



Office for Democratic Institutions and Human Rights

REPUBLIC OF UZBEKISTAN

PARLIAMENTARY ELECTIONS

27 December 2009

OSCE/ODIHR Election Assessment Mission Final Report



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**REPUBLIC OF UZBEKISTAN
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OSCE/ODIHR Election Assessment Mission Final Report

I. EXECUTIVE SUMMARY

The Republic of Uzbekistan, in line with its OSCE commitments, invited the OSCE/ODIHR to observe the 27 December parliamentary elections. Subsequently, the OSCE/ODIHR conducted a Needs Assessment Mission that recommended the deployment of an Election Assessment Mission (EAM) composed of a core team of analysts but without long- or short-term observers. In light of the lack of a genuinely pluralistic choice for voters and given the fact that most previous OSCE/ODIHR recommendations remain unaddressed, the deployment of an election observation mission, even of a limited nature, was not considered meaningful. The OSCE/ODIHR has never deployed a full fledged election observation mission to Uzbekistan due to a lack of minimum conditions for democratic elections. Previous elections were assessed as generally falling short of OSCE commitments.

The 27 December 2009 parliamentary elections took place in the context of Uzbekistan's declared "step-by-step approach" towards further democratization. While some of the December 2008 amendments to the election law slightly improve the legal framework for elections, their good faith implementation remains indispensable to ameliorate electoral practices in Uzbekistan. However, other amendments, such as providing 15 reserved seats in the lower chamber for the Ecological Movement of Uzbekistan and the abolishment of the possibility for civic initiative groups to nominate independent candidates, constituted further departures from OSCE commitments. These provisions are contrary to paragraph 7.2 and 7.5 of the 1990 OSCE Copenhagen Document, respectively. Overall, the election legislation continues to fall short of OSCE commitments and requires significant improvements.

Four political parties represented in the outgoing parliament contested these elections. Differences in these parties' programs appeared to be minor, with all registered parties supporting government policies. Political movements that are openly critical of the state authorities have not in the past been able to register as political parties. In the run-up to these elections, they did not attempt to register again. The field of candidates did not offer real political alternatives to voters. Genuine political pluralism constitutes a fundamental element of any democratic election.

The elections were generally administered in a competent manner and according to schedule, although decisions of the Central Election Commission (CEC) and District Election Commissions (DECs) were not readily available to the public and observers, thus impeding transparency. The vagueness of legal provisions on a number of issues (e.g. mobile voting and early voting) would have warranted clear and detailed regulations from the CEC. Uneven implementation of legal provisions by election administrators showed that CEC regulations delivered to all levels of the election administration were not sufficiently detailed.

The election campaign was characterized by low intensity and visibility as well as a marked absence of genuine political competition. Campaigning had a slow start, gaining limited momentum only during the last week of the pre-election period. Campaign activities were

mainly conducted as indoor meetings with voters, organized with the help of *mahalla* (neighbourhood institutions). The latter played a prominent role in election preparations and on election day.

Generally, Uzbek media are constrained by undue limitations to the constitutionally guaranteed right to freedom of expression and a lack of professional journalism. Media showed very limited interest in the electoral campaign, devoting most coverage in their news programs to the activities of the president and the government. Media outlets, in particular both state broadcasters TV Uzbekistan and TV *Yoshallar*, failed to provide political parties with equitable coverage, although required by law. They, however, provided free airtime to political parties as provided by law.

There was a remarkable absence of formal complaints at all levels. Among the reasons given by electoral stakeholders was a lack of confidence in the complaints process, cumbersome court procedures and a general preference to settling disputes informally rather than through formal channels.

The election law provides for observation of the electoral process by international observers as well as authorized representatives of political parties and candidates. However, domestic civil society groups are not entitled to observe the electoral process which is not in line with paragraph 8 of the 1990 OSCE Copenhagen Document. Furthermore, the right granted by domestic legislation to observers to receive a certified copy of the results protocol in polling stations was often contested by PEC staff.

While no systematic or comprehensive observation of voting procedures was conducted, the OSCE/ODIHR EAM members visited a limited number of polling stations on election day. In polling stations visited, voting appeared to take place in a calm and organized manner. In some polling stations the ballot boxes were neither visible to the members of precinct election commissions (PECs), nor to observers. Identical signatures on the voter lists and stacks of ballots in the ballot boxes in all polling stations visited by the OSCE/ODIHR EAM indicated that proxy voting was widely practiced and that ballot box stuffing may have occurred. These serious irregularities undermined the principle of equality of the vote (one person, one vote) and raised question about the integrity of the elections.

The OSCE/ODIHR encourages the relevant authorities to engage in a genuine electoral reform process to address substantial challenges which would need to be overcome in order to bring the electoral framework in line with OSCE commitments. Consideration should be given to following up on the outstanding recommendations of OSCE/ODIHR published in this and in previous reports. The OSCE/ODIHR stands ready to assist the authorities of Uzbekistan in improving the conduct of elections.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

In line with its OSCE commitments, the Republic of Uzbekistan invited the OSCE/ODIHR to observe the 27 December parliamentary elections. Subsequently, the OSCE/ODIHR conducted a Needs Assessment Mission (NAM) from 21 to 22 October 2009 that recommended the deployment of an Election Assessment Mission (EAM) to Uzbekistan to further review the overall framework for the conduct of elections and to offer recommendations on improving the electoral legislation, procedures and practices. The

OSCE/ODIHR NAM concluded that the deployment of an election observation mission, even of a limited nature, would not be meaningful. This was due to limitations on genuine political choice on the part of the electorate and the fact that key previous OSCE/ODIHR recommendations had not been addressed.¹ The OSCE/ODIHR never deployed a fully fledged election observation mission to Uzbekistan due to a lack of minimum conditions for democratic elections. Previous elections were assessed by the OSCE/ODIHR as generally falling short of OSCE commitments.

On 2 December 2009, the OSCE/ODIHR EAM was established in Tashkent, led by Ambassador Jolanda Brunetti. It comprised 14 analysts and support staff from 13 OSCE participating States but no long- or short-term observers were deployed. The mission included a media monitoring component. The OSCE/ODIHR EAM members visited 9 of the 12 regions of Uzbekistan² as well as the Autonomous Republic of Karakalpakstan. The OSCE/ODIHR EAM stayed in country until 31 December. The OSCE/ODIHR EAM did not assess the elections to the regional, district or city councils, which were held concurrently on 27 December 2009.

The OSCE/ODIHR EAM wishes to thank the Ministry of Foreign Affairs, the Central Election Commission, and other interlocutors for their co-operation and assistance during the presence of the mission. This was manifested by their continued willingness to provide explanations and to meet with the OSCE/ODIHR EAM upon request. The OSCE/ODIHR EAM also wishes to express its appreciation to the OSCE Project Co-ordinator and to the diplomatic personnel accredited in Uzbekistan for their support throughout the course of the mission.

III. BACKGROUND AND POLITICAL ENVIRONMENT

Prior to these elections, OSCE/ODIHR observed parliamentary elections in Uzbekistan in 1999 and 2004, as well as the presidential election in 2007. For the December 2004 parliamentary elections, the OSCE/ODIHR deployed a Limited Election Observation Mission (LEOM), which concluded that “the election of Deputies to the Parliament (*Oliy Majlis*) of the Republic of Uzbekistan fell significantly short of OSCE commitments and other international standards for democratic elections, despite minor improvements identified in the election law.” The OSCE/ODIHR also deployed an LEOM for the 2007 presidential election, which concluded that the election “took place within a tightly controlled political environment and failed to meet many OSCE commitments for democratic elections as laid down in the 1990 OSCE Copenhagen Document.”

The 27 December 2009 elections were the second parliamentary elections since Uzbekistan introduced a bi-cameral parliament (*Oliy Majlis*).³ Amendments to the law “On Elections of the *Oliy Majlis* of the Republic of Uzbekistan”, adopted on 25 December 2008, increased the

¹ See: http://www.osce.org/documents/odihr/2009/11/41230_en.pdf. The reports of all previous OSCE/ODIHR election observation missions are available at: <http://www.osce.org/odihr-elections/14681.html>.

² Andijan, Bukhara, Fergana, Namangan, Kashkhadaria, Samarkand, Tashkent region, Surkhandaria, and Khorezm.

³ A referendum held on 27 January 2002 proposed constitutional changes, *inter alia*, to establish a bi-cameral parliament. The parliament now comprises a lower chamber (legislative chamber) and an upper chamber (senate), both serving five year terms. The senate has 100 members; 84 are indirectly elected and 16 are appointed by the president.

number of deputies from 120 to 150 and, importantly, introduced 15 reserved seats for representatives of the newly established Ecological Movement of Uzbekistan (EMU). The remaining 135 deputies are directly elected in single-mandate majoritarian constituencies.⁴

Candidates in single-mandate constituencies were nominated by the four registered political parties. All four were represented in the outgoing parliament: the Liberal-Democratic Party of Uzbekistan (LDPU), the People's Democratic Party of Uzbekistan (PDPU), the Democratic Party of Uzbekistan *Milliy Tiklanish* and the Social-Democratic Party *Adolat*.⁵

The EMU, which is not considered a political party, was founded in August 2008. It comprises non-governmental organizations and individual members, often scientists, mainly active in the ecology and health sectors. The concept of reserved seats for the EMU was welcomed by OSCE/ODIHR EAM interlocutors, including political parties and candidates competing for the directly elected seats. They considered EMU's inception justified by the ecological problems facing Uzbekistan. This includes the shrinking of the Aral Sea, accumulation of salt in the soil and access to potable water. The allocation of the 15 reserved seats was made through an indirect election process; EMU regional conferences elected delegates from all regions to attend a national conference in Tashkent at which deputies for the 15 seats were elected (see section XIII of this report).⁶ The national conference took place on 27 December, i.e. the same day as the single-mandate constituency elections. The OSCE/ODIHR EAM followed this indirect election.

The December 2009 elections took place in a tightly controlled political environment characterized by a lack of respect for fundamental freedoms central to any democratic election, by a strong executive led by the president⁷ and a relatively weak parliament as well as by fear of regional instability. All four political parties that fielded candidates stated their support for the government, although the PDPU⁸ characterized itself as a parliamentary opposition party.⁹ While issues of concern highlighted in the platforms of the contesting

⁴ Art. 45 of the election law stipulates a second round of voting is held if no candidate receives more than half of all votes cast. In the event of a second round, the two highest scoring candidates from the first round compete. There is a 33 per cent turnout requirement of registered voters for the first round of elections to be valid, but none for the second round.

⁵ Following the 2004 parliamentary elections, the LDPU had 41 seats, the PDPU 28 seats, *Milliy Tiklanish* 29 seats, and *Adolat* 10 seats. Another party, *Fidokorlar*, that had won 11 seats, merged with *Milliy Tiklanish* in June 2008. The new *Milliy Tiklanish* party thus became the second largest faction in the outgoing parliament.

⁶ The 15 EMU-members of the lower chamber are to represent the 14 territorial entities of Uzbekistan (12 regions, City of Tashkent and Republic of Karakalpakstan) and the Central Apparatus of the Movement with one representative each.

⁷ The President appoints and dismisses the Prime Minister, the Cabinet of Ministers and the Prosecutor General. He nominates the judges to the Constitutional Court and the Supreme Court as well as the judges of regional and district courts. Moreover, he appoints and dismisses the heads of the regional administration (*hokims*).

⁸ The successor of the Soviet-era Communist Party of Uzbekistan.

⁹ Art. 2 of the Constitutional Law of the Republic of Uzbekistan "On Strengthening the Role of Political Parties in the Renewal and Further Democratization of State Governance and Modernization of the Country" adopted in 2007, provides the possibility of a faction declaring its status as opposition in parliament. While the existence of an opposition would seem to be inherent to the concept of parliament, in the specific context of Uzbekistan, the possibility of forming a parliamentary opposition was introduced by legislation. In practice in Uzbekistan, parliamentary opposition status does not necessarily entail an opposition to the government.

parties differ,¹⁰ it appears that these differences are mainly of a declaratory nature. To date, the existence of political parties constitutes only an appearance of political variety and does not provide voters with a choice between genuine political alternatives. There were no significant campaign themes pursued by political parties in the elections other than their general party platforms.

State representatives and other interlocutors describe the path of Uzbekistan to the OSCE/ODIHR EAM as a “step-by-step process” of continued democratic reform and multi-party system consolidation.¹¹ However, political movements that are more openly critical of the state authorities have not been able to register as political parties in the past.¹² In the run-up to the 2009 parliamentary elections, they did not again attempt to register.

IV. LEGAL FRAMEWORK

The election of the legislative chamber of the *Oliy Majlis* is primarily governed by constitutional provisions¹³ and the “Law on Elections of the *Oliy Majlis* of the Republic of Uzbekistan” (election law), which was last amended on 25 December 2008. Other relevant legislation includes the law “On the Central Election Commission of the Republic of Uzbekistan” (CEC law), the “Law on Political Parties” (political party law), the “Law on Financing of Political Parties”, the “Constitutional Law on Strengthening the Role of Political Parties in the Renewal and Further Democratization of the State Governance and Modernization of the Country” (law on strengthening political parties) and the “Law on Guaranteeing Citizens’ Suffrage”, as well as certain provisions of the criminal code¹⁴ and the civil procedure code.¹⁵ In addition, the Central Election Commission (CEC) adopted decisions and procedures, which gave further details on how the electoral process should be conducted.¹⁶

¹⁰ The PDPU professes to defend the interests of vulnerable groups of society, the LDPU in its programme favours market economy, the party *Adolat* positions itself as a social-democratic party and *Milliy Tiklanish* professes to stand for the defence of national values and traditions.

¹¹ See the speech made by the President of Uzbekistan Islam Karimov, Constitution Day 2008, <http://www.region.uz/news.php?id=1037&lan=en>.

¹² For example *Birlik, Erk and Birdamlik*. Their leading political figures are said to be in exile. The OSCE/ODIHR EAM was advised that their members are monitored closely and that authorities prevent their meetings with supporters.

¹³ The constitution enshrines the right to universal, equal and direct suffrage by secret ballot and contains eligibility requirements (Art 117).

¹⁴ Art. 146 of the criminal code prohibits election violations (compromising the secrecy of the ballot, forgery of election documents) while Art. 147 prohibits impediments to the right to elect and be elected, to conduct pre-election campaigning and to work as proxies.

¹⁵ Art. 272 of the civil procedure code establishes that “a complaint against actions (decisions) of an election commission should be considered by the court within three days from its submission; it shall be considered immediately, if less than six days remain until election day. A complaint shall be considered by the court inviting the complainant and representative of the relevant election commission as well as prosecutor; in cases when complaints concern another citizen who is not the complainant, this person shall also be invited to the relevant judicial hearing. The court ruling shall be delivered to the relevant election commission and complainant immediately after it has been taken.”

¹⁶ For example the CEC “Instruction on the organization of work of PECs” (17 September 2009), the CEC regulation “On procedure for nomination and election of the candidates for deputies of the Legislative Chamber of *Oliy Majlis* of the Republic of Uzbekistan on behalf of the Ecological Movement of Uzbekistan” (17 September 2009) and the CEC regulation “On canvassing of political parties, candidates for deputy in mass media during the election campaign for elections to the legislative chamber of the *Oliy Majlis* of the Republic of Uzbekistan” (13 November 2009).

While some of the December 2008 amendments to the election law slightly improved the legal framework for elections, their good faith implementation remains indispensable to ameliorate electoral practices in Uzbekistan. Other amendments run directly contrary to OSCE commitments. Overall, the election legislation continues to fall short of OSCE commitments and requires significant improvements.

The positive changes addressed some of the recommendations included in OSCE/ODIHR's 2005 assessment of the election law.¹⁷ However, they remain rather symbolic given the lack of genuine political competition and largely untested due to their limited implementation during these elections.

Firstly, candidate nomination by political parties was theoretically made somewhat easier by reducing the time required for new parties to be registered prior to the start of an election campaign from six to four months.¹⁸ Secondly, the number of necessary support signatures for parties to nominate candidates was reduced from 50,000 to 40,000. However, no new political parties were registered before the December 2009 elections. Thirdly, the involvement of the election administration in the organization of campaign events was reduced. Under the current legislation, campaign events can now be organized by political parties themselves. They need to co-ordinate with the respective PEC/DEC and events are no longer centrally organized by election commissions as was the case in previous elections. Fourthly, the obligation of PECs to read the results protocol out loud and to display a copy of it publicly for at least 48 hours represent a welcome move towards increased transparency. Fifthly, the participation of political party representatives in the verification of signature lists for candidate registration was introduced. Finally, as regards complaints and appeals, the newly introduced right of complainants to participate in the court proceedings, following an appeal against a decision of an election commission or a lower court, incorporated some basic due process guarantees.¹⁹

However, despite the minor legislative improvements listed above, many previous OSCE/ODIHR recommendations remained unaddressed, including most made in the 2005 OSCE/ODIHR legal assessment. The main remaining shortcomings include: a) that the constitutional safeguards of the right to freedom of expression²⁰ are formulated in such broad terms that restrictions may be applied to any critical view on the constitutional order expressed in a peaceful manner and therefore may hinder public discussions and pluralistic debates that are the hallmarks of any genuine democracy; b) likewise, the right to freedom of association, including the right to form a political party, may be subject to arbitrary and overly broad limitations; and c) the lack of any provision allowing election observation by private organizations such as domestic non-party observer groups.

It is recommended that limitations to the freedom of expression and association be as few and specific as possible and that these limitations be in line with international law. Any restrictions must be provided for by law, be necessary in a democratic society for the

¹⁷ See ODIHR Assessment of the Law on Elections of the *Oliy Majlis*, Republic of Uzbekistan. 21 February 2005. See <http://www.osce.org/odihr-elections/13445.0.html>.

¹⁸ On 17 September, the CEC set the start of the election campaign at 22 September 2009.

¹⁹ In the absence of complaints, the provision was not used in practice during these elections (see also Section XII of the present report).

²⁰ Art. 29 of the Constitution provides that "everyone shall be guaranteed freedom of thought, speech and convictions. Everyone shall have the right to seek, obtain and disseminate any information, except that which is directed against the existing constitutional system and in some other instances specified by law. Freedom of opinion and its expression may be restricted by law if any state secrets are involved."

protection of legitimate values and should be subject to clear and narrow criteria that do not leave an excessively broad margin of appreciation to the implementing authorities.

Finally, some of the 2008 amendments violate OSCE commitments for the conduct of democratic elections. Paragraph 7.2 of the 1990 OSCE Copenhagen Document provides that all seats in at least one chamber of the national legislature should be freely contested in a popular vote. Given that the 100 members of the upper chamber are indirectly elected or appointed by the president, the introduction of 15 reserved seats for the EMU in the lower chamber is not compatible with this commitment. The possibility for citizens to form initiative groups to nominate independent candidates was abolished by the 2008 amendments to the election law. This amendment is in contravention of paragraph 7.5 of the 1990 OSCE Copenhagen Document that provides that citizens should have the right to seek political or public office, individually or as representatives of political parties or organizations, without discrimination. OSCE/ODIHR EAM interlocutors stated that this change in legislation was prompted by the need to prevent fragmentation in the parliament and to avoid the potential of extremist groups entering parliament via initiative groups.

The legislation should be brought in line with OSCE commitments. It should provide individual citizens with the opportunity to stand as independent candidates, in accordance with paragraph 7.5 of the 1990 OSCE Copenhagen Document. It should also ensure that all seats in at least one chamber of the Oliy Majlis are freely contested in a popular vote, in line with paragraph 7.2. of the Copenhagen Document.

Moreover, a lack of adequate regulation of certain aspects of the electoral process, including election campaigning,²¹ election day procedures such as early and mobile voting, as well as insufficient rules concerning the nomination and election of representatives of the EMU,²² led to diverging interpretations and an incoherent implementation of respective provisions by electoral stakeholders.²³ Finally, the law does not specify any sanctions in cases of violations of campaign regulations.²⁴ While the CEC reported an absence of violations during these elections to the OSCE/ODIHR EAM,²⁵ the lack of legal regulations leaves a vacuum which may result in diverging interpretations by relevant authorities and an unequal implementation of the law.

It is recommended that campaign regulations be further detailed and that proportionate sanctions are introduced in case of violations. Also, early voting and mobile voting

²¹ For example, procedures concerning the funding of the election campaign and a statutory lack of sanctions in cases of campaign violations.

²² For example, lack of regulation to prevent double nominations of candidates of the EMU who would be candidates running for political party lists at the same time.

²³ For example, different interpretations of the electoral stakeholders (CEC, DEC, party representatives) as to whether a party may use its own funds during the election campaign for printing and distribution of party leaflets; the unequal application of early and mobile voting procedures; differing interpretations regarding complaints and appeals procedures.

²⁴ To exemplify, the law does not specify the measures to be taken in case a candidate hands out gifts to voters or illegally campaigns on election day. CEC representatives explained to the OSCE/ODIHR EAM that first a warning is issued to the respective candidate and an attempt made to settle the issue amicably. A continued violation might also entail the disqualification of a candidate. Although no violation of campaign regulations was acted upon by the election administration, the imprecision and vagueness of legal provisions is problematic as it contravenes the need for legal certainty and might lead to an arbitrary and unequal implementation of the law.

²⁵ Meeting with the CEC on 29 December 2009.

procedures should be adequately regulated by law. Finally, it is recommended to further clarify and detail procedures for the election of the representatives of the EMU.

V. ELECTION ADMINISTRATION

The parliamentary elections were administered by three levels of election administration: the Central Election Commission (CEC), 135 District Election Commissions (DECs), and 8,447 Precinct Election Commissions (PECs). The CEC is a permanent body established under the CEC law.²⁶ It comprises 22 members appointed by parliament, based on proposals from regional councils (*Zhokargy Kenes* of the Republic of Karakalpakstan, regional and Tashkent City *Kenghashes* of people's deputies).²⁷ Of the current CEC members, half have a legal background. Five CEC members work in the commission on a permanent basis.²⁸ According to the CEC website, 11 CEC members are based outside Tashkent and participate in the work of the CEC mainly when there are CEC sessions.²⁹ The CEC chairperson is elected from among the CEC members, upon proposal of the President of Uzbekistan.

For the 27 December elections, 135 DECs were established, one in each single-mandate constituency. Their members were nominated by regional authorities and approved by the CEC. In line with the election law, each DEC had a chairperson, a deputy, a secretary, and no less than six additional members. All DECs met by OSCE/ODIHR EAM members in Tashkent and in the regions, conducted the preparations for the elections in a timely manner and within the deadlines of the CEC election calendar.³⁰

According to the election law, PECs are to be established at least 40 days before election day. They consisted of 5-19 members, including a chairperson, a deputy and a secretary. DECs formed PECs upon nominations from local authorities. In addition, *mahalla*,³¹ a specific form of neighbourhood institution in Uzbekistan, played a prominent role in assisting the election administration at the local level. In line with legal provisions, *mahalla* committees were also entitled to nominate DEC and PEC members.

During the course of the elections, the CEC issued regulations on a number of issues, such as results reconciliation and tabulation procedures, both at the PEC and DEC level, as well as on mobile and early voting. However, the CEC regulations on these important issues mainly repeated the provisions of the election law and lacked sufficient detail. Similarly, the CEC issued a special regulation³² to facilitate and guide the work of PECs. This regulation,

²⁶ Art. 10 election law and Art. 1 CEC law.

²⁷ Art. 3 of the CEC law foresees that the CEC shall have not less than 15 members.

²⁸ According to Art. 4 of the CEC law, the CEC may decide that one or more members work on a permanent basis.

²⁹ The remaining members work in Tashkent (four Supreme Court judges, the rector of the Tashkent University for Information Technology and the deputy chairperson of the Tashkent regional association of lawyers).

³⁰ CEC Decision "Calendar of Events on the Preparation and Conduct of Elections to the *Oliy Majlis* of the Republic of Uzbekistan" of 14 July 2009.

³¹ Art. 105 of the constitution stipulates that "residents of settlements, *kishlaks* and *auls* (villages) as well as of residential neighbourhoods (*mahalla*) in cities, towns, settlements and villages shall decide all local matters at general meetings. These local self-governing bodies shall elect a chairman (*aksakal*) and his advisers for a term of 2.5 years." *Mahalla* are seen as a means of regulating social affairs in the neighbourhoods and as forum for expressing needs of the population vis-à-vis the authorities.

³² "Instructions for the Work of PECs", issued on 17 September 2009 and distributed to lower levels of the election administration.

however, did not elaborate election procedures in sufficient detail, resulting in uneven application and interpretation, e.g. in regards to early voting, mobile voting and campaign finance. Also, CEC regulations were not always readily available at PECs visited by the OSCE/ODIHR EAM. Certain information material on election-related matters was published in a CEC news bulletin.³³ The CEC carried out training activities related to election procedures for DEC chairpersons and secretaries, who in turn were to train PEC chairpersons and secretaries. In the limited number of polling stations visited by the OSCE/ODIHR EAM on election day, the training seemed not to have been sufficient to overcome the existing gaps in the election day procedures.

CEC regulations should clarify and supplement existing legal provisions instead of repeating the law. Also, consistent and improved training of PECs by higher level election commissions could be considered.

The OSCE/ODIHR EAM had regular contacts with CEC members, who were open and co-operative. The CEC held 11 sessions between 17 September and 23 December 2009 and adopted 52 decisions prior to the elections. Of those, only 9 were posted on the website, thus limiting transparency. While the OSCE/ODIHR EAM received copies of the minutes of a CEC session observed, the OSCE/ODIHR EAM is not aware of publication of the minutes elsewhere.

In order to enhance transparency, consideration should be given to opening the sessions of election commissions to observers and making all CEC decisions public.

The OSCE/ODIHR EAM was able to observe ballot printing, which was conducted in a printing house specialized in the production of official documents. The ballots were printed on paper with security features. On the basis of the data provided by the DEC, the CEC ordered a total of 17,302,000 ballots.³⁴ These were sent to the DEC by 21 December for further delivery to PECs by 24 December.

Out-of-country voting was organized in 44 polling stations in embassies and consular offices abroad. For out-of-country voting, the CEC gave a preliminary figure of 14,600 printed ballots, which were delivered to the respective polling stations.³⁵ According to a CEC decision, the results of out-of-country voting were included in the results from DEC 126 (Tashkent city). The CEC informed that a final figure on the number of ballots sent for out-of-country voting and data on those who voted abroad would not be made publicly available, as there is no legal obligation to publish this data.

VI. VOTER REGISTRATION AND VOTER LISTS

Citizens of the Republic of Uzbekistan who have reached 18 years of age have the right to vote, unless they legally have been declared incompetent by a court, or are serving a prison sentence for any crime.³⁶ Each voter may be included in one voter list only. According to the

³³ The only volume for 2009 was issued on 7 October and contained, among other things, the CEC Calendar of Events for the upcoming elections and samples of the election results protocols to be used in polling stations.

³⁴ Including 0.55 per cent reserve per polling station according to Art. 36 of the election law.

³⁵ Figures were provided to the OSCE/ODIHR EAM on 21 December 2009.

³⁶ Art. 2 election law, Art. 117 of the Constitution.

election law, voter lists are compiled by each PEC in co-ordination with representatives of the precinct community, which the OSCE/ODIHR EAM found to be mostly *mahalla* committees. Lists of voters stationed in military units as well as family members and other civilians residing inside such units were compiled on the basis of data provided by the commander of the respective units. Military servicemen residing outside military units were included in the regular voter lists at their place of residence.

Citizens in pre-trial detention are allowed to vote. The CEC informed the OSCE/ODIHR EAM that heads of pre-trial detention centres are obliged to forward inmates' applications to vote to the nearest PEC, which in turn requests the PEC at the voter's place of permanent residence to exclude the voter from that voter list. On election day, a mobile ballot box is sent to the pre-trial detention centre. This procedure is neither regulated in the election law nor in the regulations for mobile voting. The CEC informed the OSCE/ODIHR EAM that, in practice, no such applications had been received.

Voter lists have to be made available for public scrutiny at PECs 15 days prior to election day. The OSCE/ODIHR EAM's visits to some polling stations confirmed that voter lists were posted and accessible for public scrutiny in those PECs. The OSCE/ODIHR EAM noticed that some polling stations considerably exceeded the maximum number of 3,000 voters per PEC allowed by law. No complaints were reported regarding voter list compilation. According to the election law, voters not included in the voter lists had the right to be added to a supplementary voter list on election day, upon proving identity, citizenship and residence. The CEC announced that the total number of eligible voters registered for the 27 December elections was 17,215,700.

The recommendations issued in the 2004 and 2007 OSCE/ODIHR final reports remain valid. Authorities may wish to consider the establishment of a centralized voter register that would allow crosschecks for possible multiple entries.

VII. CANDIDATE NOMINATION AND REGISTRATION

According to the election law, citizens of Uzbekistan aged 25 or older and who have lived in the country for at least five consecutive years before election day are eligible to stand as candidates. Those not permitted to stand include: a) citizens with outstanding convictions or pending trial for a grave crime;³⁷ b) citizens who have not permanently resided in the country five years prior to election day; c) army personnel and those working in the National Security Service; and d) professional staff of religious organizations.

The principle of presumption of innocence, as enshrined in paragraph 5.19 of the OSCE 1990 Copenhagen Document, should be respected in regard to candidate eligibility. Furthermore, any restriction on the right to stand for election must be justifiable on objective and reasonable criteria.³⁸ It is widely accepted that withdrawal of individual franchise must be based on judicial action and, in the case of criminal conviction, must be proportionate to the nature of the offence.

³⁷ The definition of a grave crime is a crime for which the criminal code of Uzbekistan foresees a prison sentence exceeding five years. In earlier legislation, any criminal conviction prevented candidature.

³⁸ See General Comment 25 adopted by the UN Human Rights Committee, para. 15.

In line with legal provisions, political parties were able to nominate candidates between 23 October and 12 November.³⁹ A political party can nominate candidates provided that it is registered by the Ministry of Justice at least four months prior to the start of an election campaign and has collected 40,000 supporting signatures from voters. Of these, not more than eight per cent may be collected in the same administrative unit. Furthermore, a voter may sign in support of one political party only. During the collection of signatures, a political party could face problems in qualifying as it has no means to control whether a voter has already signed another petition. This provision raises concerns as it could be misused and open the door to electoral malpractices.

Consideration could be given to allowing a voter to support several candidates.

The CEC verified the submitted signature lists for accuracy by forming a working group involving experts from institutions dealing with population registration. Not more than a sample of 15 per cent of the necessary number of signatures is verified. If more than 10 percent of the sample is found to be invalid, further verification is discontinued. In a welcome development, authorized party representatives were allowed to participate in the process of signature verification,⁴⁰ contributing to increased transparency of the process. All parties made use of this opportunity.

In the 27 December elections, a total of 504 candidates nominated by four political parties competed (132 from LDPU, 128 from PDPU, 124 from *Milliy Tiklanish* and 120 from *Adolat*). Thirteen of the initially registered 517 candidates had withdrawn.⁴¹ Article 31 of the election law allows political parties to cancel their nomination of a particular candidate no later than five days prior to the elections. The candidates themselves are allowed to withdraw their candidacy at any time before election day. They must simply submit a request to the CEC. A number of PECs had to cross out the names of the withdrawn candidates after they had received the ballots. Following the 2008 amendments to the election law, the number of authorized representatives each candidate was allowed to register with the respective DEC increased from 5 to 10. These representatives campaigned on the candidate's behalf and represented his/her interests in the election commissions and elsewhere.

While *mahalla* are no longer entitled to propose candidates for parliamentary elections,⁴² in practice they appeared to have played an indirect role in the candidate nomination process. All political parties confirmed to the OSCE/ODIHR EAM that, when selecting candidates, they collaborated closely with *mahalla* heads, seeking advice as to the standing and reputation of proposed nominees within the community.

³⁹ According to Art. 22 of the election law, candidate nomination starts 65 days and ends 45 days before the election. A party may only nominate one candidate per constituency, i.e. up to 135 in total.

⁴⁰ Art. 23¹ election law and CEC Regulation "On procedure to collect signatures by political parties and verification of the accuracy of compilation of signature lists", CEC Resolution No. 417 of 17 September 2009.

⁴¹ Six withdrew from PDPU, three from *Adolat*, three from LDPU and one from *Milliy Tiklanish*. Four candidates were denied registration as they had not provided a declaration that they would resign from their employment in case they were elected.

⁴² According to Art. 10 of the Law "On Self-Government Bodies of Citizens" (law on mahalla), *mahalla* continue to have the right to nominate candidates for elections to district and city councils.

VIII. ELECTION CAMPAIGN

The election campaign had a slow start, gaining only limited momentum during the last week. The four registered political parties and their candidates could begin campaigning as soon as they were registered with the CEC. Candidates met the electorate in events organized mainly in public buildings, in co-operation with the local *mahalla*.⁴³ Small posters were displayed at these events. They were generally uniform for all candidates, making it difficult to determine which party the candidates represented. Leaflets and brochures were also distributed at voter meetings, including small calendars with the photograph of the contestant. In towns and cities, all parties posted billboards during the last week of the campaign. LDPU and *Adolat* were the most active in this respect. Differences between parties existed in their platforms, but these were difficult to distinguish as the OSCE/ODIHR EAM did not note vivid debate on any political issues. A few talk-shows with candidates were broadcast on TV, but debates between candidates from different parties were rare. One SMS text message was sent to all *Ucell* clients in support of the Milliy Tiklanish party.⁴⁴

The election law tasks the CEC with ensuring equal conditions for candidates to participate in the electoral campaign. Campaign funds were to be exclusively channelled through the CEC.⁴⁵ In line with the Law on Financing of Political Parties, the amount of state funding provided for the election campaign was calculated based on the number of candidates nominated per party. For these elections, each candidate received 1.1 million *Som* (some 500 EUR) for their campaign. The Law on the Financing of Political Parties specifies that parties that have not received at least nine seats (the quorum to form a faction)⁴⁶ in parliament must reimburse all received campaign funds. This was not a concern in these elections, since all parties received more than nine seats. Political parties have to report annually on their finances.⁴⁷

Private donations were theoretically possible, but would have needed to have been channelled through the CEC, which would then equally distribute the donated funds to all parties. The OSCE/ODIHR EAM was informed that no private donations were received by the CEC during these elections. The provision of financial payments or gifts (i.e. goods and services) to voters during campaign events is prohibited. There is no silence period before election day. However, campaigning is not allowed on election day itself.

⁴³ Campaign meetings are organized by political parties themselves, but venue and time have to be agreed with the respective PEC (Art. 27 electoral law).

⁴⁴ The text read: "Vote for our candidates! The democratic party Milliy Tiklanish".

⁴⁵ Art. 64(1) election law in connection with Art. 8 of the Law on Financing of Political Parties.

⁴⁶ Art. 24 of the 2002 Law on Legislative Chamber of Oliy Majlis.

⁴⁷ Art. 17 Law on Financing of Political Parties. Competent to review their financial accounts are the Accounting Chamber the Republic of Uzbekistan, a parliamentary auditing body, and the Ministry of Justice as regards the activities of political parties; the CEC is responsible for the review of the campaign funds received (Art. 16).

IX. MEDIA

A. MEDIA ENVIRONMENT

Despite the high number of registered media outlets, the media environment in Uzbekistan is characterized by an absence of independent and pluralistic media.⁴⁸ Given the limited circulation of print media, broadcast media are the most important source of information about politics. The state-funded National TV and Radio Company of Uzbekistan (NTRC) is the main broadcaster, comprising four TV stations (two with nationwide coverage: TV Uzbekistan and TV *Yoshallar*) and four radio channels as well as 16 regional broadcasters. The third TV channel with nationwide coverage is the private broadcaster NTT.

The print media market remains underdeveloped with only three national newspapers published on a daily basis.⁴⁹ Internet access is limited and localized mainly in Tashkent and other major cities. The state-owned Uzbek Telecom company has a monopoly on providing Internet services in Uzbekistan. Access to some websites is restricted.⁵⁰ Media in Uzbekistan is hampered by a lack of journalist training and also a general absence of a tradition of investigative and analytical reporting. Journalists working with international media in Uzbekistan are subject to accreditation by the Ministry of Foreign Affairs.

B. LEGAL FRAMEWORK FOR THE MEDIA

Freedom of speech and expression is enshrined in the constitution. However, Art. 29 of the constitution stipulates that laws can limit this right (see also section IV of this report). Similarly, a number of media laws⁵¹ prohibit censorship, while Article 4 of the Law on Guarantees of Freedom of Information states that the freedom to inform the public can be restricted to “protect the moral values of society, national security, and the country’s spiritual, cultural and scientific potential”. The Law on Mass Media further limits the publication of information that is considered a state secret,⁵² broadly defined as any revealed information aiming at destabilizing the constitutional order or that could threaten the integrity of the country, or that violates the honor or dignity of citizens. The law furthermore defines Internet websites as media outlets and includes provisions holding media accountable for the truthfulness and objectivity of the published information. Under the criminal code, defamation and libel are punishable with up to three years imprisonment and up to five years in cases of insult or libel regarding the president.

⁴⁸ According to information provided by the Uzbek Agency for Press and Information (UzApi), 78 TV and radio companies, 939 print media outlets, 65 websites and 4 news agencies are officially registered.

⁴⁹ The official newspaper of the government *Pravda Vostoka* and the two joint newspapers of the parliament and the government *Narodnoe Slovo* (Russian) and *Khalk Suzi* (Uzbek).

⁵⁰ Web access to certain Internet sites providing alternative views, such as *Deutsche Welle* and Radio Free Europe/Radio Liberty (RFR/RL), was blocked on the occasions when the OSCE/ODIHR EAM tried to access them.

⁵¹ Art. 7 of the Law on Mass Media, adopted 1997 and last amended 15 January 2007; Art. 4 of the Law on protection of professional activities of journalist, adopted in 1997; Art. 3 of the Law on Publication Activities, adopted in 1996, last amended in 2002.

⁵² The criminal code and the Law of the Republic of Uzbekistan on the Protection of State Secrets both divide state secrets into state secrets, military secrets and official secrets. State secrets may refer to, *inter alia*, political, economic or scientific secrets.

The OSCE's Representative on Freedom of the Media (RFOM) has repeatedly called on the authorities of Uzbekistan to liberalize media regulations.⁵³ According to the RFOM, independent journalists may face "fictitious criminal charges" such as alleged possession of drugs.⁵⁴

The media-related provisions of the election law are rather brief and general, requiring that candidates and political parties are provided equal access to mass media. The election law also stipulates that the CEC upon agreement with political parties determines the procedure for use of mass media. The election law does not distinguish between state and private media. To supplement the law, the CEC issued a number of decisions in the run-up to the elections. In its decision of 13 November,⁵⁵ the CEC provided for free airtime and space to all contestants in state media. Each political party was entitled to 40 minutes per week on NTRC and half a page twice per week in the three daily state newspapers for campaigning. Another CEC decision provided that media coverage of candidates' and political parties' campaign activities should be equal.⁵⁶ The same CEC decision also entitled political parties to purchase additional time or space and stipulated that prices and payment modalities should be equal for all contestants.

This decision, however, did not detail how paid time or space was to be allocated, leading to an uneven application by different media outlets. In order to comply with the requirement of the law to maintain equal access for contestants, some media outlets, when selling time to an election contestant, informed other contestants and offered the same opportunities to them. Other media outlets, in order to treat contestants equally, allowed the purchase of time or space only after candidates or parties provided written confirmation from their competitors that these were not interested in purchasing time or space. In some cases, media suggested that candidates address the CEC or the appropriate DEC with their requests.

TV Uzbekistan and private NTT each broadcast special 10-minute news programs devoted exclusively to the elections. These were called "Election News" and "Elections 2009", respectively. Initially these programs were aired once a week. Two weeks prior to election day, their frequency increased.⁵⁷ These programs provided political parties with equitable coverage. However, the TV Uzbekistan program focused on the activities of the CEC, while the programs of NTT devoted more time to political parties. In a positive development, TV Uzbekistan organized one debate, while NTT organized six. These provided political parties and candidates with a platform to present their views.

⁵³ See http://www.osce.org/fom/item_1_31734.html.

⁵⁴ See, *inter alia*, the press releases of the OSCE Representative on Freedom of the Media: http://www.osce.org/fom/item_1_34363.html and http://www.osce.org/fom/item_1_39171.html. See also the recent concluding observations of the UN Human Rights Committee (CCPR/C/UZB/CO/3), 25 March 2010, recommending that Uzbekistan take immediate action to provide effective protection to journalists and human rights defenders who were subject to assaults, threats, and intimidations due to their professional activities" (§24).

⁵⁵ CEC decision "On canvassing of political parties, candidates for deputy in mass media during the election campaign for elections to the Legislative Chamber of Oliy Majlis of the Republic of Uzbekistan", 13 November 2009 (CEC decision on canvassing of political parties).

⁵⁶ Art. 16 of CEC decision "On procedure for use of mass media by candidates for deputy, political parties when canvassing during the election campaign for the elections to the Legislative Chamber of Oliy Majlis of the Republic of Uzbekistan", 17 September 2009 (CEC decision on the use of mass media).

⁵⁷ During the period monitored by the OSCE/ODIHR EAM, TV Uzbekistan aired five such programs and NTT aired nine.

C. MONITORING OF MEDIA COVERAGE OF THE ELECTIONS

The OSCE/ODIHR EAM's media monitoring commenced on 7 December. It included three TV stations and five newspapers, providing quantitative and qualitative analysis of the coverage.⁵⁸ The OSCE/ODIHR EAM assessed both the amount of time and space allocated to each candidate or party, and the tone of the coverage. The coverage of other politically relevant subjects, such as the president, the government and the CEC, were also analyzed.

The monitoring results indicate that media showed only limited interest in covering the election campaign in the primetime news, devoting most of its politically relevant coverage to President Karimov. NTRC repeatedly showed events involving the president, including a speech held on 5 December devoted to Constitution Day which was re-broadcast several times until 25 December. The election campaign and other information relevant to the elections received 9 per cent coverage in TV Uzbekistan and 5 per cent in TV *Yoshallar* in their primetime news. Private TV NTT devoted 15 per cent of the total amount of its primetime news to election-related coverage.

The media monitoring findings indicate that media outlets failed to provide parties with equal coverage, as legally required. Both state TV stations allocated more than half of the coverage to the activities of the president (62 per cent on TV Uzbekistan, 57 per cent on TV *Yoshallar*) and some 12 per cent to the government. This coverage was almost exclusively positive in tone. The coverage of election contestants differed somewhat in the two state channels. TV Uzbekistan allocated 10 per cent of its political coverage in the prime time news to LDPU, 6 per cent to PDPU, 2 per cent to the EMU, 1 per cent to *Milliy Tiklanish* and only 0.3 per cent to *Adolat*. TV *Yoshallar* devoted 16 per cent of its prime time news coverage to the EMU, while political parties received a combined total of 4 per cent, with LDPU receiving the majority of this share.

The newscasts of private NTT devoted more coverage to political parties, when compared to state TV. While the president also received the highest portion of coverage, 24 per cent, it was far less than in the state media. PDPU and *Milliy Tiklanish* received an almost equal amount of coverage: 23 and 22 per cent, respectively. *Adolat* and the EMU received 7 per cent, and 6 per cent was allocated to LDPU. The non-compliance with the legal requirement for equal coverage was not addressed by the CEC. The CEC stated that it conducted its own media monitoring, although no reports were made available or published.

The OSCE/ODIHR EAM media monitoring showed that, in line with the CEC decision of 13 November, free time was equally allocated to all political parties. It also showed that the parties used their free airtime to present their platforms.

All three state newspapers complied with their obligation to allocate free space to political contestants. These newspapers otherwise provided only limited coverage of the electoral campaign. Private media outlets also devoted very little space to the electoral contestants. To the extent that they did report on the elections, the newspaper *Jamiyat* focused on the EMU, while *Darakchi* focused on *Milliy Tiklanish*.

⁵⁸ State TV stations Uzbekistan and *Yoshallar* and privately owned NTT, the three daily official newspapers *Pravda Vostoka* (Russian), *Narodnoe Slovo* (Russian), *Khalk Suzi* (Uzbek), as well as two private weekly newspapers, *Jamiyat* (Uzbek) and *Darakchi* (Uzbek).

X. PARTICIPATION OF WOMEN AND MINORITIES

Under the constitution, women enjoy the same rights as men. The election law establishes that at least 30 per cent of candidates on party lists must be women.⁵⁹ In the outgoing lower house, women's representation was 17.5 per cent.⁶⁰ Generally, women in Uzbekistan are under-represented in public and political life as well as in decision-making positions at all levels.⁶¹ Only 15 women are among the 100 Senators in the upper house. In judicial bodies, women have 21.9 per cent representation.⁶² Tradition and cultural norms make it more difficult for women than for men to enter politics.

In line with the legal requirement, out of 517 initially registered candidates, 165 (31.9 per cent) were women.⁶³ Each of the four registered political parties has a women's section within the party to recruit new female supporters and to reach out to female voters. However, gender-equality issues were generally not addressed in parties' electoral platforms during these elections, and issues affecting women in particular did not feature prominently as part of the overall campaign discourse. In the media, according to OSCE/ODIHR EAM media monitoring, female candidates received 27 per cent of the total coverage and their male counterparts the remaining 73 per cent during party campaign programs on national TV. This approximately corresponded to the number of registered female candidates.

There are 31 women among the 135 deputies elected directly in the December 2009 elections. In addition, two of the 15 indirectly elected deputies of the EMU are women. In total 33 women (22 per cent) will be deputies in the new 150-seat parliament.

Women remain under-represented in the election administration. Of the 22 CEC members, only 4 were women and only 5 of the 135 DEC members were chaired by women. On average, DEC members had 21 per cent female commissioners. The percentage of women was higher in PECs visited by the OSCE/ODIHR EAM on election day.

Issues related to minorities did not play a significant role in these elections. The last census in Uzbekistan was conducted in 1989. In the absence of a more recent census, estimates about the size of each group vary. Apart from the majority Uzbek population, Uzbekistan is inhabited by Russian, Kazakh, Karakalpak, Tatar and Tajik minorities,⁶⁴ and others.⁶⁵ Uzbek is the official state language. In the Autonomous Republic of Karakalpakstan, election materials (voter information, campaigning information, etc.) were available in Uzbek, Russian and Karakalpak. In the Bukhara region, with a sizeable population of ethnic Tajiks, election materials were available only in Uzbek and Russian.

⁵⁹ No legal requirements (i.e. minimum quota requirements) are established for the indirect elections of the 15 representatives of the EMU. Out of a total of 339 delegates in the national conference, 21 per cent were women.

⁶⁰ See IPU, Women in National Parliaments, <http://www.ipu.org/wmn-e/classif.htm>.

⁶¹ See also the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), Concluding Comments of the CEDAW: Uzbekistan, 25 August 2006, p. 5. <http://www.un.org/womenwatch/daw/cedaw/cedaw36/cc/uzbek/0647840E.pdf>.

⁶² Statistics as of 1 January 2008 provided by the Women's Committee of Uzbekistan.

⁶³ 13 candidates withdrew their candidacy. All of them were men which slightly raised the percentage of women to 32.7 per cent.

⁶⁴ Some Tajiks residing in Uzbekistan identify themselves as Uzbeks.

⁶⁵ According to the census conducted in 1989 there were 71.4 per cent Uzbeks, 8.3 per cent Russians, 4.7 Tajiks, 4.1 per cent Kazakhs, 3.3 per cent Tatars, 2.1 per cent Karakalpaks, 0.9 per cent Kyrgyz and Korean each, 0.8 per cent Ukrainians, 0.6 per cent Turkmens and 2.9 per cent others.

XI. DOMESTIC AND INTERNATIONAL OBSERVERS

Article 6 of the election law provides for election observation. One observer from each of the political parties that nominate candidates, representatives of mass media, observers from other countries, international organizations and movements have the right to be present at all events related to the preparation and conduct of an election, as well as in polling stations on election day and during the vote count. Applications for accreditation for international observers were received by the CEC without any deadline,⁶⁶ for national observers by DEC, until 15 days before election day.

According to the CEC, the December 2009 elections were observed by some 45,000 party observers and authorized representatives. In addition, more than 270 international observers from 36 countries and four international organizations were accredited by the CEC. This included observers from the OSCE/ODIHR, the Commonwealth of Independent States Executive Committee, the Organisation of the Islamic Conference and the Shanghai Cooperation Organisation.

The lack of legal provision allowing domestic civil society organizations to observe elections is not in line with paragraph 8 of the 1990 OSCE Copenhagen Document. The human rights NGO *Ezgulik* reported that it had applied to the CEC for accreditation to observe the elections, but that the CEC had not replied to its application.

It is recommended that the election law includes a provision allowing for election observation by private organizations such as civil society organizations to further increase transparency and accountability of the electoral process in accordance with paragraph 8 of the 1990 OSCE Copenhagen Document.

In line with the election law, authorized party representatives and party observers may be present at the vote count and observers are entitled to receive a copy of the results protocol. However, the OSCE/ODIHR EAM noted in polling stations visited that the PECs often did not provide party observers with a results protocol. Also, party observers in the PECs visited by the OSCE/ODIHR EAM were not always aware that they had the right to receive a certified copy of the PEC results protocols.

XII. COMPLAINTS AND APPEALS

A. ELECTION DISPUTES

Decisions of election commissions may be challenged by candidates, parties, voters and observers⁶⁷ before a higher-level election commission or before the competent first instance (district) court in civil cases. Once a petition is received by a court, further appeals stay with the judiciary and cannot be sent back to an election commission.⁶⁸ Complaints concerning the

⁶⁶ CEC decision “On observers from other countries, international organizations and movements participating in the elections of the legislative chamber of the Oliy Majlis of the Republic of Uzbekistan”, 17 September 2009.

⁶⁷ Art. 18 election law and Art. 12 CEC law.

⁶⁸ In all cases, further appeal to the Supreme Court is possible.

voter register have to be brought before the competent first instance court and complaints against CEC decisions can only be appealed to the Supreme Court.⁶⁹

According to the election law, complaints have to be lodged within ten days after the decision which is subject to appeal was passed. The respective institution then has three days to take a decision. In cases where less than six days remain until election-day it should decide immediately.⁷⁰ However, this requirement to decide “immediately” may not be compatible with the necessary minimum of due process guarantees and adequate legal safeguards, such as the right to present evidence or the right to transparent proceedings.⁷¹

While around 200 petitions were addressed to the CEC in the pre-election period, most of them concerned matters outside the CEC’s competence, such as inadequate heating in governmental buildings or lack of electricity.⁷² These complaints were forwarded to the competent state institutions in accordance with the Law on Appeals of Citizens.⁷³ Only a handful of cases that were addressed to the CEC actually related to the electoral process.

In most of these cases, individuals complained that they had not been nominated by their respective parties. As the CEC lacks the competence to review issues in the internal ambit of political parties and the complaints lacked legal grounds, the CEC forwarded these complaints to the respective party organs. Furthermore, some requests for information on electoral matters, such as on the procedures of mobile or early voting were addressed to the CEC, which provided the required information. No complaints relating to the parliamentary elections were brought before the CEC, the Supreme Court, lower level courts or to the Prosecutor General, according to information provided by the CEC.

The CEC announced the final results in a session on 12 January and there were no legal challenges regarding the results of the elections.

The general absence of complaints during the electoral process is remarkable. It was explained by OSCE/ODIHR EAM interlocutors as a lack of confidence in the complaints process, cumbersome courts procedures, and a general preference to settle disputes informally rather than through formal channels.

B. ELECTORAL OFFENCES

According to the election law and the criminal code various acts against the orderly organization and conduct of elections (or referenda) are punishable. Such electoral offences include violations of the secrecy of the vote, of the free exercise of citizens’ electoral rights, and of candidates’ right to campaign as well as the forgery of election documents. These crimes are punishable with fines, correctional labour or imprisonment of three to five years. The competent courts to decide about these offences are first instance courts as regards

⁶⁹ Denials of registrations of political parties and decisions concerning their finances may be appealed before the Supreme Court (Art. 9 political party law). Likewise, decisions of state officials/institutions concerning the finances of political parties may be brought before the Supreme Court (Art. 19 Law on Financing of Political Parties).

⁷⁰ Art. 18 of the election law and Art. 272 civil procedure code.

⁷¹ See OSCE/ODIHR Assessment of the Law on Elections of the Oliy Majlis, Republic of Uzbekistan. 21 February 2005, p. 20, <http://www.osce.org/odihr-elections/13445.html>.

⁷² Information provided by the CEC.

⁷³ Art. 17 of the Law on Appeals of Citizens establishes that complaints which fall outside the competence of a state institution have to be forwarded to the competent authorities within 5 days.

criminal cases. Their rulings can be appealed to regional courts and eventually to the Supreme Court. According to information provided by the CEC, the Prosecutor General and the Supreme Court, no electoral offences were committed during these elections.

XIII. ELECTION DAY PROCEEDINGS

A. VOTING

The OSCE/ODIHR EAM did not carry out a systematic or comprehensive observation of the voting, counting and tabulation on election day, but OSCE/ODIHR EAM members visited a limited number of polling stations in Tashkent, Tashkent region, Bukhara and Fergana.

In polling stations visited, the organization of voting was satisfactory, with all election materials available and well arranged. Generally, the layout of polling stations allowed for an unimpeded flow of voters. However, in some PECs visited by the OSCE/ODIHR EAM, the ballot box was neither visible for the polling station commission, nor for observers as it was placed behind voting booths. This problem might have arisen from unclear CEC instructions regarding polling station layout.

PEC members were mostly co-operative and generally provided OSCE/ODIHR EAM members with the requested information. In the majority of polling stations visited, unauthorized people, mostly local authorities and *mahalla* heads, were present. In most PECs visited, PEC members, except those nominated by the *mahalla* committee, were employees of the same institution, generally a school. Often, the head of the institution was also the PEC chairperson. Such arrangements constitute a transfer of hierarchical subordination and may have a negative impact on the independence of PEC members.

On election day, OSCE/ODIHR EAM members reported numerous cases of voters being handed a ballot without presenting a valid identification document.⁷⁴ The PECs accepted the 'invitation to vote' as sufficient proof of identity.⁷⁵ The OSCE/ODIHR EAM saw voters receiving multiple ballots for each election upon presentation of multiple passports or invitations to vote, which is in contravention of the election law, which stipulates that each voter has one vote.⁷⁶ Identical signatures on the voter lists and stacks of ballots in the ballot box in all polling stations visited by the OSCE/ODIHR EAM indicate that proxy voting was widely practiced and that ballot box stuffing may have occurred. These serious irregularities undermined the principle of equality of the vote (one person, one vote) and raised question about the integrity of the elections.

It is recommended that polling station personnel are properly trained and empowered to carry out their responsibilities effectively and in accordance with the law as well as basic democratic principles, most notably to protect the principle of equality of the vote and the integrity of the election by ensuring that ballots are cast only by eligible voters on an individual basis with respect for the secrecy of individual voting.

⁷⁴ According to Art. 39 of the CEC instructions on the work of the PECs, the ID document used for identification of voters is a passport or other document substituting it. IDs of military servicemen and certificates issued by the Ministry of Interior are considered to be documents substituting passports.

⁷⁵ Prior to the election, PECs had distributed invitations to vote and information about the location of the polling station to voters.

⁷⁶ Regional and local elections took place on the same day with ballot papers of different colour.

The use of the supplementary voter list did not always seem to be in accordance with the election law, which foresees its use exclusively for voters proving residence in that precinct and not found on the respective regular voter list. In some cases, voters were included in the supplementary voter list without being asked to provide the required proof of residence.

Party observers in the polling stations met by the OSCE/ODIHR EAM appeared generally passive and often confined to a distant corner in the polling station where they were not able to properly follow the process. Often they did not request to come closer, seemingly insecure about their rights. In discussions with OSCE/ODIHR EAM members, party observers stated that the elections were conducted according to the legal provisions and that they had not observed any irregularities.

The election law allows for early voting, which was available in the 15 days preceding election day for those voters who will not be at their place of residence on election day. For early voting, so-called electoral lists (ballots) in a design and format approved by the CEC were available at the PECs of the voter's place of residence. After the voter had voted early and signed the voter list, the electoral list was placed in a sealed envelope. This envelope was kept by the PEC until election day and at the end of voting the ballot was cast in the ballot box. Detailed and precise regulations for the conduct of early voting were lacking, as well as effective oversight. While there were no satisfactory safeguards in place to ensure the integrity of the process, early voting was not much used in practice. In one case where one voter had voted early, the secrecy of the vote was undermined as the electoral list for early voting was of a different colour.

Safeguards should be introduced to ensure the integrity of early voting. For instance, consideration should be given to adopt detailed regulation on the conduct of early voting, including specific security measures to protect the integrity of votes cast early.

In line with the election law, homebound voting, also known as mobile voting, may be requested by voters not able to come to the polling station for health reasons. The deadline and procedure for submitting applications to vote by mobile ballot box varied widely from polling station to polling station. A lack of detailed regulations resulted in uneven implementation, opening mobile voting to potential abuse. More ballots were found in the respective mobile boxes than applications received for homebound voting in some of the limited number of counts followed by the OSCE/ODIHR EAM.

Although the CEC issued a number of regulations, such as the CEC regulations for the work of PECs, rules for mobile voting, and the CEC calendar of events, there was a notable lack of detailed regulations to ensure clear and consistent practices over the course of voting.

Regulations passed by the CEC to supplement and clarify provisions of the law should include unambiguous and practical details concerning PEC procedures for opening and voting as well as homebound voting.

B. COUNTING, TABULATION AND ANNOUNCEMENT OF RESULTS

In polling stations where counting was followed by the OSCE/ODIHR EAM, counting of ballots in PECs after the closure of the polls was not conducted in a uniform way. Unused ballots were not always cancelled and packed separately before opening the ballot box. In some cases, PECs informed OSCE/ODIHR EAM members that as they had 48 hours to

deliver the results protocols to the DEC, they could complete protocols later. In other cases, the results were not read out aloud and results protocols were not always publicly posted at the polling station. This contravenes the election law and points to the need for further training of PEC members.

Consideration could be given to providing PECs with detailed guidelines on counting procedures, in particular on filling in the results protocol.

In the first round of the elections on 27 December, 96 candidates secured a seat in single-mandate constituencies. A second round of voting was conducted on 10 January 2010 in 39 constituencies where no candidate won the absolute majority in the first round. The OSCE/ODIHR EAM did not follow the second round.

The CEC held a session on 12 January 2010 and announced the final results (see Annex) as well as the final number of registered voters as 17,215,700. The CEC also informed that on 27 December 2009 15,108,000 voters (87.8 per cent) participated in the elections. In the second round of elections, 4,969,547 voters were registered to vote in 39 electoral districts and turnout was 79.9 per cent, according to the CEC.

C. INDIRECT ELECTIONS OF REPRESENTATIVES OF THE EMU

For the first time, 15 members of the Ecological Movement of Uzbekistan (EMU) were indirectly elected to the lower chamber. A CEC decision on the conduct of this indirect election supplemented Article 47¹⁻⁵ of the election law.⁷⁷ It provided for the holding of a national conference of the EMU on 27 December, the same day as the election for the 135 directly elected members of the lower house. In this national conference, 25 delegates per region, who had previously been elected in regional conferences⁷⁸ were eligible to vote and of those 339 delegates participated.⁷⁹ In line with the CEC regulation on EMU candidatures, a board of 15 delegates were selected to prepare nominations for this election. They were elected in an open vote by all delegates present, upon oral proposals (one delegate from each region and one from the executive committee of the central council of the EMU). In addition, a seven-member counting commission was elected by all delegates present, in the same manner as the board.⁸⁰ The board subsequently retreated to a separate room and selected between three and five candidates as nominees per region based on the CVs of all delegates of the conference. It also nominated two candidates from the executive committee of the central council of the EMU.⁸¹

After completion of the candidate nomination process, one representative of each of the 14 regions and one representative of the executive committee of the central council of the movement were to be elected by the national conference. The board presented the candidates

⁷⁷ CEC regulation “On Procedures for nomination and election of the candidates for deputies of the legislative chamber of Oliy Majilis of the Republic of Uzbekistan on behalf of the Ecological Movement of Uzbekistan”, 17 September 2009 (CEC regulation on EMU candidature).

⁷⁸ Regional conferences have to be held no later than 35 days prior to the national conference, Art. 4 CEC regulation on EMU candidature.

⁷⁹ 11 delegates did not attend for various reasons.

⁸⁰ Art. 12 of the CEC regulation on EMU candidature does not contain detailed procedures regarding the nomination process of the 7 members of the counting commission.

⁸¹ Art. 7 of the CEC regulation on EMU candidature does not contain detailed procedures for candidate nominations. The regulation equally does not provide guidance on whether three, four or five nominees are to be selected from any given region.

from two regions at a time to the plenary. Immediately afterwards, ballot papers for those regions were produced,⁸² with delegates having one vote per region. The delegates participating in the vote signed in the place next to their name on the delegate registration list (the conference voter list), before being issued a ballot with the names of the candidates of the respective region. Voting was conducted by secret ballot using voting booths set up for that purpose. The ballot box used was of the same type as for the direct elections.

The overall process of counting lacked transparency. At the start of the vote count, all observers⁸³ were confined to the opposite end of the premises. This effectively hampered their ability to closely observe the counting and to verify whether the announced results corresponded to the results from the counting of the ballots. EMU candidates need more than 50 per cent of the votes cast by the delegates present at the national EMU conference in order to be elected in a first round of voting. In case no candidate receives more than 50 per cent of the votes in the first round, a second round of voting was to take place between the two lead candidates, and the candidate who receives the higher number of votes in the second round gets elected to the lower house. Candidates generally received the necessary majority of votes in the first round. Repeat voting was conducted later in the day only for Bukhara and Khorezm regions.

Neither the election law nor the CEC procedures contain clear provisions to prevent double candidatures, i.e. to prevent candidates from running for political parties in the direct elections and at the same time being nominated as delegates and thus potentially candidates for the EMU. According to the CEC, this would be prevented by Art. 22.3 of the election law, which establishes that a candidate can only run for one electoral district.⁸⁴ Before the elections, the OSCE/ODIHR EAM inquired about the status of a delegate for the national EMU conference from Karakalpakstan, who at the same time stood as candidate for a political party. After the CEC became aware of the case, it excluded this person from the EMU list of delegates for the national conference on 27 December. By reviewing the candidate lists, the OSCE/ODIHR EAM established that four other delegates of the EMU national conference were also party candidates in the parliamentary elections.⁸⁵ However, the CEC denied that these persons would have participated in the EMU conference or would have been nominated as EMU candidates.

⁸² Art. 11 of the CEC regulation on EMU candidatures provides that “voting is carried out separately for each administrative/territorial region and the executive committee” but the OSCE/ODIHR EAM noted that voting was conducted for two regions at a time.

⁸³ In addition to the OSCE/ODIHR EAM, CIS observers and two members of the CEC were present.

⁸⁴ However, Art. 22.3 election law only refers to political parties, whereas the EMU constitutes a movement.

⁸⁵ Andijan Region: Aripov Bakhtiyor Ilkhomovich also for *Adolat*; Tashkent Region: Suvonov Kholtura Adilbayevich also for *Adolat*; Bukhara Region: Akhmedova Dilbar Buronovna also for LDPU; Mukhammedov Gayrat Aminovich also for *Adolat*.

ANNEX: FINAL DISTRIBUTION OF SEATS

| # | Political Party/Public Movement | Seats |
|---|---|------------|
| 1 | Liberal Democratic Party | 53 |
| 2 | People's Democratic Party of Uzbekistan (PDPU) | 32 |
| 3 | Democratic Party of Uzbekistan Milliy Tiklanish | 31 |
| 4 | Social Democratic Party Adolat | 19 |
| 5 | Ecological Movement of Uzbekistan | 15 |
| | TOTAL | 150 |

Source:

UzA publication on the CEC web-site dated 13 January 2010.

http://elections.uz/rus/novosti_i_sobitiya/novosti/vibori_v_zakonodatelnuyu_palatu_parlamenta_uzbekistana_zaversheni.mgr

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

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

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

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

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

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

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

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