



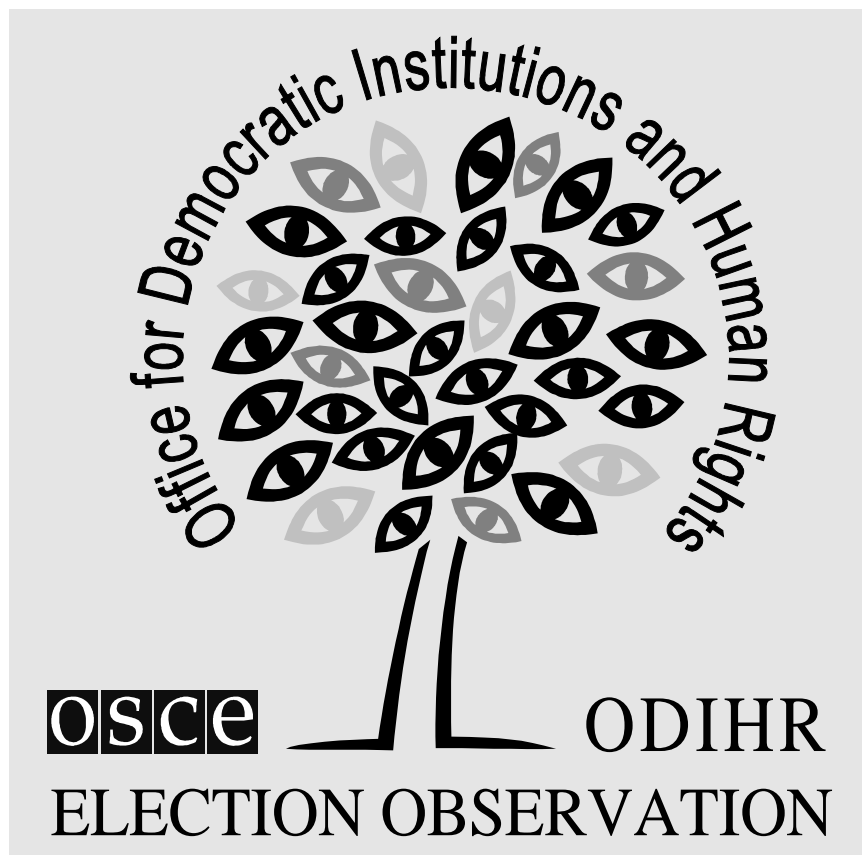
A. Office for Democratic Institutions and Human Rights

THE REPUBLIC OF KAZAKSTAN

PRESIDENTIAL ELECTION

10 JANUARY 1999

ASSESSMENT MISSION



5 February 1999

Table of Contents

I.	Executive Summary	3
II.	Introduction	5
	A. OSCE/ODIHR Election Assessment Mission.....	5
	B. Political Background.....	5
III.	Legal Framework.....	7
	A. Amendments to the Constitution.....	7
	B. Amendments to the Decree on Elections	7
	C. Appointment of Election Commissions	7
IV.	Pre-Election Activities	8
	A. Registration of Candidates	8
	B. Freedom of Association	9
	C. Campaign Environment.....	10
	D. Election Finances	11
	E. Media Issues.....	12
	F. Media Monitoring	13
V.	Election Preparation	14
	A. Training of Election Personnel.....	14
	B. Voter Registration	14
	C. Logistics	15
	D. Voter Education.....	15
VI.	Election Day.....	15
	A. Turnout.....	16
	B. Polling Station Procedures	16
	C. The Count.....	17
	D. Observers.....	18
VII.	Election Complaints	19
VIII.	Conclusions	19
IX.	Recommendations	21
Appendix A	Number of Election Commissions in the Republic of Kazakstan	23
Appendix B	Total Population and Registered Voters by Region (<i>Oblast</i>) and City	24

I. Executive Summary

On 10 January 1999, approximately 8.3 million citizens over the age of 18 years were eligible to elect the President of the Republic of Kazakhstan. Under the Constitution of Kazakhstan, the President enjoys enormous power and the term in office of the President has been changed to last until 3 December 2006. As a result, the election of 10 January 1999 will have crucial influence on Kazakhstan's political future.

On 13 October 1998 the Government of Kazakhstan formally invited the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE to observe the election.

An ODIHR Needs Assessment Mission was in Kazakhstan from 16 to 21 November. The Mission concluded that Kazakhstan did not meet OSCE election related commitments in the pre-election process and that serious measures needed to be taken for the elections to meet the commitments. The Needs Assessment Mission questioned the possibility of ensuring the integrity of the process without postponing the election. Of particular concern were the refusal of the registration of two candidates because of minor administrative convictions; a media environment inadequate for a free electoral process; and allegations of intimidation of voters in order to secure support to the incumbent President.

Based on these findings, the ODIHR released a press statement on 3 December 1998 in which a postponement of the election was proposed. It was concluded that under the circumstances a full-scale election observation mission would not be launched. Instead, a limited election assessment mission would be sent in order to follow and report on the whole electoral process. No short-term observers would be deployed.

Despite the limited size of the election assessment mission, its activity did not substantially differ from a standard election observation mission during the pre-election period.

The OSCE/ODIHR Election Assessment Mission found that the election process fell far short of the standards to which the Republic of Kazakhstan has committed itself as an OSCE participating State. The areas of concern include the following:

- ◆ **Duration of the election campaign.** The timing of the amendments to the Constitution meant that the election took place earlier than previously scheduled. The period allocated for the election campaign did not allow for sufficient preparation by all prospective candidates given the circumstances that brought about these elections.
- ◆ **Legislative framework.** The election process is governed by the Decree of the President of the Republic of Kazakhstan, Having the Force of Constitutional Law, on Elections in the Republic of Kazakhstan (hereafter referred to as the Decree on Elections). An election law adopted by the Parliament following a public debate would enhance the credibility of the election process.

- ◆ **Election commissions.** The appointment of election commissions at each level are controlled by the President and appointed local officials. The method of appointment and the makeup of the commissions do not encourage public trust in the electoral process.
- ◆ **Infringements on rights of citizens to seek public office.** Of particular concern are the amendments to the Decree on Elections, disqualifying potential candidates who had received a minor administrative sanction for an “intentional offence” during the year before registration. This new provision was used to prevent the registration of two would-be candidates.
- ◆ **Obstacles to freedoms of association and of assembly.** The rights to association and assembly are unduly restricted through legal and administrative obstacles. Legislation has been used to impede the registration of a number of groups, including political parties, and to harass those involved.
- ◆ **Campaign atmosphere.** State authorities did not behave impartially and provided support for the election campaigns of some candidates, in particular the incumbent. There was no clear dividing line between state affairs and the incumbent’s campaign. Restrictions were placed on the campaign of some of the incumbent’s competitors through administrative measures.
- ◆ **Access to the media.** Both the state-owned and private media gave a disproportionately large share of the coverage to the incumbent. In general, the OSCE/ODIHR Election Assessment Mission is concerned with the media situation in Kazakhstan.
- ◆ **Voting procedures.** The voting on election day was carried out in a calm and peaceful manner. However, there were credible reports of irregularities, including proxy voting.

The OSCE/ODIHR Election Assessment Mission found that the Central Election Commission is to be commended for:

- ◆ **Logistics.** The Central Election Commission’s plans and organisation for election day were well drafted and executed.
- ◆ **Voter education.** The Central Election Commission undertook a wide-ranging impartial voter education effort to inform the public about its rights, the biographies of candidates and the procedure to properly complete the ballot. The CEC should continue such efforts in preparation for future elections.

5 February 1999

II. Introduction

A. OSCE/ODIHR Election Assessment Mission

The ODIHR Election Assessment Mission officially started to operate upon the arrival of the Co-ordinator, Ms. Judy Thompson, seconded by Canada, on 14 December 1998. Mr. Vladimir Shkolnikov (ODIHR) was named Deputy Co-ordinator. The team included three logistical and administrative staff as well as ten international election and media experts.

The Election Assessment Mission was established in Almaty. However, another office with two international experts was opened in Astana, where the Government and the Central Election Commission (CEC) offices are located. In addition, long-term election experts were deployed to Shymkent, Pavlodar and Atyrau.

In order to inform the public on the activity of the Mission, a press conference was held in Almaty on 24 December 1998. The press statement explained that the Mission would not focus on election day, but would evaluate the electoral process as a whole.

Thus, the assessment included an analysis of the legal and administrative framework; voter education; the registration of the candidates; the campaign; and the media. There was no special emphasis put on election day; however, polling stations were visited to a limited extent. Details of the areas of the assessment have been compiled in this report. The Mission was in close contact with candidates and their representatives, the Central Election Commission and local commissions, governmental authorities, local NGOs and public associations, the media, international organisations and embassies of the OSCE participating States.

The ODIHR Election Assessment Mission prepared a preliminary statement, which was presented during a press conference on Monday, 11 January 1999. Before the Mission closed on 16 January 1999, the election experts met for a debriefing. The summaries of the experts' findings have also been incorporated into this report.

The new OSCE Centre in Almaty will provide a long-term OSCE presence in Kazakhstan. Co-operation in implementing legislative and procedural changes to enhance the democratisation process should be an important part of the future of that centre.

B. Political Background

When the Republic of Kazakhstan gained its independence after the collapse of the Soviet Union in 1991, the Supreme Soviet of Kazakhstan elected Nursultan Nazarbaev to the post of President. His position as President was confirmed by a non-contested election that year. Previously, since 1989, Mr. Nazarbaev had held the position of First Secretary of the Communist Party in the Kazak SSR.

On 29 April 1995, President Nazarbaev's term of office was extended to the year 2000 by a national referendum. In addition, his powers were strengthened by changes to the Constitution.

As in all other states of Central Asia, the new Constitution of independent Kazakhstan made the President the focus of the political system. The 1995 constitution provided for the replacement of the Constitutional Court by the Constitutional Council, which does not have the mandate to consider cases brought forward by individuals. In addition, a frequency tender process for TV and radio broadcasters initiated by the Government in late 1996 resulted in a number of individual stations closing. These developments had a negative effect on this election campaign.

On 30 September 1998 President Nazarbaev addressed the nation in a speech about economy and democratisation. He stated that Kazakhstan must become a supporter and symbol of democracy and human rights. Seven fundamental elements of democracy were outlined:

- The electoral process must be honest, representative and encourage the fullest participation of candidates and voters.
- The role of parties in the political system must be strengthened.
- It is necessary to strengthen and to provide autonomy for the *Majilis* (Lower House of Parliament) and Senate to have stability and the succession of power.
- The role of non-governmental organizations in building a civil society must be strengthened.
- An independent judiciary is a pillar of a democratic society.
- It is necessary to build on the already established record of a free, uncensored and independent press.
- Changes in attitudes to women must be made by increasing women's representation in all branches of authority.

The President also stated that authoritarianism of any kind in Kazakhstan is the road to nowhere. Only a free democratic society will be a guarantor of a stable and happy life. The contents of the speech encouraged widespread support for further democratisation.

On 7 October 1998, just one week later, the two chambers of Parliament agreed in a joint session on a series of Constitutional amendments. One day later, Parliament called early elections for 10 January 1999. Thus, the presidential election was to be held almost two years earlier than planned.

Since no public discussion had taken place on this issue, the Parliament's decision caught the opposition parties and possible candidates by surprise. Various groups questioned the legitimacy of the amendments to the Constitution and the election call. The Constitutional Council decided that the Constitutional amendments were legal.

III. Legal Framework

A. Amendments to the Constitution

Nineteen amendments were made to the Constitution on 7 October 1998 which affected the election for the Presidency. These included changing the term of office for the President from five to seven years; deleting the age limit of 65 for the President; removing the requirement for a 50% turnout for a valid election; and establishing the line of succession in case of the early resignation, removal or death of a President.

An amendment to Article 94 allowed for extraordinary Presidential elections as follows:

By consent of the President of the Republic of Kazakhstan the present term of the powers of the President of the Republic may be reduced by resolution of the Parliament of the Republic, adopted at the joint session of its Chambers by the majority of votes of the total number of deputies of each Chamber. In such case the Majilis of the Parliament within one month shall order elections of the President of the Republic of Kazakhstan.

Under this Article of the Constitution, the joint session of the Chambers of Parliament reduced the term of the President's office, and the *Majilis* ordered elections for the President of the Republic of Kazakhstan for 10 January 1999.

B. Amendments to the Decree on Elections

On 8 May 1998, an amendment to the Decree on Elections barred any person from being registered as a candidate in any level of elections who:

- 1) *has been called to disciplinary account for committing a corruption offense during a year before registration;*
- 2) *has been imposed an administrative sanction in a court procedure for intentional offense during a year before registration;*
- 3) *has conviction which has not been cancelled or annulled by the time of registration in order, stipulated by law [Article 4 (4)].*

This amendment was purportedly to keep corrupt persons from running as candidates. It became a controversial amendment in the lead-up to the election for President. The requirements for registration to be a candidate were also amended to include a medical certificate of the state of the candidate's mental health.

Amendments were made to the Decree on Elections on 6 November 1998 to bring the articles into concurrence with the constitutional amendments, such as excluding references to the 50% turnout requirement for the validity of the election. At the same time, an amendment to Article 42 (2) changed the marking of the ballot paper from a negative vote (i.e. a line drawn

through the candidates not wanted) to a positive vote (i.e. a mark made for the one candidate chosen). The ballot paper also had a choice added to vote against all candidates.

C. Appointment of Election Commissions

The Decree on Elections specifies how the election commissions at each level are appointed. The members of the Central Election Commission are elected by the *Majilis* of the Parliament upon the nomination of the President of the Republic [Art. 11]. The territorial, district and precinct commissions are formed by decisions of the corresponding *akims* (heads of local administration) [Art. 13].

Akims at the territorial level are appointed to office by the President of the Republic on the recommendation of the Prime Minister. *Akims* at other levels are appointed or elected to office as determined by the President of the Republic [Art. 87 (4) of the Constitution]. Currently these *akims* are appointed and the President of the Republic has the right to release them from office. As a result, all appointments of election commissions come under the aegis of the President. The President also appoints judges and procurators, who decide the legality of elections.

The election commissions at various levels do not appear to enjoy the trust of the voters. They are not perceived as independent, representative or neutral. In many cases, the members of the precinct commissions are members of the faculty at higher learning institutes or senior staff at work places. Their positions of power can lead to intimidation of students and workers. The regional commissions are often made up of employees of the *akimat* (local administration) and the office of the commission is in the *akimat* building. Often the political affiliation of the members of the commission is well known, which does not give the appearance of impartiality to these bodies. An impartial environment is needed to build the trust of the public.

The appointment process for the commissions needs to be reviewed to give them a more independent structure. The voters are quite cynical about the commissions and their ability to ensure a fair election. Unless each commission's integrity and neutrality is assured, the voters will not believe that an electoral change is possible. The membership of the election commissions also needs to be more representative of the community at large because there are such large numbers of appointments involved (see Appendix A).

The role of the commissions needs to be better understood by voters. A public information program would assist but only when the appointments are more independent and representative.

IV. Pre-Election Activities

A. Registration of Candidates

The Decree on Elections specifies the requirements for the registration of Presidential candidates. The candidate must collect signatures of two per cent of eligible voters in at least two-thirds of the administrative units of the country (the *oblasts* and cities of Almaty and

Astana) [Art. 56]. For this election, the required number of signatures was 170,000. A candidate for the Presidency also has to pay a fee (set at equal to one thousand minimum monthly wages, approximately US\$ 30,000) and present a medical certificate as to her/his mental health [Art. 59].

A candidate also has to pass a Kazak language test. The parameters of the test are not clearly set by law, leading to public mistrust of the testing procedure. For example, it was speculated that one of the registered candidates only passed the language test due to kind grading.

In all, eight candidates began the registration procedures for the 10 January 1999 Presidential election after the election was called. Two of those withdrew voluntarily during the pre-election period: Mr. Kharishal Asanov, a former dissident, and Mr. Zhakysbai Bazilbaev. The latter withdrew in favour of candidate Nazarbaev.

The 8 May 1998 amendments to the Decree on Elections banned the registration of any individuals who received an administrative sanction for an “intentional offence” in a court procedure during the year prior to registration. These amendments were used to disqualify two potential candidates from entering the Presidential race. In the case of Mr. Amantai-Kazhi Asylbek, the amendments were used retroactively. Mr. Asylbek was sentenced to three days of detention in early 1998 for organising an unregistered public prayer. This administrative sanction was used to deny Mr. Asylbek his registration as a Presidential candidate.

The former Prime Minister of Kazakstan, Mr. Akezhan Kazhegeldin, was denied registration due to a court sanction he received for attending a 5 October 1998 meeting of an unregistered NGO called *For Honest Elections*. Only selected participants in this meeting were arrested and charged. This case highlighted the issues of freedom of association and the lack of judicial remedies available to individual citizens of Kazakstan on constitutional matters.

On 30 November 1998, the deadline for registration of candidates, the CEC formally registered four candidates: Mr. Nursultan Nazarbaev (58 years), the incumbent President; Mr. Engels Gabassov (61), a member of the Senate; Mr. Serikbolsyn Abdildin (61), the chairman of the Communist Party of Kazakstan; and Mr. Gani Kasymov (48), a chairman of Kazakstan's customs committee. These four were able to present the required number of signatures in support of their candidacy, to pay a registration fee of US\$ 30,000 and to pass a test in the Kazak language.

B. Freedom of Association

The Constitution of Kazakstan guarantees freedom of association. However, during the election period, the authorities restricted this freedom in some cases. The Law on Public Associations allows for only one founding meeting of a public association before the association is registered with the Ministry of Justice [Art. 10]. Other meetings are not allowed and carry an administrative sanction.

Some human rights and other NGOs in Kazakstan have faced problems with registration in the past and the authorities appear to have the ability to delay registration. No explanation is required if the registration is denied. Some members of these groups have reported

harassment by the police for their involvement. These measures tend to discourage the right of individuals and groups to establish political parties and organisations.

On 5 October 1998 the NGO *For Honest Elections*, which had been unable to register for technical reasons, held a meeting attended by Mr. Kazhegeldin. Consequently, Mr. Kazhegeldin received an administrative sanction, lost an appeal in the Supreme Court, and was barred from entering the Presidential race. The zeal with which this case was prosecuted leaves the appearance of being politically motivated since only a selected number of those who attended the meeting were charged. The Kazhegeldin case also points to the lack of an upper court (such as a Constitutional Court) able to consider complaints from individual citizens. The existence of such a court would enable an inquiry into whether relevant provisions of the Law on Public Associations and the 8 May 1998 amendments to the Decree on Elections contravened constitutional guarantees of freedom of association and the right to seek public office contained in the Constitution, OSCE commitments and other international human rights instruments.

C. Campaign Environment

The unexpected timing of the elections coupled with the onerous requirements to register meant that the period left for campaigning was short. The campaign lacked political discussion and debate. The political party system in Kazakhstan is weak and there was a noticeable disinterest by the public. Trade union leaders cited concerns for jobs if they attended political meetings and students expressed the fear of losing scholarships if they became active in politics.

One candidate, Senator Gabbasov, had a low-key campaign with no rallies and a limited number of press interviews. Mr. Kasymov's campaign featured personal appearances at public places and impromptu speeches before selected social groups (e.g. street traders). Mr. Kasymov used a public building, facilities of the State Customs Committee, for his campaign headquarters. It does not appear that any rental fee for the building was paid.

Mr. Abdildin, the head of the Communist Party, had a number of meetings around the country. On more than one occasion, Mr. Abdildin was denied access by local authorities to public buildings, which his campaign staff had reserved. While the Central Election Commission assisted the Abdildin campaign in securing the return of the deposit for one building, an opportunity for a speaking engagement at this location was lost. The persons responsible for this infraction were not punished. The candidates, other than the incumbent, also had difficulties getting access to universities and work places for meetings.

After having been banned from running for the Presidency, Mr. Akezhan Kazhegeldin embarked on organising a political party, the Republican People's Party, with the aim to participate in the Parliamentary Elections of 1999. The Republican People's Party also called on its supporters to vote for none of the candidates appearing on the ballot in the Presidential elections. The founding congress of this party took place in Almaty in mid-December 1998. There was very little coverage of it in the media. Some organisers of the congress were harassed at its conclusion by individuals claiming to be plain-clothes police and were later called to court. The Republican People's Party was not granted registration prior to election day and thus could not assemble again due to the restrictions posed by the Law on Public Associations.

The incumbent, Mr. Nazarbaev, who was campaigning under a slogan of continued stability, appeared to have no problems in conducting his campaign. Large billboards featuring the incumbent were ubiquitous around the country. Kazakstani and Russian rock stars toured the country with concerts at which the artists encouraged the audience to vote for the incumbent. The incumbent embarked on a vigorous campaign schedule and his appearances were widely covered by the media.

There appeared to be no clear dividing line between state affairs and the campaign of the incumbent. Many state bodies announced and publicised, by displaying large banners on their buildings, their support for the incumbent. Individual heads of state institutions, such as departments of state universities or military units, wrote letters to newspapers pledging their institutions' support for the incumbent. Printed messages urging passengers to vote for the incumbent were distributed on some local flights of the state airline. Finally, the incumbent made a number of campaign-related remarks in his Presidential New Year's address. The incumbent asked for support for his platform and thanked some groups, such as war veterans, for supporting his candidacy. These cases are clear and direct violations of Article 27 (3) of the Decree on Elections.

The OSCE/ODIHR Election Assessment Mission received credible complaints from individuals who felt they were being pressured to vote for the incumbent. This appeared consistent with a campaign atmosphere heavily favouring one candidate.

D. Election Finances

A state fund, administered by the CEC, was available to each candidate for President [Art. 33]. The fund was set at 2.44 million Tenge per candidate (approximately the same amount as the fee to register as a candidate, US\$ 30,000). The fund was used to pay for the media time allotted for each candidate under the Decree, for printing campaign materials and for transportation expenses.

Each candidate could also establish an election fund financed from non-state resources [Art. 34]. Funds are made up from three sources, each with a limit on the amount: from the candidate's own resources (with a limit of approx. US\$ 90,000), from the public association that nominated the candidate (approx. US\$ 150,000) and voluntary donations of citizens and organisations (approx. US\$ 300,000). The total limit is 43 million Tenge (approximately US\$ 540,000). An independent candidate is not entitled to the second of these sources. The fund is registered with the Ministry of Justice and it is controlled through the banks.

The Decree on Elections does not deal with contributions in kind, which may need some attention. For example, the campaign team for the incumbent reported that supporters donated the sites for the billboards, so this would not be an expenditure against his election fund. Donations of this kind circumvent the purpose of the election fund.

Bank statements showed that the election funds varied dramatically amongst the candidates. In late December, Mr. Nazarbaev's fund totaled 40.5 million Tenge (approx. US\$ 506,000), made up of 7.1 million in personal funds, 9 million in nominating association funds and 24.4 million in voluntary funds. Mr. Gabbasov's fund had 1.4 million Tenge (approx. US\$

17,500), all in voluntary funds. Mr. Kasymov's funds totaled 4.1 million Tenge (approx. 51,000), all in voluntary funds. Mr. Abdildin's balance was zero.

Each candidate must submit a report on the expenditures from the election fund to the CEC within five days after the determination of the results of the election. The CEC has the right to annul the recognition of the election result if a candidate violates the rules on the election fund [Art. 34 (10)]. In some cases, campaign headquarters consulted informally with the CEC before spending funds to ensure that it was an acceptable expenditure.

E. Media Issues

The ODIHR Needs Assessment Mission expressed concern about the increased concentration of the media in the hands of a few persons close to the incumbent. It was reported that harassment and legal means were used to silence any opposition media or independent media. The Election Assessment Mission was able to follow up and confirm these concerns.

Mission members in five regions interviewed local media owners and journalists. There was evidence of closure of newspapers, both permanent and temporary, based on accusations of breaking tax laws, publishing 'false information' or minor infringements of the law. Broadcast licenses, tenders for frequencies and tax laws are used to control the media. As a result, the independent media have experienced financial problems, which often leads to closure.

There is no direct censorship but it was reported that suggestions are made to owners that nothing critical of the government is to be printed and, in some cases, the printing house removes articles. These types of intimidation lead to self-censorship by journalists. Media employees have no protection from reprisals and intimidation.

The media in Kazakhstan does not cover the entire spectrum of opinion. Several examples occurred during the mission. For example, the Congress of Democratic Forces held a press conference to announce the creation of the Republican People's Party (17 December 1998). There was minimal coverage of this event by the media. The OSCE mission had its activities covered quite widely by the media until its final press conference (11 January 1999). The final statement of the mission also had minimal coverage and a certain amount of misinformation was reported.

The legal requirements concerning candidate messages are quite narrow. The state media must give each candidate fifteen minutes on state television, ten minutes on state radio and an opportunity to publish two articles in the state press [Art. 28 (3)]. The CEC further stated that one of the articles must be in the Kazak language and the other in the Russian language. The candidate must cover the costs for these items prior to the delivery and then they are reimbursed from the state election fund on submission of a receipt to the CEC.

Candidates can purchase additional media time using their non-state election funds. These advertisements do not need to be identified as paid political announcements so it was difficult to determine whether information was sponsored. For example, it was unclear if the documentaries on the incumbent, which were shown during the week before the election, were paid for by his campaign or were provided by the state media as a part of regular programming.

The CEC also published guidelines for the mass media on reporting about the candidates and the election. The guidelines stated that the state media was to refrain from giving preference to any candidate and that the journalists were to differentiate between the campaign of the incumbent and the coverage of his activity as the President. These guidelines were not followed and since they were not in the law, it was not clear if they could be enforced. The overall coverage of the election was poor.

The CEC monitored the media but only to look for violations of the law prohibiting certain ideas. These include advocating “*ideas of a violent change of the constitutional system, violation of the territorial integrity of the Republic, undermining the State’s security, war, social, racial, national, religious, class and tribal superiority as well as the cult of cruelty and violence*” [Art. 29 (1)]. The CEC did not look for violations of its guidelines stating that they would investigate these only if there was a complaint.

F. Media Monitoring

The Needs Assessment Mission carried out monitoring of the media from 18 December 1998 to 8 January 1999. One radio station was monitored for nine hours a day; three television channels were monitored for twelve hours a day; and four newspapers were also monitored during this time period. The methodology was to measure quantity (i.e. time on air, space in newspapers) and quality (i.e. positive, negative or neutral).

Overall, it was clear that the incumbent received a large share of the coverage on political issues and most of it was positive or neutral. The other candidates received little coverage, and what they did receive was generally neutral or negative. Mr. Abdildin received a majority of the negative coverage. The overall time dedicated to politics was quite low. Political coverage included the election campaign as well as government activities. Television had two to six per cent of the time devoted to politics; radio had nine per cent; and newspapers had four to eight per cent. The only exception was the state newspaper, *Kazakhstanskaya Pravda*, which had 24% of its space devoted to political coverage. The following chart shows the coverage of the candidates during this time.

Time or Space (%) for Each Candidate During the Total Time Dedicated to Politics				
<u>Media Name</u>	<u>Nazarbaev</u>	<u>Abdildin</u>	<u>Gabbasov</u>	<u>Kasymov</u>
Radio Khabar	49%	5%	2%	4%
Khabar TV	64%	11%	4%	6%
KTK TV	42%	3%	1%	9%
Channel 31 (TV)	38%	10%	14%	17%
<i>Kazakhstanskaya Pravda</i> (newspaper)	83%	3%	2%	2%
Caravan Daily (newspaper)	58%	27%	3%	1%

Caravan Weekly (newspaper)	77%	23%	0	0
Panorama (newspaper)	44%	13%	10%	12%

Journalists and editors claimed that coverage was low because the candidates did not provide information on their campaigns or there was very little to cover. The strong position of the incumbent in the media reflected both the weakness of the opponents and the constraints that led to self-censorship.

There is no provision for the right to respond to negative reports in the media.

V. Election Preparation

A. Training of Election Personnel

Training of commissions staff was carried out at each level by trainers from the commission at the next level in the system (i.e. the district commission trained the precinct commission). The emphasis was on current practice including changes to the law and procedures, the role of observers and the new ballot design.

The message about the election law and its importance did not get to the precinct commissions. The Central Election Commission spoke to the Mission about the importance of the changes to the law but their training programs did not get the message to the polling stations. It appeared that the precinct commissions carried on as they had previously done with no concern for new procedures. Commission members at every level expressed the opinion that they “knew what they were doing” and did not need training. There was little motivation to do a proper job, in most cases they stated that “they were doing it because they had to”.

Training methodology needs to be enhanced so that learning takes place during the training sessions. Those implementing the law at the polling stations do not understand the importance of having transparency of the process and of having uniformity of the procedures. A thorough manual for the polling station members would assist in interpreting the law for those in charge on election day. Many of the guidelines put out by the CEC did not seem to be transmitted to the various levels of the system. It may require a complete change of commission personnel to ensure that the law and the directives of the CEC are put into practice at the local level.

B. Voter Registration

Voter lists are drawn up in each precinct by the precinct election commission, based on residence in the precinct. Information is received from local administrative bodies (i.e. passport and registration tables). In some cases, the local administration prepares a draft list from the records to be checked. In most cases, the election commissions had staff go from door to door to check names and complete the list or to draw up the list anew. The list is

updated regularly each quarter. There is no national database of voters, although with the recent addition of computers to the district and *oblast* commissions, there is potential for some movement toward establishing a database. This would assist in checking to ensure that double entries do not occur.

The voter lists are made available for public scrutiny at the precinct election commissions fifteen days before the election. Voters may check the lists for correctness and there is a procedure for appeal if the voters' request for correction is denied.

Names of people living, but not registered in the area, are added to an additional list. There is the possibility of double entry but the commissions claim that verification procedures prevent it. The numbers of persons registered (i.e. 18 and over) seemed to be low in comparison to the total population, just 54% (see Appendix B). Since the numbers of additional voters is not published, it was difficult to know how many names were on the voter lists.

C. Logistics

The logistics for the election were well planned and organised. The polling stations had sufficient signage and had their equipment and materials well before election day. In most cases the ballot papers were delivered on time, one week before election day, and stored in a safe with police protection. This was to allow for advance voting during the week leading up to election day.

The Central Election Commission makes the arrangements to print the ballot papers. The names of the candidates are in alphabetical order and are printed in Kazak and Russian. In areas where the numbers merit, plans were made to print the ballot papers in minority languages. In addition to the candidates' names, the ballot papers have a space to mark "I vote against all the candidates".

D. Voter Education

The Central Election Commission has a mandate to inform the voters about the electoral process. A booklet with election information was printed in two languages by the Central Election Commission and delivered to each voter by the precinct commission. Moreover, an invitation with the location of the relevant polling station was delivered to each voter. For the most part, these were delivered some days prior to the voting.

The Central Election Commission also printed posters with biographical information about the candidates. These were posted at the precinct election commissions. The CEC intended that the posters would remain in the polling station during the voting. However, many commissions considered them to be campaign materials and removed them. This was another case of the CEC's instructions not getting to local commissions.

Legal requirements to publish lists of the polling stations and the names of commission members were complied with as required.

Television and radio spots with voting information were prepared by the CEC and broadcast on various stations. Several NGOs and public associations were also involved in raising

awareness and disseminating information about the electoral process. The intimidation and pressure to vote for a particular candidate, which was reported to the Mission, may have been lessened if there had been more information about the secrecy of the vote.

VI. Election Day

For the most part, the voting was calm and orderly. At many polling stations a festive atmosphere prevailed with music, dancing and food available. It was also noted that snow and ice had been removed from steps and a general cleaning and decorating of the premises made the polling stations more inviting.

Mission members visited about 100 polling stations including military barracks, a hospital and a detention (remand) centre. There was often a representative from the *akimat* at the polling station who appeared to control the process. This person also ‘advised’ the voters about which candidate they should mark on the ballot paper. It would have assisted the voters if the polling station commission members had worn identification badges or some other form of identification to distinguish them from other persons in the polling station. Several reports from voters were received by the mission, which alleged various problems during the voting.

A. Turnout

It was difficult to gauge the level of turnout because proxy voting appeared to be widespread as well as instances of members of the polling station commissions voting for those who did not come to vote. Moreover, the numbers of names added to the additional lists were not known. It was reported by Mission members that in the stations they visited, the numbers of additions ranged from 5% to 15% of the voter lists. The official turnout figures may not accurately reflect the number of voters who did attend the polling station to vote.

B. Polling Station Procedures

- a) Layout of the polling station: In many cases the layout of the polling station did not allow for transparency of the process. The ballot box was often behind the polling booths so that neither the commission members nor observers could see it. There was no control over the number of ballot papers placed in the ballot box or any way to see if voters left the polling station with the ballot paper. A standard for the polling station layout needs to be prepared by the CEC, with sample layouts included in a manual of procedures.
- b) Identification of voters: The law requires that the voter show an identification document before receiving a ballot paper [Art. 41 (3)]. The polling station commissions often neglected this requirement.
- c) Ballot papers: Some voters fear that ballot papers can be traced as they have to sign the register and commission members sign the ballot. Although this does not make the ballot paper traceable, there is an appearance that it does. A unique stamp for each polling station, instead of signatures on the ballot paper, would invite more

trust. The ballot paper could then be stamped before it is given to the voter. Under the current procedures, some commission members were signing all the ballots before the voting started, presumably to save time. This meant that ballot papers were signed which might not be needed and left the question of what would happen to them at the end of the voting period. Some voters were also convinced that pencils were provided to mark the ballot papers so that they could be erased and changed later. Letting the voters use pens could ease this concern .

- d) Proxy voting: The law is very clear that the voter must vote in person and that no person may vote in place of another [Art. 41 (1,2)]. The practice of a voter signing for several ballots appeared, however, to be widespread. One team from the Mission saw proxy voting at all of the fifteen polling stations visited, with one voter being given twenty ballot papers in one instance. Family voting was also allowed in some polling stations. Several family members would enter one polling booth together, thus compromising the secrecy of the ballot. There appear to be examples of commission members doing ‘as they have always done’ as opposed to following the law and the instructions of the CEC.
- e) Advance voting: Voters who know ahead of time that they will not be able to vote in person on election day can vote in advance. The ballot paper is marked and placed in an envelope, which is sealed. It is held by the commission until election day when it is put into the ballot box [Art. 41 (8)]. In some areas the ballots were not delivered to the precinct commission until the day before voting, precluding an advance vote in those areas. In others, the precinct commission did not seem to be aware of the process and told voters to vote by certificate or by mobile box. These procedures need to be clarified in the training for election commission members.
- f) Certificate voting: Voters who cannot vote on election day because they have changed the place of residence can apply to vote in the new location. The voter is given a certificate to allow him/her to vote at the new precinct polling station. [Art. 41 (7)]. The name is removed from the original voters’ list and added to the additional list in the place of new residence. It was observed that the commission members did not collect these certificates when they were presented on election day. There was no control over these additions to the voter lists to ensure that double voting did not occur.
- g) Mobile boxes: Voters who cannot get to the polling station for reasons of health can apply to have the ballot paper and ballot box brought to their residence [Art. 41 (6)]. Mobile boxes were used in institutions such as hospitals as well as in remote villages. This was a special procedure that appears to have been abused. Some voters reported that the mobile box had been brought to their homes even though they had not applied for it. It seems that it was done to ensure that anyone who did not come to the polling station did vote. There were also reports that precinct election commission members filled in applications and voted in the names of those who did not come to vote.

C. The Count

The protocol for the polling station is one of the most important election documents. It is a record of the ballot papers received at the polling station, those unused, those counted and those rejected. In addition, it lists the number of voters on the voter lists and the number who received ballots. The protocol is necessary if reconciliation of the ballot papers is to be done, including those from the advance, mobile and regular polls and the number of voters who received them. In the protocol's two-page format, it was possible for fraud to occur, as the page with the results was not the page that was signed at the polling station. At the suggestion of the ODIHR Assessment Mission, the protocol was reprinted on one page.

There appeared to be no concept of the need to balance the number of ballot papers used with the number of voters. The number of ballot papers received by the precinct polling station was often not recorded on the protocol during the opening. The need for uniform procedures at the count is of paramount importance to encourage trust in the system. A methodology for the steps of the count, as well as guidelines for what constitutes an invalid ballot, needs to be developed and incorporated into a training manual.

Many voters think that the outcome of the count is pre-determined and that the numbers are manipulated to bring that about. One polling station chairman confirmed that he had been asked to deliver a certain result (80%) for the incumbent. It is not clear who made the request. At one count observed by the mission the numbers recorded on the protocol were changed from the numbers of ballot papers counted. The protocol must include space for remarks from observers and candidates' representatives. This may prevent the temptation to change the numbers on the protocol.

It was reported to the OSCE Assessment Mission that in some cases the count at the polling station was not announced or posted at the polling station. The results did not include the number of those who voted against all candidates. Since the CEC had stated that those numbers would be announced, it is hoped that they will be published in the final results.

D. Observers

The Decree on Elections provides for candidates to have representatives at the polling stations. The incumbent's campaign staff accredited enough representatives for all polling stations. Other candidates accredited a smaller number, not sufficient to have representatives at all locations. International and domestic observers were also present in small numbers. Candidate teams held some training sessions for their representatives and public associations and NGOs sponsored some training sessions for domestic observers. The international observers were not co-ordinated or trained by a central body.

Candidates' representatives experienced some harassment by police and by members of the precinct election commissions. Two candidates forwarded information to the Mission about such incidents. There were several reports of representatives and observers not being allowed to witness the count, including international observers, domestic observers and members of the Mission. In some cases, they were physically ejected. In other cases, the translators of international observers were threatened or harassed. Even when the observers and representatives were allowed to watch the count, they were often not able to see the protocols. In fact, some groups of observers were informed that it was 'not the observer's business' to see results.

The CEC provisions clearly allowed observers to attend the count. The precinct election commissions, however, made their own arbitrary decisions. Observers were also not welcome at the district and *oblast* election commissions to watch the results arriving from the polling stations. Observers and candidates' representatives were often prevented from following mobile boxes as well. These rights of the observers and candidates' representatives to attend at the count and at each stage of the voting process need to be explicitly stated at the training of the commissions and in training manuals, and needs to be enforced in practice.

The candidates' representatives need more training on their role. They expressed dissatisfaction with some of the actions at the polling stations but did not know they had the right to report irregularities. A more credible presence of these representatives, covering all polling stations, would assist in ensuring that the law is followed.

The commissions set arbitrary rules about how close observers could be to the voting and counting (i.e. some set 10 metres as the distance, others set 30 metres). There are no such rules in the law. The only stipulation is that they do not interfere with the work of the election commission or with the voting or counting.

VII. Election Complaints

The CEC received complaints during the election campaign and investigated them. One of the candidates entered several complaints and forwarded copies to the Mission. The CEC informed the Mission that there were no 'serious' complaints that had to be addressed by a court. It was difficult to ascertain whether the complaints were taken seriously by the CEC or seen merely as 'frivolous' complaints.

The Mission also received copies of letters of complaints registered by some voters after election day. At this writing, it is not known if these have been addressed by the CEC. The complaints will not likely affect the outcome of the election but it is hoped that they will be investigated and answered.

There is a need for a more open system of processing election complaints, particularly during the campaign period. Accusations of unfairness are often reported in the media but the resolution of the complaint is not publicised. A standardised, well understood system of addressing complaints, both during the campaign and after the voting and count, would add to the public acceptance of the decisions of the CEC and the courts.

VIII. Conclusions

The OSCE/ODIHR Election Assessment Mission found that the election process fell far short of the standards to which the Republic of Kazakhstan is committed as an OSCE participating State. The areas of concern include the following:

- ◆ **Duration of the election campaign.** The timing of the amendments to the Constitution meant that an election would take place earlier than previously scheduled. The period allocated for the election campaign did not allow for sufficient preparation by all prospective candidates given the circumstances that brought about these elections.
- ◆ **Legislative framework.** The election process is governed by a Presidential Decree that falls far short of OSCE commitments. Although Parliament has been amending this Decree since it was promulgated in 1995, election legislation adopted by the Parliament following a public debate would enhance the credibility of the election process.
- ◆ **Election commissions.** The appointment of the election commissions at each level are controlled by the President and appointed local officials. The method of appointment and the makeup of the commissions do not encourage public trust in the electoral process. The election commissions need to be more independent and representative.
- ◆ **Infringements on rights of citizens to seek public office.** Of particular concern are the 8 May 1998 amendments to Article 4 of the Decree on Elections, disqualifying potential candidates who had received a minor administrative sanction for an “intentional offence” during the year before registration. This new provision was used to prevent the registration of two would-be candidates. The application of this article contradicts the OSCE principle contained in the 1990 Copenhagen Document that an “administrative decision against a person must be fully justifiable.” In one of the two cases the 8 May 1998 amendments were applied retroactively, disqualifying a potential candidate who had an administrative sanction levied against him in early 1998. In addition, the number of signatures and the monetary fee for candidature appear high, particularly in light of the short period allocated for the campaign.
- ◆ **Obstacles to freedoms of association and of assembly.** The rights to association and assembly are unduly restricted through legal and administrative obstacles. The legislation has been used to impede the registration of a number of groups, including political parties, and to harass those involved.
- ◆ **Campaign atmosphere.** State authorities did not behave impartially and provided support for the election campaign of some candidates, in particular the incumbent. There was no clear dividing line between state affairs and the incumbent’s campaign. For example, state bodies announced and publicised their support for the incumbent, while printed messages encouraging passengers to vote for the incumbent were distributed on some local flights of the state airline. Restrictions were placed on campaigning of some of the incumbent’s competitors through administrative measures. For example, candidates had uneven access to public buildings.
- ◆ **Access to the media.** Both the state-owned and private media gave a disproportionately large share of the coverage to the incumbent. In addition, documentary programs profiling the incumbent were added to the regular programming of one popular state-owned TV channel during the week before the election. Regular entertainment programs, such as a popular soap opera, featured election-related segments favouring the incumbent. In general, the OSCE/ODIHR Election Assessment Mission is concerned with the media situation in Kazakhstan.

- ◆ **Voting procedures.** The voting on election day was carried out in a calm and peaceful manner. However, there were credible reports of irregularities, including proxy voting. Observers and candidates' representatives reported that the layout of polling stations did not allow for effective observation. The number of names that were added to additional voter lists appeared high, suggesting that there were deficiencies during the voter registration process.

The OSCE/ODIHR Election Assessment Mission found that the Central Election Commission is to be commended for:

- ◆ **Logistics.** The Central Election Commission's plans and organisation for election day were well drafted and executed.
- ◆ **Voter Education.** The Central Election Commission undertook a wide-ranging impartial voter education effort to inform the public about their rights, the biographies of candidates and the procedure to properly complete the ballot. The CEC should continue such efforts in preparation for the future elections. Another positive aspect noted by the Mission is that the CEC had improved the design of ballots and the protocols for recording the vote count at polling stations based on earlier OSCE/ODIHR recommendations.

The OSCE Office for Democratic Institutions and Human Rights appreciates the co-operation extended to the Assessment Mission by the Government of Kazakhstan and is encouraged by the commitment of the Republic of Kazakhstan, expressed at the highest level, to improve the election-related legislation and to implement recommendations of the OSCE/ODIHR Election Assessment Mission. ODIHR would like to reiterate its readiness to assist the Government of Kazakhstan in the preparation for future elections, in particular for the local and parliamentary elections scheduled to take place later in 1999. ODIHR is also looking forward to co-operating with the Government of Kazakhstan on the implementation of the Memorandum of Understanding regarding future elections and democratisation projects signed on 2 December 1998 at the OSCE Ministerial Meeting in Oslo.

IX. Recommendations

The OSCE/ODIHR Election Assessment Mission urges the CEC and the Government of Kazakhstan to continue to improve its legislation and to fulfil its stated intention to democratisation. The following recommendations are made in the spirit of assisting to improve the level of compliance with the 1990 OSCE Copenhagen Document.

OSCE/ODIHR recommends:

- ◆ that election legislation be introduced, debated and adopted by the Parliament following a public debate. That the existing Decree on Elections be repealed. However, if it is incorporated into the election legislation, the Decree on Elections must be revised substantially, including in particular but not limited to the following provisions.

- ◆ that the appointment process of election commissions at all levels be reviewed. Independent, neutral persons representing various communities would add credibility to the electoral process in Kazakhstan.
- ◆ that the requirements for candidate registration for all levels be reviewed and amended. Lowering the number of signatures required and the amount of registration fee will enable a broader range of prospective candidates to be registered. Article 4 of the Decree on Elections also needs to be reviewed in light of the constitutional right to seek public office.
- ◆ that the planned amendments to the laws on registering public associations and NGOs be introduced as soon as possible. Political party registration also needs to be reviewed with consideration given to including it in an election law.
- ◆ that the division of state affairs and the campaigning of candidates, as outlined in the guidelines of the CEC, be incorporated into an election law.
- ◆ that the legal requirements on election finances be amended to include a section on donations in kind. These donations would be valued at the current market rate and be considered an expenditure of the election fund.
- ◆ that the stated intentions to ease control on the media be instituted immediately by changing the tender process for broadcast frequencies and the tax laws to ensure that private and independent media are able to operate on a competitive basis with the state media.
- ◆ that journalists be protected, while carrying out their duties, from intimidation and arbitrary punishment based on the content of their reporting.
- ◆ that paid political broadcasts and advertisements be required to carry an identifier of the sponsor so that the public will be aware of who is responsible for these announcements.
- ◆ that the CEC ensure that its guidelines on the media are complied with by incorporating an enforcement mechanism, with penalties if necessary, in the election law.
- ◆ that the CEC institute a training branch to set consistent and uniform standards so that the election commissions comply with the election law and the CEC's guidelines. The training branch would also design standard manuals and training programs.
- ◆ that the voter registration system be improved with permanent, computerised voter lists. The system should have checks against double registration and should prevent the abuse of additional lists.
- ◆ that the voter education program of the CEC be enhanced to give more information to voters about the secrecy of the vote and about special voting procedures such as advance voting, mobile voting and certificate voting. It is also recommended that the CEC develop an ongoing democracy education program in co-operation with NGOs.

- ◆ that the Government carefully review all of its OSCE commitments related to elections, in particular under the Copenhagen Document, and ensure that it bring its electoral practices into compliance with these commitments.

5 February 1999

Appendix A: Number of Election Commissions in the Republic of Kazakhstan

#	Region (Oblast) or City	Precinct Election Commissions	Regional Election Commissions	City Election Commissions	Regional Elec. Commissions in City	Oblast Election Commissions	Total Election Commissions
1	Akmolinskaya	575	14	1		1	591
2	Aktubinskaya	520	12	1		1	534
3	Almatinskaya	944	16	3		1	964
4	Atyrauskaya	223	7	1		1	232
5	East-Kazakhstanskaya	1,145	15	4		1	1,165
6	Zhambylskaya	480	10	1		1	492
7	West -Kazakhstanskaya	544	12	1		1	558
8	Karagandinskaya	784	9	9		1	803
9	Kzyl-Ordinskaya	282	7	1		1	291
10	Kostanskaya	970	16	4		1	991
11	Mangystauskaya	114	4	2		1	121
12	Pavlodarskaya	540	10	3		1	554
13	North-Kazakhstanskaya	1,046	16	2		1	1,065
14	South-Kazakhstanskaya	930	11	4		1	946
15	Astana City	126			2	1	129
16	Almaty City	424			6	1	431
	Total	9,647	159	37	8	16	9,867

Appendix B: Total Population and Registered Voters by Region (Oblast) and City

Region (Oblast) or City	Population Total	Number of Voters Registered	% of Population Registered as Voters
Akmolinskaya	561,560	323,917	57.68
Aktubinskaya	722,200	353,155	48.90
Almatinskaya	1,631,700	848,385	51.99
Atyrauskaya	456,374	235,036	51.50
(East) Vostochno-Kazakhstanskaya	1,622,800	931,942	57.42
Zhambylskaya	975,807	468,642	48.03
(West) Zapadno-Kazakhstanskaya	643,500	369,043	57.35
Karagandinskaya	1,524,100	816,153	53.55
Kzylordinskaya	632,182	311,233	49.23
Kostanaiskaya	1,119,600	631,929	56.44
Mangistauskaya	346,100	147,937	42.74
Pavlodarskaya	863,900	449,223	52.00
(North) Severo-Kazakhstanskaya	1,097,200	622,958	56.68
(South) Yuzhno-Kazakhstanskaya	2,015,600	953,800	47.32
Astana City	278,000	156,882	56.43
Almaty City	1,082,800	716,572	67.42
Total	15,553,423	8,336,807	53.69