



Office for Democratic Institutions and Human Rights

REPUBLIC OF TAJIKISTAN

PRESIDENTIAL ELECTION
11 October 2020

ODIHR Election Assessment Mission
Final Report



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I. EXECUTIVE SUMMARY

Following an invitation from the Ministry of Foreign Affairs, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Assessment Mission (EAM) for the 11 October presidential election. The mission assessed the compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections and with national legislation.

The presidential election took place within an environment tightly controlled by state authorities and characterized by long-standing restrictions on fundamental rights and freedoms, including of association, assembly, expression, media, and harassment and intimidation of dissenting voices. The law places the incumbent president in an unduly advantageous position compared to other candidates. There was no genuine political alternative offered to voters, with only contrived debate between formal candidates and lack of independent media covering the campaign. The electoral process lacked credibility and transparency, including on election day. Comprehensive reforms are required in order to align the electoral process with Tajikistan's OSCE commitments and other international obligations and standards for democratic elections.

The president has substantial executive powers to determine domestic and foreign policy, and retains control over executive authorities at all levels and the judiciary. The incumbent president is granted special status and unique legal privileges by both the Constitution and the legislation, including a personal exemption from the normal presidential term limits. The president is elected directly by a popular vote for a seven-year term by an absolute majority of votes cast.

The legal framework contains numerous and undue restrictions on electoral rights and fundamental freedoms, including the right to vote and the right to stand for elections, the freedom of assembly and association and freedom of expression. The electoral law has significant gaps, leaving several areas of the electoral process, including election campaign and campaign finance, largely unregulated. Recent legal amendments did not address previous ODIHR recommendations related to the integrity and credibility of elections.

The election was organized by the Central Commission for Elections and Referenda (CCER), 68 District Election Commissions and 3,375 Precinct Election Commissions (PECs). The CEC published a calendar of activities, issued guidance for lower-level election commissions and prepared voter information to mobilize the electorate. However, the transparency of election administration was limited. The impartiality and independence of election administration also remain of public concern.

Voter lists are compiled by the PECs anew for each electoral process. There is no centralized voter register and no legal or practical safeguards against multiple voter registration either prior to or on election day. The law continues to disenfranchise prisoners and persons with disabilities, at odds with international standards. A total of 4,900,545 voters were registered for this election.

The CCER registered five candidates. Candidates are nominated by political parties, and self-nominated candidates are not permitted. Candidates are required to collect unreasonably high number

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

of supporting signatures for registration. The law continues to impose restrictions on candidacy rights, such as based on length of residency, education, disability and criminal records, often discriminatory, contrary to OSCE commitments and international obligations and standards for democratic elections.

The campaign took place within an environment tightly controlled by the authorities, with little genuine debate among candidates or political parties, and with an overwhelming advantage afforded to the incumbent president, both by the media and via the use of administrative resource. As such, the campaign lacked competitiveness and did not offer voters a genuine, informed choice.

Women are underrepresented in political life in general, especially in decision-making positions. None of the candidates were female. Some party programmes addressed issues concerning women, including proposing allowances for women with large families and aiming to close the average income gap between women and men.

The law contains minimal provisions on campaign funding. It does not establish any reporting and publishing requirements or an oversight mechanism providing for the transparency of campaign finance.

Political discussion in the media was negligible and the media is considered subservient to the authorities. Critical online sources are observed to be frequently blocked without justification, and self-censorship in the media is commonplace. Journalists speak of routine intimidation by the authorities, including through the arbitrary implementation of media accreditation rules. Insult and slander of the president or other state officials in the media or on social networks is a criminal offence.

The legislation establishes a dual jurisdiction system for the resolution of election related complaints. The lack of clarity in the jurisdictions may undermine the right to an effective remedy and is not conducive to legal certainty. The timeline established for announcing election results effectively precludes the possibility of an effective legal redress regarding election results. The newly introduced complaint resolution mechanism could not be tested, as reportedly no complaints were filed with any bodies.

There are no provisions for observation by non-partisan citizen observers. Civil society largely avoids discussion of election-related matters. International observers and party proxies can observe the electoral process; however, their activities are limited in time and in practice, which undermines meaningful observation of the entire process.

In line with ODIHR methodology, the ODIHR EAM did not conduct a comprehensive or systematic observation of election day proceedings, but visited a limited number of polling stations that were adequately equipped. Voter turnout data reported from the polling stations visited appeared to be significantly inflated, and serious irregularities were observed during the election day, including but not limited to proxy voting. The ODIHR EAM was not allowed to meaningfully observe the counting and tabulation processes.

This report offers recommendations to support efforts to align elections in Tajikistan with OSCE commitments and other international obligations and standards for democratic elections. Given the important reforms required, the present report includes only priority recommendations related to comprehensive legal reform, equal and fair treatment of all candidates by law and in practice, independent and impartial election administration, accuracy of voter registration, meaningful campaign opportunities, campaign finance transparency, media freedom, guarantees of effective legal redress, unhindered citizen and international election observation, integrity of election day proceedings as well as overall transparency of electoral process. ODIHR stands ready to assist the authorities to address the recommendations contained in this and previous ODIHR reports.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Ministry of Foreign Affairs of the Republic of Tajikistan (MFA) issued on 10 September 2020, based on the recommendation of a Needs Assessment Mission conducted from 9 to 12 December 2019, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Assessment Mission (EAM) on 26 September.² The ODIHR EAM was headed by Ivilina Alexieva-Robinson and consisted of seven experts drawn from six OSCE participating States. The ODIHR EAM was based in Dushanbe and visited the districts of Faizobod, Hisor, Nurek, Rudaki, and Vahdat.

The electoral process was assessed for compliance with OSCE commitments, other international obligations and standards for democratic elections, and with national legislation. A complete assessment of the key areas of the electoral process according to established procedure was not feasible, due to a curtailed accreditation period, which prevented the ODIHR EAM from following any post-election day developments. Other complications included late invitation and considerable delays encountered in obtaining meetings with requested state and government interlocutors.³ Whilst most officially requested meetings were eventually honoured, informative responses from the institutions within those meetings were often not forthcoming.

The ODIHR EAM wishes to thank the MFA and the Central Commission for Elections and Referenda (CCER) for their co-operation. The ODIHR EAM expresses its appreciation to civil society organizations, media, political parties, state institutions, and international community representatives for their co-operation and for sharing their views.

III. BACKGROUND AND POLITICAL CONTEXT

Tajikistan is a secular, unitary state. The Constitution defines the country's form of governance as presidential. The previous 2013 presidential election was won by President Emomali Rahmon of the People's Democratic Party of Tajikistan (PDPT) with 84 per cent of the vote. In the 2020 parliamentary elections, the PDPT secured 47 out of 63 seats in the lower chamber of parliament, reflecting its dominance of the political landscape.⁴

The president has substantial executive powers to determine the direction of domestic and foreign policy, and appoints and dismisses the prime minister and other members of the government, as well as other top executives and members of the judiciary.⁵

² See all previous [ODIHR election reports on the Republic of Tajikistan](#).

³ The ODIHR EAM deployment period was initially planned until 17 October but was shortened till 13 October at the request of the MFA, including due to shortened visa period granted to the ODIHR EAM members. Despite official invitation, some ODIHR EAM members experienced considerable delays in issuing proper visas and, for this reason, were denied the opportunity to attend several official meetings.

⁴ The other parliamentary parties are the Agrarian Party (APT), with seven seats, the Party of Economic Reforms (PERT), with five seats, the Communist Party (CPT), with two seats, as well as the Socialist Party (SPT) and the Democratic Party (DPT), with one seat each. The seventh registered party is the Social Democratic Party (SDPT).

⁵ The president appoints senior executives at central and regional level, and nominates the chairs and deputy-chairs of the Constitutional Court, Supreme Court, High Economic Court and the prosecutor general for parliamentary approval.

Women are underrepresented in the parliament and in political life in general, especially in decision-making positions.⁶ Women comprise 22 per cent of members of the lower chamber of parliament.

On 6 August, at a joint session of the two chambers of parliament presided over by the chair of the upper chamber, Rustam Emomali, the son of the incumbent president, the presidential election was called for 11 October.

The election took place in an environment characterized by long-standing restrictions on fundamental rights and freedoms. These include constraints on freedom of assembly and expression, the banning of some political parties and movements, arbitrary travel bans on family members of opposition activists who have sought refuge abroad, harassment and intimidation of lawyers who take up political cases, including the prosecution of such lawyers, and harassment of their families.⁷ Since the 2013 presidential election, one of the parties that nominated a candidate for that election, the Islamic Renaissance Party (IRPT), has been banned by the Supreme Court, having been designated a terrorist group.⁸ Numerous of its leading members have been imprisoned or have taken refuge abroad.

The election was affected by the COVID-19 pandemic. The ODIHR EAM was informed that a Task Force set up under the Prime Minister had established protocols for ensuring public safety, including rules on social distancing, mask wearing, etc. These rules applied to campaign events, and were supplemented by guidelines published by the CCER for election commissions.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The president is elected directly by a popular vote for a seven-year term by an absolute majority of votes cast. If no candidate receives above 50 per cent of votes, a second round is held between the two candidates with the highest number of votes. The Constitution requires that at least 50 per cent of registered voters cast their vote for the election to be valid.

The incumbent president is granted special status and unique legal privileges by both the Constitution and legislation in his capacity as the ‘Founder of Peace and National Unity-the Leader of the Nation’. The Constitution sets a limit of two consecutive terms for the presidency. The constitutional amendments of 2016 exempted the incumbent president from this limit. The elevated position in which the incumbent president is placed by the law precludes the establishment of a level playing field with equal conditions for all contestants and is at odds with OSCE commitments and other international standards.⁹

⁶ See the UN Committee on the Discrimination against Women [Concluding Observations on the sixth periodic report of Tajikistan](#) (14 November 2018), CEDAW/C/TJK/CO/6, paragraphs 31-32.

⁷ See the UN Human Rights Council (UNHRC) [Concluding observations on the third periodic report on Tajikistan](#) (CCPR/C/TJK/CO/3, 22 August 2019).

⁸ The UN Human Rights Committee in its [Concluding observations on the third periodic report on Tajikistan](#) noted with concern the “broad and vague definitions of terrorism (Counter-Terrorism Act of 1999), extremism (Anti-Extremism Act of 2003) and public justification of terrorist and extremist activity (amendments to the Criminal Code adopted on 14 November 2016) that may lead in practice to arbitrariness and abuse”, and “the reported misuse of such legislation to limit and repress the freedom of expression of political dissidents and religious groups.” Other banned opposition movements include Group 24 (Supreme Court judgement of 2014), and the National Alliance of Tajikistan (Supreme Court judgement of 2019).

⁹ Paragraph 7.6 of the [1990 OSCE Copenhagen Document](#) commits participating States to provide “the necessary legal guarantees to enable [electoral contestants] to compete with each other on a basis of equal treatment before the law and by the authorities”. Articles 2 and 25 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#) establish the principle of non-discrimination, including in the participation in public affairs. See also Article 2(b) of the [Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States \(CIS Convention\)](#).

Provisions that confer special status and electoral privileges to the incumbent president, including the individualized right to serve unlimited presidential terms, should be reviewed in order to ensure equality of all citizens before the law and to create a level playing field.

Tajikistan is party to major international and regional instruments related to civil and political rights and the holding of democratic elections.¹⁰ The presidential election is primarily regulated by the 1994 Constitution last amended in 2016, the 1994 Constitutional Law on the Election of the President (hereinafter the Election Law) last amended in 2019, the 2019 Law on the Central Commission for Elections and Referenda, the 1998 Law on Political Parties, as amended in 2019, and the 2014 Law on Assemblies, Meetings, Demonstrations and Street Processions (hereinafter Law on Assemblies). The legal framework is supplemented by regulations issued by the CCER.

The legal framework contains numerous and undue restrictions on electoral rights and fundamental freedoms, including the right to vote and the right to stand for elections, and the freedoms of assembly, association and expression.¹¹ Following the constitutional amendments in 2016, changes were made to the electoral legal framework. Regrettably, none of those changes addressed longstanding and recurrent ODIHR recommendations. To the contrary, some of the amendments to the electoral legislation brought about further restrictions to fundamental rights, such as to the right to stand and to participate in public affairs through the creation of political parties.¹²

The Election Law has significant gaps, leaving several areas of the electoral process, including campaign and campaign finance, essentially unregulated. In addition, it contains ambiguities and imprecisions, among others, in relation to the selection and dismissal of election commission members, election day procedures, complaints and appeals.

A comprehensive reform of the electoral legal framework should be undertaken to eliminate undue and discriminatory restrictions on fundamental rights and freedoms and to rectify other significant shortcomings as identified in this and previous ODIHR reports.

The CCER issued a number of regulations related to the election, but posted only some of them on its website and removed some of those before election day. Due to a lack of transparency, an overall evaluation of the CCER regulations' comprehensiveness was infeasible. The few regulations seen by the ODIHR EAM, such as the ones on campaign and review of complaints, failed to clarify unclear aspects of the law, largely repeating the legal provisions.

V. ELECTION ADMINISTRATION

The election was organized by a three-tiered election administration comprising the CCER, 68 District Election Commissions (DECs) and 3,375 Precinct Election Commissions (PECs).¹³ Additionally, 39 PECs were established in 29 countries to facilitate voting abroad.

¹⁰ These include the 1948 Universal Declaration of Human Rights, the 1965 Convention on the Elimination of All Forms of Racial Discrimination, the 1966 ICCPR, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the 2003 UN Convention Against Corruption (UNCAC) and the 2002 CIS Convention. Tajikistan signed but has not yet ratified the UN Convention on the Rights of Persons with Disabilities (CRPD).

¹¹ See also *Voter Registration* and *Candidate Registration* sections.

¹² The amendments banned political parties based on religious platforms, introduced additional eligibility criteria, namely the requirement for higher education, the absence of a criminal conviction notwithstanding the expungement and established the ineligibility of officials of religious organizations.

¹³ While the CCER provided the ODIHR EAM with the information on structure of the election administration, the number and the locations of the PECs in Tajikistan were not published on the CCER website.

The CCER is a permanent body consisting of seven members, elected by parliament on the proposal of the president for a seven-year term. The current CCER members were appointed in October 2019, with two women included. Many ODIHR EAM interlocutors expressed concerns regarding the lack of CCER's independence from the authorities as well as of lack of impartiality in the CCER's activities.

The DEC and PECs are temporary election management bodies, formed at least 2 months and 45 days prior to an election day, respectively. The DEC is responsible for the formation of the PECs, the organization of campaign events for the candidates and the establishment of the election results in the district. The PECs are responsible for the compilation of voter lists and the conduct of voting and counting. Special polling stations were established in medical institutions and military barracks.¹⁴

The selection and appointment processes of members of the election administration at all levels are not transparent and lack clear criteria.¹⁵ Some DEC and PEC members informed the ODIHR EAM that commission members are mostly employees of state institutions or the institutions where the PEC was located, predominantly school directors and teachers. PEC members were identified by *Mahallas* and local authorities, based on their 'active engagement' in their communities.¹⁶

The formation process of the election commissions at all levels should be transparent and based on clear selection criteria providing for independence of the election administration. Continued efforts are required to ensure the impartiality and professional capacity of the commissions.

The CCER maintained a website and published the electoral calendar and some decisions and regulations. According to the law, the CCER meetings should be open to the general public and its decisions should be adopted under public scrutiny. The ODIHR EAM was invited to only one session of the CCER during the observation period, in which no substantive issues were addressed. Overall, the work of the CCER lacked transparency.¹⁷

The CCER conducted a massive voter information campaign through television (TV) and radio broadcasts and posters. The PECs distributed voter invitation slips indicating polling station locations and opening times. The voter information campaign was primarily aimed at mobilising the electorate and informing voters about special procedures necessitated by the COVID-19 pandemic.

VI. VOTER REGISTRATION

Citizens of Tajikistan that are at least 18 years old on election day are eligible to vote. Despite previous ODIHR recommendations, the Election Law continues to disenfranchise citizens serving a

¹⁴ Section 3.2.xi of the Council of Europe Commission for Democracy through Law (Venice Commission) [2002 Code of Good Practice in Electoral Matters](#) (Code of Good Practice) recommends, "military personnel should vote at their place of residence whenever possible. Otherwise, it is advisable that they be registered to vote at the polling station nearest to their duty station".

¹⁵ Paragraph 20 of the [UN Human Rights Council General Comment No.25](#) states that "[a]n independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant".

¹⁶ *Mahallas* are informal, self-governing institutions in Tajik communities.

¹⁷ Article 1.c of the [2003 UNCAC](#) promotes "integrity, accountability and proper management of public affairs". Article 10 calls each State Party to take "measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes". See also paragraph 20 of the of the 1996 UNHRC General Comment No.25 to the ICCPR and Paragraph 18 of the [2011 UNHRC General Comment No.34](#).

prison sentence, irrespective of the gravity of the crime, as well as those declared incapacitated by a court decision. Such blanket restrictions are unreasonable and run contrary to OSCE commitments and other international obligations.¹⁸

Voter registration is passive. Voters are included in the voter lists based on their place of permanent or temporary residence. Each PEC compiles a voter list within the boundaries of their precinct, based on data provided by local authorities and door-to-door verification held before election day. Voters residing abroad are recorded on a separate voter list, based on information provided by other members of their household residing in Tajikistan. Voters not detected during the verification are not removed from the list. There is no legal obligation or mechanism for other state authorities that maintain data on citizens' residence, births, deaths or civil status to provide updates to the PECs. Despite previous ODIHR recommendations, there is no permanent voter register at any level, and there are no safeguards in legislation and in practice against multiple registration of voters, which potentially undermines the integrity of voter registration.¹⁹

The accuracy of voter lists should be improved, with consideration given to the introduction of a permanent, centralized voter register. The voter register should be comprehensively updated ahead of each election and be centrally checked for errors and multiple registrations.

According to the CCER, the preliminary voter lists included 4,900,545 voters. Voter lists were displayed for public scrutiny 15 days before election day at polling stations, and voters could request inclusion in or correction of the voter list at any time up to, as well as during, election day. Voters not found on the voter list on election day, as well as those who vote according to their temporary place of stay, were added on a supplementary list based on documents confirming their identity, with no cross-checks or safeguards applied against multiple voting, contrary to international good practice.²⁰ Despite previous ODIHR recommendations, the Election Law allows voters to be included in voter lists on election day without prior administrative or judicial review.

VII. CANDIDATE REGISTRATION

Any citizen of Tajikistan that holds no other citizenship, is at least 30 years old, has command of the state language, has higher education and has been residing in the country for at least the last 10 years is eligible to stand for presidential election. Individuals with criminal convictions and officials of religious organizations are ineligible. Limitations to eligibility based on the length of residency and education as well as blanket prohibitions on the basis of criminal records irrespective of the severity

¹⁸ Paragraph 24 of the [1990 OSCE Copenhagen Document](#) states that restrictions on rights and freedoms must be “strictly proportionate to the aim of the law”. Paragraph 14 of the UN Human Rights Council General Comment No.25 states that grounds for deprivation of voting rights should be “objective and reasonable”. See also paragraph 7.3 of the 1990 OSCE Copenhagen Document. Paragraph 48 of the CRPD Committee’s [2014 General Comment No. 1 to Article 12 of the CRPD](#) states that “a person’s decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising their political rights, including the right to vote [and] the right to stand for election”.

¹⁹ Paragraph 21 of the 1996 UNHRC General Comment No.25 to the ICCPR states that “the principle of one person, one vote must apply”.

²⁰ Section I.1.2.iv of the Code of Good Practice states: “there should be an administrative procedure - subject to judicial control - or a judicial procedure, allowing for the registration of a voter who was not registered; the registration should not take place at the polling station on election day”.

of the crime constitute unreasonable and discriminatory restrictions and are not in line with OSCE and other international commitments.²¹

Candidates can be nominated by political parties, the Federation of Trade Unions, the Youth Association, regional and municipal councils and by assembly of representatives of city and district council deputies. Nominated candidates need to collect the signatures of at least five per cent of eligible voters (some 245,000 signatures), an unreasonably high requirement.²² Voters could only sign for one candidate and nominating bodies had to use signature collection forms certified by the mayors of districts or cities, which also verify the collected signatures.²³ Several parties informed the ODIHR EAM that the short timeframe for collecting signatures was challenging.²⁴

Five parties registered their candidates for this election.²⁵ Among the candidates none were female. The DPT failed in its bid to register its leader as a candidate. According to the CCER, an insufficient number of signatures were collected.²⁶ Another registered party, the SDPT, widely perceived as the only opposition party, did not nominate a candidate and called for a boycott of the election.

Despite previous ODIHR recommendation, the law continues to ban self-nominated independent candidates contrary to OSCE commitments and other international standards.²⁷ Notwithstanding this limitation, two would-be candidates announced their intention to stand independently. One candidate, reportedly collected some 80,000 signatures, albeit not on the official forms, before withdrawing.

The Election Law should be amended to allow for the right of self-nominated candidates to stand for election. The number of supporting signatures should be reduced to bring candidate nomination procedure in line with good electoral practice.

VIII. CAMPAIGN ENVIRONMENT

The election campaign took place within an environment tightly controlled by the election administration and the state authorities, with little genuine debate among candidates or political parties and no opportunity to challenge the incumbent president. As such, the campaign lacked

²¹ Paragraph 15 of the 1996 UNHRC General Comment No. 25 states that “any restrictions on the right to stand... must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence...”. Paragraph 24 of the 1990 OSCE Copenhagen Document calls on participating States to “ensure that the exercise of all the human rights and fundamental freedoms... will not be subject to any restrictions except those provided by law and are consistent with their obligations under international law”.

²² Paragraph 17 of the 1996 UNHRC General Comment No. 25 states that “if a candidate is required to have a minimum number of supporters for nomination this requirement should be reasonable and not act as a barrier to candidacy”. In addition, although not legally binding, as an example of good practice the Venice Commission [2002 Code of Good Practice in Electoral Matters](#) section I.1.3 states that “the law should not require collection of the signatures of more than 1% of voters in the constituency concerned”.

²³ According to CCER Decision No. 89, the forms certified in one district could not be used in another, and the forms uncertified by the local authorities are considered invalid.

²⁴ The nomination period, including for nominating at a party conference and collecting support signatures, was between 6 August and 10 September.

²⁵ These are the APT, CPT, PDPT, PERT, and SPT. The incumbent candidate, President Rahmon, was additionally nominated by the Federation of Trade Unions and the Youth Association.

²⁶ The ODIHR EAM was informed that some of the signatures collected by the DPT were rejected for reasons such as one person signing on behalf of several family members.

²⁷ Paragraph 7.5 of the [1990 OSCE Copenhagen Document](#) calls on participating States to “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.” Article 10.3 of the 2002 CIS Convention states that “Candidates may be nominated by voters of the corresponding constituency and (or) through self-nomination”.

competitiveness and did not offer voters a genuine, informed choice in line with international standards.²⁸

Election campaigning commences once a candidate is registered, and ends on the day prior to election day. The Election Law stipulates equal campaign conditions for all candidates and provides them with a possibility to choose a way of communication with voters. However, the election administration and local authorities play a key role in organising campaign events, including designating venues, and scheduling and monitoring meetings.²⁹

The main form of campaign, as observed by the ODIHR EAM, was meetings organized by the authorities, in the presence of DEC members, at which candidates or their designated proxies presented the candidates' programmes to the public.³⁰ The CCER informed the ODIHR EAM that more than 1,000 campaign meetings were conducted by candidates or their proxies and that DECs assisted candidates by recommending and preparing locations. The ruling PDPT informed the ODIHR EAM that President Rahmon did not personally participate in any such meetings, but was represented by his proxies. While candidates could initiate their own campaign events, the Law on Assemblies requires pre-approval of all public events by the authorities, based on requests submitted at least 15 days prior to the event.³¹

The Election Law should be amended so as to substantially reduce the role of electoral bodies and local authorities in defining campaign modalities and organising campaign events. The Law on Assemblies should be amended to require a simple notification procedure rather than an authorisation of public events.

The Election Law lacks any regulations to ensure a level playing field among the candidates, to outlaw the use of administrative resources, minimise the advantage of incumbency, or regulate budgetary spending during a pre-election period. The incumbent president had an intensive schedule of highly publicised events during this period, visiting or opening various places, meeting with the people in his capacity as the president, rather than as a candidate.³² In addition, he benefited from ubiquitous large pictures of himself in positive contexts in towns and on highways observed by the ODIHR EAM around the country. In contrast, for other candidates, outdoor campaign advertisements, as observed by the ODIHR EAM, were limited to small posters featuring photographs and summary programmes only one week before election day.

The electoral legislation should be amended to include detailed regulations to ensure a clear separation between the state and political parties and candidates, so as to prevent contestants from using the advantage of their office for electoral purposes.

Some parties stressed to the ODIHR EAM the inclusion of women in their party activities, including in senior positions. Some party programmes addressed issues concerning women, including proposing allowances for women with large families and aiming to close the average income gap between women and men. While several parties noted that they, sometimes, addressed members of national minorities, notably Uzbeks and Kyrgyz, in their own languages, they pointed to the unity of all Tajik citizens and did not raise any issues specifically aimed at national minorities. Several other

²⁸ Paragraph 7.7 of the [1990 OSCE Copenhagen Document](#) commits participating States to “ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them”.

²⁹ The procedures for organising campaign events were elaborated in a CCER decision of 14 July 2020.

³⁰ Each candidate was entitled to appoint 15 such proxies.

³¹ Contradicting the law, the CCER informed the ODIHR EAM that only two days advance notice was required.

³² Paragraph 5.4 of the 1990 OSCE Copenhagen Document provides for “a clear separation between the State and political parties; in particular, political parties will not be merged with the State”.

interlocutors stated to the ODIHR EAM that speakers of the Pamiri languages from the Gorno-Badakhshan Autonomous Region do not constitute a national minority.

IX. CAMPAIGN FINANCE

The electoral legislation contains minimal provisions on campaign funding. It states that all registered candidates are entitled to equal conditions of material, technical and financial support and that foreign states, foreign legal and natural persons are prohibited from providing any support to the campaigns. The legislation does not establish any reporting and publishing requirements or an oversight mechanism.

The CCER informed the ODIHR EAM that each candidate had been allocated TJS 30,000 (some EUR 2,500) of state funds towards their campaign.³³ In addition, candidates are permitted to use funds from their own resources, but the Election Law does not set any limits or procedures. The CCER informed the ODIHR EAM that candidates are required to provide a written report on all their expenditures within one month of the election, and that the CCER would scrutinise the reports. No documentary basis for allocation of public funds, regulations on private donations or financial reporting was provided to the ODIHR EAM or published on the CCER website.

Absence of clear regulations and voluntary initiatives from parties and candidates to disclose campaign funds led to a lack of transparency as regards campaign finances.³⁴

The legal framework should comprehensively regulate campaign incomes and expenditures, reporting and oversight mechanisms as well as provide for dissuasive sanctions for non-compliance to ensure transparency and accountability of campaign finances.

X. MEDIA

A. MEDIA ENVIRONMENT AND LEGAL FRAMEWORK

The media landscape is rich in numbers; however, pluralism and diversity of content is limited.³⁵ Television (TV) and radio remain the main sources of political information, but state-owned and controlled media outlets dominate the market.³⁶ Major TV channels operating in the Russian Federation are also widely consumed. Independent outlets are under pressure from both the authorities and the worsening economic situation, exacerbated by the sharp decline of advertising revenues provoked by the COVID-19 situation. Newspaper circulations are low.

Whilst guaranteed by the Constitution, which also prohibits state censorship and prosecution for criticism, freedom of expression is severely curtailed in practice. Pluralistic political discussion in

³³ EUR 1 was approximately TJS 12.0 (Tajik *Somoni*) during the campaign period.

³⁴ Article 7.3 of the [2003 UN Convention Against Corruption](#) states that “each State party shall consider taking appropriate legislative and administrative measures...to enhance transparency in the funding of candidatures for elected public office”. Also, Article 12 of the CIS Convention commits the signatory States to “provide for an open and transparent nature of all money donations to candidates... in order to avoid any prohibited donations”.

³⁵ In total 81 TV and radio stations (23 state), 11 information agencies (1 state), 376 newspapers (112 state) and 245 magazines (114 state) were registered in the country as of 1 July 2020.

³⁶ No private broadcasters are in possession of the nation-wide broadcasting licence.

public is negligible as the media is considered subservient to the authorities. Critical online sources are frequently blocked without justification, and self-censorship in the media is commonplace.³⁷

Journalists informed the ODIHR EAM of routine intimidation by the state security services, and of the government's requests to publish anonymous material smearing the few remaining critics of the authorities. Several ODIHR EAM interlocutors pointed out that for the last few years, media registration or re-registration became a way to weed out critical voices, and accreditation was often limited to only three months. According to several independent ODIHR EAM interlocutors, the Ministry of Culture, the body in charge of media accreditation, requests prior authorization for accreditation from the State Committee on National Security.³⁸ The law does not foresee such a procedure.³⁹ Several foreign media representatives that have published critical analysis have lost their accreditation.⁴⁰

Contrary to international standards and previous ODIHR recommendations, an insult and slander of the president and other state officials in the media or on social networks remains a criminal offence, punishable with up to five years in prison.⁴¹ This may create an intimidating atmosphere for journalists, which induces self-censorship.⁴²

Freedom of expression should be guaranteed in practice; journalists and bloggers should be allowed, without excessive administrative burden, to critically cover political and societal issues free of intimidation and fear of retribution. All provisions that envisage criminal prosecution for defamation, insult and slander should be repealed in favour of civil sanctions.

The vaguely defined criminal offence of “incitement to religious discord” creates a chilling effect on reporting about social or political issues. On 16 April, an independent journalist, Daler Sharipov, who had been placed in pre-trial detention since 29 January 2020, was sentenced to a year in prison. The ODIHR EAM was informed that due to the COVID-19 pandemic the trial was closed to the public, and the journalist's lawyers' ability to contact him after the sentencing was limited. Some journalists and human rights activists perceived the verdict as a warning against reporting on sensitive issues before the election.

³⁷ See paragraphs 47 and 48 of the UN Human Rights Council (UNHRC) [Concluding observations on the third periodic report on Tajikistan](#) (CCPR/C/TJK/CO/3, 22 August 2019). See also OSCE Representative on Freedom of the Media (RFoM) on Tajik authorities to reinstate access to online media resources ([7 May 2019](#)).

³⁸ Re-registration of media group *Asia Plus* has been pending since August 2020. Absence of a registration certificate resulted in the refusal of the CCER to accredit nine of its journalists to cover elections.

³⁹ Several non-state interlocutors independently confirmed that this procedure exists only in a non-public circular of the Ministry of Culture. The ODIHR EAM requested a meeting with the State Committee on National Security but did not receive it. A formal ODIHR EAM request for official information regarding the media accreditation procedure was also left by the Ministry of Culture without a response.

⁴⁰ On 3 August 2020, *RFE/RL* affiliated TV channel *Current Time* aired a story about the incumbent campaigning during the COVID-19 pandemic and before the election was announced. The accreditation of the author of the material was not renewed by the MFA. At the time of the election, only 13 of 27 employees of *RFE/RL* office in Dushanbe were in possession of a valid accreditation.

⁴¹ [Paragraph 38 of the 2011 UNHRC General Comment No.34](#) to the ICCPR states that “all public figures, including those exercising the highest political authority such as heads of state ..., are legitimately subject to criticism and political opposition. Accordingly, the [CCPR] expresses concern regarding laws on such matters as... defamation of the head of state and the protection of the honour of public officials, and laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned”. Paragraph 47 further notes that “defamation laws must be crafted with care to ensure [...] that they do not [...] stifle freedom of expression”.

⁴² On 16 June 2020, the authorities invited a journalist and blogger Rajabi Mirzo to explain 30 of his articles and informed that he might be charged with insult of the president. The Office of the Prosecutor General informed the ODIHR EAM that there was currently no active case against that journalist.

On 4 July 2020, the President signed amendments to the Administrative Code which envisage administrative arrest and fines for knowingly distributing false or inaccurate information about the COVID-19 pandemic. A total of 28 NGOs, media organisations and independent journalists called on the President not to promulgate the changes as they would further encourage censorship and self-censorship, and limit access to information of public interest.⁴³ Several ODIHR EAM interlocutors opined that the new provisions also silenced Facebook groups people had used to post their personal experiences related to the disease.

Most of the critical independent media work online, based outside the country.⁴⁴ Access to websites that are critical of the government is permanently or sporadically blocked, without publicly available reasoning or a transparent decision-making process.⁴⁵ The legislative basis for and the practice of such actions do not confirm with the international standards Tajikistan is signatory to.⁴⁶ The ODIHR EAM was informed by several interlocutors that on 16 September, all incoming internet traffic into Tajikistan was halted for about 50 minutes, coinciding with the time when one of the exiled opposition leaders was streaming a speech online. The authorities informed the ODIHR EAM that the reason for this outage was the upgrade of broadband infrastructure.

B. COVERAGE OF THE ELECTION CAMPAIGN

To cover elections, journalists are required to obtain additional CCER accreditation, and, according to the CCER, 304 journalists were accredited. Several outlets were refused on technicalities, including *Asia Plus* and a team from *RFE/RL*.

The Election Law stipulates that all candidates have the right to participate in the campaign on an equal basis, including by using the mass media. In their coverage, including on elections, the state and commercial media heavily rely on the state news agency *Khovar* that is the only authorised source of official information. Subsequently, the campaign coverage mostly consisted of news about the President's regional trips as provided for by *Khovar*, the publication of the programme and the biography of each candidate, and some interviews. Coverage was largely uniform and with a limited plurality of opinions, hindering the voters from making an informed choice.

There was no televised debate of the candidates to give voters a possibility to comparatively evaluate their platforms. According to some ODIHR EAM interlocutors, independent media did not attempt to organize any debate since none of other candidates was considered to be a genuine competitor to the incumbent president. The limited coverage was also reportedly due to general voter apathy, as well as journalists' self-censorship on political issues.

At the same time, the state and also private media gave the incumbent unfair advantage, extensively covering his regional trips and leaving little space for exploration of other political offers. Media and government interlocutors of the ODIHR EAM justified such a coverage by the fact that visits of the president were planned well in advance and made in his official capacity. The CCER did not monitor media for the equality of coverage.

⁴³ See the 23 June [appeal](#) of the media and civil society organizations.

⁴⁴ Internet [penetration](#) stands at around 30 per cent.

⁴⁵ Access to news websites *Asia Plus* and *Ozodagon* remained blocked within Tajikistan during the campaign, while the website of *RFE/RL* that had experienced a similar problem in the past, was accessible. In March 2020, the Supreme Court banned the website *Akhbor.com* on the grounds of providing a platform for “terrorist and extremist organizations”. On 29 May 2020, the OSCE Representative for Freedom of Media [expressed concern](#) about the proportionality of the measure.

⁴⁶ Paragraph 15 of the 2011 UNHRC General Comment No.34 reads: “States parties should take all necessary steps [...] to ensure access of individuals thereto (online media)”. The 2012 UNHRC Resolution on the promotion, protection and enjoyment of human rights on the Internet affirms that “the same rights that people have offline must also be protected online, in particular freedom of expression”.

In line with a decision of the CCER, each candidate was given 40 minutes of free airtime on a state radio or TV channel, and proxies could use an additional 20 minutes. The State Committee on Television and Radio (SCTR) informed the ODIHR EAM that all candidates and their representatives opted for the free airtime on the state channel *Televizioni Tojikiston*. Although paid advertising is allowed, the SCTR claimed that no candidates used it.

XI. COMPLAINTS AND APPEALS

Challenges to decisions of election commissions can be brought either to the higher election commission or to the court. This dual jurisdiction system with its inherent lack of clarity and potential for conflicting decisions on electoral disputes may undermine the right to legal redress and is not conducive to legal certainty.⁴⁷

Decisions of the CCER can be appealed to the Supreme Court within 10 days and the Court is obliged to reach a decision within 3 days, unless an appeal is filed within 6 days before the election, in which case it has to be reviewed immediately. The Election Law states that the CCER must announce the preliminary results within 24 hours and the final results within 10 days after the end of voting. In the absence of a different deadline for disputing CCER decision on election results, the provisions on finalizing the results do not seem to allow for an appeal, precluding the possibility of legal redress.⁴⁸

Clear deadlines related to post-election disputes should be established to ensure the right to effective legal redress.

The CCER, the Supreme Court, the Offices of the Prosecutor General and of the Ombudsman stated to the ODIHR EAM that no complaints were received during the pre-election period. The ODIHR EAM was not aware of any post-election complaints, and no official information was provided on the grounds that the accreditation of the ODIHR EAM expired following the announcement of preliminary results.

XII. CITIZEN AND INTERNATIONAL ELECTION OBSERVATION

The Election Law provides for election observation by political parties and other bodies that have nominated presidential candidates, as well as by international observers. The law, however, does not provide for observation by non-partisan citizen observers, which reduces transparency and runs against paragraph 8 of the 1990 OSCE Copenhagen Document.⁴⁹

⁴⁷ Although not legally binding to Tajikistan, as an example of good practice, section II.3.3.c of the [Code of Good Practice](#) recommends that “the appeal procedure and, in particular, the powers and responsibilities of the various bodies should be clearly regulated by law, so as to avoid conflicts of jurisdiction (whether positive or negative). Neither the appellants nor the authorities should be able to choose the appeal body”.

⁴⁸ Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) states that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”. Article 2 (3) of the ICCPR compels State Parties “to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity”.

⁴⁹ Paragraph 8 of [the 1990 OSCE Copenhagen Document](#) states that “the participating states consider that the presence of observers, both foreign and domestic, can enhance the electoral process”. See also paragraph 10 of 1990 OSCE Copenhagen Document. Section II.3.2.b. of the 2002 Venice Commission Code of Good Practice in Electoral Matters advises that “observation must not be confined to the election day itself [...]. It must make it possible to determine whether irregularities occurred before, during or after the elections”.

The law also restricts observers from following the entire electoral process and specifies that their accreditation ends after the announcement of the preliminary election results the day after election day. Several civil society organizations informed the ODIHR EAM that they refrained from open discussion or activities connected with elections, citing fear of retribution and closure. The ODIHR EAM was obliged to end its observation before the electoral process was completed.

The Election Law should be amended to provide for non-partisan citizen and international election observation of all stages of the electoral process.

XIII. ELECTION DAY

In line with ODIHR methodology, the ODIHR EAM did not conduct a comprehensive or systematic observation of election day proceedings. Mission members visited a limited number of polling stations in Dushanbe, Faizabad, Hisor, Rudaki, Nurek and Vahdat districts, as well as in Dushanbe district during the early voting period.

Early voting for those who were unable to cast their ballot on election day was available five days prior to election day. The CCER did not release any data regarding the turnout before election day; however, in the PECs visited by the ODIHR EAM, the early voting option was only used by a small number of voters.

Voting took place between 6:00 and 20:00 on election day, and mobile voting was provided for homebound voters, upon request. COVID-19 protection measures were in place and followed by the citizens in all polling stations visited that were adequately equipped and organized.

In most polling stations visited, the ODIHR EAM observed that turnout reported by the PECs throughout the day was significantly inflated if compared to the number of voter signatures in the voter lists. The ODIHR EAM also observed instances of voters being given more than one ballot by PEC staff and patterns of identical signatures on voter lists indicating potential proxy voting or ballot box stuffing.

The ODIHR EAM was allowed to observe the count in only one polling station, but, along with other party agents, was requested to remain at a considerable distance from the count, making any meaningful observation impossible. Therefore, it was not possible to observe whether the voter list records or the ballots were counted correctly, or how the ballots have been marked or sorted. The ODIHR EAM had no possibility to observe how any doubts were settled in case a ballot was not marked clearly or how any reconciliation procedures were made. The ODIHR EAM was not allowed to observe tabulation procedures in the DECAs, which further raised concerns over the integrity, transparency and accountability of defining election results.

On 12 October, the CCER announced the preliminary results at a press conference. On 14 October, it published the final results on its website. According to the CCER, the voter turnout reached 85.44 per cent. Essential information, such as voter turnout and election results disaggregated by the DECAs and PECs, votes cast abroad or invalid votes, was not released contrary to international standards and established good practice.⁵⁰

⁵⁰ Paragraph 20 of the 1996 UNHRC General Comment No.25 reads: “There should be independent scrutiny of the voting and counting process [...] so that electors have confidence in the security of the ballot and the counting of the votes”. Article 10 of the 2003 UNCAC states that State party shall take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes. Section 3.2.xiv of the Venice Commission’s Code of Good Practice in Electoral Matters recommends that “results must be transmitted to the higher level in an open manner”.

The CCER should publish full preliminary and final results in a timely manner, disaggregated by districts and polling stations.

XIV. RECOMMENDATIONS

These priority recommendations as contained throughout the text are offered with a view to enhance the conduct of elections in the Republic of Tajikistan and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that have not yet been addressed. ODIHR stands ready to assist the authorities of Tajikistan to further improve the electoral process and to address the recommendations contained in this and previous reports.⁵¹

1. Provisions that confer special status and electoral privileges to the incumbent president, including the individualized right to serve unlimited presidential terms, should be reviewed in order to ensure equality of all citizens before the law and to create a level playing field.
2. A comprehensive reform of the electoral legal framework should be undertaken to eliminate undue and discriminatory restrictions on fundamental rights and freedoms and to rectify other significant shortcomings as identified in this and previous ODIHR reports.
3. The formation process of the election commissions at all levels should be transparent and based on clear selection criteria providing for independence of election administration. Continued efforts are required to ensure impartiality and professional capacity of the commissions.
4. The accuracy of voter lists should be improved, with consideration given to the introduction of a permanent, centralized voter register. The voter register should be comprehensively updated ahead of each election and be centrally checked for errors and multiple registrations.
5. The Election Law should be amended to allow for the right of self-nominated candidates to stand for election. The number of supporting signatures should be reduced to bring candidate nomination procedure in line with good electoral practice.
6. The Election Law should be amended so as to substantially reduce the role of electoral bodies and local authorities in defining campaign modalities and organising campaign events. The Law on Assemblies, should be amended to require a simple notification procedure rather than an authorisation of public events.
7. The electoral legislation should be amended to include detailed regulations to ensure a clear separation between the state and political parties and candidates, so as to prevent contestants from using the advantage of their office for electoral purposes.
8. The legal framework should comprehensively regulate campaign incomes and expenditures, reporting and oversight mechanisms as well as provide for dissuasive sanctions for non-compliance to ensure transparency and accountability of campaign finances.

⁵¹ In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. The follow-up of prior recommendations is assessed by the ODIHR EAM as follows: recommendations from the [ODIHR final report on the 2020 parliamentary elections](#), as applicable to the presidential election, are not implemented. See also the ODIHR [electoral recommendations database](#).

9. Freedom of expression should be guaranteed in practice; journalists and bloggers should be allowed, without excessive administrative burden, to critically cover political and societal issues free of intimidation and fear of retribution. All provisions that envisage criminal prosecution for defamation, insult and slander should be repealed in favour of civil sanctions.
10. Clear deadlines related to post-election disputes should be established to ensure the right to effective legal redress.
11. The Election Law should be amended to provide for non-partisan citizen and international election observation of all stages of the electoral process.
12. The CCER should publish full preliminary and final results in a timely manner, disaggregated by districts and polling stations.

ANNEX: FINAL ELECTION RESULTS⁵²

Candidates	Votes	Percentage
Abdulloev Miroj	49,535	1.17
Ghafforzoda Abduhalim	63,082	1.49
Latifzoda Rustam	128,182	3.02
Rahmatzoda Rustam	90,918	2.14
Rahmon Emomali	3,853,987	90.92

Total number of voters	4,900,545
Number of voters who voted	4,238,839 (85.44 %)

⁵² Source: [CCER Decision of 14 October 2020](#).

ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is 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 Summit Document). This is referred to as the OSCE human dimension.

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 150 staff.

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

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

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

Within the field of **tolerance and non-discrimination**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. 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.

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

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

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