



Office for Democratic Institutions and Human Rights

REPUBLIC OF TAJIKISTAN

PARLIAMENTARY ELECTIONS

28 February 2010

OSCE/ODIHR Election Observation Mission Final Report



Warsaw
6 July 2010

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**REPUBLIC OF TAJIKISTAN
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OSCE/ODIHR Election Observation Mission Final Report

I. EXECUTIVE SUMMARY

The Republic of Tajikistan invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 28 February 2010 parliamentary elections in line with OSCE commitments. Following a Needs Assessment Mission, the OSCE/ODIHR deployed an election observation mission (EOM) for these elections.

The parliamentary elections failed to meet many key OSCE commitments contained in the OSCE 1990 Copenhagen Document and other international standards for democratic elections. Neither was domestic legislation fully respected. Notable shortcomings occurred regarding respect of legal provisions on complaints and the law was inconsistently applied with regard to campaign regulations. Serious irregularities took place on election day, including a high incidence of observed proxy voting. This was despite the president's stated aim to hold more democratic and transparent elections. In a positive development, the Central Commission for Elections and Referenda (CCER) was more inclusive than in previous elections.

The election law has not been significantly amended since 2004. According to a 2004 OSCE/ODIHR legal assessment, the election law needs to be further improved to comply with OSCE commitments. Despite deficiencies, the election law could have provided a basis for the conduct of democratic elections had it been implemented transparently and impartially as well as supplemented by detailed instructions.

Existing shortcomings in the law include, *inter alia*, a lack of legal guarantees for an inclusive and pluralistic composition of lower-level election commissions, unduly restrictive candidate eligibility requirements, insufficient complaints procedures, and vague provisions on essential aspects of the election process including on voter registration, campaigning and election day procedures. As implemented, the existing procedures did not provide sufficient safeguards against abuse and did not ensure a uniform and consistent conduct of the election process. In addition, some legal provisions undermine the principle of freedom of expression, which is central to democratic elections.

Generally, the CCER worked within legal deadlines. However, it lacked transparency and accountability in carrying out its tasks, as did District Election Commissions (DECs). The prevalence of senior local officials and members of the People's Democratic Party of Tajikistan's (PDPT) on DECs raised concerns regarding their independence. The CCER held informal meetings, rather than formal sessions, although the latter is required by law. Complaints to the CCER were generally answered by letter, rather than by an official decision, thus potentially undermining complainants' rights to appeal. Over the course of the process, the CCER failed to issue instructions for the work of lower-level election commissions in order to fill existing gaps and ambiguities in the election law, in particular regarding election day procedures.

The CCER registered all candidates who fulfilled the legal requirements. Nevertheless, the electoral deposit was unduly high compared to average incomes and thus prevented a number of candidates from registering. The questionable legal requirement for candidates to hold a higher education degree may also have excluded a number of candidates from running. The governing PDPT registered candidates in all contests except for one of the single mandate constituencies. All other parties were able to register far fewer candidates. Overall, the field of parties and candidates provided voters with different political programmes, offering them some level of choice.

The election campaign was characterized by low visibility and focused on the construction of a hydro-electric power plant. The campaign got off to a late start due to the late registration of certain candidates and a late allocation of free airtime to candidates. Inconsistent or at times incorrect application of campaign rules hindered the establishment of a level playing field for all candidates and in particular affected opposition candidates' ability to campaign.

There were credible and/or verified reports of local authorities and police violating campaign regulations to the disadvantage of opposition parties. In Dushanbe, Kulob and Vahdat, in instances confirmed by the OSCE/ODIHR EOM, police prevented activists of the Islamic Revival Party of Tajikistan (IRPT) from campaigning and in some cases detained them for a short time. Furthermore, the OSCE/ODIHR EOM received credible allegations of pressure on government employees and voters to vote for or facilitate the victory of PDPT candidates. Also, the OSCE/ODIHR EOM noted allegations of pressure on some candidates as well as on their proxies to withdraw.

The lack of diverse viewpoints in broadcast media, the limited impact of newspapers, as well as self-censorship reported by journalists limited citizens' access to pluralistic information. The OSCE/ODIHR media monitoring showed that there was only a limited range of opinions presented in television broadcasts, which is the main source of information for citizens. By contrast, there was a relatively wide spectrum of viewpoints expressed in print media. However, due to its low circulation outside urban centres and publication only once a week, in most cases, its influence was limited. Journalists reported that the pre-election working environment had become less controlled, but they also reported self-censorship. In the run-up to the elections, except for free and paid airtime, only technical information about the electoral process was broadcast and coverage of electoral campaigns was almost completely absent from television. All this limited the information available to voters to make informed choices.

An insufficient legal framework for complaints and appeals and the manner in which complaints were dealt with by election commissions undermined the right to effective redress for electoral complainants. In practice, the principles of rule of law, due process, transparency, and the right to appeal to a higher-level election commission or court were undermined. Further, those committing electoral violations in the pre-election period were not held legally responsible for their actions.

While election day took place peacefully, voting was assessed positively by observers in only 74 per cent of polling stations visited, presenting a serious concern. Most PECs did not follow the requisite election procedures. Some serious irregularities occurred, which

undermined the integrity of the elections. Voter lists contained identical signatures in about half of all polling stations observed. Proxy voting (voting for another person), while prohibited by the election law, was widespread and constituted a serious problem. Some cases of ballot box stuffing were also reported. Counting and tabulation of results was assessed more negatively than voting. Procedural errors were observed in over half of the observed counts and observers reported changes introduced into PEC protocols in DEC's, casting serious doubt about the integrity of the tabulation.

The OSCE/ODIHR stands ready to assist the authorities and other electoral stakeholders in Tajikistan to address the concerns arising from these elections. Specific recommendations are offered at the end of this report.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The Republic of Tajikistan invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 28 February 2010 parliamentary elections in line with its OSCE commitments. Following an OSCE/ODIHR Needs Assessment Mission (NAM) conducted from 9 to 11 November 2009, the OSCE/ODIHR deployed an election observation mission (EOM). The OSCE/ODIHR EOM, led by Dr. Artis Pabriks, commenced its work on 14 January and remained in the country until mid-March. Seventeen experts and 20 long-term observers were deployed in Dushanbe and to 6 regional centres. One second round of voting was held in DEC 19 (Konibodom), but was not observed by the OSCE/ODIHR EOM. Tajikistan also held local and regional elections on 28 February 2010. The OSCE/ODIHR EOM did not observe these elections except to the extent that they directly impacted on the parliamentary elections.

For election day observation, the OSCE/ODIHR joined efforts with observer delegations from the OSCE Parliamentary Assembly and the European Parliament to form an International Election Observation Mission (IEOM). On election day, 242 IEOM observers, originating from 36 OSCE participating States, visited some 720 of the some 3,000 polling stations in Tajikistan and observed the work of 35 of the 41 DEC's.

The OSCE/ODIHR EOM wishes to thank the Ministry of Foreign Affairs, the CCER, and other state and local authorities for their support and co-operation during the course of the EOM. The mission also expresses its appreciation to the OSCE Office in Tajikistan, the OSCE High Commissioner on National Minorities and to international organizations and embassies accredited in Dushanbe for their co-operation and support.

III. BACKGROUND AND POLITICAL ENVIRONMENT

The 28 February elections to the lower chamber of parliament (*Majlis Namayandagon*) were the third multi-party parliamentary elections since the end of the 1992-97 civil war. The OSCE/ODIHR observed the 2000 and 2005 parliamentary elections. It concluded that the 2005 elections "failed to meet many of the key OSCE commitments for

democratic elections contained in the 1990 Copenhagen Document, and they were also not conducted fully in accordance with domestic law”.¹

The political system revolves around a strong executive, led by the president. In 2003, the constitution was amended by referendum to extend the president’s term from five to seven years.² In November 2006, President Rahmon was re-elected in an election observed by the OSCE/ODIHR that concluded that these elections “did not fully test democratic electoral practices as outlined in the 1990 OSCE Copenhagen Document, due to a lack of genuine choice and meaningful pluralism, and revealed substantial shortcomings.”³ Compared to the executive, the parliament has limited competencies in practice and tends not to vigorously exercise the powers granted to it by the constitution.⁴

On 15 April 2009, on the occasion of his annual parliamentary address, President Rahmon explicitly called for transparency and compliance with the law in the organization of the 2010 elections. This call was reiterated at a government meeting on 29-30 January 2010.

Tajikistan has a multi-party system, with eight registered political parties. Following the 2005 parliamentary elections, three parties were represented in parliament: the People’s Democratic Party (PDPT), which is officially led by the president, held 52 seats; the Communist Party of Tajikistan (CPT) held 4 seats; and the Islamic Revival Party of Tajikistan (IRPT) held 2 seats. The remaining 5 seats were secured by independent candidates. The ruling PDPT holds a near monopoly not only on political appointments, but also on administrative posts at the national, regional and local levels.

The CPT has traditionally been a loyal partner of the PDPT, but has recently voiced some criticism regarding government policies. The IRPT promotes a greater role for Islam in public life, presenting itself as a moderate Islamic party within a secular state. The Socialist Party of Tajikistan (SPT), the Social Democratic Party of Tajikistan (SDPT) and the Democratic Party of Tajikistan (DPT) held no seats in the outgoing parliament. The SPT defines itself as “constructive opposition” while the SDPT is very critical of the government. Two new parties were established in 2005: the Party of Economic Reforms (PERT) and the Agrarian Party (APT). Both parties openly support the government, although they advocate change regarding certain aspects of current agricultural and economic policies.

¹ OSCE/ODIHR Final Report, Republic of Tajikistan, Parliamentary Elections 27 February and 13 March 2005: http://www.osce.org/documents/odihr/2005/05/14852_en.pdf.

² Although not specified in the constitution, the prevailing interpretation of these amendments in Tajikistan is that the president is currently serving his first term (after the constitutional reform) and that he will, therefore, be able to run again in 2013.

³ OSCE/ODIHR Final Report, Republic of Tajikistan, Presidential Election 6 November 2006: http://www.osce.org/documents/odihr/2007/04/24067_en.pdf.

⁴ Although presidential proposals and nominations must be confirmed by parliament (Arts. 55, 56, 57, 69, 98, 99) there have been no instances of parliament rejecting any presidential initiative since at least the 2000 parliamentary elections.

IV. ELECTION SYSTEM AND LEGAL FRAMEWORK

The parliament (*Majlisi Oli*) comprises two chambers; the lower assembly of representatives (*Majlisi Namoyandagon*) has 63 deputies directly elected for five-year terms.⁵ Of these, 22 members are elected under a proportional closed-list system within a single nationwide constituency with a 5 per cent threshold for seat allocation. The remaining 41 members are elected in single mandate constituencies under a majoritarian system. In these contests, if no candidate receives more than 50 per cent of votes cast in the first round, the two top candidates compete in a second round within two weeks. A 50 per cent turnout of registered voters is required; otherwise, repeat elections must be held.

Parliamentary elections are primarily regulated by the 1994 Constitution and the 1999 Constitutional Law on Elections to the *Majlisi Oli* (election law).⁶ The constitution provides for rule of law and fundamental civil and political rights and freedoms necessary for the conduct of democratic elections, including, *inter alia*, equality of rights, freedom of political participation, freedom of assembly, freedom of association, freedom of expression, equality before the law, and judicial protection by independent and impartial courts.⁷ However, legislation, including certain provisions of the election law, the criminal code and a number of new and amended laws affecting media, civil society and religious organizations, narrows civil and political freedoms.⁸

The election law has not been significantly amended since 2004, prior to the last parliamentary elections.⁹ According to an OSCE/ODIHR assessment of the amendments adopted in 2004, the election law needs to be further improved to comply with OSCE commitments.¹⁰ Thus, significant shortcomings in the election law still exist. These include: a lack of guarantees for inclusive and pluralistic composition of election commissions, especially lower level commissions; unduly restrictive candidate eligibility requirements; undue restrictions on freedom of expression; insufficient complaint procedures; and vague provisions on essential aspects of the election process, including on voter registration, campaigning, and voting, counting and tabulation procedures, which did not provide sufficient safeguards against abuse.

⁵ The upper chamber, the *Majlisi Milli* (national assembly), of 34 deputies is partially indirectly elected and partially appointed by the President, with reserved seats for all former presidents.

⁶ Other relevant laws include the Law on Political Parties (1998), Gender Equality Law (2005), Law on Public Meetings (1998), Administrative Offences Code (2008), Criminal Code (1998), Civil Procedures Code (2008), Law on Citizens' Complaints to Government Bodies (1996), and media-related laws.

⁷ The 2005 report of the UN Human Rights Committee regarding Tajikistan notes an apparent lack of independence of the judiciary as reflected in the process of appointment and dismissal of judges and in their low salaries ([http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.84.TJK.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.84.TJK.En?OpenDocument)).

⁸ For instance, the Law on Public Associations (2007, last amended in 2008) and the Law on Freedom of Conscience and Religious Organizations (2009) restrict the establishment and operation of public associations and religious organizations. The 2007 Criminal Code amendment extended its problematic libel and defamation provisions to include internet publications.

⁹ Since 2004, the only amendments were a 2007 amendment to exclude employees of the Agency on Drug Control from candidate eligibility and in 2008 the term "minimum wage" was replaced by "measure of calculation", which is currently used for calculating various monetary sums, such as the candidate registration fee.

¹⁰ 17 September 2003 OSCE/ODIHR Assessment of draft amendments to the law on elections to the *Majlisi Oli* of the Republic of Tajikistan, page 2.

Recommendations made in the OSCE/ODIHR Final Report on the 2005 parliamentary elections to remedy shortcomings in the election law remain unaddressed.¹¹ Furthermore, ambiguities and gaps in the election law were not addressed by the CCER, which could have issued detailed instructions in the run-up to the elections to clarify certain crucial procedures, especially with regard to election day. Despite the deficiencies in the election law, it could have provided a basis for the conduct of democratic elections if it had been implemented transparently and impartially, and if it had been supplemented by detailed instructions.

Throughout 2008, efforts were made to reform the election law. Several working group sessions with representatives of all registered political parties, the CCER, the parliament, the presidential administration, and the Centre of Strategic Research under the President were held. The National Association of Political Scientists of Tajikistan (NAPST) was a non-voting member of the working group. After a set of proposed amendments was negotiated and agreed to by all stakeholders, the PDPT did not sign the proposals that, if enacted, would have significantly improved the election law.¹² In February 2009, the CPT formally introduced a majority of the working group's proposals to parliament. The proposals were reviewed by relevant parliamentary committees, but rejected by the majority of these committees;¹³ thus they did not receive a formal reading.

A recent improvement in the electoral legal framework was the adoption of a new administrative offences code in 2008, which includes 28 election-related offences that are mainly subject to financial penalties imposed by a court decision.¹⁴ This category of offences was subject to penalty for the first time during the 2010 elections.

V. ELECTION ADMINISTRATION

A. FORMATION AND COMPOSITION OF ELECTION COMMISSIONS

The parliamentary elections were administered by three levels of election commissions, comprising the Central Commission for Elections and Referenda (CCER),¹⁵ 41 District Election Commissions (DECs), and 3,102 Precinct Election Commissions (PECs), including 35 polling stations in 22 foreign countries for citizens residing abroad.

¹¹ http://www.osce.org/documents/odihr/2005/05/14852_en.pdf.

¹² Proposed amendments included, *inter alia*, lowering the threshold for political representation in parliament, equal representation of political parties on election commissions, prohibiting government officials from serving on election commissions, provision for domestic non-partisan observation, elimination of the electoral deposit, a change from negative to positive ballot marking, the right for observers to receive results protocol copies, the right to receive decisions on complaints in written form within 24 hours of issuance, and the extension of free airtime.

¹³ Representatives of the Ministry of Justice informed the OSCE/ODIHR EOM that it recommended that parliament reject the proposals, as they in their view were unwarranted.

¹⁴ Arts. 57-84, Administrative Offences Code: The offences generally relate to: violation of rights of voters; election commissioners, observers, candidates, proxies, and journalists; bribing of voters; interfering in or not carrying out the duties of election commissions; violations of election campaign rules and finance restrictions; and voting and counting irregularities.

¹⁵ The chairperson and his deputy were re-appointed.

Among the election commissions, only the CCER is a permanent body with 15 members, appointed by parliament on proposal of the president for a five-year term. On 16 December 2009, the CCER's present members were appointed after the eight registered political parties had been invited to nominate members. Only SDPT is not represented in the current CCER; the party claims that the president did not support its nominee.

According to the election law, lower-level commissions are appointed for each election. DEC of no less than nine members each were established by the CCER by 30 December 2009. The 3,067 PECs were formed by DECs by 14 January 2010 with 5 to 19 members each and the 35 polling stations abroad were formed by the CCER upon proposals from the Ministry of Foreign Affairs.¹⁶ The election law provides that proposals from political parties on DEC membership are to be considered. For PECs, however, there is no such legal provision. At the same time, the law does not prohibit PEC members from being affiliated with a party. In practice, some DECs appointed party members to PECs while others did not.

Despite the election law's requirement that the election commissions be independent of any state body, the OSCE/ODIHR EOM observed that senior officials from regional and local governments were frequently members of election commissions, especially in DECs. The presence of senior local officials as DEC members, in combination with the prevalence of DEC chairpersons and members from the PDPT party raised concerns regarding the independence and neutrality of election commissions.¹⁷ Similarly, PECs were primarily composed of local officials and PDPT members. OSCE/ODIHR EOM observers reported that many PECs were composed of members otherwise employed in the same institutions (e.g., schools) and the head of the institution was very often the PEC chairperson. This practice transfers existing hierarchical relationship into the work of election commissions, which may impair the independence of commission members.¹⁸

B. TRANSPARENCY OF ELECTION COMMISSION WORK

While the election administration generally met legal deadlines, the CCER and DECs lacked transparency and accountability in carrying out their functions. For instance, the CCER did not work in open sessions, as required by the election law.¹⁹ The CCER informed the OSCE/ODIHR EOM that its last session was held on 19 January and that there was no necessity for further sessions before election day. Additional informal CCER meetings, however, were held; the OSCE/ODIHR EOM was not informed of these, despite its daily enquiries.

The CCER designated five of its members as regional co-ordinators outside Dushanbe. This further reduced the CCER's transparency of work and collegiality. The lack of sessions in the period before election day brought into question how the CCER could

¹⁶ According to Art. 22, election law, polling stations abroad are formed within the same timeframe as regular polling stations and, in exceptional cases, no later than 10 days prior to the elections.

¹⁷ In DECs: 5, 6, 10, 16, 20, 21, 25, 26, 29, 30, 31, and 33. Art. 18(1) of the election law requires that "a member of an election commission must be neutral and unbiased while implementing his/her authority."

¹⁸ Reported by OSCE/ODIHR EOM observers covering DECs 1, 2, 5, 6, 7, 9, 11, 12, 13, 16, 17, 18, 19, 20, 26, 27, 28, 32, 34, 35, 37, 38, and 39.

¹⁹ Art. 19 of the election law stipulates that "all sessions of the election commissions are conducted in public and are accessible to the public and mass media".

adopt decisions in accordance with the election law, which requires a two-thirds quorum and that all adopted decisions be supported by over half of those present.

The CCER held a telephone conference with all 41 DEC members on 25 February. During the conference, the CCER chairperson read a statement and gave DEC members general instructions. Afterwards, the CCER Head of Administration moderated the telephone conference and answered questions from DEC chairpersons. All CCER members were present, but not actively involved, except for the IRPT member who asked questions and raised concerns on behalf of his party. On 26 February, the CCER invited the leaders of all political parties to discuss the preparatory work for the elections carried out thus far by the CCER. These were welcome initiatives; however, they took place too close to elections to produce meaningful results and to be effective in improving the conduct of the process on election day and in increasing transparency of the work of the election administration.

The OSCE/ODIHR EOM met regularly with CCER representatives. Regrettably, however, the CCER's assigned contact point for the OSCE/ODIHR EOM was not always responsive to requests for meetings or information.

The CCER does not maintain its own website. One of its members is the chairperson of the Union of Journalists of Tajikistan and the CCER used the Union of Journalists' website to publish its decisions during the 2010 parliamentary elections.

C. FUNCTIONING AND ACTIVITIES OF ELECTION COMMISSIONS

Like the CCER, most DEC members did not hold public meetings before election day, raising concerns about the legality of their decision-making. The CCER carried out training for DEC members while DEC members did so for PECs. However, poor and inconsistent implementation of procedures as witnessed by the OSCE/ODIHR EOM observers on election day, including PEC members experiencing difficulties in drawing up results protocols, suggests that the training had been insufficient both in volume and in quality.

Prior to the elections, the CCER issued a number of decisions, including on electoral district formation, on contestants' access to mass media and on the formula for determining the electoral deposit. Although the election law does not include clearly defined procedures for early voting, mobile voting, out-of-country voting, voting by military, or for counting and tabulation, the CCER did not adopt instructions providing further detail for the work of DEC members and PECs regarding these crucial elements of the electoral process. On the contrary, the CCER informed the OSCE/ODIHR EOM that it considered the election law to be sufficiently clear and detailed.

The formation of single mandate constituencies – a CCER responsibility – was another concern. The 41 constituencies varied greatly in size. For example, there were 50,154 voters registered in DEC 40 (Vanj) compared with 116,216 in DEC 10 (Vahdat). This calls into question the equality of the vote and contradicts the election law, which only permits a 15 per cent deviation in the size of constituencies (20 per cent in remote areas).

Parliamentary and local elections were held on the same day, raising an issue regarding formation and oversight of PECs, resulting from a lack of harmonization of the election law and the Law on Election of Local *Majlis* of People Deputies (local election law).

Each law provides that DEC's are to be set up to establish and oversee polling station commissions. Hence, there were separate DEC's set up for parliamentary and local elections, but the same PEC's were tasked with organizing voting in both the national and regional/local elections. OSCE/ODIHR observers noted inconsistent practices in the electoral districts depending on which type of DEC was responsible for PEC formation, particularly in delivering the PEC results protocols.

Voter education was carried out in co-ordination with the CCER by the International Foundation for Election Systems (IFES). This took the form of six television spots that were broadcast by state TV stations on a daily basis. NAPST also conducted voter education in 65 towns for 1,300 people from different professional groups.

VI. VOTER REGISTRATION AND VOTER LISTS

There is no central voter register in Tajikistan. In line with the election law, voter lists are compiled locally for each election by PEC's. They produce voter lists based on data provided by local executives, who often collect it by going door-to-door. Citizens who are at least 18 years old on election day and permanently or temporarily residing in a given precinct are entitled to be included in that precinct's voter list.

Voter lists were to be compiled by PEC's by 13 January 2010 and were subsequently displayed for public scrutiny at polling stations. In most PEC's, however, voter lists were available inside PEC offices and not accessible to voters outside office hours, thus limiting the opportunities for voters to check the voter lists. Some instances of late compilation and display were observed by the OSCE/ODIHR EOM.²⁰

Voters could be included in a supplementary voter list in any polling station on election day upon presentation of identification.²¹ This is a matter of concern since it entails the risk of abuse. The lack of a centralized database meant that national crosschecks and elimination of multiple entries or corrections was effectively not possible.

The CCER informed the OSCE/ODIHR EOM that 3,459,164 voters had been registered by the deadline for voter list compilation. On 5 March, it further informed that a total of 3,641,778 voters were registered for the elections. The OSCE/ODIHR EOM tried to enquire with the CCER about the reasons for this significant increase, but was not provided with an explanation.

VII. CANDIDATE REGISTRATION

A. ELIGIBILITY CRITERIA AND REGISTRATION REQUIREMENTS

To stand for office, candidates must be at least 25 years old, possess voting rights, a higher education and have held citizenship and residency in Tajikistan for the past five years. The law prohibits those under investigation from standing as candidates. This

²⁰ DEC's 3, 5 and 41.

²¹ For example, in some PEC's high numbers of voters were added to the supplementary voter list (DEC 3/ PEC 1 had 92 persons added on the supplementary voter list).

prohibition on individuals under investigation is contrary to the presumption of innocence enshrined in the constitution and in OSCE commitments.²² Not only individuals convicted of ‘grave crimes’, but anybody with a conviction for *any* crime that has not been lifted is barred from running as a candidate.²³ Furthermore, there is a lack of proportionality between the crime committed and the punishment, i.e. the loss of political rights. Hence individuals with minor convictions cannot run as candidates, even if the sentence has been served but not lifted. This provision of the law has not been eliminated since the last elections, despite recommendations by OSCE/ODIHR.

The election law also prohibits military personnel, officers of internal affairs bodies, and religious functionaries from standing for office. A representative of the latter category was denied registration by DEC 13 (Khujand) due to his official position as *imam*. Although he resigned his position before the registration deadline and informed the DEC, he was not registered. His subsequent appeal to the CCER was rejected. This practice appears inconsistent with paragraph 7.5 of the 1990 Copenhagen document, committing states to “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.”

Self-nominated candidates had to present 500 support signatures. All candidates were required to pay a 7,000 *somoni*²⁴ electoral deposit which was refundable only to elected candidates or parties surpassing the 5 per cent threshold. The deposit is about 24 times higher than the average monthly salary.²⁵ Another candidate requirement is a higher education, again potentially preventing individuals from standing for office. This provision is incompatible with international election standards.²⁶

B. NOMINATION AND REGISTRATION OF CANDIDATES

In line with the law, party list candidates could be nominated from 13 December onwards. In single-mandate constituencies, candidates could be nominated by political parties or by self-nomination, starting from 30 December. The nomination period for both concluded on 14 January.

Candidate registration took place from 14 January to 8 February. Party lists were registered by the CCER and single mandate candidates by the DEC, once these election commissions had verified that the candidates fulfilled the eligibility criteria and had paid the electoral deposit. On 19 January, 73 candidates were registered on 8 party lists to contest the nationwide constituency. According to the CCER, several parties were not

²² Paragraph 5.19 of the 1990 Copenhagen document: “everyone will be presumed innocent until proved guilty according to law.”

²³ According to Tajik legislation in case of grave crimes, a separate court decision on lifting a conviction is required, even after a sentence has been served, before individuals can again enjoy their full citizen rights, including their right to run as candidates.

²⁴ The registration fee increased, from approximately 600 Euro in the previous parliamentary elections in 2005 to almost 1,100 Euro in the 2010 elections.

²⁵ According to State Committee on Statics of Tajikistan the average monthly salary in 2009 was 288 *Somoni* (approx. 45 Euro).

²⁶ United Nations Human Rights Committee General Comment No.25 (to the ICCPR), paras. 15 and 19 state that “the effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates. ... Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation.

able to pay the electoral deposit for all nominees. Only the PDPT was able to register the legal maximum of 22 candidates.²⁷

DECs registered 153 single mandate candidates. PDPT registered candidates in all but one single mandate constituency. Other parties were able to register far fewer candidates, mainly due to the electoral deposit. These political parties told the OSCE/ODIHR EOM that they faced difficulties collecting sufficient funds for paying the registration fee for their candidates. Subsequently 50 out of the 68 nominated candidates who were not registered were rejected because they failed to pay the registration fee. The high electoral deposit potentially prevented a large number of further individuals from standing.

Over the course of the campaign and, in particular, towards the end of it, 23 candidates withdrew their candidacies.²⁸ This high number of withdrawals raises questions about what caused them. The OSCE/ODIHR EOM noted allegations of instances of pressure on candidates as well as on their proxies to withdraw but contestants were unwilling to confirm these claims first hand. One candidate was de-registered for vote buying in the form of a donation of furniture to a school and for using non-standard posters (see Chapter XIII on complaints and appeals). Thus the 41 single-mandate constituencies were finally contested by 129 candidates: PDPT, 39; IRPT, 20; CPT, 7; PERT, 6; APT, 4; SDPT, 2; self-nominated, 51. The DPT and the SPT did not nominate single-mandate candidates. In nine constituencies, only PDPT fielded party-nominated candidates.

Overall the field of parties and candidates provided voters with different political programmes, offering them some level of choice.

VIII. CAMPAIGN ENVIRONMENT

The election campaign generally had low visibility, but picked up in the last two weeks prior to election day. Public interest in the elections appeared to be limited, despite efforts by the government and non-governmental organizations to raise public awareness.

Candidates within the same electoral districts were registered on different dates by 20 of 41 DECs.²⁹ The fact that candidates can be registered at any time during the 25 day registration period created unequal conditions, as candidates are allowed to campaign as soon as they are registered.³⁰ In addition, the election administration's interpretation of the law differed. In some electoral districts of the Khatlon and Sughd regions, the election administration interpreted the law as not allowing any campaigning until the registration process was completed, i.e. 8 February.³¹ The inconsistent application of provisions for campaigning affected candidates' ability to campaign, in particular that of opposition parties. There were credible reports by opposition parties regarding violations of

²⁷ Candidates registered on party lists: PDPT, 22; IRPT, 20; CPT, 9; SDPT, 7; APT, 6; PERT, 4; SPT, 3; DPT, 2.

²⁸ Withdrawals: 17 self-nominated candidates; 3 PERT; 1 PDPT; 1 APT and 1 CPT.

²⁹ Different registration dates in particular DECs were largely dependent on the payment date of the electoral deposit.

³⁰ The difference between first and last registered candidates was 26 days.

³¹ The OSCE/ODIHR EOM observed this approach in DEC 13 (Khujand), 16 (Jabbor Rasulov) 23 (Istaravshan) 24 (Ghonchi), 25 (Spitamen) 30 (Rumi), 31 (Kubodiyon) and 33 (Kumsangir). DEC 21 (Penjikent) started organizing meetings with voters on 5 February.

campaign regulations by local authorities and law-enforcement agencies, some of which were verified by the OSCE/ODIHR EOM. This hindered the establishment of a level playing field for all candidates.

Campaign events consisted mainly of meetings with voters, either organized by DECs or by political parties, with a prevalence of the former. Meetings organized by DECs were generally chaired by DEC officials and contestants presented their electoral platforms within set time limits.³² With rare exceptions, the OSCE/ODIHR EOM did not observe any debate at these meetings. During the first week of the campaign, some opposition parties complained that they were not informed of upcoming meetings with the electorate or were informed at the last moment.³³ They claimed that this hindered their effective participation. Similarly, when DECs and local authorities did not inform voters, there was low or no attendance.³⁴ While candidates and parties can also meet with voters independently from DECs,³⁵ interpretation of campaign provisions by the election administration and local authorities differed throughout the country. In two election districts, only DEC-organized meetings were allowed.³⁶

In addition to formal meetings with voters, campaign activities included door-to-door canvassing, small and informal meetings with voters, distribution of leaflets and display of posters. In general, election posters were much less prominently displayed than other advertising, such as the posters related to the construction of the Roghun dam.³⁷

The CCER determined the size and contents of information posters for display inside polling stations and DECs.³⁸ In addition, some candidates produced individualized campaign posters. Application of the right to display posters differed between local authorities. In some areas, posters could be displayed anywhere, while in others they were not allowed on public buildings. The IRPT, SDPT and DPT as well as one independent candidate reported that their posters had been torn down in different locations during the last week of the campaign, something which the OSCE/ODIHR EOM could confirm.

In Dushanbe, the OSCE/ODIHR EOM noted some PDPT party list posters that included the picture of the president and posters with the president calling to vote for PDPT. While the use of state property and means for campaign purposes is prohibited by law, the use of public position to campaign is not explicitly prohibited. In this context, the president told

³² In meetings observed by the OSCE/ODIHR EOM, each candidate was allocated between 10 and 30 minutes.

³³ According to Art. 12 (6) of the election law, the CCER is responsible for ensuring equal campaign conditions for all candidates.

³⁴ Two such cases were reported to the OSCE/ODIHR EOM, one in Dushanbe and one in Istaravshan.

³⁵ Such meetings require notifications to local authorities according to legislation on public events (Chapter II and III, Law on Public Meetings).

³⁶ DEC 15 (Urunkhojaev) and DEC 18 (Mastchoh), both in Sughd region.

³⁷ The Roghun dam and hydro-electric power station is located on the river Vakhsh some 100 km east of Dushanbe. Its construction was initiated in the 1970s but never completed due to lack of funds. After foreign investments initiatives failed, the government of Tajikistan launched a public fundraising campaign, calling on citizens to buy shares as well as donate money to allow for the completion of the project.

³⁸ CCER decision No. 10 of 21 December 2009, limiting the size of information posters to A3 format and the contents to the biography and picture as well as the official election platform of the respective party or candidate. Campaign posters were not subject to the same limitations, however most political parties and candidates used their information posters also as campaign posters.

the head of the OSCE/ODIHR EOM that he had given an instruction to reduce the number of posters with his picture on them in order not to unduly influence the campaign. At least in some locations in Dushanbe, the OSCE/ODIHR EOM could note that this instruction had been implemented. In a separate development, on 26 February the CCER, instructed that all campaign materials throughout the country must be removed by 00:00 on Saturday 27 February, in accordance with the election law.³⁹ In practice, most information posters displayed in polling stations were also removed.⁴⁰

Certain incidents of police obstruction were confirmed by the OSCE/ODIHR EOM; four times in Dushanbe, twice in Kulob and once in Vahdat, police stopped IRPT activists while they were campaigning. In five cases, this involved short-term detentions. For instance, in Kulob police detained four IRPT activists who were distributing leaflets outside a mosque, incorrectly claiming that this was prohibited by the Law on Freedom of Conscience and Religious Organizations. An IRPT party list candidate was detained while preparing a meeting with voters in a school that also serves as a polling station. The police claimed that it was illegal to distribute campaign materials to minors.⁴¹ In Dushanbe, police stopped IRPT activists campaigning three times and took them to the nearest police station for questioning.

In the Sughd region and in Dushanbe, the OSCE/ODIHR EOM received allegations of pressure on government employees and voters to vote for or otherwise facilitate the victory of PDPT candidates. A SDPT candidate in Gorno-Badakhshan informed the OSCE/ODIHR EOM that two of his proxies were threatened with job loss if they did not withdraw their support. One of them decided not to act as a proxy. The remaining proxy later informed the mission that he would not lose his job. Also, four instances of pressure on single-mandate candidates to withdraw were reported first hand by the candidates to the OSCE/ODIHR EOM. Although the mission was unable to verify all of these claims, the number of such allegations raises concern.

IX. MEDIA

A. BACKGROUND

Television is the main source of political information in Tajikistan for election coverage. According to information provided by the Chair of the State Committee for TV and Radio to the OSCE/ODIHR EOM, there are 26 TV channels in Tajikistan (nine state-funded and 17 private). Only four of these⁴² broadcast countrywide and they are state-owned.

Broadcast media are overseen by the State Committee for Television and Radio and the Licensing Commission handles licenses. Both bodies operate under the government and are led by presidential appointees.⁴³ The current members of both bodies are state officials, representatives of state media, or civil society representatives closely affiliated

³⁹ Art. 39, election law provides that the election campaign ends 24 hours before the election.

⁴⁰ OSCE/ODIHR EOM observers saw candidate information posters on display in only eight per cent of polling stations visited on election day.

⁴¹ The OSCE/ODIHR EOM was unable to find the aforementioned prohibitions in the legislation.

⁴² TV *Tojikiston*, TV *Safina*, TV *Jahonnamo* (since 2008) and TV *Bakhoriston* (since 2009).

⁴³ Presently, the same person heads both bodies.

with the ruling party. The major television broadcasters, all state-funded, primarily promote government policies and fall short of facilitating public debate, genuine exchange of opinions or commentary that would offer the public a diverse range of views.

Based on official information, there are 16 radio stations.⁴⁴ These predominantly broadcast entertainment programmes. While some stations air political information, only state-funded Radio *Tojikiston* reaches the whole country.

Relatively pluralistic print media exist in Tajikistan, but their reach is affected by low circulation and delivery problems outside urban centres.⁴⁵ Apart from two official newspapers,⁴⁶ which appear three times a week, all other newspapers have only one issue per week. While there is a gradual increase of internet use with approximately nine per cent of the population having access, its impact is still limited.

Prior to the elections, a number of media representatives pointed out to the OSCE/ODIHR EOM that the pre-election working environment had become less controlled. However, the lack of diverse viewpoints in broadcast media, the limited impact of newspapers, as well as self-censorship reported by journalists continue to limit citizens' access to pluralistic information.

B. LEGAL FRAMEWORK OF THE MEDIA

The election law, the constitution and other laws regulate the election campaign in the media.⁴⁷ Article 30 of the constitution guarantees “freedom of speech, freedom of press and the right to use mass media”, and prohibits “state censorship and prosecution for criticism”.

However, a number of provisions in the election law and criminal code contradict the constitutional guarantee of freedom of expression which is essential for unrestricted election campaign speech and media coverage of elections. The election law prohibits mass media from publishing information discrediting the honour, dignity and business reputation of candidates and slander, libel and discrediting the honour and dignity of any person are criminal offences.⁴⁸ It is widely accepted that media outlets should not be held liable for disseminating statements made by politicians in order to ensure an open and free campaign.

In addition, Arts. 27 and 37 of election law stipulate that campaign platforms and speech must not contradict the constitution or provisions of the election law. Political parties should be allowed to freely advocate peaceful change, including of the constitutional

⁴⁴ This is according to information provided to the OSCE/ODIHR EOM by the chairperson of the State Committee for TV and Radio on 3 February 2010.

⁴⁵ According to information provided to the OSCE/ODIHR EOM by the Ministry of Culture on 22 January, there are 201 newspapers and 98 magazines published in the country.

⁴⁶ *Jumhuriyat* (official newspaper of the Government) and *Sadoi Mardum* (official newspaper of the Parliament).

⁴⁷ Most importantly, the Law on TV and Radio Broadcasting, the law on the Press and Other Mass Media, Presidential decrees No. 610 and 622, the criminal code and the civil code.

⁴⁸ Arts. 135-137 and 330, Criminal Code. Discrediting the honour and dignity of a person in a public speech or mass media, of a public official, or of the President, are subject to higher criminal penalties, of up to five years.

order. It is, however, an essential role of political parties to offer alternative views to existing government policies. These restrictions and the application of criminal sanctions are also inconsistent with paragraphs 7.7 and 9.1 of the OSCE 1990 Copenhagen Document.⁴⁹ Finally, the criminal code contains provisions on libel and insult. While there is no international standard on this issue, the OSCE Representative on the Freedom of the Media has called for the complete decriminalization of defamation.

Article 39 of the election law obliges state-funded broadcast media to allocate free airtime throughout the campaign to registered parties and single-mandate candidates (30 and 15 minutes respectively). Contestants are allowed to purchase additional airtime. Based on a CCER decision,⁵⁰ each registered party and candidate was entitled to use free airtime in *Tojikiston* TV, Radio *Tojikiston* and their local branches. In addition, each registered party and candidate was entitled to up to eight free A4 pages in state-funded national or local newspapers. OSCE/ODIHR EOM media monitoring showed that state-funded media, broadcast and print, adhered to these legal requirements, although free airtime in *Tojikiston* TV was available to political parties only from 18 February onwards, i.e. only 8 days prior to election day.

While all parties utilized their free airtime on *Tojikiston* TV, only IRPT took up this opportunity in Radio *Tojikiston*; only a limited number of single mandate candidates utilized free airtime on either of the two TV broadcasters.⁵¹ While almost all media failed to properly indicate if an advertisement was free or paid, this was particularly problematic in newspapers where the distinction between advertisements and regular articles was often blurred.

In a positive development as a part of free airtime, *Tojikiston* TV on 26 February aired a pre-recorded debate with participation of all registered parties. Even if aired late during the campaign, the debate offered voters a chance to obtain some meaningful information on the platforms and views. Regrettably, it could not serve as substitute for the general lack of information about contestants in the news and current affairs programmes during the pre-election period (see next section).

C. MEDIA MONITORING FINDINGS

The OSCE/ODIHR EOM on 19 January commenced its qualitative and quantitative media monitoring of three TV channels, four radio stations, nine newspapers⁵² and the regional broadcasters in Khujand and Kurgan-Tube.⁵³

⁴⁹ Paragraph 7.7 requires that the “law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere...” and paragraph 9.1 provides that “the exercise of freedom may be subject only to such restrictions as are prescribed by law and are consistent with international standards.”

⁵⁰ Decision “On use of Mass Media during pre-election agitation by political parties, registered candidates for deputy and their authorized representatives,” adopted by the CCER on 28 December 2009.

⁵¹ 45 and six single-mandate candidates in *Tojikiston* TV and Radio *Tojikiston* respectively.

⁵² The three state funded TV channels *Tojikiston* TV, TV *Safina* and TV *Jahonnamo*; state funded Radio *Tojikiston* and the three private radio stations Radio Asia Plus, Radio *Imruz* and Radio *Vatan*; the state funded newspapers *Jumhuriyat* (Tajik) *Sadoi Mardum* (Tajik) and *Narodnaya Gazeta* (Russian) and the private newspapers *Farazh*, *Millat* and *Tojikiston* (Tajik), *Asia Plus*, *Biznis i Politika* and *Vecherniy Dushanbe* (Russian).

⁵³ *Sughd* TV (state funded) and *SMI* in Khujand; and *Khatlon* TV (state funded) in Kurgan-Tube.

The findings showed that the monitored TV channels provided election-related information. This, however, had an overwhelming focus on procedural and technical aspects of the electoral process. Apart from free and paid⁵⁴ airtime, coverage of campaign activities of parties and candidates was almost completely absent, amounting to less than one per cent of the election-related programmes. This was not conducive to the ability of candidates to present their views to voters.

The three monitored TV broadcasters concentrated on non-election-related topics in their primetime news and programmes, primarily on the promotion of the fundraising campaign for a hydro-electric power plant in Roghun. All broadcasters aired numerous news reports on a daily basis of share-selling activities across the country and other programmes and spots featuring patriotic aspects of the fundraising campaign. In addition, the monitored TV channels often reported on the implementation of government policies, such as tree planting programmes, technological support for schools and job fairs for the unemployed at the expense of campaign information.

In general, the monitored TV channels reported in an almost identical way on political and social events, with much attention given to the construction of the Roghun dam in particular, as well as to procedural aspects of the elections, but omitted of information on contestants' campaigning and coverage of other political topics. Such an approach effectively bars citizens from receiving any other than official information.

In their news programmes, the state-funded media exhibited a clear bias in favour of President Rahmon, both in tone and time. The president, in his official capacity, dominated the political items in the primetime programmes;⁵⁵ 54 per cent of political news coverage on *Tojikiston* TV⁵⁶ and 55 and 63 per cent on TV *Safina*⁵⁷ and TV *Jahonnamo*⁵⁸ respectively was devoted to his activities. At the same time, the information was exclusively positive or neutral in tone. Such extensive affirmative coverage of the president, who was not a candidate in these parliamentary elections, is likely to have generated support for the PDPT, which is chaired by the president.

While monitored radio stations regularly provided some information on the campaign⁵⁹ as well as special programmes and features presenting views of the citizens on some aspects of the election process, most of the monitored newspapers⁶⁰ provided active and vigorous coverage of campaign events and contestants, including some critical views.

⁵⁴ All registered parties purchased air time in *Tojikiston* TV, but none utilized this opportunity in Radio *Tojikiston*.

⁵⁵ Including speeches held at a session of government (29 January), at the commemoration of the 85th anniversary of the Tajik police (6 February) and a speech of 5 January that was re-broadcast on 8 February. In all speeches, President Emomali Rahmon stressed the importance of citizens contributing to the financing of the Roghun project, by buying shares or by making donations.

⁵⁶ *Tojikiston* TV devoted 24 per cent to the central and local governments; and almost 21 per cent of the political news coverage was devoted to the CCER and other election commissions.

⁵⁷ TV *Safina* devoted 30 per cent to central and local governments, and 14 per cent to the CCER and other election commissions.

⁵⁸ TV *Jahonnamo* devoted 23 per cent to central and local governments, and 14 per cent to the CCER and other election commissions.

⁵⁹ Mostly Radio *Tojikiston*.

⁶⁰ *Asia Plus*, *Farazh*, *Millat*, *Narodnaya Gazeta*, and *Vecherniy Dushanbe*.

State-funded newspapers, *Jumhuriyat* and *Sadoi Mardum*, showed a clear bias in favour of the president and his PDPT party by allocating some 64 and 66 per cent of coverage respectively, all positive or neutral in tone. On the other hand, the private newspapers, *Farazh* and *Millat*, dedicated the highest portion of their pre-election coverage to the IRPT with 34 and 21 per cent, respectively. The newspaper *Tojikiston* allocated 14 per cent of mostly neutral coverage to single-mandate candidates, which was more than any other of the monitored papers.

Administrative or legal actions that were used against some media outlets outside the election period negatively affected the media environment during the pre-election period. During the pre-election period, several independent newspapers⁶¹ faced lawsuits with complainants representing state bodies or the judiciary, claiming hefty moral damage compensations for alleged violation of their honour and dignity under the civil code. Even though these lawsuits, which were condemned by the OSCE Representative on Freedom of the Media,⁶² were not election-related, journalists told the OSCE/ODIHR EOM that it created an atmosphere of intimidation. On 23 February, a Dushanbe district court postponed hearing the cases of *Asia Plus*, *Farazh* and *Ozodagon* until after the elections. The Dushanbe-based TV channel *SMT*,⁶³ considered by many stakeholders as an independent source, could not fully use its new frequency as a Russian military base was using the same frequency. As a result, potential viewers of *SMT* were not able to receive it or received it in poor quality.⁶⁴

X. PARTICIPATION OF WOMEN

The constitution and the election law provide the basis for equal participation of women and men in the electoral process. The gender equality law adopted in 2005 contains specific provisions on equal opportunities for men and women. Among women's advocacy organizations, there is a general consensus that the respective laws rarely go beyond a mere statement of equality and implementation remains insufficient.

With a few exceptions, women do not feature prominently in politics in Tajikistan and their participation in the campaign for the 2010 elections was generally low. Nevertheless, some female candidates were very active in campaigning, stressing gender issues and the role of women in society. The traditional society and stereotype gender roles in Tajikistan are major obstacles to women's participation in politics. The requirement that candidates must have a higher education creates a particular barrier to women's participation⁶⁵ as does the electoral deposit that is very high by local standards.

⁶¹ *Asia Plus*, *Farazh*, *Ozodagon* faced claims for a total compensation of approximately 687,500 EUR (complaint lodged on 25 January); *Millat* faced a claim for compensation of approximately 166,500 EUR (complaint lodged on 26 January). On 27 January the newspaper *Paykon* lost an appeal in a similar case with a claim for compensation of approximately 50,000 EUR.

⁶² Press Release issued by the OSCE Representative on Freedom of the Media on 8 February, http://www.osce.org/fom/item_1_42678.html.

⁶³ On air regionally since 2007, *SMT* in October 2009 started to broadcast on a new frequency which it was allocated that year.

⁶⁴ The Ministry of Transport and Communications, referred to by the State Committee for TV and Radio as the responsible body, was not able to resolve the situation with reportedly unlawful broadcasting outside the base from inside the Russian compound.

⁶⁵ Several civil society interlocutors informed the OSCE/ODIHR that Tajikistan faces a serious problem with girls dropping out from schools. According to a State Statistics Committee publication

Although numerous women's NGOs promote gender equality, they do not engage in political activism. Several voter education projects were supported by international partners, including in eleven Women's Resource Centres throughout the country. These provided women with information and training on the voting process.

Women held 17.5 per cent of seats in the outgoing parliament. A total of 15 women out of 73 candidates (21 per cent) were registered on political party lists to compete for the 22 mandates contested. In the 41 single-mandate constituencies, 17 women (13 per cent) were among the 129 candidates competing. Of the 63 deputies elected, 13 are women (20.6 per cent).⁶⁶

In the election administration, 3 out of 15 CCER members were women and 4 out of 41 DEC members were headed by women, 2 of them in Dushanbe. In total, women occupied 16 per cent of leadership positions on DECs (chairpersons, deputy chairpersons or secretaries) and 21 per cent of the DEC members were women. On election day, observers noted that women chaired 17.8 per cent of PECs visited.

XI. PARTICIPATION OF MINORITIES

The main ethnic groups in the country are Tajiks, accounting for 79.9 per cent of the population, Uzbeks (15.3 per cent), Russians (1.1 per cent), and Kyrgyz (1.1 per cent).⁶⁷ In these elections, the number of candidates from minority groups was marginal and minority issues were not raised during the campaign. Only one person belonging to the Uzbek minority was elected from a single-mandate constituency. No candidates from a minority entered parliament on party lists.

Political parties distributed some campaign materials in minority languages, such as Russian, Uzbek, and Kyrgyz; this was observed by the OSCE/ODIHR EOM in the Sughd region and in Dushanbe. In some areas with significant minority populations, ballots were printed in minority languages. In most minority-populated DEC areas observed, up to 50 per cent of members were from minority groups.

XII. DOMESTIC AND INTERNATIONAL OBSERVERS

The election law stipulates that political parties and self-nominated candidates have the right to appoint election observers. Each political party and self-nominated candidate may appoint one observer to each PEC. International observers are also foreseen by the election law and accredited on the basis of an invitation by the CCER.

entitled Men and Women 2009, women made up 27.1 per cent and men 72.9 per cent of students (2006) in primary professional educational institutions. Despite a Presidential Decree 1998 on "Quotas for education of girls from remote districts" the situation of girls from rural areas seems to have worsened.

⁶⁶ Seven from single-mandate constituencies and six from party lists. All elected women are from the PDPT.

⁶⁷ These figures are based on the state population census of 2000. Other ethnic groups comprise the remaining 2.6 per cent

In these elections, the CCER registered 536 international observers, including 167 from the Commonwealth of Independent States, 17 from the Shanghai Cooperation Organization (SCO), 254 from the OSCE/ODIHR, and 86 from embassies in Dushanbe as well as from other international organizations. Also, 25,000 national observers from political parties and self-nominated candidates observed the elections.⁶⁸ The election law does not explicitly allow observers to receive certified copies of the results protocol, either at the PEC, or the DEC level.

While the authorities of Tajikistan readily accommodated international observers, they did not fully meet their commitment under paragraph 8 of the 1990 OSCE Copenhagen Document as domestic observers from civic organizations are not allowed.

XIII. COMPLAINTS AND APPEALS

The complaints and appeals process, primarily regulated by the election law, civil procedure code, and administrative offences code, generally lacks sufficient clarity and guarantees of due process.⁶⁹ Courts and election commissions have overlapping jurisdiction for consideration of complaints against decisions of election commissions,⁷⁰ with the Supreme Court as a final instance in all cases. In this context, there is a lack of clarity about the respective mandates of the courts and electoral bodies. This is made worse by an absence of systematic co-operation between the kinds of institutions in cases when duplicate complaints are filed.⁷¹ Complaints alleging violations of the election law can be filed to courts.⁷²

Art. 20 of the election law provides a sufficiently short deadline for consideration of first instance complaints: three days or immediately, if the complaint is filed within six days of election day. However, the CCER informed the OSCE/ODIHR EOM that it considers the deadline only applicable to courts. Timelines for submission of electoral complaints to election commissions and general deadlines for submission and consideration of court appeals established by the election law and civil procedure code are unduly lengthy for an electoral process.⁷³ Also, the deadline for complaints against decisions of election commissions starts from time of issuance (not receipt) of the decision, thus making the filing period uncertain and open to abuse through delay.

Some electoral contestants indicated a lack of trust in the election commissions and courts to impartially and effectively consider election-related complaints and a reluctance

⁶⁸ According to a CCER press release published on 1 March.

⁶⁹ For instance, the election law does not provide for the right to a public hearing, the right to a written decision with justification, and notification of the right to appeal decisions.

⁷⁰ Arts. 12 and 14 of the election law provide that election commissions are responsible to control the execution and equal application of the election law. The election law does not clearly provide that actions and inactions of election commissions can also be challenged.

⁷¹ There were several instances of complaints being filed to both a first instance court and the CCER. If the CCER was aware that the complaint had also been filed to a court, it refused to consider it although this not in accordance with the election law.

⁷² Under the civil procedure code; however, the code does not provide for lawsuits to be filed by electoral contestants against other contestants for electoral violations.

⁷³ 10 days for submission of complaints against election commission decisions; 40 days for submission of complaints on violations of the election law; 30 days for filing appeals to court; and 1 to 2 months for consideration of court appeals.

to file formal complaints to avoid negative repercussions from the authorities.⁷⁴ Instead, contestants often attempted to settle disputes in an informal manner. The OSCE/ODIHR EOM also observed that electoral contestants lack sufficient legal expertise to prepare effective complaints that incorporate necessary factual detail, legal argument and reference to supporting evidence. They also lack knowledge about technical requirements for filing complaints to courts⁷⁵ and about the proper venues for submitting election-related complaints.⁷⁶

To the OSCE/ODIHR EOM's knowledge, 8 pre-election day complaints related to the parliamentary elections were filed with the DECs, 15 to the CCER, and 9 to first instance courts⁷⁷ by political parties, candidates and citizens. The IRPT was the party that most utilized the formal complaint process. Subject matters of complaints related to, *inter alia*, PEC composition, candidate registration, campaign speech, hindrance of campaign activities by election officials and local civil servants, police interference in campaign activities, pressure by the ruling party to gain voter support, and coercion of public servants by government officials to ensure particular election results. Five of the complaints to courts alleged police interference with IRPT campaign activities. To the knowledge of the OSCE/ODIHR EOM, all complaints to courts and almost all complaints to election commissions were either unsuccessful or not considered.

The OSCE/ODIHR EOM was not provided adequate access to complaints filed with the CCER and to respective responses. The CCER interpreted the election law in a strict manner, to the effect that international observers only have the right to become "familiarized" with complaints results.⁷⁸ The election law requires decisions on complaints to be voted on by a quorum of election commission members in open session. In contravention of the law, the CCER generally did not consider complaints in this manner and responded to them by letter signed by the CCER chairperson.⁷⁹ While a Complaints Working Group,⁸⁰ composed of eight CCER members was established, there were no procedures detailing and standardizing the process for handling and consideration of complaints. In practice, the head of the Complaints Working Group determined the "seriousness" or "difficulty" of complaints and accordingly decided whether, or to what degree, to involve other members or staff in formulating responses.

The CCER generally did not take sufficient initiative to investigate complaints; for instance, the CCER informed the OSCE/ODIHR EOM that it would not investigate a complaint alleging that a regional governor was instructing public servants to rig the

⁷⁴ There were also reports to the OSCE/ODIHR EOM that citizens, particularly public servants, fear giving reports or evidence on electoral violations.

⁷⁵ The civil procedure code, chapter 12, establishes technical requirements for court complaints.

⁷⁶ In some cases, complaints against DECs were submitted to the same DECs, instead of to the CCER or to court. Also, the CCER received many complaints related to the local elections, although it has no legal mandate related to local elections.

⁷⁷ One case was appealed to a second instance court and no complaints or appeals were filed to the Supreme Court.

⁷⁸ Art. 8², election law. The CCER permitted the OSCE/ODIHR EOM to view, but not to receive a copy of, filed complaints and the respective responses. The CCER noted that it was contravening the law by allowing the OSCE/ODIHR EOM to even view the filed complaints, referring to complaint-related documents as "confidential".

⁷⁹ The letters did not provide adequate factual and legal reasoning and did not always address all issues raised in the complaints.

⁸⁰ Created according to CCER Decision No. 6, dated 16 December 2009.

election, because it would be “impossible to prove.” The CCER also noted that since one of the complainants in that case had been de-registered, the complaint need not be considered. The CCER merely forwarded some complaints to other public bodies without consideration. In one case, the CCER referred a complainant to a DEC, when by the law the CCER was the proper body to consider the complaint.⁸¹ In addition, complaints were often not responded to by the CCER within the three-day legal deadline. In one of these cases, a candidate, who had complained against the DEC decision not to register him, waited eight days for a CCER response. The complainant informed the OSCE/ODIHR EOM that he would not appeal the CCER response to the Supreme Court as the response was so delayed that he would not have sufficient time to campaign after completing the court appeal process. This manner of dealing with complaints effectively undermined the collegial status and inclusive composition of the CCER, as well as the principles of transparency and due process. Furthermore, the lack of formal decisions on complaints potentially undermined the right to appeal to court, as the election law provides that courts have jurisdiction to review ‘decisions’ of election commissions. There were similar shortcomings in the work of a number of first instance courts which refused the registration of complaints in contravention of the civil procedure code⁸² and in some cases also did not comply with the three-day consideration deadline.⁸³

The OSCE/ODIHR EOM also observed instances of DEC’s not considering complaints in a collegial and transparent manner, and not issuing official decisions. There were cases of DEC’s contravening the law by refusing to receive complaints. In response to a complaint by the IRPT, a DEC incorrectly and inconsistently applied the election law when it reasoned that the law forbids party members to be on PECs, while at the same time PDPT and CPT had party members on the PECs in the district.⁸⁴

The courts generally did not provide transparent and effective consideration of electoral complaints. There were examples of courts refusing to provide the OSCE/ODIHR EOM information about hearing schedules and denying it copies of court judgments. There were instances of courts misapplying the law and not issuing thoroughly reasoned judgments. In one such case, the Penjikent district court, referring to the campaign finance provision in the election law, upheld a DEC decision to deregister a candidate on determination that the candidate had used his private funds, and not official campaign funds, to buy furniture for a school to entice votes. On appeal, the Sughd regional court upheld the lower court decision, but on opposite grounds; that the candidate had used his official campaign funds to buy the furniture.⁸⁵

⁸¹ The complaint was against a DEC decision on the appointment of PEC members.

⁸² Some courts noted technical deficiencies as grounds to refuse to register; however, under the civil procedure code, chapter 12, all complaints must be registered by the court, and any technical deficiencies addressed following an official review by a judge. In one case, a court repeatedly refused to register the same complaint on grounds that the judge was not available.

⁸³ In some cases, complainants were referred by courts to the prosecutors’ office and never received a hearing.

⁸⁴ The DEC referenced Art. 18 of the election law which states that PEC members must be neutral and impartial; however, this provision does not prohibit political party members from serving on PECs.

⁸⁵ The election law does not prohibit vote buying or authorize de-registration for vote buying, but vote buying is subject to administrative fine under the administrative offences code or criminal sanction under the criminal code.

In response to an IRPT press statement alleging electoral offences committed by the election administration and local authorities, the Supreme Court on 18 February issued a press statement defending the timeliness and correctness of lower courts' decisions in election-related cases.⁸⁶

The OSCE/ODIHR EOM is aware of several complaints filed by electoral contestants to a number of prosecutors' offices. Although most complaints received by the CCER concerned administrative and criminal offenses, it did not notify prosecutor's offices of many of them. According to a press statement of the Prosecutor General of 20 February, his office was not aware of any substantiated electoral offences; in apparent reference to the IRPT's allegations in the media of electoral violations, the Prosecutor General also warned against the making of intentional false claims and noted legal liability for doing so. To the OSCE/ODIHR EOM's knowledge, no charges were brought for any electoral offences under the new administrative offences code or the criminal code.

In general, an insufficiently precise legal framework for complaints and appeals and the manner in which complaints were dealt with and considered in practice undermined the right to an effective redress for electoral complaints as prescribed by OSCE commitments.

XIV. OBSERVATION OF VOTING AND COUNTING

A. VOTING

Election day took place peacefully and no incidents or violence were reported. However, voting was assessed positively in only 74 per cent of polling stations visited by OSCE/ODIHR observers. A negative assessment in 26 per cent of observations is indicative of a voting process marred by serious problems and election officials not performing their duties as prescribed by the election law. Procedures were implemented poorly in 22 per cent of polling stations observed, which may point to a lack of sufficiently detailed instructions on election day procedures and insufficient training. There was no difference between urban and rural areas in the overall assessment. Geographically, voting was most negatively assessed by OSCE/ODIHR EOM observers in the Khatlon region.

Ballot paper control and accountability by election officials were inadequate. Voters were allowed to vote without identification documents in 36 per cent of the polling stations visited; often an invitation to vote was sufficient to receive a ballot.⁸⁷ Control over the process was thus weakened, which resulted in serious irregularities. Voter lists contained identical signatures in over half of the polling stations observed. Instances of group voting were observed in 29 per cent of polling stations visited. Proxy voting (voting for

⁸⁶ According to the Supreme Court, it had not formally examined any election-related lower court decisions by the time of release of the press statement.

⁸⁷ According to Art. 42 of the election law "ballot papers are issued on the basis of the voter list in the PEC and against a passport or another document identifying the voter". The other document identifying the voters is not described in the law. The CCER informed the OSCE/ODIHR EOM that these could be: military IDs, pensioners' books, etc., i.e. documents with a photo.

another person) was almost as widespread and observed in 26 per cent of polling stations, which constitutes a serious problem.⁸⁸

Attempts to influence voters were observed in 44 cases or 5.8 per cent of the polling stations observed. Multiple voting was directly observed in 60 cases or 8 per cent of these polling stations. OSCE/ODIHR EOM observers saw voters voting with pre-marked ballots in four polling stations. Ballot box stuffing was reported from 25 polling stations or 3.1 per cent. Other problems observed included ballot boxes not properly sealed in 18 per cent of polling station visits. The secrecy of the ballot was not respected in 10.4 per cent of polling stations visited, with voters showing their marked ballot papers to others. In three polling stations in DEC 12 (Rasht), a self-nominated candidate was crossed out from the ballot by the PEC prior to the commencement of voting, even though he had not withdrawn. In the same DEC, two withdrawn candidates were not removed from the ballot in a number of polling stations.

Observers reported discrepancies between the high turnout, as announced by the PECs, and the number of signatures on voter lists or the number of ballots visible in the box. Unauthorized persons were present in almost one-third of polling stations visited. In 43 polling stations observed, an unauthorized person was directing the work of the PEC. On a positive note, party or candidate observers were present in most polling stations visited (91 per cent), most frequently from the IRPT (68 per cent) and the PDPT (59 per cent). However, party observers were restricted in their observation as they were not allowed to move around freely and were confined to the seats allotted to observers, in a far away corner of the polling station in 8 per cent of polling stations visited.

Observers reported that 9 per cent of polling stations visited were not fully adequate to conduct voting and noted overcrowding in 12 per cent of those polling stations.

B. COUNTING AND TABULATION

1. Counting

Counting and tabulation were assessed more negatively by observers than voting in the 85 counting processes observed by the OSCE/ODIHR EOM. Counting was assessed positively in less than half of the polling stations visited.⁸⁹ Counting procedures were not properly followed in half of the polling stations observed.

Most PECs seemed to have limited knowledge of election procedures. In 33 cases, the total numbers of voters on the voter list and the supplementary voter list were not recorded in the protocol. In further 32 cases, the number of ballots received by the PEC was not recorded in the protocol. Unused ballots were not invalidated as required by law in 36 of the polling stations observed. Also, the number of cancelled ballots was not entered into the results protocol in 37 of the polling stations observed. The number of the ballots in the mobile ballot boxes was not counted in 36 cases and in 31 polling stations,

⁸⁸ Article 42 of the Election Law, para 4: "Voters vote personally by themselves. Voting for others is prohibited".

⁸⁹ A "very bad" count was observed in DEC/PECs: 1/62, 2/7,40, 4/54, 5/8, 6/11,19, 26/4, 28/8, 30/3, 31/2,14,16, 35/1,5, 36/38, 37/33

ballot papers from the stationary box were not counted and the total number was not entered into the protocol.

During the sorting of ballots, the voters' choice was not visible to observers in almost half of the polling stations visited. In half of the observations, the results were not announced by candidate before being entered into the protocol. PEC members had difficulties in completing the protocols in more than one third of the observed polling stations. Also, in 14 cases the protocols were not filled in ink. In 11 polling stations visited, deliberate falsifications of the voter list entries were reported.

The transparency of the counting was limited. In more than one-third of the polling stations observed, observers did not have a full view of the closing and counting process. Observers were also restricted in their observation of the counting process in 18 polling stations visited. In 46 cases, significant procedural errors were observed. OSCE/ODIHR EOM observers reported that after counting, PECs took breaks lasting from 15 minutes to 3 hours and the ballots and protocols were taken to a separate room to which observers were denied access.⁹⁰ The PECs did not publicly post the protocol, as required by the election law, in over half of the polling stations observed.⁹¹

2. Tabulation

The concurrent conduct of local elections with the parliamentary led to confusion as to which DEC the PECs should deliver their results protocols for the parliamentary elections.⁹² This was most noticeable in the Dushanbe region (DECs 3, 4, 8, 10, 29 and 36) where PECs did not always deliver protocols directly to the DEC for the parliamentary elections.⁹³

The conduct of the tabulation process was assessed positively in 46 of the observed DEC and negatively in 39 of them. In 8 DEC, the observers assessed the conduct of tabulation as "very bad".⁹⁴ In 17 cases, protocols were not submitted immediately to the DEC, as required by the election law. Also, changes were introduced in PEC protocols in 24 out of the 34 observed DEC. In DEC 35, four PECs results were missing in the spreadsheet, although the DEC proceeded to tabulate the results.

In close to half of the DEC observed, there were candidate/party observers present. IRPT and PDPT were predominant – each of the two parties contributed about a third of the total number of such observers. Unauthorized people were present in almost a third of the

⁹⁰ OSCE/ODIHR EOM teams covering DEC: 1, 2, 5, 6, 7, 9, 11, 12, 13, 16, 23, 24, 25, 26, 27, 28, 32, 34, 35, 37, 38, 39.

⁹¹ According to article 46, election law, a copy of the official PEC protocol is to be displayed on the outside wall of the polling station for three days.

⁹² Resulting from a lack of harmonization of the election law and the Law on Election of Local Majlis of People Deputies (1999). Both laws require setting up DEC separately for the parliamentary and local elections to establish and oversee polling station commissions, while there was only one polling station for both parliamentary and regional/local elections and both elections were held on the same day.

⁹³ PECs under DEC 1, 2, 5, 6, 7 and 9 took their protocols to another designated PEC, which was responsible for further transfer to the DEC; 80 per cent of the same PECs/DECs delivered blank protocols; in DEC 26, 27, 28, 32 the PEC protocols were first taken to a separate room in the DEC; in DEC 12 the PEC protocols were processed by 5 DEC for the local elections.

⁹⁴ These were DEC 14, 19, 28, 32, 35, and 37.

tabulations observed, mainly police officers.⁹⁵ In two DEC's, a person without authorization was directing or interfering in the process.⁹⁶

OSCE/ODIHR observers were restricted or obstructed in their observation in 9 cases, while party / candidate observers were hindered in their observation in 11 cases in DEC's observed. The observers were not fully able to follow the tabulation of the results in 25 DEC's. The OSCE/ODIHR EOM observers saw discrepancies between the PEC results and the numbers entered by DEC's in the DEC results protocols in 11 cases.

XV. ANNOUNCEMENT OF RESULTS

In line with the election law, the CCER announced the preliminary results at a press conference on 1 March. A press release with the preliminary results for the proportional race was issued, according to which three parties passed the 5 per cent threshold; namely, PDPT with 71.69 per cent, IRPT with 7.74 per cent and CPT with 7.22 per cent. The APT won 4.86 per cent and PERT won 4.69 per cent, thus remaining just below the 5 per cent threshold.⁹⁷

The CCER held a session on 5 March⁹⁸ to adopt the final results, which were published on 6 March in the state newspaper, *Sadoi Mardum*. In the final results, 5 parties passed the 5 per cent threshold, including APT with 5.1 per cent and PERT with 5.03 per cent of votes in the proportional contest (see Annex). The number of voters who voted out-of-country was not published and was not made available to the OSCE/ODIHR EOM, although requested.

In DEC 19 (Konibodom) a second round was held on 14 March in line with the election law since no candidate had received an absolute majority in the first round. This second round of voting was not observed by the OSCE/ODIHR EOM.

XVI. POST-ELECTION DAY COMPLAINTS

OSCE/ODIHR EOM observers reported that official complaints were submitted in 30 PEC's and DEC's visited on election day.

⁹⁵ Art. 40, election law: "On election day it is forbidden for armed persons and persons in uniform including those working in law enforcement bodies to be present inside the premises for voting, except in cases of restoring law and order."

⁹⁶ DEC's 9 and 35.

⁹⁷ Also on 1 March, in the media, different results were published with 5 parties, including the APR and PERT passing the 5 per cent threshold and entering parliament. The CCER explained to the OSCE/ODIHR EOM that a mistake had found its way into the copy of the press release stored on the computer from which the press release was printed for the CCER 1 March press conference, while the corresponding file on another computer contained the correct figures. This was how, according to the CCER, different figures were reported compared to those in the press release.

⁹⁸ The OSCE/ODIHR EOM was not invited although EOM representatives did observe a part of the session due to the fact that the mission learned about the CCER session by chance. The CCER staff explained they had "forgotten" to invite the OSCE/ODIHR EOM, although to the mission's enquiry about half an hour before the session, the CCER staff informed that no session was foreseen on 5 March.

The OSCE/ODIHR EOM is aware of 15 complaints filed to the CCER by electoral contestants and in one case by an IRPT DEC member relating to election day irregularities. The latter complaint was also submitted to a district court. The complaints allege serious electoral violations in various parliamentary districts including, *inter alia*, interference by local executive bodies, ballot stuffing, obstruction of party observers, and falsification of PEC results protocols.⁹⁹ Several of the complaints specifically requested invalidation of the district results and recounts, or repeat voting. Electoral contestants are not legally entitled to receive PEC and DEC results protocols, hindering their right to officially complain against the election results.

The CCER considered one post-election complaint in an open session on 5 March without providing an opportunity for the complainant to participate in the hearing. The CCER rejected the complaint citing a lack of submitted evidence and “absence of real and legal grounds”.¹⁰⁰ The CCER refused, on dubious grounds, to consider the complaint filed by a DEC member, referred to in the paragraph above, arguing that DEC members have no right to file complaints under article 20 of the election law.¹⁰¹ In addition, the CCER rejected two complaints without legal basis on grounds that the final election results had already been validated by the CCER on 5 March.¹⁰² The CCER forwarded other complaints to the Prosecutor General for investigation.

One of the complaints filed by the PDPT reportedly led to charges against an opposition candidate who had allegedly physically assaulted a PEC chairperson for permitting proxy voting. However, the OSCE/ODIHR EOM is not aware of any charges against election officials or public servants for committing electoral violations.

The legal deadline for announcement of final election results is not harmonized with (i.e., is earlier than) the timeline for consideration of complaints and appeals against election day violations, up to the highest court level.¹⁰³ In addition, by CCER decision No. 29, dated 5 March 2010, it was decided that all ballot papers would be destroyed within 10 days after the election.¹⁰⁴ This decision allowed potentially crucial evidence to be destroyed prior to the exhaustion of the complaint and appeal process.

⁹⁹ The complaint of the IRPT DEC member had attached more than 30 PEC protocols allegedly evidencing falsification.

¹⁰⁰ The CCER session agenda item noted “Rejection of the DPT Complaint”, indicating a predetermined decision prior to consideration by the plenary commission. Also, this was the only CCER session in which any complaint received by the CCER was considered.

¹⁰¹ Article 20 of the election law provides that political parties, candidates, proxies, observers and voters may file complaints against decisions of election commissions. However, DEC members, although not specifically included as potential complainants, are entitled to file complaints in their capacity as voters.

¹⁰² Article 20 of the election law provides that complaints can be filed within 10 days of a decision of an election commission. These complaints had been submitted to the CCER within the 10-day deadline; the fact that election results have been validated is not a legal basis for refusal to consider complaints.

¹⁰³ Article 55 of the election law requires final results to be announced not later than two weeks after election day.

¹⁰⁴ The election law is silent regarding destruction of ballot papers.

The Supreme Court refused to register a complaint submitted by the IRPT challenging the final election results on grounds of fraud and requesting a repeat election.¹⁰⁵ Despite expressed intentions by some other opposition parties to file complaints against the election results, no other parties did so.¹⁰⁶

XVII. RECOMMENDATIONS

OSCE/ODIHR offers the following recommendations for consideration by the authorities of Tajikistan. These should be read in conjunction with previous recommendations made in past OSCE/ODIHR election observation missions. The recommendations require urgent attention and a commensurate level of political will for their effective implementation. The OSCE/ODIHR stands ready to assist the authorities and civil society of Tajikistan in further improving the electoral process.

A. PRIORITY RECOMMENDATIONS

1. A comprehensive review of the election law should be undertaken well in advance of the next elections in order to bring it closer to OSCE commitments, fill gaps and improve clarity. In addition, recommendations for amendments to the legal framework made by the OSCE/ODIHR in this and previous reports should also be considered by parliament. Continued efforts should be undertaken by all electoral stakeholders to reach a broad consensus on amendments to the current election law.
2. The authorities should promptly investigate irregularities and fraudulent actions committed during these elections. Perpetrators should be held accountable and punished to the extent permitted by law.
3. Undue restrictions on freedom of expression should be eliminated from the legal framework in order to foster a free campaign environment and to ensure full respect for this fundamental freedom that is central to democratic elections.
4. Individuals without higher education should be able to stand for office in line with the International Covenant on Civil and Political Rights.
5. The provision of the election law (Art. 33) banning those individuals suspected of having committed grave crimes from standing for office should be repealed; it is contrary to presumption of innocence enshrined in the Constitution as well as in the OSCE 1990 Copenhagen Document. The loss of the right to stand for office is a severe penalty and it should in each case be carefully considered whether deprivation of the right to stand is proportionate to the underlying crime.
6. Steps should be taken to ensure that voters have access to sufficient, pluralistic, objective and balanced information on political parties and candidates through news and public affairs programs so as to enable informed choices.

¹⁰⁵ The grounds for refusal were technical deficiencies in the complaint; however, chapter 12 of the civil procedure code requires that a complaint be reviewed for technical deficiencies *following* registration of the complaint.

¹⁰⁶ The DPT leader informed the OSCE/ODIHR EOM that it was “useless” to challenge the elections results with the Supreme Court.

7. Pluralism and inclusiveness of election commission membership at all levels should be increased to ensure public confidence in their performance.
8. The election law should allow for domestic election observers from civic organizations as prescribed by OSCE commitments.
9. Individuals, whose rights have been infringed, should have access to effective and timely remedy in line with OSCE commitments. In accordance with legal requirements, courts should act independently, impartially and transparently in the consideration of complaints and appeals. They should provide unhindered access for complainants in accordance with the law, consider election cases within legal time limits, adjudicate within the rule of law, provide decisions with more comprehensive factual-legal reasoning, and increase transparency of the hearing process and judgments. Consideration should be given to establishing systematic channels of co-operation between the courts and election commissions to prevent overlapping or conflicting decisions.
10. Consideration should be given to lowering the amount of the electoral deposit so as to further open the field of candidates and increase political pluralism.
11. The CCER should issue binding instructions in line with its legal responsibility (Art.12.1 of the election law) to clarify insufficiently precise legal provisions and ensure that the provisions of the law are uniformly applied. These should include clear and detailed instructions for the work of DEC and PEC on candidate registration, early voting, voting by mobile ballot box, out-of-country voting, military voting, assisted voting, counting of votes, completing protocols at the PEC and DEC levels and tabulation at the DEC.

B. OTHER RECOMMENDATIONS

LEGAL FRAMEWORK

12. Consideration should be given to registering an electoral contestant once s/he has reached the minimum number of valid supporting signatures irrespective of the number of invalid signatures. This would require amending art. 35 of the election law.
13. Consideration could be given to amending the election law (art. 55) so that it provides for the publication of election results broken down by polling station. In addition, observers should be permitted to receive certified copies of the results protocols both at PEC and DEC levels. These changes would allow interested stakeholders to verify that election results have been reported accurately and honestly as prescribed by OSCE commitments.

ELECTION ADMINISTRATION

14. The CCER should revise the boundaries of constituencies in accordance with its legal responsibility to ensure the equality of the vote in accordance with the election law and as prescribed by OSCE commitments.

15. Sessions of the election commissions at all levels should be open to the media and observers throughout the election process in order to increase transparency and public confidence.
16. A deadline should be established by which candidates should be allowed to withdraw as well as detailed procedures for such withdrawals.
17. In order to enhance transparency, the CCER could consider maintaining its own website and publishing all its decisions as soon as they are adopted.

VOTER REGISTRATION

18. Consideration could be given to establishing a centralized, national, computerized voter register to enable cross checks and elimination of duplicate entries. This would improve the quality and inclusiveness of the voter lists.

ELECTION CAMPAIGN

19. All registered contestants should be allowed sufficient time for campaigning and start their campaign at the same time to contribute to a more even playing field.
20. Election commissions and local governments should neither organize nor preside over campaign meetings. Their role should be limited to organizing the electoral process and to providing practical assistance upon request of candidates and political parties.
21. Training programmes on laws and regulations related to election campaigns should be developed for law-enforcement agencies. Such programmes could focus on the right to campaign and the authorities' obligation not to interfere with campaign activities, as well as on effective techniques for investigation and prosecution of election-related offences.

COMPLAINTS AND APPEALS

22. The complaints and appeals process should be amended to ensure due process of law and to provide greater clarity and transparency. Particular shortcomings noted in this report should be addressed including, *inter alia*, clarification of jurisdictions of courts and election commissions, provision to allow filing of complaints against all forms of electoral violations and actions/inactions of election commissions and by all types of complainants, specialized and shorter timeframes for submission and consideration of complaints and appeals at all levels, and publication of complaint decisions.
23. All election commissions should consider complaints in the manner prescribed by law and apply the law in a consistent, sound and impartial basis. In order to remedy current practice, the election law could more clearly stipulate that the CCER and other election commissions must rule officially on all complaints, in public session, within a designated three to five day time period, and provide written, fully reasoned decisions. The election law could also include the full range of due process guarantees. For consistency and transparency, the CCER should establish detailed

standard operating procedures to govern the complaints and appeals process for all levels of election commissions.

24. Additional training of election commissions and courts on effective adjudication of election disputes should be organized to ensure better compliance with election procedures.
25. Training of political parties and other electoral subjects on the electoral process might be considered, including as regards complaint and appeal procedures and effective preparation of complaints and appeals.

ANNEX: FINAL DISTRIBUTION OF SEATS

The below election results were compiled on the basis of information published by the CCER in the *Sardoj Mardum* newspaper 6 March 2010.

Total mandates (63 seats):

| | |
|--------------------|-----------------|
| PDPT | 54 seats |
| APT | 2 seats |
| CPT | 2 seats |
| ERPT | 2 seats |
| IRPT | 2 seats |
| Independent | 1 seat |

Results in the single nationwide constituency (22 seats):

| | |
|-------------|-----------------|
| PDPT | 16 seats |
| IRPT | 2 seats |
| CPT | 2 seats |
| APT | 1 seat |
| ERPT | 1 seat |

| Political party lists | No. of votes | Percentage |
|------------------------------|---------------------|-------------------|
| APT | 166,935 | 5.1 |
| DPT | 33,657 | 1.0 |
| PERT | 165,324 | 5.03 |
| CPT | 229,080 | 7.0 |
| IRPT | 268,596 | 8.2 |
| SPT | 18,029 | 0.5 |
| SDPT | 27,006 | 0.8 |
| PDPT | 2,321,436 | 70.6 |
| “Against all” | 37,597 | 1.1 |
| Invalid ballots | 21,710 | 0.7 |

Elected from political party candidate lists:

| NAME | Party affiliation |
|-------------------------|--------------------------|
| Amirsho Miraliev | PDPT |
| Akramsho Felaliev | PDPT |
| Khayrinisso Yusufi | PDPT |
| Ziyoratsho Sa’dullo | PDPT |
| Muhammadsharif Haqdodov | PDPT |
| Huseyn Aliev | PDPT |
| Khadicha Hakimova | PDPT |
| Saidi Yoqubzod | PDPT |
| Nizom Qosim | PDPT |
| Munavvar Kenjaeva | PDPT |
| Bibidavlat Afzalshoeva | PDPT |

| NAME | Party affiliation |
|----------------------|--------------------------|
| Jum’aboy Sanginov | PDPT |
| Makhfirat Khidirova | PDPT |
| Beg Kurbonov | PDPT |
| Talbak Salimov | PDPT |
| Gulnora Hasanova | PDPT |
| Muhiddin Kabiri | IRPT |
| Sayidumar Husayni | IRPT |
| Shodi Shabdolov | CPT |
| Ismoil Talbakov | CPT |
| Mahmadsharif Nozimov | PERT |
| Amir Qaroqulov | APT |

Results in single-mandate constituencies (41 seats)

PDPT **38 seats**
APT **1 seat**
PERT **1 seat**
Independent **1 seat**

| DEC | Name | Party affiliation |
|-----|----------------------------------|-------------------|
| 1 | Mahmadali Vatanov | PDPT |
| 2 | Marhabo Jabborova | PDPT |
| 3 | Safarali Rajabov | PDPT |
| 4 | Shermuhammad Shohiyon | PDPT |
| 5 | Barakatullo Atohoja | PDPT |
| 6 | Sabohat Muqumova | PDPT |
| 7 | Sharofiddin Sirojov | PERT |
| 8 | Galiya Rabieva | PDPT |
| 9 | Davlatali Davlatzoda | PDPT |
| 10 | Ubaydullo Davlatov | PDPT |
| 11 | Mirojiddin Hakimov | PDPT |
| 12 | Shukurjon Zuhurov | PDPT |
| 13 | Domullo Jabborov | PDPT |
| 14 | Nazira Ghafforova | PDPT |
| 15 | Abduzafar In'omov | PDPT |
| 16 | Maqsuda Samadova | PDPT |
| 17 | Azizmat Imomov | PDPT |
| 18 | Nurullo Oqilov | PDPT |
| 19 | Nasrullo Mahmudov ¹⁰⁷ | PDPT |
| 20 | Amir Kataev | PDPT |
| 21 | Shakarbek Samadov | PDPT |

| DEC | Name | Party affiliation |
|-----|-----------------------|-------------------|
| 22 | Olim Salimzoda | PDPT |
| 23 | Lutfullo Saidmurodov | PDPT |
| 24 | Sattor Kholov | PDPT |
| 25 | Nodira Turdimatova | PDPT |
| 26 | Saodat Amirshoeva | PDPT |
| 27 | Amirbek Mahmadaliev | PDPT |
| 28 | Mahmadamin Hisoriev | PDPT |
| 29 | Turahon Samadov | Independent |
| 30 | Habibullo Sa'dulloev | PDPT |
| 31 | Badriddin Sadriddinov | PDPT |
| 32 | Abdualol Salimov | PDPT |
| 33 | Musayabsho Nazriev | PDPT |
| 34 | Sayfullo Giyoev | PDPT |
| 35 | Safarali Gulov | PDPT |
| 36 | Mahmadrahim Karimov | PDPT |
| 37 | Amirkhon Safarov | PDPT |
| 38 | Safarali Rajabov | PDPT |
| 39 | Rustam Latipov | APT |
| 40 | Narzullo Jonov | PDPT |
| 41 | Mirgant Shahbozov | PDPT |

¹⁰⁷ As per publication dated 15 March 2010 in Asia-Plus - www.asiaplus.tj. In DEC 19 a second round of voting took place on 14 March.

ABOUT THE OSCE/ODIHR

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

The OSCE/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 130 staff.

The OSCE/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 standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/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. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/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 persons, 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**, the OSCE/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. The OSCE/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 OSCE/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).