



## **United States Mission to the OSCE**

### **Session 9 Democratic elections and electoral observation (continued)**

As prepared for delivery by Patrick Merloe  
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Mr./Madam Moderator,

Democratic elections are not just about how polling is conducted on Election Day. It is possible for the process to be technically smooth on Election Day, but for the election not to be free or fair because the overall conditions for participation, competition, transparency, and accountability are not present. In other words, what happens in the run-up to the election and what happens after Election Day are often as important, if not more so, in determining whether or not an election meets OSCE standards as the balloting alone.

The pre-election environment, including respect for the freedoms of association, peaceful assembly, and expression, is a critical component of any election. The legal framework is also crucial, including the composition of the election administration, the registration process for candidates and political parties, voter registration and broader citizen participation, as well as media access. In the OSCE region we've seen too many elections—especially in countries without a democratic tradition—in which electoral commissions at all levels are stacked in favor of the authorities, access by opposition candidates to the media is grossly limited or non-existent, opposition candidates or parties are harassed, intimidated, or worse, and citizen participation is subverted by disenfranchisement, inaccurate voter registries and/or barriers to observing electoral processes. In some countries, genuine opposition parties or candidates simply do not exist. This fundamentally undermines the purpose of an election, notwithstanding how smooth voting day might go.

The post-election environment is equally important. An independent and impartial adjudication system, including a judiciary, must exist and function properly in order to address complaints or appeals. Competing candidates—and voters most of all—must have sufficient confidence in the system to respect the results, even if they are not happy about who won. Among other things, this requires that the precepts of open government be applied through electoral transparency that allows citizen monitoring of electoral processes and the presence of international observers.

No election process is ever one hundred percent perfect, and imperfections will be magnified in particularly close races. What is important is that there is a legitimate and accepted process to address these challenges in a fair and transparent way.

In Kazakhstan, constitutional changes in 2007 exempted the current president from term limits. The constitution was changed again hastily last January in order to allow the presidential election to be held early and quickly, giving any potential rivals little time to prepare. Party registration remains a problem in Kazakhstan; for example, the Alga Party has tried unsuccessfully to register for years. Restrictions on freedom of assembly also hinder chances for free and fair elections. These shortcomings, detailed in ODIHR's final report on the April 3 presidential election, need to be addressed before parliamentary elections next year.

Turkmenistan remains the only OSCE participating State that officially has a one-party system. Over the past couple of years, President Berdimukhamedov has said repeatedly that a second party might be registered; more recently he said that independent candidates may be allowed to participate in the presidential election early next year. While we would welcome any opening of political space in Turkmenistan, it is vital that parties and political movements should be allowed to develop freely, and not be created or managed by the existing regime.

Looking ahead at elections that will come up within the next year, we see some areas in which an ounce of prevention may be worth a pound of cure. In Ukraine, the draft election law has raised some questions about shortcomings in the electoral law process. It is my delegation's hope that the Ministry of Justice's Electoral Working Group includes voices from across the political spectrum and that, as the law is about to go to parliament, passage only take place after consultation with interested political parties and civil society through an open, participatory and inclusive process; in short, we hope for greater inclusiveness during the electoral reform process. This is especially important against the backdrop of Ukraine's October 31, 2010, local elections, which compared unfavorably to the five democratic elections held since the flawed November 2004 presidential elections which sparked the Orange Revolution.

The refusal of Russian authorities to register the People's Freedom Party in June caused us concern. The right to hold free, fair and competitive elections is a universal principle that the Russian Government has repeatedly endorsed, and this includes endorsement of the principle of allowing genuine political competition with fair ballot access rules that are applied impartially. It is hard to understand how the Parnas decision is consistent with Russia's international commitments or statements by its leaders. My delegation hopes that the registration will be reconsidered, and we urge the Government of Russian Federation to recommit itself to democratic principles, including equal access to media and freedom of citizens to seek, receive and impart information about elections through activities of citizen election monitoring organizations. Otherwise citizens are denied their rightful participation in shaping the future of their own country. In addition, citizens must be permitted to exercise their right to freedom of assembly in support of all candidates and issues.

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As part of assisting participating States in implementing their commitments to hold free and fair elections, the OSCE has developed a strong election monitoring capability. Moreover, OSCE expertise goes well beyond simply monitoring the election process, it also offers

assistance through the recommendations it submits to a country following elections, as well as legislative analysis and technical training. In fact, the OSCE's methodology has become the guiding example for international election observation. The ODIHR's well-deserved reputation of election observation is directly attributable to its objective criteria. The OSCE ODIHR/Parliamentary Assembly partnership gives the Organization unique capabilities which can provide OSCE participating States with a perspective on elections available through no other mechanism.

The United States strongly supports OSCE election observation. We welcome OSCE observation of our own elections. We are prepared to welcome observers from the OSCE and any appropriate private institutions and organizations, as provided in the Copenhagen Document, in numbers they desire and with only such restrictions that promote effective observation, in keeping with the spirit of paragraph 24 of the Copenhagen Document. We also believe that follow-up to the recommendations made by the observer mission is very important. After all, the OSCE can assist us by monitoring our elections, but the ultimate responsibility for holding free and fair elections belongs to the participating States. The United States continues to work to address issues raised by the OSCE with us, including discussing with our state election authorities how to provide better access to OSCE observers for the polling process. We plan to continue to discuss such issues, and have invited the OSCE to come to Washington for a follow-up discussion of the final report and recommendations on our elections last year. We urge all other OSCE States to do the same.