS ABOUT CANDIDATE REGISTRATION

As noted above, the CEC took formal decisions on the non-registration of six nominees. Three of them contested their non-registration in court.

Ms. Ibragimova claimed to have collected a sufficient number of signatures, but to have been unable to submit them to the responsible election commissions due to misinterpretation by the commissions of the deadline for submitting signatures for verification. By the deadlines applied she had a modest shortfall of signatures,⁴² and following the filing of a complaint by Ms. Ibragimova the Pervomaysky district court in Bishkek ruled on 9 June that the deadline for submission of the signatures was 2 June and that additional signatures could be submitted to the Bishkek City Election Commission. Notably, the ruling of the district court covered only the Bishkek City Election Commission and not the other eight commissions responsible for the first stage of signature verification.

Ms. Ibragimova submitted additional signatures to the Bishkek City Election Commission, but the signature verification process up to the level of the CEC then invalidated her signatures in a quantity sufficient to again leave her below the threshold of 50,000.⁴³ A subsequent appeal by Ms. Ibragimova against the narrowness of the original court ruling, and a separate court complaint against the actual non-registration, both failed. It should be noted that the initial narrowness of the court decision and failure of her further complaints and appeals were partly caused by the legal argument used by the complainant's representatives.

The public association "Mekenim Kyrgyzstan," headed by Mr. Baryktabasov, filed a complaint on 14 June against the CEC's decision not to register Mr. Baryktabasov as a candidate. Pervomaysky district court ruled on 22 June that Mr. Baryktabasov had lost Kyrgyz citizenship by acquiring citizenship of Kazakhstan, and this was confirmed by the Supreme Court on 30 June. The OSE/ODIHR EOM is not in a position to comment on the soundness of the courts' decisions, but notes that the district court appeared not to pay due consideration to the argument that the relevant Kyrgyz authorities had not received the necessary documents from Kazakhstan and consequently had not registered the loss of Mr. Baryktabasov's Kyrgyz citizenship. Questions arise about consistent application of the law, as the court did not assess in its decision Mr. Baryktabasov's argument drawing attention to the apparently analogous court case, heard earlier in the candidate registration process, of nominee Mr. Apasov, who was ruled to have retained Kyrgyz citizenship despite having acquired Russian Federation citizenship.⁴⁴

Nominee Amanbay Satybaev lodged a complaint with the Pervomaysky District Court against the CEC's decision not to register him, arguing that he had been unable to collect the required number of signatures due to the CEC's alleged slowness in registering his representatives. The court ruled against him on 21 June, and the Supreme Court on 30 June rejected his appeal. Some of the arguments of Mr. Satybaev in court appeared to lack evidential grounds.

⁴² According to the Information from the CEC at that time she had slightly over 48,000 signatures.

⁴³ The final number of valid signatures for Ms. Ibragimova was 47,525, after invalidation of 4,620 signatures.

⁴⁴ Pervomaysky District Court ruling on 4 June 2005.

B. COMPLAINTS RELATING TO THE CAMPAIGN AND MEDIA

On 7 May 2005, the CEC created a Working Group on Control over the Campaign. This comprised nine people including civil sector representatives and two members of the CEC. For the whole period of its operation, the Working Group held 12 sessions and considered 24 separate matters,⁴⁵ although its operations were in some respects ineffective and involved delaying responses to issues addressed to it. Complaints that the Working Group addressed varied from allegations of early campaigning to allegations of vote buying. The Working Group's functions included oversight of the campaign and media compliance with the legal requirements relating to the election, and in the course of the campaign it reviewed several complaints, including three media related complaints, challenging early campaigning and the content of campaign materials of different candidates. By way of response, the Working Group in four cases issued a warning to individual candidates, and two cases were passed to law enforcement bodies for further investigation.

Two complaints by nominee Nazarbek Nyshanov to Pervomaysky district court about early campaigning by Mr. Bakiev were ruled inadmissible. Both decisions were upheld on appeal to the Supreme Court. The main subject of the complaint was a leaflet of Mr. Bakiev's campaign allegedly distributed before the start of the campaign period. Although it appears plausible that the leaflets were indeed distributed early, the arguments brought in the court were weak and without evidence.

C. OTHER COMPLAINTS

According to the CEC analysis of complaints posted on its website, the CEC received 26 complaints and appeals in the period up to 9 July. In response to these, the CEC provided explanations and clarifications, and in one instance a warning.⁴⁶ The CEC did not uphold a formal joint complaint by eight nominees concerning incorrect information being spread among voters that they could sign for only one nominee, and although the CEC Chairman publicly acknowledged the problem, effective remedial measures appeared lacking.

According to the CEC, it received 23 complaints on election day countrywide.⁴⁷ Election day complaints were on various matters including illegal transportation of voters, violation of observers' rights, breach of inking procedure, problems with voters list and ballot stuffing. The majority of these were directed by the CEC for further review by relevant lower level commissions, and the facts of some of these complaints were checked by the relevant prosecutor's office and found to be spurious. In one instance, a warning was issued to the respective PEC Chairperson. In general the CEC concluded that the facts of violations indicated in these complaints did not affect the accuracy of results of the election and did not constitute grounds for invalidation of the election.

The Coalition for Democracy and Civil Society, the leading NGO conducting domestic observation of the election, reported at the end of July that some courts were not reviewing complaints about violations of the Election Code and citizens' electoral rights.⁴⁸

⁴⁵ According to the information received from the CEC during a session on 13 July 2005.

⁴⁶ Warning to Mekenim Kyrgyzstan to refrain from breaching the campaign timeline.

⁴⁷ Ten of these complaints were from the city of Osh.

⁴⁸ Statement of the Coalition for Democracy and Civil Society, 27 July 2005. It cited examples of Kochkor and Batken district courts.

X. PARTICIPATION OF WOMEN

There was one woman among the six candidates, Ms. Toktayym Umetalieva, the first time a woman has contested a presidential election in Kyrgyzstan. Two other women were nominated but did not pass the signature collection/verification stage. Factors that may lie behind the low women candidacy rate include traditional societal values and high entry barriers such as the inability of women candidates to gather sufficient funding.⁴⁹

The level of women's representation in the upper levels of the election administration was modest. There are only three women among the 13 members of the CEC, and only one among the nine OEC chairpersons. Women were much better represented in the election administration at the REC/GEC level (36 per cent) and PEC level (52 per cent), including almost 40 per cent in the position of PEC chairperson. On election day, there was a positive correlation between women holding the position of chairperson and the quality of the conduct of the voting process.⁵⁰

XI. PARTICIPATION OF MINORITIES

All six presidential candidates were from the majority Kyrgyz community, which comprises around two-thirds of the population of Kyrgyzstan. Nominees were required to pass a proficiency test in the Kyrgyz language.

Issues relating to national minorities did not feature in the campaign, with none of the candidates making contentious or divisive comments about ethnic relations in the country. On the contrary, all candidates called for interethnic harmony and inclusiveness as essential for the country's stability.

National minorities featured in the membership of lower level election commissions, although appropriate national minority representation was not fully achieved in all areas. In certain locations in Osh region with a large Uzbek population, PECs took the initiative to display polling station instruction materials in the Uzbek language as well as in Kyrgyz.

Candidate debates were broadcast in the Uzbek language on private television in Osh. This constituted a significant step in promoting the inclusion of this group in the election process.

XII. DOMESTIC OBSERVERS

There was notable civil society involvement in the elections, with non-governmental organizations making nominations to and participating in lower-level election commissions, and cooperating in highly visible voter education and mobilization initiatives.

⁴⁹ The OSCE/ODIHR had similar observations in relation to the February-March 2005 parliamentary election, when only 10 per cent of candidates were women.

⁵⁰ The work of PECs chaired by women was assessed as "bad" or "very bad" in only 4 per cent of observations, while PECs chaired by men were assessed negatively in 8 per cent.

On 9 June, seven NGOs came together to launch the joint campaign “I am for fair elections”. The main goal of this campaign was to monitor elections in all the regions of Kyrgyzstan, to raise the level of transparency of the election process and to combat abuse of administrative resources. One of these seven groups, the Coalition for Democracy and Civil Society, conducted the most extensive domestic observation effort, with 150 long-term observers, and around 3,000 short-term observers deployed to 1,500 PECs on election day. In a small number of cases observers from the Coalition reported obstruction in their observation inside the polling stations, but such problems were apparently resolved and there were no substantial complaints from this group.

Overall, domestic observers were present in 87 per cent of polling stations visited by the IEOM during voting and during 93 per cent of counts.

XIII. OBSERVATION OF VOTING AND COUNTING

A. VOTING

IEOM observers assessed the voting process as “good” or “very good” in 93 per cent of polling stations visited.⁵¹ Specific problems that were observed in a higher proportion of polling stations included:

- unauthorized persons present in 19 per cent of polling stations, including police in the voting room, during the voting in 14 per cent;
- the practice of inking voters’ fingers, which had been introduced in advance of the February-March 2005 parliamentary elections, did not always take place in 9 per cent of polling stations observed. Problems with inking were particularly noted in the Osh region;
- procedures for mobile voting were assessed negatively in 43 percent of observations.⁵² Problems included lapses in applying the required security measures and maintaining secrecy of the vote. There were at least two observed instances where the regulation was breached that mobile voting only be provided to those who had requested it in advance.

A few observations were of serious concern. There was evidence of ballot stuffing during both voting and counting at PEC 10 of Kara-Kulja REC (Osh oblast).⁵³ An attempt at ballot stuffing was directly observed at PEC 8 of Suzak REC (Jalal-Abad oblast),⁵⁴ and a possible attempt at ballot stuffing involving multiple ballot papers being confiscated from a person in the polling station was observed at PEC 389 of Nookat REC (Osh oblast).

⁵¹ Voting was observed by the IEOM at over 1,300 of the approximately 2,150 polling stations countrywide.

⁵² The IEOM observed mobile voting conducted from 56 polling stations.

⁵³ Possible evidence of ballot stuffing, in the form of clumps of ballots observed in the ballot boxes that did not appear to have formed randomly, were also seen in PEC 268 of Sokuluk REC, PEC 340 of Jayil REC and PEC 87 of Issyk-Ata REC (all in Chui oblast); PEC 104 of Aksuu REC (Issyk-Kul oblast); PEC 157 of Bazar-Korgon REC and PEC 346 of Aksy REC (both in Jalal-Abad oblast); PEC 360 of Aravan REC, PEC 375 of Nookat REC, PEC 2 of Kara-Kulja REC, PEC 63 of Ozgon REC and PEC 300 of Osh REC (all in Osh oblast); and PEC 8013 of Leylek REC (Batken oblast).

⁵⁴ In this instance there were suspicions of collusion with a candidate-appointed observer. When spotted by the PEC member and domestic observers the perpetrator was pushed out of the polling station by a candidate-appointed observer rather than being apprehended and the police called.

Instances of deliberate wrongdoing by PEC members were rare but serious.⁵⁵ Implausible turnout figures were also noted.⁵⁶ At PEC 374 of Nookat REC, IEOM observers noted large sections of the voter list with signatures against all names, indicating all had voted, although the signatures appeared to have been made by the same hand.

Transporting of voters to polling stations is permitted if organized by local or election authorities, but not if organized by or on behalf of candidates. A representative of Mr. Bakiev at PEC 20 of Suzak REC and the Chairperson of PEC 5 of Kemin REC (Chuy oblast) told IEOM observers that buses had been organized by the Bakiev campaign to bring supporters to vote. At PEC 191 of Karasuu REC a vehicle provided by the local administration to bring voters displayed a poster of Mr. Bakiev.

IEOM observers reported that voters always or mostly folded their ballots prior to depositing them in the ballot box in 99 per cent of polling stations observed. This appeared to be an improvement over the February-March 2005 parliamentary elections, in which the introduction of transparent ballot boxes and the lack of information instructing voters to fold their ballots raised concerns about secrecy of the vote in many PECs.

B. COUNTING AND TABULATION OF RESULTS

The quality of the election day process deteriorated somewhat during the vote counting and the results tabulation phases. Counting was assessed as bad or very bad by IEOM observers in 35 percent of the polling stations where it was observed, including incorrect data recorded in voter lists or protocols in 10 per cent of polling stations, although the problem appeared to be principally one of unfamiliarity with the procedures and insufficient training of PECs, rather than deliberate malpractice intended to produce falsified results.

There were serious breaches of transparency safeguards, including a failure to announce out loud the voters' choice in 57 out of 101 counts observed. A significant number of PECs appeared to have difficulty completing protocols. In 17 per cent of cases observed, protocols were not filled out in ink, with some being filled out in pencil and others being submitted incomplete or blank but signed to the RECs/GECs.⁵⁷

⁵⁵ In PEC 351 of Aravan REC, and PECs 384, 385 and 427 of Nookat REC (all in Osh oblast) PEC members were observed instructing voters who to vote for. In four instances, observers were made aware that a PEC had prevented violations only because of the observers' presence: commission members at PEC 359 of Aravan REC, PEC 10 of Kara-Kulja REC and PEC 240 of Karasuu REC (all in Osh oblast) were overheard telling voters who were apparently intending to vote on behalf of other people that they could not do this while the international observers were there. At PEC 1008 of Leninskaya REC (Bishkek), the presence of IEOM observers was the reason stated by the commission to a would-be voter why they could not allow him to vote without a proper identity document. Multiple voting with the connivance of a PEC member was observed at PEC 1089 of Oktrybrskaya REC (Bishkek), and an attempt at the same was observed at PEC 400 of Nookat REC. A member of PEC 422 of Nookat REC was directly observed voting three times.

⁵⁶ For example, figures given to IEOM observers by the chairman of PEC 8013 of Leylek REC (Batken oblast) showed that at midday turnout had jumped by 630 voters in the space of 50 minutes, while in PEC 195 of Karasuu REC, 281 voters were recorded as having voted in the space of 45 minutes. For a list of implausible turnout figures and results as published by the CEC, see Annex A.

⁵⁷ Protocols were observed being filled out in pencil at PEC 226 of Karasuu REC and PEC 311 of Osh REC. Blank or incomplete protocols were accepted by Aksy, Aravan, Atbashi, Issyk-Kul and Kadamjay RECs.

It was observed that PEC representatives made changes to completed and signed protocols without recounts after their delivery to nearly a third of RECs/GECs (18 of 56).⁵⁸

The majority of PEC results protocols were put on the CEC website immediately after aggregation at RECs/GECs. Comparison by the OSCE/ODIHR EOM of 87 protocols received by its observers with the results for those PECs as recorded on the website showed that 39 had discrepancies between the two sets of figures, although there were no discrepancies in the number of votes recorded for the candidates. The protocol from PEC 1162 (Bishkek Pervomaysky REC), where the results of out-of-country voting were recorded) was not displayed on the CEC website five days after election day, nor did the CEC put its final protocol with the countrywide results on the website.

XIV. ANNOUNCEMENT OF RESULTS

The CEC formally approved the election results on 13 July, and forwarded the results protocol to the Constitutional Court for endorsement, which it gave on 16 July. Mr. Bakiev was declared the winner, with 88.71 per cent of the votes, on the basis of a reported turnout of 74.67 per cent. In six RECs, turnout was reported as being over 90 per cent, with 69 PECs in these areas reporting over 98 per cent turnout.⁵⁹

The votes cast for the individual candidates were as follows:

| | Name of the candidate | Number of votes | Per cent |
|-----------|-------------------------|------------------|---------------|
| 1. | Akbaraly Aitikeev | 72,604 | 3.62% |
| 2. | Kurmanbek Bakiev | 1,776,156 | 88.71% |
| 3. | Tursunbay Bakir uulu | 78,701 | 3.93% |
| 4. | Keneshbek Dushebaev | 10,253 | 0.51% |
| 5. | Jypar Jeksheev | 18,166 | 0.90% |
| 6. | Toktayym Umetalieva | 10,445 | 0.52% |
| 7. | Against all candidates | 18,197 | 0.90% |

Another 17,456 ballots were recognized as invalid.

According to information from the CEC after the election, an investigation into polling day irregularities was to take place under the auspices of an independent committee “For Fair Election”. Although the committee was set up, it appears to have investigated only in a *pro forma* manner. This constitutes a missed opportunity to hold accountable those persons who violated the law on election day.

⁵⁸ Changes were made to incorrect protocols by PECs, without recounts, at Aksy, Mayлуу-Suu, Issyk-Ata, Nookat, Ozgon, Kadamjay, Batken, Toktogul, Manas, Jety-Oguz, Tyup, Kemin, Gulcho and Ton RECs and at Jalal-Abad, Osh, Kyzyl-Kiya and Karakol TECs.

⁵⁹ Turnout over 90 per cent was reported by Chatkal, Suzak and Toguz-Toro RECs in Jalal-Abad oblast; Chong-Alai and Kara-Kulja RECS in Osh oblast; and Leylek REC in Batken oblast. Turnout of over 88 per cent was reported by Jalal-Abad, Sulyukta and Osh Town Election Commissions and Aksy REC.

XV. RECOMMENDATIONS

Following the observation of the 10 July 2005 early presidential elections, the OSCE/ODIHR is pleased to offer the following recommendations for consideration by the authorities of the Republic of Kyrgyzstan.⁶⁰

A. LEGAL FRAMEWORK

1. The 50 per cent turnout requirement in the Election Code, based on a provision in the constitution, creates the potential for a cycle of failed elections and may be conducive to electoral malfeasance. The OSCE/ODIHR recommends that this provision be removed from the Constitution and the Election Code.
2. The 15 year residency requirement in order to register as a presidential candidate should be clarified in the Constitution and the Election Code. The method of calculation of the 15 years must be clearly indicated as consecutively (i.e. 15 years continuously immediately prior to nomination) or cumulatively (i.e. an aggregate total of 15 years up to the date of nomination). The mode of determining residency should also be clearly defined.
3. Rules and procedures for out-of-country voting should be explicitly described in the Election Code.
4. It is recommended to include in the Election Code a standard method of calculating time periods in the electoral calendar in situations where shortened timeframes are applied.
5. The Election Code should be amended to require the publication of provisional results by polling station on the CEC website as they become available. This would reflect the current, commendable practice of the CEC.
6. The option to vote against all candidates should be removed from the Election Code.

B. ELECTION ADMINISTRATION

7. The provisions in the Constitution and the Law on the Central Election Commission should be amended with a view to strengthen CEC impartiality.
8. During the entire election period the CEC, OECs and RECs/GECs should hold regular sessions, open for observers, at pre-scheduled times as necessary. Election commissions at all levels should make their decisions in open sessions without exceptions.
9. Where possible, the number of voters per polling station should be reduced in cases where the current number is in excess of 1,500 in order to improve the administration of the process. A decrease in the number of voters would alleviate some of the strains on the voting and counting processes.

⁶⁰ These recommendations should be read in conjunction with the "OSCE/ODIHR Interim Recommendations for the Kyrgyz Republic Early Presidential Election", www.osce.org/documents/odihr/2005/04/13831_en.pdf, as well as with the recommendations contained in the OSCE/ODIHR Final Report for the 27 February and 13 March 2005 parliamentary elections in the Kyrgyz Republic, www.osce.org/documents/odihr/2005/05/14456_en.pdf.

10. The CEC calendar should indicate concrete dates as deadlines (date and time) instead of the number of days before the election day, to avoid any possible confusion.

C. CANDIDATE REGISTRATION

11. The minimum number of signatures required for registration of candidates should be reconsidered in the line with international best practice and should not exceed 1 per cent of the total number of registered voters.
12. The validity of all signatures should be checked up until the point that it is established that there are sufficient valid signatures or that there are no more signatures to check.
13. The combined requirement for a minimum number of valid signatures and a financial deposit for candidate registration should be reconsidered. If the financial deposit is retained, the threshold of obtaining at least 15 per cent of the vote for a candidate to have the deposit returned should be substantially lowered.

D. MEDIA

14. The authorities should adopt legislative changes in order to create a more transparent electronic media environment. In addition previous OSCE/ODIHR recommendations in this respect, consideration should be given to the establishment of a transparent licence procedure, including all necessary requirements for the applicants, granting of licenses by public auction and a system of concrete sanctions.

E. VOTER LISTS

15. A comprehensive voter registration regulation should be published by the CEC. It should provide a uniform interpretation of existing legislative and administrative acts, and set a standard for compiling voter lists. The regulation should give clear instructions for citizens and all bodies involved in the compilation of the voter lists in order to improve accuracy, enhance transparency, clarify responsibilities and increase the accountability of the compilation of the voter lists.
16. A transparent review of the GAS Shailoo system should be conducted. The ability of the system to detect duplicate registrations and deceased citizens should be assessed, documented and if necessary improved, including registration of death certificates and inclusion of additional personal information.
17. Legislation should include sanctions and respective enforcement mechanisms for such officials that have been appropriately informed by citizens and have failed to provide accurate voter lists.
18. Consideration should be given to developing a reliable, efficient system for civil registration as a basis for voter registration. A national campaign of issuing the citizens of the Kyrgyz Republic with proper identification documents could improve the accuracy of the voter lists.

F. VOTING PROCEDURES

23. The results protocol form used by PECs could be simplified. PEC as well as REC/GEC members should receive special training on counting procedures as well as on filling the protocol. Leaving a protocol blank or not compiling it in ink should be prohibited and sanctioned by law.

ABOUT THE OSCE/ODIHR

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

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

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

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

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

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

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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

More information is available on the ODIHR website (www.osce.org/odihr).