



**Office for Democratic Institutions and Human Rights
Election Observation Mission to Kyrgyzstan
Presidential Election 2005**

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**INTERIM REPORT No.1
2 – 26 May 2005**

EXECUTIVE SUMMARY

- Following the resignation of President Askar Akaev, an early presidential election in the Kyrgyz Republic (Kyrgyzstan) is scheduled for 10 July.
- The authorities and actors across the political spectrum have stated their determination to hold democratic elections free of violations and in line with OSCE commitments.
- There are concerns that issues surrounding unresolved disputes from the recent parliamentary elections, including the non-functioning of the Supreme Court, may impact on the environment for the presidential election.
- The Central Election Commission (CEC) is working on the basis of a reduced election calendar. To date, the CEC does not work in an entirely transparent manner. The forming of lower-level election commissions is on schedule, but a relatively modest level of nomination by political parties means a shortfall in their representation on commissions formed so far.
- Candidate nomination concluded on 26 May. Up to fifteen nominees are actively pursuing the process to the registration stage, involving signature collection. Some potential candidates have expressed dissatisfaction about the shortness of time for signature collection.
- The requirement that nominees pass a Kyrgyz language test has been controversial, and there have been procedural problems with the tests conducted to date.
- The response to the OSCE/ODIHR Interim Recommendations for the Early Presidential Election by a special Working Group and by the CEC has been generally positive, although actions implementing the recommendations have been relatively limited in scope so far.

I. INTRODUCTION

An early presidential election will take place on 10 July 2005, following the ouster and subsequent formal resignation of President Askar Akaev, which had been precipitated in part by protests against the conduct of parliamentary elections in February and March. A presidential election had been due to take place in October.

Following an invitation by the Ministry of Foreign Affairs, the OSCE/ODIHR established an Election Observation Mission (EOM) on 2 May. The Mission, headed by Ambassador

Lubomir Kopaj (Slovak Republic), consists of a 15-member core team based in Bishkek, the capital, as well as 26 long-term observers deployed in 11 locations around the country. Citizens from 21 OSCE participating States are represented.

II. BACKGROUND

A. Political Background to the Early Presidential Election

Public protests during and after the February-March 2005 parliamentary elections against alleged electoral violations and irregularities, as well as on economic and political issues, led on 24 March to President Akaev's ouster and departure from the country. For a short period both the outgoing and the newly-elected Parliaments operated in parallel. The outgoing Parliament, due to the President's absence from the country, appointed Mr. Kurmanbek Bakiev, an opposition leader, as the acting Prime Minister and acting President until a presidential election could be held. On 26 March the CEC certified the newly-elected Parliament,¹ and the outgoing parliament dissolved. The new Parliament confirmed Mr. Bakiev's appointment. President Akaev subsequently tendered his resignation to Parliament, which was accepted on 11 April. The new Parliament scheduled the early presidential election for 10 July, the date being subsequently confirmed by the CEC.

B. ODIHR Interim Recommendations for the Early Presidential Election

The specific circumstances in Kyrgyzstan warranted the issuance of interim recommendations to improve the electoral process in advance of the early presidential elections.² The recommendations are oriented towards what can feasibly be achieved in the limited timeframe available prior to the early presidential election, focusing primarily on election administration measures, and including some key legal recommendations for consideration. The document points out that the authorities could act on a number of the recommendations without amending the Election Code. (For an overview of response to the Interim Recommendations, see Section IV, below.)

III. POLITICAL ATMOSPHERE AND CANDIDATE NOMINATION

A. General Political Environment

The atmosphere surrounding the forthcoming early presidential election is characterized by statements from across the political spectrum about the necessity of holding democratic elections free from violations, and the authorities have stated their determination to do so.

¹ The results in a number of constituencies remained subject to resolution of complaints and appeals.

² See "OSCE/ODIHR Interim Recommendations for the Kyrgyz Republic Early Presidential Election", 12 April 2005, available at <http://www.osce.org/odihr-elections/14476.html>. The OSCE/ODIHR deployed an Election Observation Mission for the 27 February 2005 parliamentary elections. On 28 February, the OSCE/ODIHR, with the OSCE Parliamentary Assembly and European Parliament, issued a joint Statement of Preliminary Findings and Conclusions. A Final Report was issued by the OSCE/ODIHR on 20 May, containing a full set of recommendations for improving electoral processes in the Kyrgyz Republic. The Statement and the Report are also available at <http://www.osce.org/odihr-elections/14476.html>.

An agreement between two leading political personalities, Acting President Bakiev and Mr. Felix Kulov, an opposition leader released from prison following President Akaev's ouster, has significantly affected the dynamic of the contest. Mr. Kulov is a nominee but does not appear to be pursuing registration as a candidate subsequent to the agreement (see Section III.C, below). His agreement with Mr. Bakiev stipulated, *inter alia*, the immediate appointment of Mr. Kulov as Deputy Prime Minister and his eventual appointment as Prime Minister should Mr. Bakiev win the election. Many interlocutors view the accord as key to avoiding post-election tensions in the country, but the deal may significantly alter the degree of electoral competitiveness.

A key issue of public discussion associated with the presidential election campaign is constitutional reform. Drafting of amendments to the Constitution has already started. Both the Constitutional Council and its Working Group, which includes representatives of civil society, political parties, government authorities, judicial bodies and Parliament, meet regularly. The agreement between Mr. Bakiev and Mr. Kulov also contains a provision requiring the initiation of constitutional reform by October 2005.

There remains a level of protest over the outcome of the parliamentary elections in specific constituencies. There are a number of constituencies with outstanding disputes. In at least two constituencies a new election has been called, to take place in June. Although not directly associated with the presidential election, unresolved disputes in some constituencies may contribute to a tense atmosphere.

The Supreme Court has been occupied since late April by supporters of some parliamentary election candidates who are protesting Supreme Court decisions relating to constituency election results. Consequently, the Supreme Court is not functioning. It is of concern to the EOM that the highest instance in the process of legal appeal, including in election-related matters, is effectively suspended.

B. Election Administration

A four-tier election administration will be responsible for the conduct of the early presidential election. It comprises the CEC, nine Oblast (Region) or City Electoral Commissions (hereinafter OECs), 56 Rayon (District) or Town Electoral Commissions (hereinafter RECs), and around 2,200 Precinct Election Commissions (PECs). The CEC and OECs are standing bodies appointed for a five-year term, while the RECs and PECs are constituted for each electoral contest.

Acting President Bakiev on 11 April appointed Mr. Tuygunaaly Abdraimov (previously a CEC member) to the post of CEC Chairman, and on 3 May appointed Mr. Kushpak Kadyrbekov as a CEC member.³ The CEC sessions are generally open to media and international observers, but not all CEC business is discussed in public session. The CEC occasionally goes into closed session, with no disclosure even of the topics to be discussed.

The Election Code provides that in the case of an early presidential election the timelines in the election calendar are shortened by one quarter.⁴ Promptly after the calling of the election,

³ The CEC comprises the Chairperson (appointed by the President), and 12 other members, six appointed by the President and six by Parliament.

⁴ Article 58.6.

the CEC issued a Calendar Plan on preparing and conducting the election. The 56 RECs were formed by 19 April, and there are on average 9 members per commission (the minimum number required in the Election Code is 7). Political party nominees comprise 22 per cent of REC members, falling short of the provision in the Election Code that political party representatives should comprise up to one third of each commission's membership. Some political party interlocutors told the EOM that there was insufficient time to make nominations to RECs up to the full quota. No interlocutor of the EOM to date has complained about the process of REC composition.

Before the start of the process of PEC composition, the CEC issued an appeal to political parties, nongovernmental organizations and voter gatherings to be more active in nominating representatives to PECs. This appeal has been shown several times on state TV. PEC formation is due to be completed by 16 June.

C. Candidate Nomination

Prospective presidential candidates may be nominated in one of three ways: self-nominated; by a group of at least 100 voters associated by a common place of residence or work; or by a registered political party or electoral bloc. A nominee must be a citizen of Kyrgyzstan, at least 35 years old but not older than 65, and must have been resident in Kyrgyzstan for at least 15 years.

The nomination period closed on May 26. There were a total of 19 nominations,⁵ of which two were withdrawn, leaving 17 nominees as of May 26. Two of the nominees (one of them Mr. Kulov) have not formally withdrawn but have indicated that they will not continue further in the process. There are three women among the up to 15 nominees still pursuing registration.

The Election Code⁶ requires that all nominees pass a Kyrgyz language test, which is conducted by a Linguistic Commission (LC) created by CEC resolution and approved by Parliament. The CEC resolution required that all nominees pass the test not later than 10 days from the date of the submission of their nomination documents, and that each nominee's language test be broadcast live on the State TV channel. The first language test was planned for May 7, but was postponed for a week due to "technical problems with live broadcasting", prompting criticism from the persons who had been due to take the test that day that this violated their rights and the Election Code. Thereafter, the CEC replaced the 10-day deadline with a provision for holding language tests "up to the registration deadline."

A majority of nominees met by the EOM so far have criticized the language test per se, or for the way in which it is conducted. A problem with the rules was exposed by the test taken by nominee Dr. Jenishbek Nazaraliev, where the adjudication of the eight LC members present produced a tie. The impasse thus created was resolved only by Dr. Nazaraliev's decision to withdraw from the nomination process. The CEC has amended the LC regulations to prevent a recurrence of a deadlock.

⁵ Nine were self-nominated, seven were nominated by voters' groups, and three were nominated by political parties. Three other nominations were made to the CEC by voters' groups, but the nominated persons did not accept to be put forward.

⁶ Article 61.

To secure registration, a prospective candidate must collect a minimum 50,000 signatures, with at least 3 per cent of this number coming from each of the seven oblasts, Bishkek, and Osh city. A prospective candidate must also pay an electoral deposit of 100,000 som (US\$2,500). The signature collection process is under way. Some nominees have complained that under the accelerated election calendar the period foreseen for signature collection has been shortened by 25 per cent, but the number of signatures to be collected is unchanged. CEC decisions on 22 April and 7 May effectively further shortened the time allocated for the signature collection process, by changing the format of the signature sheet to be used. Two nominees told the EOM that they had already started collecting signatures using the previous collection sheet format, and consequently had to start again.

Some nominees complained to the EOM that their signature collectors had been obstructed by directors of various establishments. The EOM directly observed one nominee's signature collectors being refused entrance to the building of the National Kyrgyz University by a security guard, citing the Rector's orders. Another prospective candidate's signature collectors had reportedly been admitted, but this has not been confirmed by the EOM.

The EOM has noted that voters appear to be generally unaware that they may sign for more than one nominee, with many believing that to do so is prohibited by law.

IV. IMPLEMENTATION OF INTERIM RECOMMENDATIONS

A. Central Election Commission

Of the 44 OSCE/ODIHR Interim Recommendations, 21 are addressed to the CEC, the majority of them aimed at increasing transparency. The CEC has indicated its agreement to follow 15 of the Interim Recommendations in full, and a further four with reservations (either about timing or additional personnel to be recruited). Notably among the former, the CEC is presently in the process of moving out of the Government House to its own separate premises, with most CEC members and its special Working Groups already working there, along with the main server of the "Shailoo" (automated state registration) system. However the CEC Chairman is still at the Government House, and CEC sessions continue to be held there. Actual progress on other recommendations, such as making CEC materials publicly accessible via its website, have been rather limited so far.

Regarding the two Interim Recommendations with which the CEC did not agree, it stated that moving all lower-level commissions out of administrative buildings is not feasible on practical and financial grounds,⁷ and contends that to allow full access for domestic observers to the work of election commissions prior to election day would require a change to the Election Code. As stated in the Interim Recommendations, the OSCE/ODIHR is of the view that the issue of access of domestic observers during the entire election process can be achieved in the short-term through CEC regulation, without changing of the Election Code.

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Not all RECs are in local administration buildings: at least two RECs have recently moved to premises separate from the respective rayon administrations.

B. Working Group on ODIHR Interim Recommendation

On the initiative of the Presidential Administration, a Working Group on the OSCE/ODIHR Interim Recommendations was formed, with the participation of representatives of relevant executive authorities, and a representative of the CEC. The Working Group produced an assessment document indicating agreement with the majority of the recommendations.

The Interim Recommendations include a number of provisions for correcting shortcomings in the Election Code. The Working Group recommends taking note of these recommendations and coming back to them after amendments have been made to the Constitution. The OSCE/ODIHR is of the view that the recommended legal amendments are not dependent on constitutional amendments. At the time of writing, the Parliament has not engaged in any significant discussion of amendments to the Election Code.

The EOM will monitor the practical steps the Working Group takes to implement the recommendations that have been agreed to.

V. EOM ACTIVITIES

The EOM formally began work on 2 May. It has held a series of meetings with the CEC, and has met with government officials, nominees and their representatives, civil society representatives, the media, and representatives of the resident international community. Monitoring of the media, an important component of OSCE/ODIHR election observation, commenced on 26 May.

Thirteen long-term observers teams, including four long-term observers provided through the Fund for Diversifying the Participation of Election Experts in OSCE/ODIHR Observation Missions, were deployed to 11 locations around Kyrgyzstan by 30 May. They will take up contacts with the lower-level election commissions and other electoral actors in the regions.