# TABLE OF CONTENTS

I. INTRODUCTION .................................................................................................................. 1

II. EXECUTIVE SUMMARY .................................................................................................... 1

III. FINDINGS .......................................................................................................................... 3

  A. BACKGROUND .................................................................................................................. 3
  B. LEGAL FRAMEWORK ........................................................................................................ 4
  C. ELECTION ADMINISTRATION ........................................................................................ 4
  D. VOTER REGISTRATION ..................................................................................................... 5
  E. CANDIDATE NOMINATION AND REGISTRATION ......................................................... 6
  F. CAMPAIGN AND CAMPAIGN FINANCE ....................................................................... 6
  G. MEDIA ............................................................................................................................... 7
  H. COMPLAINTS AND APPEALS ....................................................................................... 8
  I. ELECTION OBSERVATION ............................................................................................... 8

IV. CONCLUSIONS AND RECOMMENDATIONS ................................................................... 8

ANNEX: LIST OF MEETINGS ................................................................................................. 10
I. INTRODUCTION

Following an invitation from the Ministry of Foreign Affairs to observe the 26 April 2015 early presidential election and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to Kazakhstan from 3 to 6 March. The NAM included Dr. Richard Lappin, OSCE/ODIHR Senior Election Adviser, and Mr. Radivoje Grujić, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the presidential election. Based on this assessment, the NAM recommends whether to deploy an OSCE/ODIHR election-related activity for the forthcoming election, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and the election administration, as well as with representatives of political parties, media, civil society, and the international community. A list of meetings is annexed to this report.

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs and the OSCE Programme Office in Astana for their assistance and co-operation in organizing the visit. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the mission and to share their views.

II. EXECUTIVE SUMMARY

On 26 April 2015, voters will elect the president for a five-year term. If no candidate receives a majority of votes, a second round will be held within two months between the two candidates who receive the most votes. The upcoming election will be the fourth consecutive national election to be called early.

Presidential elections are primarily regulated by the Constitution, the Constitutional Law on Elections (Election Law), and regulations of the Central Election Commission (CEC). Kazakhstan is party to major international and regional instruments related to the holding of democratic elections. There have been no changes to the Election Law since the last elections that address previous OSCE/ODIHR recommendations. The authorities met with by the OSCE/ODIHR NAM underlined the country’s commitment to conduct elections in line with the principles of openness, transparency, fairness, and competitiveness.

The election will be administered by a four-tiered system of commissions, headed by the CEC and including 14 Territorial Election Commissions and the City Election Commissions of Astana and Almaty, 207 District Election Commissions, and more than 9,000 Precinct Election Commissions (PECs). The CEC chairperson and two members are appointed by the president, while the lower and upper chambers of parliament each appoint two members. Lower-level commissions are appointed by local councils based on the proposals of political parties. Several OSCE/ODIHR NAM interlocutors raised questions about the composition of commissions and claimed it might limit confidence in the impartiality of the election administration.
All citizens over 18 years of age have the right to vote, except those recognized as incapable by a court. Voter registration is passive and city councils compile voter lists based on local residency data. The CEC maintains a nationwide electronic voter list to identify duplicate entries. Most OSCE/ODIHR NAM interlocutors expressed confidence in the inclusiveness and accuracy of voter lists. Some interlocutors noted concerns about procedures for absentee voting and specially established PECs that may raise the possibility of multiple voting.

Presidential candidates are required to be citizens by birth, at least 40 years old, fluent in the state language, and officially resident in Kazakhstan for at least 15 years. They may be nominated by a public association, including a political party, or self-nominated. Candidates are required to support their candidature with signatures from 93,000 voters and payment of a financial deposit. Several OSCE/ODIHR NAM interlocutors questioned procedures for verifying signatures and assessing proficiency in the state language.

The election campaign starts upon completion of candidate registration and ends 24 hours before election day. The Election Law guarantees the right to conduct an unimpeded campaign for or against any candidate. Candidates require advance approval, rather than notification, to hold campaign events. Some OSCE/ODIHR NAM interlocutors stated that they are concerned about the potential misuse of state resources during the campaign, including potential pressure on public sector employees. The law outlines provisions for public and private financing of election campaigns.

A large number of media outlets operate in the country, with television widely considered to be the main source of political news. Most media are privately owned, but several OSCE/ODIHR NAM interlocutors questioned their capacity to provide balanced coverage of political developments. Although the Constitution guarantees freedom of speech and prohibits censorship, recent amendments to the Criminal Code sanction defamation by up to ten years in prison. The Election Law provides equal access to state-funded airtime and print space, as well as the right to purchase additional airtime and space.

Voters, candidate representatives, and election commissions are authorized to file election-related complaints, which may be submitted to courts or commissions. Complaints should generally be considered within five days or, if close to election day, immediately. The right to appeal the final election results is limited to the president and parliament.

In accordance with OSCE commitments, the Election Law provides for international and citizen observers, as well as authorized representatives of registered candidates. Although several civil society organizations met with by the OSCE/ODIHR NAM intend to observe the upcoming election, many stated that a lack of financial resources may limit their activities.

Almost all OSCE/ODIHR NAM interlocutors underscored the need for an OSCE/ODIHR election observation activity for the presidential election. Representatives of official bodies emphasized that the electoral process would be transparent and that observation by the OSCE/ODIHR and any recommendations for potential improvement of the process would be welcome. Other interlocutors requested that the OSCE/ODIHR deploy a large number of observers to cover all stages of the process, with an emphasis on the work of the election administration, candidate registration, the campaign, media, and election day procedures.
Based on the findings of this report, the OSCE/ODIHR NAM recommends the deployment of an election observation mission for the upcoming early presidential election. In addition to a core team of experts, the OSCE/ODIHR NAM recommends the secondment of 36 long-term observers and 400 short-term observers from OSCE participating States.

III. FINDINGS

A. BACKGROUND

Kazakhstan is a presidential republic with strong powers vested in the executive branch. The president appoints the prime minister and Council of Ministers, as well as the prosecutor general and executive authorities at the regional level. The president may veto legislation passed by the parliament and has the power to dissolve parliament.

The ruling Nur Otan party, chaired by incumbent President Nursultan Nazarbayev, is the largest party in the country and holds 83 of the 98 directly-elected seats in the lower chamber of parliament (Majilis). An additional nine seats are indirectly elected by the Assembly of the People of Kazakhstan (APK), an advisory body appointed by the president. Two other parties are represented in the Majilis, Ak-Jol with 8 seats and the Communist People’s Party of Kazakhstan (CPPK) with 7 seats. In total, there are nine registered political parties.¹ No new party has been registered since 2007, while in 2013 the Rukhaniyat party was officially merged with the Birlik party. In 2012, the leader of the unregistered opposition Alga party, Vladimir Kozlov, was arrested and its activities banned. The Ministry of Justice informed the OSCE/ODIHR NAM that the registration of the opposition Communist Party of Kazakhstan (CPK) was suspended for three months by a court decision in February, which means that they are unable to nominate a candidate for the upcoming election.

The calling of the early presidential election is based on an initiative put forward by the APK. The proposal has been justified by the need to avoid the holding of presidential and parliamentary elections in the same year (both scheduled for 2016), which the Constitutional Council has subsequently held would be unconstitutional. Other authorities and members of parliament have cited the need to give the president a new mandate to implement an economic stimulus programme to counter an adverse external economic climate. The initiative for an early presidential election was supported by the parliament and, on 25 February, the president announced the election would be held on 26 April. The upcoming election will be the fourth consecutive national election to be called early.

On 27 February, the Minister of Foreign Affairs stressed the country’s commitment to conduct a free and fair election in line with the principles of openness, transparency, fairness and competitiveness.² This was reiterated by the authorities met with by the OSCE/ODIHR NAM.

The OSCE/ODIHR has observed seven elections in Kazakhstan since 1999.³ The OSCE/ODIHR Election Observation Mission for the 2011 early presidential election found that “needed

¹ Other registered political parties are: Aatyl, Azat, Birlik, Communist Party of Kazakhstan (CPK), National Social Democratic Party, and Patriots’ Party.
³ All previous OSCE/ODIHR reports on Kazakhstan are available at: http://www.osce.org/odihr/elections/kazakhstan.
reforms for holding genuine democratic elections still have to materialize as this election revealed shortcomings similar to those in previous elections. While the election was technically well-administered, the absence of opposition candidates and of a vibrant political discourse resulted in a non-competitive environment”.

B. LEGAL FRAMEWORK

The primary legal framework for presidential elections includes the Constitution, the Constitutional Law on Elections (Election Law), and regulations of the Central Election Commission (CEC). Other relevant laws include the Law on the President, the Law on Political Parties, the Civil Procedures Code, the Criminal Code, the Administrative Offences Code, the Law on Peaceful Assemblies, and various local regulations related to public assemblies. Kazakhstan is a party to major international and regional instruments related to the holding of democratic elections.4

There have been no changes to the Election Law since the last elections that address previous OSCE/ODIHR recommendations. At the same time, several OSCE/ODIHR NAM interlocutors raised questions about more restrictive freedom of expression provisions in the recently amended Criminal Code and Administrative Offences Code. The CEC informed the OSCE/ODIHR NAM that it has prepared a number of amendments to improve the electoral legal framework and provided them to the government. The CEC expressed its hope that these amendments will be considered and adopted before the next parliamentary elections.

The president is directly elected by popular vote in a two-round system. To be elected in the first round of voting, a candidate must receive more than half of all votes cast. If no candidate reaches the required majority, the two candidates receiving the most votes contest a second round within two months of the first round, in which the candidate who receives the higher number of votes is considered elected. A 2007 constitutional amendment reduced the presidential term from seven to five years and exempted the first president – the incumbent President Nazarbayev – from the established limit of two consecutive terms. In 2010, the first president was given the privileged legal status of Kazakhstan’s ‘Leader of the Nation’ and provided with significant political powers for life. The incumbent president has been in office since 1991.

C. ELECTION ADMINISTRATION

The election will be administered by a four-tiered system of election commissions. The election administration comprises the CEC, 14 Territorial Election Commissions and the City Election Commissions of Astana and Almaty (collectively referred to as TECs), 207 District Election Commissions (DECs), and more than 9,000 Precinct Election Commissions (PECs) including some 65 polling stations abroad.

All commissions consist of seven members and are appointed for five years. The CEC chairperson and two members are appointed by the president, while the lower and upper chambers of parliament each appoint two members. Lower-level commissions are mainly appointed by the respective local councils (maslikhats), based on the proposals of political parties. The law envisages but does not guarantee multi-party representation in the commissions as nominations from parties are not binding on the maslikhats. Parties not represented in lower-level commissions may appoint a non-voting representative. Several OSCE/ODIHR NAM interlocutors expressed concerns about the formula for appointing election commissions and claimed that it limits confidence in the impartiality of the election administration.

The CEC is responsible for the overall conduct of the election, including the registration of candidates and maintenance of the nationwide voter list. It is also in charge of campaign finance oversight. The CEC informed the OSCE/ODIHR NAM that preparations for the election are ongoing, including the establishment of an electoral calendar, training of election officials and dissemination of voter information materials. It has also appointed the Linguistic Commission, which is responsible for testing the state language proficiency of prospective presidential candidates (see Candidate Nomination and Registration). The CEC website provides a range of election-related information to the public.

Due to the short timeframe before the election, several OSCE/ODIHR NAM interlocutors voiced concerns about the CEC’s capacity to adequately prepare lower-level commissions, particularly in respect of election day procedures, the vote count, and the tabulation of results.

D. VOTER REGISTRATION

All citizens over 18 years of age have the right to vote, except those recognized as incapable by a court decision. Voter registration is passive and city councils (Akimats) compile voter lists based on local residency data. They submit data about registered voters to the respective TEC twice a year, electronically and in hardcopy. In addition, 20 days before an election, Akimats should forward voter lists to the CEC who maintain a nationwide electronic voter list to identify duplicate entries. Some 9.3 million voters are eligible to vote in the upcoming election.

Extracts of the voter lists will be made available at polling stations for public scrutiny 15 days before the election. Voters may verify their data and polling location by visiting a respective PEC, calling hotlines established for that purpose, or through an e-mail system. Eligible voters not included in the voter list, and who can prove their residence within the precinct, can be added to the lists before or on election day.

No later than 30 days before election day, citizens who will be away from their registered residence on election day may apply to be temporarily included in the voter list at their temporary location. In addition, within two weeks before election day, voters may apply for an Absentee Voting Certificate (AVC), which allows them to vote in any polling station outside the city, town or village where they are registered. The Election Law further provides that voters in rest homes, hospitals or other medical centres, in remote places, in pre-trial detention centres, in consular offices and state agencies abroad, in military units and on ships-at-sea can vote at specially established polling stations. In these cases, the voter lists are finalized the day before the election.
Most OSCE/ODIHR NAM interlocutors expressed their confidence in the inclusiveness and accuracy of voter lists. Some interlocutors, however, noted concerns about the procedures for AVCs and special polling stations, which could raise the possibility of multiple voting.

E. **CANDIDATE NOMINATION AND REGISTRATION**

A presidential candidate may be nominated through self-nomination or by a public association, including a political party. Prospective candidates are required to be citizens by birth, at least 40 years old, fluent in the Kazakh language, and officially resident in Kazakhstan for at least 15 years. Following the 21-day nomination period, which ends on 15 March, prospective candidates have 10 more days to submit at least 93,000 valid supporting signatures equally representing at least two-thirds of the regions as well as the cities of Astana and Almaty. In addition they need to pay an election deposit of 1,060,000 Kazakhstan Tenge (KZT) and present tax declarations for themselves and their spouse. A person with a criminal record that has not been expunged and anyone found guilty of corruption-related crimes or administrative offences cannot stand for office.

Several OSCE/ODIHR NAM interlocutors noted that the signature collection process could be technically challenging due to the short timeframe and geographical size of the country. Interlocutors also voiced concerns that the process of signature verification, which is conducted by the TECs, may lack transparency. Despite previous OSCE/ODIHR recommendations, regulations have not been issued to clarify the grounds for verifying signatures.

The language test consists of an examination of prospective candidates’ reading, writing and speaking abilities. The CEC informed the OSCE/ODIHR NAM that the Linguistic Commission has developed a methodology to assess the language skills of prospective candidates. According to the CEC, the Linguistic Commission is an independent body that should provide its conclusions to the CEC who will make the final decision on candidatures. Several OSCE/ODIHR NAM interlocutors expressed concerns about the composition of the Linguistic Commission, as well the criteria for assessing the language skills of prospective candidates.

During the OSCE/ODIHR NAM several nominations were already submitted to the CEC, including five self-nominations and one supported by a political party. All political parties met with by the OSCE/ODIHR NAM stated that their party structures will soon make decisions as to whether to nominate candidates for the upcoming election or not.

F. **CAMPAIGN AND CAMPAIGN FINANCE**

The election campaign starts on 26 March, the day after the end of candidate registration, and lasts until 24 April, when the silence period starts. While the authorities informed the OSCE/ODIHR NAM that they expect a competitive campaign, other interlocutors claimed that the short timeframe before elections and the lack of an established political alternative would diminish the vibrancy of the campaign.

The Election Law guarantees citizens and public associations the right to conduct an unimpeded campaign for or against any candidate. Local authorities are mandated to provide space for the placement of campaign posters on an equal basis and candidates may also post materials on

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5 Approximately EUR 1 = KZT 200.
private property with the consent of the owner. The Law on Peaceful Assemblies includes rules on the holding of public assemblies. In particular, it requires advance approval (rather than notification) for meetings. There are designated places for campaign events in each city. Some OSCE/ODIHR NAM interlocutors noted that the ten-day advance request to hold a campaign meeting is unduly long and may reduce the ability of candidates to conduct an effective campaign, especially since holding and attending unauthorized events is claimed by some interlocutors to be possibly followed by sanctions.

A number of political parties informed the OSCE/ODIHR NAM of their intention to conduct a countrywide campaign, primarily through meetings and door-to-door canvassing, should they decide to nominate candidates for the election. Nur Otan informed the OSCE/ODIHR NAM that they do not expect the incumbent president to campaign personally, should he stand, and that the party would campaign on his behalf. Some OSCE/ODIHR NAM interlocutors stated that they are concerned about potential misuse of state resources during the campaign, including potential pressure on public sector employees.

To finance their campaign, the CEC informed the OSCE/ODIHR NAM that each candidate is entitled to receive a minimum of KZT seven million (some EUR35,000) from the state budget. In addition, candidates are allowed to use their own funds and accept donations from citizens and organizations, as well as funds from the nominating body, up to a combined total of KZT 577 million. Foreign and anonymous donations are prohibited. Candidates are obliged to open dedicated bank accounts for these funds. The banks should notify the CEC if the spending limits are exceeded. Five days after the announcement of the election results, candidates are obliged to submit a report on their campaign finance to the election administration. Several OSCE/ODIHR NAM interlocutors stated that opposition political parties are in poor financial condition, which will affect their ability to campaign effectively.

G. MEDIA

There are a large number of media outlets operating in Kazakhstan, with television widely considered to be the main source of political information. Most media outlets are privately owned, but several OSCE/ODIHR NAM interlocutors questioned their independence and capacity to provide well-balanced and fair coverage of political developments. Several interlocutors also stated that media freedom is limited by a strong concentration of media ownership, with owners controlling the editorial policy of their media outlets. Furthermore, although the Constitution guarantees freedom of speech and prohibits censorship, concerns were expressed about the continued criminalization of defamation and insult of the president and public officials. Amendments to the Criminal Code, which came into effect in 2015, sanction defamation by up to ten years in prison. The OSCE Representative for Freedom of Media has stated that these amendments “might result in undue restrictions of public debate in the media and access to the Internet” and called on the authorities to reconsider the changes.

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6 1 KZT :0.00509 EUR
7 Article 58 of the Election Law states that the campaign fund of the candidate may include: 1) candidate’s own funds, not to exceed five thousand times the legal minimum wage, 2) funds allocated by nominating party or association, not to exceed seven thousand times the minimum wage, and 3) voluntary donations of citizens and organizations, not to exceed fifteen thousand times the minimum wage.
8 See the statement of the OSCE Representative on Freedom of the Media: www.osce.org/fom/117595.
The Election Law is the main legal source addressing candidate rights to campaign in the media, providing equal access to state-funded airtime and print space, as well as the right to purchase additional airtime and space. Each candidate is entitled to 15 minutes of free airtime on television, 10 minutes of free airtime on radio, and 2 free articles in newspapers. For paid advertisement, all media are obliged to provide the price list of paid advertisements to the CEC, no later than 10 days after the election is announced.

H. COMPLAINTS AND APPEALS

The complaints and appeals process is primarily regulated by the Election Law, as well as the Civil Procedures Code and the Law on Procedures for Consideration of Petitions by Individuals and Legal Entities. Voters, candidate representatives, and election commissions are authorized to file complaints. Complaints can be submitted simultaneously to election commission, courts, and prosecutors. Complaints should generally be considered within five days, while complaints submitted less than five days before voting or on election day should be considered immediately. Complaints against decisions and (in)actions of election commissions submitted to a higher election commission should be considered within three days. Complaints against decisions and actions of local administration and government bodies, as well as PEC decisions regarding voter lists, should be submitted to a court. Appeals against CEC decisions on candidate registration can be made to the Supreme Court, whose decisions are final.

Final election results may be appealed to the Constitutional Council within ten days of the announcement by a limited number of complainants, including the president, the speakers of the upper and lower chambers of parliament, or at least one fifth of the total number of members of parliament and the prime minister.

I. ELECTION OBSERVATION

In accordance with OSCE commitments, the Election Law provides for international and citizen observers, as well as authorized representatives of registered candidates. There is no formal accreditation procedure, but observers are required to present a letter from their nominating organization and their identification documents to the election commission where they observe. Although several civil society organizations met with by the OSCE/ODIHR NAM intend to observe the upcoming election, many stated that a lack of financial resources may limit their activities.

IV. CONCLUSIONS AND RECOMMENDATIONS

Almost all OSCE/ODIHR NAM interlocutors underscored the need for an OSCE/ODIHR election observation activity for the presidential election. Representatives of official bodies emphasized that the electoral process would be transparent and that observation by the OSCE/ODIHR and any recommendations for potential improvement of the process would be welcome. Other interlocutors requested that the OSCE/ODIHR deploy a large number of observers to cover all stages of the electoral process, with a particular emphasis on the work of the election administration, candidate registration, the campaign, media, and election day procedures, including the vote count and tabulation of results.
Based on the findings of this report, the OSCE/ODIHR NAM recommends the deployment of an Election Observation Mission for the upcoming early presidential election. In addition to a core team of experts, the OSCE/ODIHR will request the secondment by OSCE participating States of 36 long-term observers to follow the election process countrywide, as well as 400 short-term observers to follow election day procedures, including voting, counting, and tabulation of results.
ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs
Erlan Idrissov, Minister of Foreign Affairs
Alexei Volkov, Deputy Minister of Foreign Affairs
Timur Sultangozhin, Deputy Director, Department for Europe

Ministry of Justice
Bakytzhan Abdiraim, Deputy Minister of Justice
Venera Kalimova, Director, Department of Registration and Legal Service Organization
Aisha Aitkalieva, Acting Director, Department of International Law and Co-operation

Central Election Commission
Kuandyk Turgankulov, Chairperson
Vladimir Foos, Deputy Chairperson
Tatyana Okhlopkova, Member
Marat Sarsembayev, Member

Supreme Court
Elis Abdykadyrov, Chairperson, Supervisory Board for Civil and Administrative Cases
Gabit Maulenkulov, Secretary, Supervisory Board for Civil and Administrative Cases
Erbol Ismailov, Judge
Nurgul Smagulova, Deputy Manager, International Relations Department and Protocol

Prosecutor General
Marat Abishev, Head, Department for Civic Cases
Aidos Chormanov, Head, Department for Administrative Cases
Nurdaulet Suindikov, Deputy Head, Department for Socio-Economic Cases
Alzhan Nurbekov, Deputy Head, Department for International Co-operation

Committee of Communications and Information
Talgat Kazangap, Deputy Chairperson
Yerlan Aliyev, Deputy Director, State Enterprise “Analysis and Information Center”

Astana City Council
Askar Rahimzhanov, Deputy Chief of Staff, Astana City Council
Galymzhan Sametov, Chief of Staff, Esil District, Astana City
Mansur Mansuzov, Chief of Staff, Saryarka District, Astana City
Yerbolat Yeshanov, Chief of Staff, Almaty District, Astana City

Media
Arman Seitmamyt, Director, 24 KZ Television
Anar Toleukhan, Columnist, Egemen Kazakhstan
Sergey Vlasenko, Executive Director, National Association of TV and Radio Broadcasters

Political Parties
Ekaterina Nikitinskaya, Deputy Head of parliamentary faction, Ak-Jol
Assem Akkozha, Head, International Department, Ak-Jol
Gani Kaliyev, Chairman, Auyl
Kakimzhan Sarkhanov, Member, *Auyyl*
Zhambyl Akhmetbekov, Secretary, Communist People’s Party of Kazakhstan
Magerram Magerramov, Head, Organizational Department, Communist People’s Party of Kazakhstan
Baurzhan Baibek, First Deputy Chairman, *Nur Otan*
Arman Kyrykbayev, Adviser to the First Deputy Chairman, *Nur Otan*
Sayasat Nurbek, Director, Institute of Public Policy, *Nur Otan*
Tazabek Sambetbai, Member of Presidency, National Social Democratic Party

**Civil Society**
Elena Malygina, Representative, *Adil Soz* Foundation
Bakhytzhan Toregozhina, President, *Ar Rukh Khak* Foundation
Pavel Lobachev, Director, *Echo*
Nurul Rakhimbek, Director, Foundation for Support of Civil Initiatives
Talgat Otemis, Representative, Foundation for Support of Civil Initiatives
Aina Shormanbayeva, Director, International Legal Initiative
Amangeldy Shormanbayev, Expert, International Legal Initiative
Diana Okremova, Director, Legal Media Centre
Gulmira Birzhanova, Lawyer, Legal Media Centre
Tatyana Zinovich, Deputy Head, Legal Policy Research Center
Zauresh Battalova, Director, Public Foundation for Parliamentary Development in Kazakhstan
Irina Mednikova, General Director, Youth Information Service of Kazakhstan

**International Community**
Ambassador Natalia Zarudna, Head of OSCE Programme Office in Astana
Ambassadors and representatives of OSCE participating States in Astana