

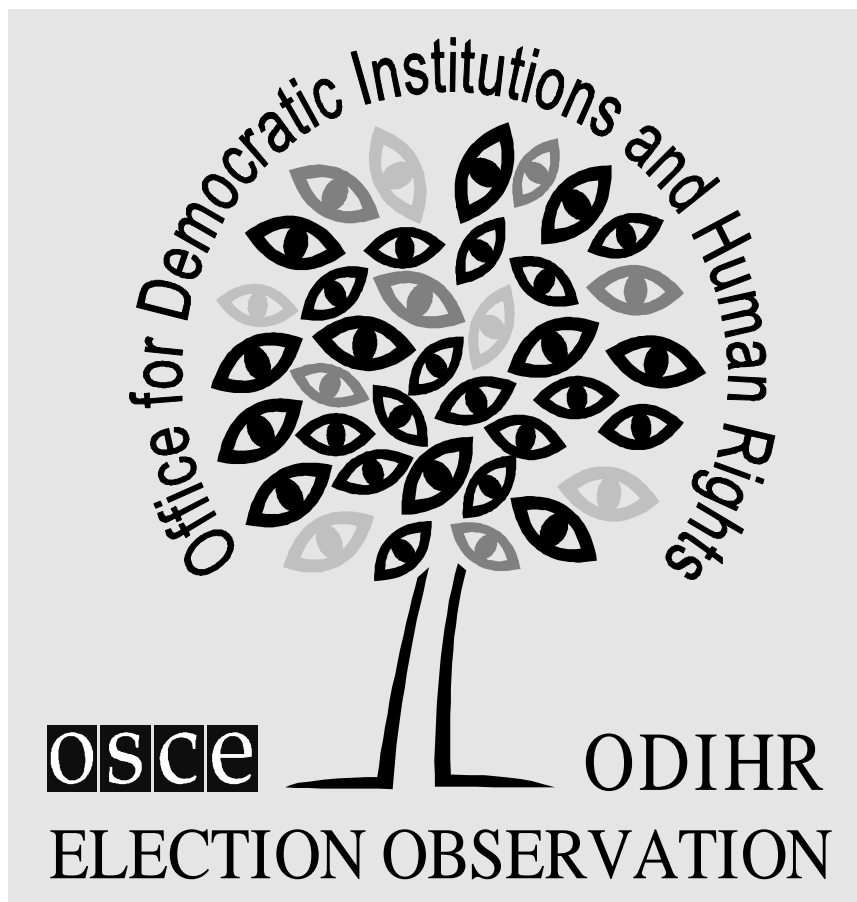


Office for Democratic Institutions and Human Rights

**REPUBLIC OF KAZAKHSTAN
PARLIAMENTARY ELECTIONS**

10 and 24 OCTOBER 1999

FINAL REPORT



Warsaw
20 January 2000

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OSCE/ODIHR Final Report

20 January 2000

1. INTRODUCTION

Based on an invitation issued by the Ministry of Foreign Affairs of the Republic of Kazakhstan to take part in observing the parliamentary (Majilis) elections scheduled for 10 October 1999, the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 1 September 1999, with observers seconded by participating States. The OSCE/ODIHR appointed Ms. Linda Edgeworth as Head of the long-term Election Observation Mission. Mr. Ihor Ostash, Vice-President of the OSCE Parliamentary Assembly and Member of the Ukrainian Parliament, was appointed to lead the short-term observers as Special Representative of the OSCE Chairman-in-Office.

This final report is based on the findings of the EOM for both the first round of elections on 10 October, the second round held on 24 October, and relevant events immediately thereafter. The EOM included 20 core staff and long-term observers, and 118 short-term observers, including 18 members of the OSCE Parliamentary Assembly. The number of observers was reduced during the second round. They visited 547 polling stations during the first round, and 134 polling stations during the second round. Preliminary statements on the two rounds of elections were issued on 11 and 25 October, respectively.

The OSCE/ODIHR wishes to thank the Ministry of Foreign Affairs and the Central Election Commission of the Republic of Kazakhstan for their support and cooperation. OSCE/ODIHR and the OSCE Parliamentary Assembly stand ready to continue the dialogue with the authorities, and the Majilis and Senate of Kazakhstan, to address the concerns and recommendations detailed in this report.

2. EXECUTIVE SUMMARY

In a first preliminary statement issued on 11 October 1999 before the tabulation of results, the Election Observation Mission concluded that the 10 October election marked a tentative step in the country's transition to democracy. Improvements in three areas created the potential for Kazakhstan to meet the OSCE commitments formulated in the 1990 Copenhagen Document: (1) The Central Election Commission adopted an extensive set of regulations, significantly improving the legislative framework for the election; (2) Ten political parties were registered for the party-list election and 547 candidates for the single-mandate constituencies, contributing to pluralism; and (3), party, candidate, and non-partisan observers were accredited to monitor the proceedings in a great majority of precincts (polling stations).

However, the improved legislative and regulatory framework was severely undermined by: (1) illegal interference by executive authorities; (2) unfair campaign practices by parties closely associated with existing power structures; (3) threats of bureaucratic, administrative, and judicial measures jeopardizing media operations; (4) bias by lower level election commissions for candidates and parties favored by regional and local officials; and (5) intimidation and obstruction of the electoral campaign of opposition parties and candidates. In particular, widespread violations during the vote count and tabulation of results for the first round were a serious setback. The election commissions and courts were unable to address these violations effectively.

Ultimately, the collapse of transparency and accountability mechanisms envisioned by the Central Election Commission severely undermined the confidence of political participants and the public, not only in the final results but also in the electoral process as well.

Improved procedures promulgated by the Central Election Commission for the second round of the elections on 24 October and their partial implementation did not have an impact on the overall outcome of the elections.

Following the second round, the Central Election Commission declared the results of voting invalid in three of the 47 districts due to unspecified violations. New elections with an entirely new slate of candidates were held on 26 December. However, the Central Election Commission and the judicial system were unable to address violations effectively. Moreover, the Central Election Commission has yet to address the lack of transparency in the two-round elections.

Thus, the two-round elections of Deputies to the Majilis of the Parliament of the Republic of Kazakhstan on 10 and 24 October, while constituting a tentative step towards international standards and an improvement from previous elections, fell short of the OSCE commitments formulated in the 1990 Copenhagen Document. These commitments for universal, equal, fair, secret, free, transparent, and accountable elections were severely marred by widespread interference by executive authorities in the electoral process. The newly elected parliament together with the Government of Kazakhstan is urged to address these shortcomings while the experience of the elections is still in the forefront of public debate.

2.1 Recommendations

To restore public confidence:

- The authorities of Kazakhstan, in particular the Central Election Commission, could help restore marred public confidence in the electoral process through an **urgent publication of the complete election results**, including all precinct and district-level details and summaries for both rounds, for all candidates, and for the single mandate as well as the party list races.
- Upon full disclosure of the above information to the citizens of Kazakhstan, they must be provided the opportunity to challenge the results through the judicial system, their complaints considered fairly, and the court judgments enforced.

- The CEC could publish a report on the disposition of all complaints and appeals filed with the election commissions and the courts for the two rounds of the elections.

The Election Law should be amended to:

- **Prohibit strictly any interference** by local authorities in the electoral process and provide severe criminal penalties for any such interference.
- **Incorporate the regulations** promulgated by the Central Election Commission for the Majilis and Maslikhat elections of 10 and 24 October 1999, in particular those pertaining to the rights of observers, the vote count, and tabulation procedures.
- **Provide for full transparency** of the process, in particular during counting and tabulation of results at all levels, and to ensure full accountability.
- Provide fully transparent procedures for the processing of electoral complaints and appeals filed with the CEC. (The OSCE/ODIHR will submit an additional report to the authorities of Kazakhstan regarding the processing of complaints and appeals by the election commissions and the judiciary.)
- Provide strict time limits for the publication of detail results at all levels.
- Remove provisions of the law that prohibit all candidates who participated in an election declared invalid from participating in the repeat elections.
- Allow **meaningful representation** at all election administration levels by parties and candidates participating in elections.
- Ensure candidates' right to have observers at every polling station.
- Remove **vague or broad administrative penalties** from the list that can disqualify candidates.
- Regulate the **conduct of the media** during election periods, to regulate the rights of candidates and parties to free media time, and to introduce enforcement mechanisms.
- Prohibit strictly during an electoral period any “charitable donations” by political parties or other organizations participating in elections.
- Regulate further polling station activities, in particular special voting procedures, including mobile ballot boxes, military installations, hospitals and detention centers.
- Ensure the rights of observers throughout the polling, counting, and tabulation process at all levels and without any hindrance.
- Define **penalties for violations** of the Election Law.

In addition, the Parliament and authorities of Kazakhstan are urged to address other concerns contained in two reports submitted by OSCE/ODIHR: (1) “Report on the Legal Framework of the Parliamentary Elections in Kazakhstan”, dated 29 June 1999; and (2) “Conclusions and Recommendations of the Needs Assessment Mission, Kazakhstan”, dated 21 August 1999. Finally, other laws with an impact on the electoral process must be reviewed and their amendment in accordance to OSCE commitments considered.

3 LEGISLATIVE AND REGULATORY FRAMEWORK

3.1 The Electoral Law

In response to concerns raised by the OSCE and other international organizations, the authorities of Kazakhstan enacted a new Constitutional Law on Elections (the Election Law) on 6 May 1999 that improved the legislative framework, but still fell short of OSCE commitments. It covers the presidential, parliamentary (both Majilis and Senate) and local elections.

The Election Law contained improvements that reflected some of the concerns expressed by ODIHR in its recommendations for the presidential election. Political parties, formerly treated in the law like any other public associations, achieved special status in keeping with their unique place in the political life of the country.

However, the Election Law included significant shortcomings, among others, regarding: (1) the independence of election administration bodies; (2) the transparency of the electoral process; (3) the vote count and tabulation of results; (4) equal access to the media; (5) the registration of political parties and candidates; and (6) the abuse of “administrative penalties” to disqualify opposition candidates. In the end, the Central Election Commission adopted an extensive set of regulations, further improving the legislative framework that, if implemented, created the potential to meet OSCE commitments.

3.2 System of Representation

The Constitution of the Republic of Kazakhstan provides for a two-chamber parliament – the Senate and the Majilis. Kazakhstan is divided into fourteen oblasts, the capital Astana, and Almaty.

The Senate (Upper House)

The Senate has 39 members with 6-year terms:

- 32 Members are elected on the basis of indirect suffrage by secret ballot at a joint session of the deputies of Maslikhats¹ in each Oblast,² and in Astana and Almaty. Each Senate district has two representatives.
- Seven Members are appointed by the President.

The Majilis (Lower House)

The second chamber of the Parliament is the Majilis, with 77 members. The election of deputies to the Majilis is based on direct suffrage of adult citizens of Kazakhstan

¹ “Maslikhat” is a general term that refers to locally elected officials. These include the assemblies of the Oblasts and cities of Astana and Almaty, as well as regional administrative units encompassing a number of smaller towns and villages, or the other major cities and towns in Kazakhstan that have their own local assemblies.

² Oblast is the term for the level of regional administrative authority.

by secret ballot. It is a mixed system, with 10 seats elected on the basis of proportional representation and the remaining 67 elected in single-mandate constituencies. The 10 October elections were the first in which the mixed system was in place.

Party Lists and Proportional Representation

The introduction of party lists and proportional representation was a positive step in the evolution of a more pluralistic political environment. Under the new system, 10 seats of the 77-seat Majilis were elected from party lists, on the basis of proportional representation. For each candidate listed on a party list, a fee equal to 25 times the minimum wage must be deposited with the Central Election Commission. Under the Election Law, these fees are refunded to the party as long as the party passes the 7% threshold of the total votes cast.

The small number of seats and application of a 7% threshold for participation in the allocation formula, considered relatively high in comparison with standard thresholds used in more established democracies, limited the number of parties that would benefit. As an initial gesture it represented a significant opportunity to strengthen political party structures as opposed to reliance on individual political personalities in local constituencies. However, the introduction of proportional representation for this small number of seats with the high threshold attached offered little risk of upsetting the existing power base in the Parliament.

The republic-wide constituency for the seats elected through the party list ballot reflects the national support for competing political parties. Opposition groups claimed that this made it particularly important as a means of illustrating the breadth of opposition to or support for the President's programs in general.

Single Mandate Constituencies

The 67 remaining seats in the Majilis are elected on the basis of single-mandate constituencies, in which a winning candidate must receive more than 50% of the votes cast in the first round. If no candidate attains the required number of votes, the two candidates receiving the greatest number of votes compete in a second round of voting. The candidate with the largest number of votes is then elected.

Under the mixed system, each voter received two ballots for the Majilis election: a candidate ballot for their constituency, and a party list ballot. Voters can choose only one candidate and political party, but retain the option to vote against all candidates or parties presented on the ballot.

Candidates on the party lists can only be nominated by a party, although they are not required to be a member of the party. Candidates in the single-mandate races may be nominated by political parties, by any other republican or local public associations that have been duly registered with the Ministry of Justice or may be self-nominated. However, under the Election Law, candidates cannot appear on a party list and a ballot for a single mandate constituency at the same time.

Maslikhat Elections

Maslikhat elections at all levels were held on the same day as the Majilis elections. This means that each voter was issued ballots for these races as well. The number of total ballots a voter received was based on where he or she lives, and the levels of administration that exist for that location.

The primary focus of the EOM remained the election of deputies to the Majilis.

3.3 Administrative Structure

Elections are administered by a hierarchy of appointed election commissions including a Central Election Commission (CEC), Territorial Election Commissions (TEC), District Election Commissions and Precinct Election Commissions. The term of office for the commissions is 5 years, although the various election commissions are authorized to make changes in their composition within the terms.

The Central Election Commission

At the top of the hierarchy is the Central Election Commission. Its membership is nominated by the President and confirmed by the Majilis. The CEC organizes the conduct of the elections, exercises control over lower level commissions, establishes policy and oversees the uniform application of election legislation. Within its competence, the CEC is also authorized to adopt decisions, which are, in turn, binding throughout the Republic. In addition, the CEC forms the election districts, establishes the format for the ballots, forms, and protocols, summarizes nationwide election results, registers the elected officials, and calls for second round and by-elections as necessary. The CEC has the authority to override decisions of lower commissions and has its own permanent administrative staff.

Neutrality of Elections Commissions

The neutrality of election administration commissions was a primary concern of political parties and candidates as well as the international community.

In spite of a legal framework that places the Central Election Commission at the head of a “unified system of election commissions”, Territorial, District and Precinct Commissions were influenced and directed by regional and local government authorities. Their composition was controlled by the Akims,³ and their members were most frequently individuals who are dependent on the favor of regional and local authorities for their livelihood – i.e., teachers, doctors, and staff of organizations funded from the state budget.

Although the CEC initiated the positive step to allow representatives of political parties to hold one seat in lower level commissions to be drawn by lottery where vacancies occurred or new commissions were created, in reality this pertained to only about 25% of the commissions. In general, the system served to mask the affiliation

³ Akims are local representatives of the central government at the Oblast, municipal, and district levels, and are appointed by the President.

of many election commission members with OTAN, the party identified with current power structures. This imbalance and the resulting bias promoted distrust and a lack of confidence among those who had no voice on the commissions. Widespread cynicism and doubt about the impartiality of those entrusted to maintain a level playing field were damaging not only to the election campaign, but also to public confidence in the outcome of the election.

Table of Election Commission Structure

METHOD OF APPOINTMENT (Articles 11,14,15,17)	COMMISSION	MAIN RESPONSIBILITIES (Articles 12,14,16,18)
<p>Approved by the Majilis Based On Recommendations by the President</p> <p>5 Year Terms</p> <p>Served by its Own Administrative Secretariat</p>	<p><i>Central Election Commission</i></p>	<ul style="list-style-type: none"> • Implements Election Law at all levels and jurisdictions • Adopts binding procedural regulations • Conducts elections of President and Majilis, and directs Senate elections • Supervises lower commissions & rules on complaints regarding their decisions • Establishes electoral districts for Majilis elections • Prepares and distributes budgets • Registers candidates • Establishes the form of ballots and protocols • Tabulates and reports results for Presidential and Majilis elections
↓		
<p>Approved by the Central Election Commission at Oblast level and by higher-standing territorial commissions at lower levels. Based on Recommendations of the relevant Akims</p> <p>5 Year Terms 7 Members</p> <p>Supported by Local Administrative Authorities</p>	<p>Territorial Election Commissions (16+)</p>	<ul style="list-style-type: none"> • Implement Election Law within territory • Carry out elections for President, Majilis and Maslikhats • Conduct elections to Senate and register Senate candidates • Direct activities of lower commissions in territory & can overrule their decisions • Register candidates, conduct elections for Senate, & tabulate Senate results in territory • Form electoral districts for Maslikhat elections • Tabulate results of Maslikhat elections in territory • Call and conduct run-off and by-elections for Maslikhats in territory
↓		
<p>Approved by the Central Election Commission Based on Recommendations of the Oblast Akims</p> <p>5 Year Terms 7 Members</p>	<p>District Election Commissions (67)</p>	<ul style="list-style-type: none"> • Organize elections to Majilis & Maslikhat locally • Register candidates for Majilis & Maslikhats • Prepare voter lists • Establish precinct commissions and precincts, organize & supervise work of precinct commissions • Provide technical support and commodities to precincts • Tabulate district results from precinct protocols • Carry out run-off and by-elections for Majilis and Maslikhats
↓		
<p>Appointed by District Election Commissions Upon Recommendations of the Akim</p> <p>5 Year Terms</p>	<p>Precinct Election Commissions (Approximately 9,647)</p>	<ul style="list-style-type: none"> • Organize polling station • Conduct polling on election day • Notify voters about the voter list, date and time of polling & polling station assignments • Count votes at the close of polling & prepare protocols • Consider and decide on complaints at polling station

4. PRE-ELECTORAL PHASE

4.1 Political Party and Candidate Registration

A nomination period of 20 days began 60 days prior to the election. The registration of party lists is the responsibility of the Central Election Commission. Acceptance of nomination documents and registration of single-mandate candidates falls under the jurisdiction of District Election Commissions.

An amendment to the Election Law that reduced the registration fee for candidates by 75% was seen as a positive change. The fee that had been equal to 100 times the minimum monthly salary was simply out of reach for many citizens and had been criticized.

Candidates to the Single-Mandate Election Districts

547 candidates were registered for the Majilis election in the 67 single-mandate districts, including:

- 80 (14.6%) candidates nominated by public associations;
- 113 (20.7%) candidates nominated by political parties;
- 354 (64.7%) self-nominated candidates.

The total number of candidates for the Majilis represents a strong plurality of voter choices on most ballots. The average number of candidates was eight, with a range from two through 16. Not surprisingly, totals closer to the former occurred in the rural areas whereas those in urban areas, particularly Almaty, were closer to the latter. A large number of the “self-nominated” candidates were either claimed by or loyal to political parties had links with the executive branches of local Governments.

Candidates to the Party List Ballot

The process for the registration of political parties had been eased considerably compared to prior parliamentary elections. In order to register for the party-list ballot and thereby become a “party of republican status”, a party had to establish a minimum number of members and regional branches in at least nine of the 16 administrative districts in Kazakhstan (14 oblasts plus Astana and Almaty).

On Election Day, nine party lists were registered with 64 candidates.

4.2 The Political Parties

The absence of effective political party structures is a key factor in the political environment in Kazakhstan. The Communist party and the recently formed but broadly based OTAN (Fatherland) party are the obvious exceptions.

Most political parties are fairly recent creations that do not have significant organizational structures or the membership in both rural and urban constituencies to

provide support for their local candidates. They are largely outgrowths of public associations, trade unions or other social movements.

The political parties can be grouped under the headings “pro-presidential”, “constructive” opposition, and “hard” opposition.

“Pro-presidential” parties are broadly, if not explicitly supportive of the President’s aims, policy choices and priorities. Four parties fall into this category: OTAN, the Civil Party, the Agrarian Party and the Renaissance Party.

The “constructive” group of opposition parties seeks to reform the priorities of the President and his Government within the existing system. This group is led by the Azamat Party, and can be loosely associated with three much smaller parties: the Congress Party, Republican Party of Labor, and Alash.

The third main grouping is the “hard” opposition parties that seek to replace the current presidential system of power. This grouping includes the Communist Party and the Republican People’s Party (RNPK). Although running separately on the ballot, these two parties joined forces with three smaller organizations -- Orley, the Officers’ Union, and the Association of Russian and Slavic Organizations -- to form the “Republican Bloc”. In practice, this bloc served as a campaign strategy coordination body for its members.

Table of the Political Parties with Republican Standing

Party Name	Orientation	Campaign / Candidate Profile
OTAN	Dominant pro-presidential party. Considered the party of Kazakhstani bureaucracy and therefore very closely associated with local authorities at all levels.	Campaigns with voters at local levels. Party List Candidates = 18 Single Mandate Constituency (SMC) Candidates = 41 (the party claims 46) ⁴
Civil Party (sometimes translated as "Civic" party)	Newly formed pro-presidential party. Claims to represent workers and management in the important metallurgy sector of the Kazakhstan economy.	Evidently well financed, runs a western-style campaign with high media profile. Party List Candidates = 9 SMC candidates = 23 (the party claims 35)
Communist Party	Successor to the former governing party in the Soviet period. Now reorganized as a social democratic party. Long-standing party organization across the country. Considers itself the only "real" opposition to the pro-presidential parties.	Support tends to be amongst the +45 year old population. Party List Candidates = 7 SMC Candidates = 9 (party claims 20)
Azamat	"Constructive" opposition party led by a troika of well-known political figures, all former ranking members of government or the intelligentsia. Believes the current system can be reformed, rather than replaced.	Possibly the best known of the opposition parties. Associated with high-profile protests. Party List Candidates = 10 SMC Candidates = 17 (party claims 20)
Republican People's Party of Kazakhstan (known as 'RNPk')	"Hard" opposition party which seeks to replace the current presidential system of power. Includes a number of well-known opposition figures but led by former Prime Minister A. Kazhegeldin.	Withdrew from the party list ballot on 29.09.99 on the grounds that Mr. Kazhegeldin had been denied registration and claims of harassment and intimidation by local authorities. Party List Candidates = 8 (all withdrawn) SMC Candidates = 8 (party claims 20)
Agrarian Party	Pro-presidential rural party. An outgrowth of workers unions and management of large grain co-operatives. Considers itself centrist.	Campaign of criticism by association, e.g.: it sponsors traditional singing contests at rural fairs in which the content is often politically satirical. Party List Candidates = 7 SMC Candidates = 2 (party claims 11)
People's Congress of Kazakhstan	Small but long-standing (1991) party now in opposition. Thoughtful, policy-oriented.	Party list candidates = 2 SMC Candidates = 2
Kazakhstan Renaissance Party	Small, pro-presidential party.	Party list candidates = 5 SMC Candidates = 5
Republican Party of Labor	Small, centrist opposition party. Based on Republican Engineering Academy.	Party list candidates = 4 SMC Candidates = 2
Alash	Small, moderate Kazakh nationalist party. Mildly critical of the president on nationalist/cultural grounds.	Party list candidates = 2 SMC Candidates = none

⁴ Many of the parties claim a higher number of party single-mandate candidates than are actually nominated by the party. This is a common phenomenon that indicates that a number of apparently "independent" or self-nominated candidates are in fact supported by parties.

The Case of the RNPk

The leader of the RNPk, former Prime Minister Mr. Akezhan Kazhegeldin,⁵ was disqualified from the party list for the Majilis elections. This was due to a deficient appeal for a contempt of court conviction based on an earlier “administrative penalty”, which was later dropped from the list of penalties barring the registration of candidates. One day after the disqualification, Mr. Kazhegeldin was detained in Moscow, based on an unrelated arrest warrant issued by Kazakhstani authorities. Notwithstanding Mr. Kazhegeldin’s subsequent release, these developments had an unfortunate chilling affect on the election campaign. Following the developments, the RNPk withdrew from the party list election, citing a prior decision taken by the party congress not to run if Mr. Kazhegeldin was not registered. The party also alleged that 13 firms, some of which are under State control, had refused to print its campaign material. The party remained involved in supporting its candidates for the single mandate elections.

Under the Election Law, if a candidate has been convicted by a court for an “administrative penalty” within the year prior to applying for registration, his or her candidacy must be rejected. “Administrative penalties” include a number of violations that have specific relevance in the election environment. Examples include violations of laws on mass media, violations of rules for organizing and conducting public meetings, marches and demonstrations, participation in an unsanctioned meeting, and petty hooliganism (misbehavior). The OSCE/ODIHR has recommended the removal of some of these vaguely defined provisions from the list of “administrative penalties” disqualifying candidates. The only legislative action taken by the government of Kazakhstan was to eliminate participation in an unregistered organization as grounds for disqualification. According to the Ministry of Justice, lawmakers agreed that this particular provision was in conflict with the constitutional right of freedom of association. Approximately 40 other offenses remain as grounds on which a candidate can be rejected.

4.3 The Pre-Election Campaigns

The level of campaigning varied between different parts of the country, being particularly visible and vibrant in Almaty. In the regions, voter response to the campaign and to the election in general was one of widespread apathy, cynicism and disinterest. It was particularly marked amongst the ethnic Russian population, and mirrors their under-representation among the candidates for the Majilis.

One of the major debates surrounding the campaign was the use by several parties, most distinctly the Civil Party, of “charity” as a means of obtaining support. *Panorama* newspaper,⁶ and subsequently the commercial television channel *KTK*

⁵ During the January 1999 presidential election, Mr. Kazhegeldin, a challenger to the incumbent President, was disqualified as a candidate on the basis of a conviction for an “administrative penalty”.

⁶ “The Civil Party Has Rendered Support to One of the Frontier Outposts”, *Panorama*, 24 September 1999.

reported that the Civil Party was distributing gifts, including major electrical appliances, televisions, and VCRs to servicemen at a border patrol post. Despite substantial and public evidence of this case, the CEC chose only to warn the Civil party perhaps due to an ambiguous provision in Article 16.4 of the Law on Political Parties that permits them to “spend their funds on charity.” No further action was taken.

A second major debate was the potential for electoral falsification. The main opposition parties separately provided the EOM with a list of prominent opposition candidates whom they suspected would be subject to fraud.⁷ Of that list, with an overlapping core of five/six candidates from different parties, none were elected, and one candidate, leading after the first round, was reportedly leading in the run-off when the CEC declared this district results invalid. The EOM received reports concerning possible falsification of results in each of the constituencies in question and indications from government sources prior to the election that one of the most prominent candidates in Almaty City “would not be allowed to win”. A number of court cases regarding the outcome of the elections are believed to be still outstanding.

Important to note is the tactics of political parties vis-à-vis the international community. Complaints received by the EOM, overwhelmingly from opposition parties, make specific references to difficulties encountered in campaigning. However, it became increasingly clear that in some cases these same opposition parties had developed the technique of attempting to manipulate the opinion of the public through an appeal to the EOM. The “power” of the international organizations was often cited as a lever to bring about further change in the political system.

Most importantly, these tactics arise from a fundamental lack of trust by complainants in due process of law in Kazakhstan, specifically in the independence of the justice system from the will of the government or local authorities. This pattern of lack of faith was most pronounced in the “hard” opposition, but was also a strong theme in discussions with nearly every party except OTAN and, in relation to some specific items, Azamat.

4.4 Interference by Executive Authorities

During the pre-electoral period, voters, political parties, and candidates raised a number of serious concerns about illegal interference that undermined the fairness of the election environment. The EOM received documented reports from several regions regarding: (1) illegal interference by local authorities in the election process with the intent to influence the outcome; and (2) the abuse of power to obstruct the independent media and the campaigns of opposition parties and candidates. These reports include a significant number of complaints that voters were threatened with job loss for their support of opposition candidates. Reports were also received regarding: (1) campaigning by local government officials for “favored” candidates;

⁷ The leadership of the Communist Party is notable for its pre-election comments of being “99% sure” of electoral fraud in selected races where opposition parties were challenging the pro-presidential parties. Nevertheless, they freely admitted that they saw it as necessary to participate in the election so as to ensure, as much as possible, the propagation of their party’s message and the presence in the Majilis of advocates for their position.

(2) co-mingling of official election activities with distribution of campaign materials for the OTAN party; and (3) intimidation against opposition parties, candidates, their supporters, and the media by tax inspectors and officers of the Committee for National Security (KNB).

4.5 The Media Environment

At the beginning of 1999, Kazakhstan had approximately 50 electronic and over 300 print media companies operating.⁸ Television is the most widely accessed media outlet for average citizens. In the ten largest cities, 93% of Kazakhstani citizens have at least one television.⁹

Several stations have the capacity to reach major portions of the country, including Kazakhstan-1, Khabar, KTK, NTK and ORT, the predominant Russian Federation television station that is taped and rebroadcast in Kazakhstan. Khabar, a state-controlled station with private shareholders owning 49% of its stock, was the most important player in the broadcast of campaign materials. The station's president is Dariga Nazarbaeva, the daughter of the country's President.

The Laws and Their Impact

The Law on Mass Media¹⁰ was improved prior to the electoral period. For instance, provisions that formerly allowed a general prosecutor to unilaterally close down a media outlet were repealed. The amended law requires that such decisions be made only in a court of law. However, these improvements were undermined by references to the Laws on National Security and State Secrets. These provisions are ill-defined and subject to arbitrary interpretation, thus severely debilitating the freedom of the media.

The mass media commonly engages in "self-censorship" as a result of fears that they may "cross a line" that is often blurred and subject to "selective enforcement." With regard to media in the regions, the EOM received reports that authorities often made "recommendations" on which candidates and parties were to be covered. Also, the media were severely impeded by implicit threats regarding suspension, legal actions encumbering media enterprises with legal fees and substantial fines, tax audits, and loss of employment. Printing houses, many of which are State controlled, often refused to print campaign materials for certain candidates or parties. This was ostensibly done in order to avoid falling out of favor with authorities that maintain leverage over their existence.

Administrative Obstacles

Under laws in place since 1997, all broadcasters are required to obtain permits for use of frequencies through a tender process. Many stations have found the permit fees exorbitant and view the legislation as a mechanism for providing the national

⁸ *Monitoring the Media Coverage of Kazakhstan Presidential Elections, Preliminary Report*, European Institute for the Media, 11 January 1999.

⁹ BRIF/Gallup Media Asia Survey (BRIF/GMA).

¹⁰ Adopted in July 1999.

government a greater degree of control over non-state broadcasters. By January 1998, 20 television stations had closed. In 1999, however, in the lead-up to the October elections, there were no further closures but neither any approval for new stations nor new publications.

Many opposition newspapers complained that they faced severe administrative obstacles to print and distribute their issues in the country. A prime example is the plight of *SolDat*, the successor to *Dat*, which had been forced to close months earlier in the buildup to the Presidential elections. One of the major Kazakh language newspapers and the only frequently critical of the president and his government, *SolDat* ran into customs problems when 22 printing companies refused to print its newspapers and, out of necessity, it was printed in Russia. Two editions were detained by customs officials, first in Semipalatinsk, and then in Almaty.

Such complaints were more often exposed through the media as public events than through institutional channels like the Sub-Commission on Media Complaints established by the Central Election Commission

Media Coverage of the Election Campaign

Despite such restrictions and illegal practices, the media coverage of the parliamentary election was substantial. Two media events are especially noteworthy for their innovation and overall success. On 6 October, the CEC organized a multi-party debate that provided for the first time a two-and-a-half hour live forum on national television for the nine registered parties remaining on the party-list ballot. The program that aired on Khabar, the major state-owned television station, allowed party representatives to express their views, to question their opponents, and allowed questions from the audience and telephone callers. An innovation of the Central Election Commission, the event was a first in Kazakhstan and was seen as a genuinely positive undertaking by all the parties who participated, even the “hard” opposition. The CEC also arranged for extensive space in *Kazakhstanskaya Pravda*, the largest State newspaper, in which each party was given equal space to answer three questions. Their answers were published side by side in one issue.

During the 17 days prior to the election, Khabar TV dedicated more than 37 hours to electoral issues, with a peak of 5½ hours on 6 October 1999 when the special debate was broadcast.

The Election Law guarantees Majilis candidates a single 15-minute address on state television. Khabar TV gave 50.4% of its coverage given to candidates for the election to self-nominated candidates.

Among the party lists, however, the pro-presidential OTAN and the Civil Parties received the most coverage. In overall news content, pro-presidential parties fared better in terms of “positive coverage” than opposition parties. Of the private channels monitored by the EOM, KTK (Commercial Television Channel) demonstrated a distinct bias toward OTAN, which enjoyed nearly 60% of the coverage given to all parties. OTAN also monopolized the market with 65.7% of paid political advertisements.

See Annex 1 for a full analysis of media coverage of the election.

4.6 The Senate Elections

Long-term observers of the EOM were present during the 17 September 1999 Senate elections in several regions including Almaty City, Almaty Oblast, East Kazakhstan Oblast and Astana. Although observer reports were generally positive, circumstances witnessed during the Senate elections in Almaty City foreshadowed problems on issues of transparency, particularly during the vote count, and electoral appeals that would resurface in the Majilis elections.¹¹

Key Issues Exposed by the Senate Elections

The Central Election Commission's position that the Chairman of the Almaty City Commission had flagrantly violated the election law, its procedural regulations and, in fact, a direct order from the Secretary of the CEC, bore no consequences. The immunity of election officials, even in the face of hard evidence of illicit behavior in the discharge of their duties, characterized the response of the CEC and the courts throughout the election cycle.

A serious question also arises as to timing of the Senate elections relative to the conduct of the Maslikhat elections. The Senate members elected on 17 September were chosen by the outgoing deputies of the Maslikhats whose own elections were due to follow less than one month later. Critics suggest that having the Senate members elected by the outgoing Maslikhats was another mechanism to preserve the existing power structure. The terms of the newly elected Senators will exceed those of the members of the new Maslikhats elected on 10 October 1999.

5 ELECTION DAY

5.1 Observations of the first round, 10 October

Presence of Observers

Ultimately, the Central Election Commission announced that over 22,000 international and domestic observers had been accredited to monitor the elections. The EOM encountered party and candidate observers in approximately 90% of the polling stations visited and "non-partisan" observers in 76% of those polling stations.

The accreditation of over 2,500 non-partisan domestic observers by District Election Commissions throughout Kazakhstan represented a significant development in citizen ownership of the electoral process. However, international observers tended to have more liberal access to the proceedings than their Kazakhstani counterparts.

However, many domestic observers were from organizations assigned to polling stations by the local authorities themselves. When interviewed, many observers

¹¹ See Annex 2 for an analysis of the candidates and results of the Senate elections.

confessed that they were just “told to come,” and had no training or guidance as to what they were to do when they got there. Others belonging to organizations such as associations of pensioners or retired military admitted that they had been instructed to come to “represent” a particular candidate. This last group may have been a solution to a conflicting provision of law that permits each candidate only a maximum of seven representatives.¹² When candidates complained that they could not have an observer at every polling station with only seven representatives, advice from the Central Election Commission was that they should “rely on public associations” which are entitled to have an observer at every polling station.

Observation of Polling Activity

The first round of voting took place in roughly 9,600 polling stations from 07:00 to 20:00. One hundred and eighteen international observers, including 18 parliamentarians from the OSCE Parliamentary Assembly, reported findings from their visits to 574 polling stations at which approximately one million voters, or about 13% of the total of 8,411,757 were registered to vote. Polling stations were observed in 12 of the 14 oblasts of the Republic as well as in Almaty and Astana. No precincts were observed in West Kazakhstan or Mangistau Oblasts.

In general, the election day on 10 October took place in a calm and peaceful manner. Only in 3% of the polling stations visited by international observers were tensions, minor disturbances, or undue pressure on voters reported.

The general performance of election officials was considered good in 70% of the sites visited by international observers. However, election officials were rated significantly lower in a number of specific areas. In over half of the sites visited, mobile ballot boxes, a focus of concern for opposition parties prior to the election, could not be observed during periods when they were not in use. Nonetheless, except in occasional instances where the number of voters making use of the mobile ballot box were disproportionately high, procedures were generally found to be in compliance with more restrictive regulations introduced for these elections.

Observers noted a significant level of confusion among voters about the new election system and how to mark the ballots. Observers repeatedly saw voters asking the precinct election commission members for advice on filling out the ballots.

Proxy voting,¹³ while reduced, was still observed in 22% of the polling stations visited by observers. In 19% of the polling stations observed, the same person appeared to have signed next to the names of several voters on the voter lists.

Accountability for ballot usage partially depends on polling station officials signing each ballot at the time issued to each voter. In 51% of the polling sites visited, ballots were pre-signed or not signed at all, thus diminishing the effectiveness of this safeguard. Inconsistencies also were noted in adherence to rules for processing of voters, especially related to the use of the additional list for voters not found on the

¹² Article 91, Constitutional Law on Elections, Republic of Kazakhstan.

¹³ Proxy voting: whereby a voter presents the passport of a family member or friend who is not present, and is allowed to vote on his or her behalf.

voter register. Only on rare occasions were voters required to present their Certificate of Right to Vote in order to be added to the list. The average number of voters added to the additional lists of polling stations observed was about 3% of the total number of voters for the precinct. However, observers encountered polling stations where the number of added voters neared 13%.

Finally, the adequacy and accuracy of voter lists also seemed to vary. The number of voters on some lists appeared to be inconsistent with the number of voters recorded at the District level.

Counting and Reporting of the Votes

Official protocols summarizing precinct (polling station) results were not always the ones reported to higher level commissions. Frequently, results were not entered on official protocol forms, or when protocols were prepared, these protocols were drafts and were completed in pencil. In a majority of precincts observed, commission members carried the results either to a separate room where the protocols were typed, or to the Akimat (local or regional administration) where someone else completed or otherwise “adjusted” the forms in the absence of observers. Often, Akims were reported to have instructed election commission members that certain candidates were expected to win. The EOM has copies of flagrantly falsified protocols.

In particular, one known case occurred in plain view of international observers in Almaty where forged protocols were uncovered reflecting different results for the same polling station. Since this extraordinary event took place in one of Kazakhstan’s largest constituencies, the case raises serious questions about the magnitude of the problem and the reliability of results recorded for this constituency. This incident was brought to the attention of authorities at the highest level. However, no action was taken, and no sanctions were imposed.

When protocols were delivered to District Election Commissions, the forms were further altered. In general, observers were denied the opportunity to witness the tabulation process at the district commission level. For one district, the EOM has evidence of candidates with the first and third (instead of the second) highest vote-counts having been qualified for the second round. In another case, the District Election Commission Chairman resigned and filed a complaint rather than follow the Akim’s instructions to falsify the results.

The Central Election Commission’s regulations designed to promote the accurate reporting of results were not followed uniformly at the precinct and district commission levels. In 50 percent of precincts observed, requirements calling for multiple copies of each precinct protocol to be prepared immediately upon completion of the counting of votes, and the display of one copy of these protocols at the precinct – both instrumental to reduce opportunities for falsification – were not followed.

Counting procedures were rated “high” in less than half of the polling stations visited. Among procedural infractions of a technical nature, in 27% of locations observed, officials failed to count and cancel unused ballots before the ballot boxes were

opened. In over half of the locations, ballots from mobile boxes were commingled with other ballots before checking against the number of applications received.¹⁴

The Central Election Commission received more than 400 complaints regarding these and other violations. The number of complaints filed with the courts is not known. A great majority of these complaints remain unresolved beyond deadlines imposed by law. In two districts where the results reported were contrary to evidence presented by some candidates, the courts ordered the commissions to produce the protocols from all precincts in the respective districts in order to justify the reported results. The commissions complied with the court order in one district in Almaty, according to the presiding judge. But the plaintiffs in the case were denied access to the protocols. The court ruled against the plaintiffs and dismissed the case.

The Collapse of Transparency and Accountability Mechanisms

In determining that a full observation mission should be deployed for the elections, a key factor was the Central Election Commission's adoption of a series of important regulations and procedural guidelines that:

- emphasized the role of both international and domestic observers and advanced their rights; and
- set in place procedures designed to promote the accurate reporting of results.

On both counts, the system failed.

In spite of assurances that all protocols would be available for public scrutiny, neither the Central Election Commission nor the District Commissions could provide precinct details to substantiate the final results when they were announced. Requests from the EOM for copies of worksheets showing cumulative precinct results were denied as well.

The final results from the first round were reported with no detail whatsoever. Winners and candidates advancing to the second round were announced with only their percentage of votes. The numbers of votes received by losing candidates were never made public.¹⁵

5.2 The Second Round, October 24

While the Election Law provides a 60-day period within which to organize the second round elections, the Central Election Commission ordered the second round to be held

¹⁴ The Election Law provides for voters who are unable to come to the polling station because of age, illness or disability to be allowed to vote through the "mobile ballot box" which is brought to them at home. It also requires that an advance application be submitted although oral applications are accepted.

¹⁵ Failure to provide the numbers of votes and percent of the total votes cast for each of the losing candidates also made it difficult for candidates to apply for a refund of their registration fee. Article 88 provides that a refund is granted to each candidate or party who received at least 7% of votes cast.

on 24 October, before the great majority of more than 400 complaints filed with the courts and the Commission could be resolved.

The rush to the second round was troubling because a determination that any election was invalidated would automatically disqualify the candidates involved from participating in the run-off election. The urgency with which the Commission pushed for the second round elections could ultimately mean that a winning deputy already seated in the Majilis could be disqualified if a court challenge caused an election to be declared invalid after the second round had taken place.

During the week preceding the second round on 24 October, the Central Election Commission announced improved and more transparent procedures for the second round vote count and tabulation of results. The Central Election Commission also initiated additional training seminars for the District Election Commissions. New measures designed to reduce opportunities for the falsification of results were laudable. However, significant doubts remained regarding the outcome of the first round, both for the ten Deputies elected in the party list race, and the 20 Deputies elected from the single-mandate constituencies. Moreover, those who qualified for the second round contest in the remaining 47 constituencies and who competed on 24 October did so in an atmosphere of public distrust and skepticism.

These doubts over the electoral process could only have been lifted by a full and immediate publication of all precinct protocols, summarized by district, for the first round of elections. No such publication was forthcoming.

Observations in the Second Round

The EOM covered the 24 October Election Day with a total of 18 observer teams in 14 different electoral districts. These areas were selected according to a priority list developed by the EOM.

A total of 134 polling stations was visited on election day, and 19 additional polling stations were observed during the counting process. Voting took place in 47 of the 67 districts in an estimated 6,500 polling stations. Thus, the sample represents only about 2% of all polling stations. Due to the quantitative limitations of this sample, any percentages given in this analysis should be read as trends or patterns rather than hard evidence.

International observers also collected results by copying protocols and worksheets at District Election Commissions. In view of the problems encountered with the counting of votes in the first round, more emphasis was put on the counting and tabulation process for the second round. Results for 536 polling stations were recovered, representing about 8% of the total number of polling stations involved.

Observations during Polling

The “transparency checklist” issued by the Central Election Commission for the second round of the elections and the training workshops organized for the election commissions had a positive impact on the conduct of the second round polling on 24

October in some districts and precincts. In others, the violations encountered during the first round were repeated.

- In 43% of the polling stations, observers found that one person signed the voters list for several individuals, twice as often compared to the first round.
- In almost a third of the polling stations (31%), proxy voting was allowed.
- In 44% of the polling stations, the ballots were not properly signed. In only half of the polling stations visited, the handling of the ballots was rated acceptable.
- In 16% of the locations, people other than polling station commission members were in some way involved in the processing of voters.

Among significant violations, in Atyrau, one of the few districts where an opposition candidate qualified for the second round, the District Election Commission Chairman initially denied international observers access to the tabulation process and refused to follow the Central Election Commission's "transparency" instructions. Later after violence broke out in one precinct, the same observers were informed that their security could not be guaranteed and were forced to leave the District Election Commission session before the tabulation of the results.

In one district of Almaty, District Election Commission members were in a meeting with the Akim shortly before the tabulation of results started. Individuals with no apparent official function in the electoral process, often identified as representatives of the Akimats, were again present during polling, vote count, and tabulation of results, frequently giving instructions.

Thus, the improved procedures for the second round could not have an impact on the overall outcome of the elections.

Analysis of Second Round Turnout

OSCE observers collected some 536 polling station results either directly or through District Election Commissions. Worksheets were available for four Districts.¹⁶ Turnout figures were noted for 511 polling stations that include about 600,000 voters. The overall turnout is 52,4%. However, a close look at the turnout figures reveals some troubling facts.

¹⁶ Numbers 9, 37, 39, and 67.

Table of Observed Voter Turnout, 2nd Round of Elections

<i>Turnout Reported</i>	<i># of Polling Stations</i>	<i>% of Polling Stations</i>	<i># of Votes Cast</i>	<i>% of Votes Cast</i>
100%	93	18.2%	24.255	7.7%
>= 95%	145	28.4%	51.994	16.4%
>= 90%	185	36.2%	78.803	24.9%
>= 75%	260	50.9%	142.044	44.9%
>= 50%	359	70.3%	227.522	71.9%
<= 25%	48	9.4%	20.136	6.4%
<= 15%	10	2.0%	2.588	0.8%
All	511	100%	316.576	100%

Some polling stations with a 100% turnout are so-called “closed polling stations” including hospitals, sanatoriums, and military bases where a high turnout is typical. However, 10 of the 93 polling stations that report a 100%-turnout have more than 500 voters. Polling station 219 in District 9 with 1,442 voters reported a 100% turnout. In district 13, voters seem to be highly disciplined: in no less than 30 precincts all voters participated. In District 67 in Almaty City, an urban area, 4 precincts reported a 100% turnout. Considering the overall political apathy among the population, and that this was a second round election, these figures are quite astonishing.

Analysis of the Second Round Voting Patterns

- Due to the fact that it was a run-off election for which the two candidates with the highest number of votes were qualified, it is also surprising that in seven precincts, protocols showed that one of the candidates received no votes at all. In 28 precincts, one of the contenders received 10 votes or less. Among these 28 precincts, 23 had a 100%-turnout. In 34 polling stations, one of the candidates received more than 90%.
- The use of mobile ballot boxes was generally not very extensive (less than 1% of the votes cast). However, in a number of polling stations, the number of votes cast in the mobile ballot box was significantly higher. In 9 polling stations it was more than 20%. In 35 polling stations it was more than 10%. In one polling station more than 40% of the 400 votes were cast through mobile voting.
- In a majority of the polling stations observed, advance voting did not take place at all, although the Monday after election day was a public holiday and many voters were expected to use this occasion for traveling. In 21 polling stations, the share of advance votes was greater than 10% of the total votes cast. In 8 polling stations the share was more than 25%. In polling station No. 185 of District 67 in Almaty City, 76% of the 1,246 votes were cast in advance. In polling station No. 183 of the same district, 67% of the 789 votes were cast early. In both cases, candidate Alimzhanov gained a landslide victory against the prominent opposition representative Svoik.
- In District 67 there is another unusual finding related to the number of “additional” voters casting ballots relative to the total number of votes cast. In polling station No. 159, this share was 30%. In addition, this precinct also had relatively high use of mobile ballot boxes. Alimzhanov won this precinct as well.

- In 41 precincts, the number of invalid ballots was more than 10%. The share of votes “against all” exceeded 10% in 19 precincts. In 38 precincts the number of votes against all and spoiled ballots were more than 15%; in 9 precincts it was more than a quarter of the votes cast. These were all but one in areas with high turnouts (70% or more).

Table of Results in Selected Districts, 2nd Round

District No.	#9	#13	#37	#39	#67
No. of Polling Stations	56	64	117	108	94
Total Voters	66,296	32,540	117,361	111,478	156,973
Total Votes Cast	44,546	23,627	73,792	84,018	42,268
Total Turnout	67.2%	72.6%	62.9%	75.4%	26.9%
Lowest Turnout	29%	10%	7.8%	24.1%	8.9%
Highest Turnout	100%	100%	100%	100%	100%
Candidate A	Omirgali	Kelemseit	Darimbet	Altynbekova	Svoik
Total Result	68.2%	66.9%	40.4%	41.7%	38.1%
Lowest Result	32.6%	15.9%	2.6%	2.0%	0.0%
Best Result	92.7%	100%	93.8%	90.8%	98.0%
Difference compared to 1 st Round	+40.1%	+22.2%	+6.9%	+20.0%	+6.1%
Candidate B	Mazhibaev	Dosmakova	Karamanov	Bakir	Alimzhanov
Total Result	21.0%	25.3%	52.4%	54.2%	55.0%
Lowest Result	0.1%	0.0%	5.0%	8.2%	23.9%
Best Result	65.3%	81.8%	97.4%	98.0%	100%
Difference compared to 1 st Round	+9.9%	+3.8%	+38.5%	+35.9%	+32.0%

The table above provides insight into the large variations in terms of both turnout and voter preference within a relatively small sampling of polling stations in five districts monitored by OSCE observers. Also, the five winning candidates in these districts received an average of 33.7% more votes during the second round.

6 THE POST ELECTION PHASE

6.1 Election Appeals, Court Cases and CEC initiatives

Following the second round, the Central Election Commission declared the results of voting invalid in three of the 47 districts due to unspecified violations, and ordered new elections to take place on 26 December. The issue of most concern related to the new elections was the CEC interpretation of who would be eligible to contest these races.

The CEC reported that it has requested the Government to consider submitting amendments to the Law on Elections to the Parliament to void Articles 96(4) and 110. Article 96(4) states that “Candidates for election as deputies for the Majilis that

already ran in the (primary) election should not take part in runoff election.” Article 110 stipulates the same provision for the elections to the Maslikhats. This flaw in the election law effectively punishes candidates if a court rules that an election result is invalid and the election must be held again. These provisions take effect even if an election is overturned because of illegal or fraudulent actions on the part of election officials. Articles 96(4) and 110 disenfranchise candidates by making them automatically ineligible to participate in a repeat election.

The CEC interpreted the provisions to mean that any candidate who ran in any single-mandate district or on a party list ballot in the original election could not be put forward in the repeated new election in which a new slate would be presented to voters. This expanded interpretation by the CEC cannot be justified.

The new elections on 26 December produced winners in two of the three districts rerun. In District 24, with fourteen candidates on the ballot, a second round of the rerun election was held on 9 January 2000 to produce a winner. Current or former members of government structures were elected in all three districts.

Candidates, civic organizations, and voters have sought to remedy violations committed during the two rounds of the elections by filing some 420 complaints with the CEC. An additional 1,056 complaints were filed with the CEC’s Media Sub-commission, and an unverified number of complaints and appeals were filed with the courts. The Central Election Commission has not yet published a report on the outcome of these cases.

More importantly, the Central Election Commission has yet to address the lack of transparency in the two-round elections. Since 11 October and on numerous occasions, in writing and during meetings, the OSCE/ODIHR and the EOM have urged the CEC to publish the complete details of the two-round election results with district and national level summaries for the single mandate and party list races. Moreover, the OSCE/ODIHR urged the CEC to make the same information available to the public in Kazakhstan in an attempt to restore confidence in the country’s electoral process. On 14 December, the CEC finally forwarded to OSCE/ODIHR such a summary, but only for the single mandate District 1. As of the date of this writing, the OSCE/ODIHR has received nothing more on the remaining 66 districts and party list races, and these details have not been published in the country.

However, in mid-December the Central Election Commission informed OSCE/ODIHR of the following developments:

- The CEC was considering a recount of the election results in two districts, but since then nothing more has been stated. In one other district, after a recount ordered by the CEC, another candidate was declared the new winner. The losing candidate was eventually appointed to the Senate.
- The Supreme Court was considering cases related to three districts (16, 24 and 53). Again, no further information has been made available.
- The CEC has filed complaints against 17 Akims and two Deputy Akims for violations during the electoral process. The OSCE/ODIHR has not been informed about the disposition of these complaints. Furthermore, an unspecified number of

District Commission members in three districts, including a Chairperson, have been dismissed.

- The CEC will also propose amendments to the Law on Political Parties, in particular Article 16, to eliminate the possibility for political parties to spend funds on political campaigns under the guise of charitable activities.

6.2 Opposition Reaction

Opposition parties have held a number of press conferences to express their concerns about the election process. More significant was the joint meeting to create a united front of representatives of political parties, human rights organizations, and NGOs in opposition to the current government, the Forum of Democratic Forces.¹⁷

The practical result of this first meeting of the Forum was the adoption of a resolution that contains a series of demands. These include:

- an appeal to the Parliaments and Governments of the USA, Russia, Japan, EU, CIS, and OSCE not to recognize the deputies elected by means of widespread falsification to the Majilis and Senate;
- a demand that the election results in both the Senate and Majilis be declared invalid;
- a demand to bring the members of the CEC and lower-standing election commissions to justice for the violations committed;
- a demand to conduct in the first half of 2000 new elections to the Majilis and Maslikhats and also elections of Akims and judges at all levels;
- a demand to conduct in the second half of 2000 new elections to the Senate.

The Forum of Democratic Forces, regardless of its future, is a relatively important development that stems directly from the “results” of the elections. In comparison, there was virtually no outspoken and coordinated response by the opposition following the January Presidential elections.

6.3 Government Reaction

President Nazarbaev had addressed the nation on 8 October, calling on Akims at all levels to “set a high standard” of democratic impartiality, “[y]ou must strictly adhere to the principle of non-interference by executive authorities in the activities of parties and candidates.” He stated that every public official and law enforcement officer would be held accountable to a standard of elections that are: “free and open, transparent and competitive, monitored, accurately reported, and fairly adjudicated.”¹⁸

¹⁷ The founders of this new political organ include the Communist Party; Republican People’s Party of Kazakhstan; Political Alliance of Women’s Organizations; Ecological Union “Tabigat”; Orley; Kazakhstan International Bureau for Human Rights and the Rule of Law; Pokoleniye; Azamat; Association of Independent Electronic Mass Media in Central Asia; Workers Movement; and others. This perhaps is the first time that representatives of the entire spectrum of opposition forces gathered under one roof.

¹⁸ Statement by the President of the Republic of Kazakhstan N. A. Nazarbaev to the people of the country in connection with the elections of October 10, 1999. Full text available from the Central Election Commission Website at [<http://www.election.kz/eng/Obrachenie/obrach.asp>].

However, instead of addressing the accountability for violations committed during the elections, President Nazarbaev accused the OSCE of practicing “double standards” in its evaluation of the Parliamentary election.¹⁹ Furthermore he charged that the OSCE, by issuing the two preliminary statements, is in violation of its own commitments, in particular the Helsinki Final Act, because this constitutes “interference in the internal affairs of a sovereign state.”²⁰

7 ANALYSIS OF RESULTS

7.1 Results of Elections Based on the Party List

For the first time, a nationwide constituency for political parties was introduced in the election system. However, only 10 of the Majilis’ 77 seats (or 13%) were filled through party lists. Opposition parties, in particular, claimed that this share of the vote would function as a litmus test for the political affiliation of the Kazakhstani electorate, and hence was particularly vulnerable to manipulation.

¹⁹ On 4 and 11 November the state TV channel Khabar showed an approximately 20 minute interview with President Nazarbaev at his residence in Almaty. The interview covered various topics including the elections.

²⁰ In fact, a variety of OSCE commitments state clearly that human rights are not an internal matter, but are a direct and legitimate concern of the OSCE participating States.

Table of Nationwide Party List Results²¹

Party:	Votes	%	Seats	Oblasts ²² Won	2 nd in Oblast
<i>Communist Party</i>	932,549	17,75	2	2	11
<i>Agrarian Party</i>	663,351	12,63	2	1	1
<i>OTAN</i>	1,622,895	30,89	4	12	3
<i>People's Congress</i>	148,776	2,83	-	-	-
<i>Renaissance Party</i>	103,328	1,97	-	-	-
<i>Azamat</i>	240,132	4,57	-	-	1
<i>Alash</i>	144,945	2,76	-	-	-
<i>Party of Labor</i>	72,721	1,38	-	-	-
<i>Civil Party</i>	590,184	11,23	2	1	-
Subtotal	4,518,881	86,01			
Against all	373,440	7,11			
Invalid	361,543	6,90			
Total (estimated)	5,253,864	100,00	10	16	16
Parties represented in the new Majilis	3,808,979	72,50	10	16	15
Orientation					
Pro-governmental	2,979,758	56,71	8	14	4
"Constructive" opposition	606,574	11,55	-	-	1
"Hard" opposition	932,549	17,75	2	2	11

The following observations can be made:

- With only 57% of the total votes, the pro-governmental parties received 80% of party seats in parliament.
- 72,5% of the voters find "their" party represented in Parliament (low fragmentation).
- Of those parties that did not receive 7% of the vote nationwide, only Azamat with 14,95% in Almaty city and the nationalist party Alash with 9,01% in Kyzylorda were able to pass the 7% barrier at least in one Oblast. Azamat has its second best result (6,7%) in Astana.
- There are no turnout figures available. However, the number of votes cast for the party lists differs only slightly from the number of votes cast for the single member districts. For those, the turnout has been officially announced to be 62,6%.

From this brief analysis one can conclude that:

- the Kazakhstani voters concentrated their votes on four significant parties;
- only the Communist Party plays as a significant role as an opposition force;
- although some regional differences can be found, one cannot discern particular regional parties.

²¹ Source: Website of the Central Election Commission of Kazakhstan.

²² Including the cities of Almaty and Astana.

Due to the limited number of EOM observers, it was not possible to conduct a parallel count or to countercheck the published results. However, the figures for Aktyubinsk Oblast warrant some comments because there are literally no “Against all” or invalid votes (less than 1%). In all other districts they equal at least 7%. The nationwide share of the “Against All” votes plus invalid ballots is 14%. Highest shares are 20.8% and 20.9% in Karaganda and Kostanai Oblasts.

7.2 Results from the First Round Single Mandate Races

According to official results, in 20 of the 67 single member districts a candidate received more than 50% of the votes cast and consequently was elected in the first round.

An analysis of those candidates elected or leading after 10 October indicates the level of association between these winning candidates and existing executive and state authorities. Of the twenty candidates surpassing the 50% margin in the first round, 6 were incumbent deputies, a further 4 were either Akims or Deputy Akims, and the remainder, except for the one opposition candidate elected, had roles affiliated with the State. Of the 20 deputies elected in the first round, 12 were formally nominated by the following pro-governmental political parties:

- OTAN (4 candidates)
- Civil Party (7 candidates)
- Agrarian Party (1 candidate).

7.3 Results for the Second Round, October 24

Three of the 47 second-round elections were declared invalid.²³ In a number of districts, the results of the run-offs were very close. In 13 cases, even the winning candidate failed to get 50% of the total votes. In 25 of the 44 districts, the winner had less than 55%. Only in one district did the elected deputy get more than 70%.

Of the 20 OTAN candidates who participated in the second round, 16 were victorious, 3 were defeated, and 1 ran in one of the districts declared invalid. OTAN candidates were behind in 6 races according to their first round results, but were winners in 3 of districts in the second round. Of the 7 Civil Party candidates competing in the second round, 3 were victorious. Of the opposition candidates running in the second round, none was elected.

²³ The three are: Kurmangazy District #16, Atyrau Region; Zhambyl District #24, Zhambyl Region; and Abai District #53, South Kazakhstan Region.

7.4 Final Results

Table of Political Make up of the Majilis

Affiliation	# of Deputies		
	Single Member Districts	Party List	Totals
OTAN	20	4	24
Civil Party	9	2	11
Communist Party	1	2	3
Agrarian	1	2	3
RNPK	1		1
People's Cooperative	1		1
Business	10		10
Gov't. Associated	20		20
Other/Unknown	4		4
Total	67	10	77

The degree of plurality, which positively characterized the registered candidates, is not reflected in the composition of the new parliament. As a general trend, the EOM noted a strong correlation between the dominant pro-presidential parties and candidates closely associated with the existing political and economic hierarchy. This is not surprising in itself, but must be seen in light of concerns expressed by the EOM regarding interference by executive authorities in the electoral process, particularly at the level of the Akimat.

Profile of Elected Members of the Majilis

Number elected	Nationality	Gender	Incumbents	Nominated by
77	Kazakh- 58 (75%) Russian-19 (25%)	M – 69 (90%) F – 8 (10%)	Ran - 46 (69%) Won – 18 (39%) Lost – 28 (61%) Lost in the first round – 26 (57%)	Political parties - 43 (56%) Trade unions + public associations – 8 (10%) Self-nominated - 26 (34%)

Statistics provided by the CEC show that 46 (60%) of the 77 deputies elected to the Majilis following the second round are either incumbent deputies or employed directly by the state, local authorities, or law enforcement bodies. The next largest

non-state group was employees of commercial enterprises with 26% of all elected candidates. While only 39% of incumbent Majilis deputies were re-elected, more than 50% of Akimat employees who ran as candidates were elected. For candidates from other levels of government administration, be it national agencies, ministries or state enterprises, the figures are consistently much lower. The only two Akims to win in the first round, both Civil Party candidates, also had amongst the highest proportions of winning votes, both over 65%, and much higher than average turnout figures. These high turnouts corresponded with a very high proportion of ballots cast against either all candidates or found to be invalid (19% and 10% when the two types of ballot were added together). The average proportion of ballots falling into one or the other category after the first round was 8%.

The ethnic distribution of candidates presented some interesting conundrums: ethnic Russians were underrepresented in the Majilis candidates (17%) in comparison to the preliminary census figures released this year. In that document, ethnic Kazakhs made up 53.4% of the population and ethnic Russians 30%. However, following the second round, 25% of the candidates elected to the lower chamber of the parliament are ethnic Russian, with the balance ethnic Kazakh. This indicates a higher proportion of ethnic Russian candidates having the support amongst the politically dominant pro-presidential parties than would have been suggested by their profile among the candidates.

Annexes

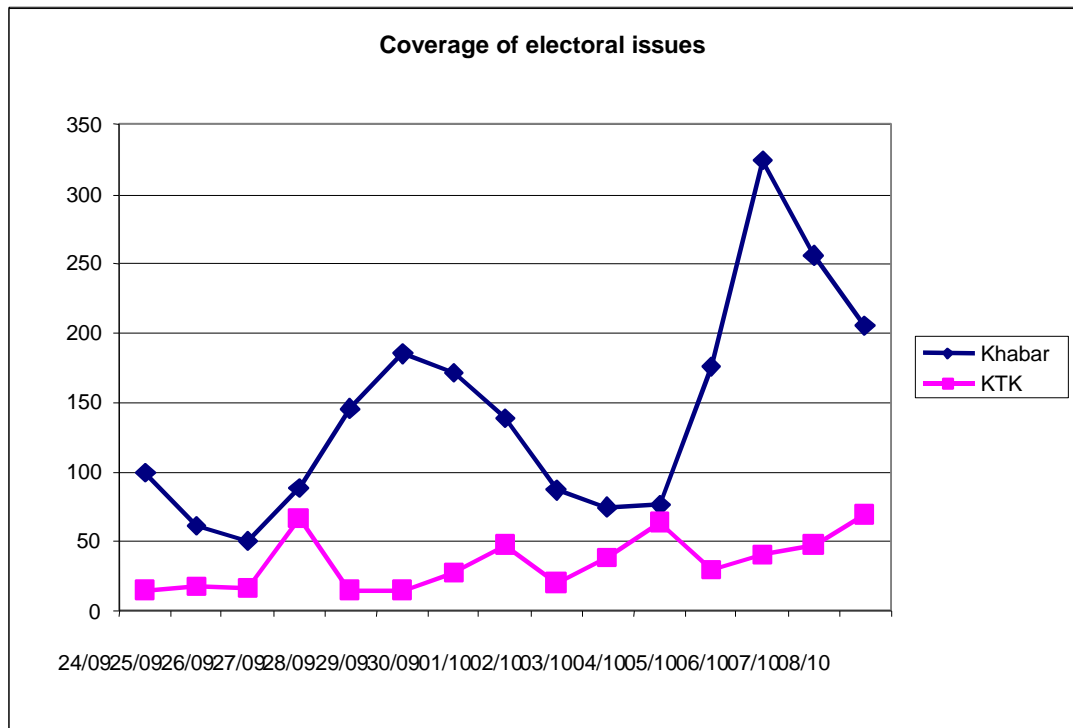
Annex 1 – Analysis of Media Coverage

The EOM conducted a media monitoring activity covering two electronic media (the state owned television station Khabar and the private television station KTK), and nine newspapers including weekly and daily publications of different political orientations.²⁴

The Election Law guarantees candidates the right to present their message to the public with a fifteen-minute address on the state television. Many candidates complained about the regulatory framework suggested by the CEC to apply this rule. However, TV stations also had a number of practical difficulties to overcome. The criterion used to fulfill the list of requests by candidates on a “first come, first served” basis was not totally satisfactory. Distribution of airtime should be implemented through a more transparent and equal process. In some countries that provide free airtime, slots are drawn by lot, with time granted on an equal basis within a particular time slot.

²⁴ The final matrix was composed by 2,358 analysis units crossed with 10 variables. The variables used for the television were Channel, Date, Name of Program, Start Time, Subject (political actors), Political Affiliation (one of the ten registered parties or self-nominated), Candidate (yes or no), Airtime (in seconds), Direct Speech (in seconds) and Tone (positive, neutral, negative). The variables used for the newspapers were Newspaper Date, Page, Subject (political actors), Political Affiliation (one of the ten registered parties or self-nominated), Candidate (yes or no), Space (in cm²), Direct Interview (in cm²) and Tone (positive, neutral, negative). The electronic media were monitored from 9:00 to 24:00 in the weeks before the elections for a total amount of 255 broadcast hours in Khabar TV and 225 hours in the private channel KTK. The methodology of content analysis used for this project considered the airtime and space given to each political actor mentioned on press and electronic media.

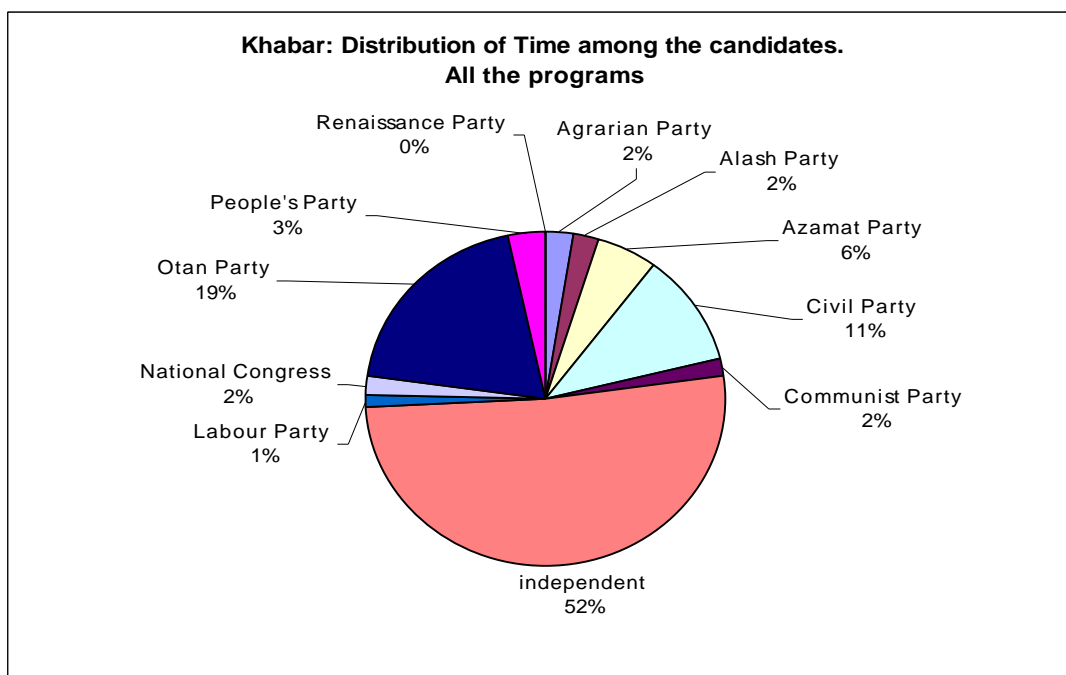
Chart of Media Coverage of Election Issues



The above chart shows that Khabar TV dedicated more coverage to the elections than the private channel KTK. This extensive coverage of the elections on the state medium is particularly significant compared with the Presidential Election in January 1999, when Khabar TV dedicated just 13 hours to electoral issues, or 1/3 of the coverage given to the 1999 Elections to the Majilis.

The Election Law guarantees Majilis candidates a single 15-minute address on state television. Khabar TV gave 52% (more than 13 hours) of its coverage on election to self-nominated candidates. This reflects a bolder attitude on the part of the State channel during this election in terms of coverage when compared with the Presidential Elections. The President received 64% of the total time dedicated to politics in January of 1999.

Distribution of Time between Political Parties – State Television



Among the party lists, however, the chart above shows that the pro-government OTAN and Civic Party received the most coverage, with 19% and 11% respectively. This is mainly due to two reasons:

- these parties began the electoral campaign better prepared, with more expertise and financial support to purchase paid political advertisements.
- the news programs gave biased coverage toward these two main pro-governmental parties. In overall news content, pro-governmental parties fared better in terms of “positive coverage” than opposition parties.

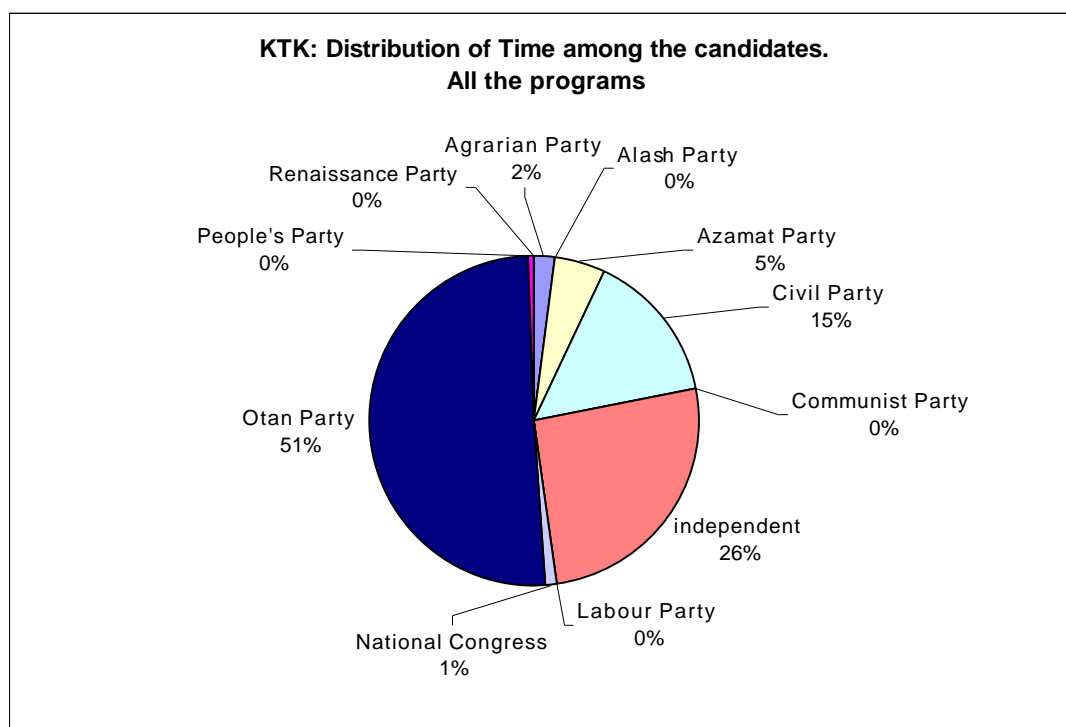
As the chart below illustrates, commercial channel KTK demonstrated a distinct bias toward OTAN, which enjoyed nearly 51% of the coverage given to all parties. 26% of the airtime given to the candidates was given to self-nominated candidates and 15% to the Civil Party. Insufficient coverage was accorded to candidates of other parties.

It should also be noted that OTAN monopolized the market with 61% of the paid political advertisements on Khabar TV, and 63% on KTK.

Paid political advertising on Khabar and KTK was used by two other parties. The Civil Party purchased 28% of the paid airtime on Khabar TV and 20% on KTK, while paid political advertisements for Agrarian Party covered 9% of the paid airtime on Khabar TV.

Also worthy of note is the fact that all three of these parties support the Government and enjoyed successful results in these elections.

Distribution of Time between Political Parties – Privately-owned Television



As it is shown in Table below, two of the independent press media monitored clearly supported the Republican People's Party (60% coverage in *451 Fahrenheit* and 44% in *XXI Century*.)

Argumenty I Fakty and *The Globe* showed a more balanced attitude toward candidates and parties running for the elections, while *Delovaya Nedelya* gave almost all space dedicated to the elections to the Civil Party with 72% of coverage.

Although *Caravan* and *Panorama* gave a good amount of coverage to independent candidates (respectively 20% and 11% of the coverage), the ruling parties and the Government in these newspapers had better coverage.

The Kazakh language newspaper *Zhas Alash* gave most of the coverage to independent candidates (79%) and OTAN (15%).

Annex 2 - Analysis of Results of the Senate Election

The Senate election took place at joint sessions of qualified electors, of which 86.5% took part. The most noteworthy political outcome was the rejection of 9 of 11 incumbent Senators who ran in contested races. The other major underlying trend is the ethnic profile of the candidates and the victors. In both cases they were overwhelmingly ethnic Kazakh.

Lack of open or official affiliation by candidates with political parties suggests that the Senate races were much more a question of individual political personalities than support for or against particular parties.

Summary of Candidates and Results

	No.	Nationality	Gender	Incumbents	Political Party membership	Nomination
Candidates	29	Kazakh-23 Russian-2 Ukrainian-2 German-1 Tartar-1	M – 28 F – 1	14	The CEC stated only that five candidates were members of OTAN. The Civil party claimed to have candidates.	20 were nominated by their respective Maslikhats and 9 were self-nominated.
Elected	16	Kazakh-14 German-1 Tartar-1	M – 15 F – 1	6	Claimed by parties: OTAN – 11 Civil party – 2. Each claimed one winner.	All of the Senate candidates who were self-nominated ran in contested races. Three were successful.