

INTERIM REPORT No. 2
29 January – 13 February 2010

22 February 2010

I. EXECUTIVE SUMMARY

- The process of candidate registration, which was inclusive overall, concluded on 8 February. Seventy-three candidates were registered from eight party lists to compete in the single nationwide constituency and 153 candidates were registered to compete in 41 single-mandate constituencies. Six political parties as well as 70 self-nominated candidates are represented in the single-mandate constituency contests.
- A low-key election campaign commenced at varying dates across the country, depending on when candidates were registered. Campaign activities include meetings with voters, door-to-door campaigning, the distribution of leaflets and display of posters. Meetings with voters generally are organized by the District Election Commissions (DECs) with all respective candidates invited. In some constituencies, political parties or candidates also organize individual campaign events, while in other constituencies the election administration does not permit such independent meetings.
- The OSCE/ODIHR EOM was informed by several political parties about alleged obstruction of their campaigning by the authorities, including allegations of police interference and use of state resources by the ruling party for campaign purposes. The OSCE/ODIHR EOM is following up on these cases.
- The Central Commission for Elections and Referenda (CCER) has held no sessions since 19 January, raising concerns about the transparency and accountability of its work.
- Voter lists were compiled by PECs by 13 February and are presently displayed for public scrutiny. The CCER informed the OSCE/ODIHR EOM that 3,459,164 voters were registered countrywide. The OSCE/ODIHR EOM noted that in the absence of specific CCER instructions on how to compile voter lists, PECs used a variety of methods. The lack of a centralized database means that national crosschecks, elimination of multiple entries and regular updates of deceased voters and voters who have changed their place of residence is effectively not possible.
- Thus far, television - which is the main source of information for citizens - has provided limited election-related information. Free airtime will be granted to candidates. A number of newspapers have provided a more vigorous coverage of the electoral campaign. Several lawsuits have been filed against independent newspapers.
- To date, electoral contestants are not fully and appropriately utilizing the existing complaint process. The CCER is, so far, not considering complaints in plenary sessions and is not issuing official decisions.

II. ELECTION ADMINISTRATION

Preparations for the elections are ongoing. The CCER has informed the OSCE/ODIHR EOM that 6,000 new transparent ballot boxes have been imported from China and that most election materials have been transported to the 3,067 polling stations.

The CCER has held no sessions since 19 January, raising concerns about the transparency and accountability of its work.¹

The OSCE/ODIHR EOM has observed that senior officials from regional and local government are members of election commissions, especially in DEC. While not contravening the election law, the presence of senior local officials as DEC members in combination with the prevalence of the ruling People's Democratic Party (PDPT) as DEC members² raises concerns regarding the independence of the election administration. While the DECs carried out training exercises for the PECs, the OSCE/ODIHR EOM was informed by some DECs that they anticipate further training on election day procedures.

Parliamentary and local elections will be held on the same day, raising an issue regarding formation and oversight of PECs. According to the law, PECs should be formed by their respective DECs. Although there are separate DECs for parliamentary and local elections, only one PEC is established for organizing voting in both elections. This leads to an inconsistency over which DEC is responsible for PEC formation and the OSCE/ODIHR EOM has noted apparent inconsistent practices in the electoral districts.

III. CANDIDATE REGISTRATION

The registration of candidates ended on 8 February.³ Seventy-three party list candidates were registered by the CCER on 19 January to contest 22 seats in the single nationwide constituency. The DECs also registered 153 candidates out of 185 nominated to compete for seats in 41 single-mandate constituencies.⁴ Thirty-two nominees were not registered, either due to their withdrawal before their registration or due to rejection on a number of grounds; the most frequent was non-payment of registration fees.⁵ At the time of this report, according to information received by the OSCE/ODIHR EOM from the CCER, three candidates withdrew from the elections after having been registered.⁶ The OSCE/ODIHR EOM is aware of two rejected nominees, who appealed their

¹ Article 19 of the election law states that “decisions by the commissions of all levels are adopted by voting in an open session. For a decision to be adopted, more than half of all commission members present need to support it. The necessary quorum for a session to be valid is two thirds of all commission members appointed. Decisions on complaints, for example, should also be taken at a CCER session.”

² In DECs 5, 6, 20, 21, 26, 27 and 29.

³ Registration of candidates was carried out by the CCER and DECs until 20 days before the elections (Art. 35, election law).

⁴ People's Democratic Party (PDPT), 40 registered candidates; Islamic Revival Party (IRPT), 20; Communist Party (CPT), 8; Social Democratic Party (SDPT), 2; Agrarian Party (APT), 5; Party of Economic Reforms (PERT), 8. In addition, 70 self-nominated candidates were registered in the 41 single-mandate constituencies. The Democratic Party (DPT) and the Socialist Party (SPT) did not nominate single-mandate candidates.

⁵ Some candidates were not able to raise the required amount of 7,000 *somoni* (approximately 1,150 EUR) by the registration deadline.

⁶ According to Article 36 of the election law, parties may recall their nominated candidates and candidates have the right to withdraw from the race at any time before the elections.

registration rejections to the CCER and to the first instance court, respectively. Both appeals were rejected.⁷

IV. VOTER REGISTRATION

Voter lists were compiled by PECs by 13 February, within the legal deadline. Voter lists have been posted for public scrutiny at polling stations. The CCER informed the OSCE/ODIHR EOM that 3,459,164 voters were registered countrywide. In the absence of specific instructions on voter list compilation, the OSCE/ODIHR EOM noted that PECs compiled the lists using a variety of methods. OSCE/ODIHR EOM observers reported that some PECs registered migrant workers expected to return by election day in separate voter lists, which are displayed next to the ‘regular’ voter lists. In other PECs, the voter lists include a separate section for citizens who are temporarily abroad. In Khujand, PECs hired buses to visit remote areas in order to register voters. In general, the voter lists are handwritten. The lack of a centralized database means that national crosschecks, elimination of multiple entries and regular updates of deceased voters and voters who have changed their place of residence is effectively not possible.

V. CAMPAIGN ENVIRONMENT

Election campaign activities have started almost everywhere in Tajikistan, but the campaign is low-key. The visibility of the election campaign varies across the country, due to differing dates for candidate registration, parties’ and candidates’ financial capacities, as well as inconsistent interpretation of the relevant campaign legislation, mainly by DECes.

According to the election law, contestants were allowed to start campaigning after their registration by the election administration.⁸ The registration process started on 15 January and was completed on 8 February. While all eight party lists were registered on 19 January, candidates in single-mandate constituencies were registered on different dates. In some election districts of the Khatlon and Sughd regions, the election administration understood the provision regarding the campaign start as not allowing any campaigning until the registration process for all candidates was completed. Therefore, in these areas no campaign activities took place before 8 February.

The interpretation of the DECes’ obligations and the rights of candidates and political parties concerning campaign events⁹ is not consistent throughout the country. In Sughd region, the OSCE/ODIHR EOM observers noted different interpretations; in some cases, only DEC-organized meetings are allowed, while in others, candidates and parties could organize meetings independently of DECes.¹⁰

Campaign topics at meetings with voters included the construction of the Roghun dam as well as energy supply issues in general, support to labour migrants, creation of more job opportunities, healthcare, education, state support to agriculture and industry, and the fight against corruption.

In addition to meetings with voters, campaign activities include door-to-door campaigning, distribution of leaflets and display of posters. In particular, in rural and mountainous areas,

⁷ One nominee was rejected due to a number of invalid nomination support signatures and the other due to the nominees’ position as a religious official.

⁸ Art. 39 of the election law provides that “the pre-election campaign starts from the date of the registration of the candidate (the list of candidates) and ends twenty-four hours before the elections.”

⁹ Art. 14 (10), election law and Art. 10, Law on political parties.

¹⁰ Such meetings require notifications to local authorities according to legislation on public events (Chapter II and III, Law on Public Meetings).

candidates reported that they prefer to conduct door-to-door campaigning. While the election law allows for the publishing and distribution of printed campaign material as one of the legal campaign activities,¹¹ the interpretation of the law in this regard differs between local authorities. In some areas, posters may also be put on public buildings, while in others this is not allowed. In general, election posters are not very prominently displayed.

Several political parties made allegations to the OSCE/ODIHR EOM about obstruction of their campaigning by the authorities, including allegations of police interference and use of state resources by the ruling party for campaign purposes. The IRPT and the SDPT made claims about violations of the election law in the media. To date, few of these complaints have been officially submitted to the relevant bodies (see section VII of this report).

On January 29 at a government meeting, President Emomali Rahmon reiterated his call for transparency and fairness in the conduct of the elections.

VI. MEDIA

Media reporting on the elections, at both the national and local level, has increased. Nevertheless, the television channels monitored by the OSCE/ODIHR EOM have almost exclusively focused on the procedural and technical aspects of the electoral process, including on the preparedness of election commissions. Information about political parties or single mandate candidates has been largely absent so far. However, a number of newspapers¹² have provided more vigorous coverage of the electoral campaign since the OSCE/ODIHR EOM media monitoring commenced on 19 January, with a gradual increase in attention to specific topics and electoral contestants.

Preliminary findings show that, thus far, television has provided limited election-related information. All three monitored television channels,¹³ together constituting the main source of political information in Tajikistan, regularly dedicated prime attention topics that were not election-related, namely the fundraising campaign for a hydro-electric power plant in Roghun. In addition, the TV channels often reported on the implementation of government policies, such as tree planting programmes, technological support for schools and job fairs for the unemployed. The president, in his official capacity, was also significantly covered in primetime programmes.¹⁴

On 10 February, the CCER informed the public about the allocation of free airtime to political parties in *Tojikiston TV*.¹⁵ Each registered party will be granted their free airtime on a different day, according to the Tajik alphabetical order, starting on 18 February. On 12 February, the first presentations of single mandate candidates were aired by *Tojikiston TV*.¹⁶

The Dushanbe-based TV channel *SMT*,¹⁷ perceived by many interlocutors as pursuing an independent editorial line, was allocated a new frequency in 2009. However, the same frequency

¹¹ Art. 39, election law.

¹² *Asia Plus, Farazh, Narodnaya Gazeta, Millat and Vecherniy Dushanbe.*

¹³ State funded *Tojikiston TV, TV Safina and Jahonnamo TV.*

¹⁴ Including speeches held at a session of government (29 January), at the commemoration of the 85th anniversary of the Tajik police (6 February) and a speech of 5 January that was re-broadcast on 8 February. In all speeches, President Emomali Rahmon stressed the importance of citizens contributing to the financing of the Roghun project, by buying shares or by making donations.

¹⁵ Art. 39 of the election law provides for the allocation of free airtime in the amount of 30 minutes to political parties and 15 minutes for candidates in single-mandate constituencies during the pre-election period on state TV and radio.

¹⁶ There was no indication whether the candidate presentations were paid for or were part of the legally provided free airtime. The election law does not contain provisions regarding paid airtime and space.

¹⁷ Broadcasting regionally since 2007.

has been used by a Russian military base for re-broadcasting the Russian *First Channel*. As a result, potential viewers in the Dushanbe area are either unable to receive *SMT* or they receive it in poor quality. Representatives of the State Committee for TV and Radio,¹⁸ on several occasions¹⁹ stated that the broadcasting of the Russian channel is permitted inside the military base only and any broadcasting outside the base is unlawful. However, the Ministry of Transport and Communications, which appears to be the responsible body, has not yet been able to resolve the situation.

On 25 January, three judges, including two Supreme Court judges, filed lawsuits against the independent newspapers *Asia Plus*, *Farazh* and *Ozodagon*, requesting protection of their personal honour and dignity under the Civil Code²⁰ and claiming compensation for moral damages equivalent of approximately 900,000 EUR. The complaints were filed after the newspapers had published an open letter of a lawyer, who claimed that the three judges had taken arbitrary decisions and alleged the acceptance of bribes within the judiciary.²¹ The complainants also requested the suspension of the newspapers' activities until the court has reached a decision.²² These and similar recent lawsuits²³ against independent media prompted criticism by the OSCE Representative on Freedom of the Media.²⁴

VII. COMPLAINTS AND APPEALS

There have been few election-related complaints officially submitted to election commissions and courts, as compared to the number of alleged violations reported by electoral contestants. Some opposition parties express to the OSCE/ODIHR EOM that they lack trust in election commissions and courts to impartially and effectively consider election-related complaints. Some electoral contestants also indicated a reluctance to make formal complaints, in order to avoid negative repercussions from the authorities. Instead, they attempted to settle disputes in an informal manner. The OSCE/ODIHR EOM has observed that electoral contestants also find it difficult to prepare written complaints in a proper format, with the necessary factual detail, legal argument, and reference to supporting evidence.

There is an apparent uncertainty among stakeholders as to the correct procedure for submitting election-related complaints. Article 20 of the election law provides that complaints against election commissions should be submitted to higher commissions or to a court. However, in some cases, complainants submitted cases against DEC's to the same DEC's. In one case, the CCER referred a complainant to a DEC, when by the law the CCER was the proper body to consider the case.²⁵ Also, complaints were submitted to the CCER regarding administrative offences, such as campaign interference, which would more appropriately be filed with the prosecutor's office.

¹⁸ The State Committee for TV and Radio has the legal obligation to oversee the broadcast media. The chairperson of this committee also chairs the Licensing Commission, the state body which grants broadcasting licences.

¹⁹ This information was provided in a meeting with the OSCE/ODIHR EOM (2 February) and in the media (15 January and 6 February).

²⁰ Art. 170 to 174, Civil Code.

²¹ The letter was published on 19 January in *Farazh* and in *Asia Plus* and *Ozodagon* on 20 January.

²² Based on Art. 142-143 of the Civil Procedure Code.

²³ Similar cases involved the Dushanbe city court, which on 27 January upheld a decision of the *Firdausi* district court against the newspaper *Paykon* and ordered it to pay 300,000 *somoni* (some 50,000 EUR) to the state agency *Tajikstandard* in moral damage. In another instance, the Ministry of Agriculture filed a lawsuit on 26 January against the newspaper *Millat*, requesting 1 million *somoni* (about 167,000 EUR) in moral damages.

²⁴ Press Release issued on 8 February 2010, http://www.osce.org/fom/item_1_42678.html.

²⁵ These cases all related to DEC decisions on composition of PECs.

The OSCE/ODIHR EOM is aware of ten complaints submitted by political parties, candidates or citizens to the CCER, four to DEC's, and of one first instance court case. To the OSCE/ODIHR EOM's knowledge, the IRPT is the only party that has so far utilized the formal complaint procedures. The complaints to DEC's relate to the refusal by DEC's to appoint IRPT members to PECs.²⁶ The election law does not guarantee inclusive political representation on PECs. In one of these cases, a DEC interpreted the election law as not permitting party members on PECs.²⁷ However, it apparently was not consistent in its interpretation of the law, as PDPT and CPT have party members as PEC members in the district. Several IRPT complaints to the CCER claim that local government officials are unduly interfering in the work of election commissions and hindering IRPT campaign activities. Several self-nominated candidates complained to the CCER that a regional governor instructed subordinates to ensure the election of a PDPT-nominated candidate. The court case concerned denial of candidate registration due to invalid signatures. None of these complaints dealt with by the election commissions and court has so far been successful.

The election law requires the CCER to make official decisions on complaints, voted on by members in open session.²⁸ However, until now, the CCER has not decided on complaints in a collegial and transparent manner.²⁹ Complaints are dealt with using *ad hoc* procedures whereby the Head of the CCER Complaints Working Group³⁰ apparently reviews the complaint, determines an appropriate response, and depending on his assessment of its "difficulty" or "seriousness", may consult with other commission members or administrative staff.³¹ Formal complaints have so far been responded to by a letter, signed by the CCER Chairperson, rather than by a formal decision.³² This manner of dealing with complaints effectively undermines the collegial status and inclusive composition of the election commission, as well as the principle of transparency. Furthermore, the lack of official CCER decisions on complaints may undermine the right of complainants to further appeal to court.

VIII. PARTICIPATION OF WOMEN AND MINORITIES

For the upcoming parliamentary elections, 17 women have been registered in single-mandate constituencies out of 153 candidates (11 per cent). Fifteen women have been registered on party lists out of 73 candidates (21 per cent).

Participation of women in the election campaign is generally low. However, some female candidates have been very active in campaigning, stressing gender issues and the role of women

²⁶ The complaints expressed particular concern that the voting and counting would not be conducted in accordance with democratic principles, thus there is a need for greater transparency through broad political representation. Some complaints also included threats to boycott the elections or not to acknowledge the election results if the respective party members were not appointed to the PECs.

²⁷ It referenced the requirement in Article 18 of the election law that PEC members must be neutral and impartial; however, this provision does not prohibit political party members from serving on PECs.

²⁸ Articles 12(17) and 19, election law.

²⁹ The OSCE/ODIHR EOM also observed instances of DEC's not considering complaints in a collegial and transparent manner.

³⁰ CCER Decision No. 6, dated 16 December 2009, establishes a Complaints Working Group composed of eight CCER commission members (headed by the Deputy Chairperson of the CCER), responsible for the consideration of complaints. However, the decision does not outline any procedures detailing the internal process for handling and consideration of complaints.

³¹ The head of the Complaints Working Group noted to the OSCE/ODIHR EOM that he did not consider any of the complaints to be serious. Generally, there has been insufficient investigation into cases.

³² The letters do not address all issues raised in complaints and do not provide adequate factual and legal reasoning. Complainants are not notified of their right to appeal to the Supreme Court.

in society along with their party platform. PDPT and IRPT informed the OSCE/ODIHR EOM that they have women's branches as well as women in the top management positions.

Article 9 of the Gender Equality Law adopted in 2005 *inter alia* provides for equal opportunities for men and women in establishing election commissions,³³ but it does not provide any specific legally binding minimum share of women members on election commissions.

The CCER includes a chairperson, deputy chairperson and 13 members, 3 of whom are women. Of 41 DEC, 4 are headed by women, 2 of them in Dushanbe. Women occupy 10 per cent of leadership positions on DECs as chairpersons, deputy chairpersons or secretaries. Fifteen per cent of DEC members are women.

Minority issues have, so far, been absent from the electoral campaign. All political parties informed the OSCE/ODIHR EOM that they plan to produce election-related materials in minority languages and use them when meeting voters. The OSCE/ODIHR EOM observed such materials in Sughd region and in Dushanbe.

In most of the country, DECs covering areas with a significant minority population informed the OSCE/ODIHR EOM that ballots will be printed in minority languages.³⁴ As regards DEC composition, no information on ethnicity is readily available. So far most observed DECs covering minority areas included up to 50 per cent of minority representatives.

IX. OSCE/ODIHR EOM ACTIVITIES

During the reporting period, the OSCE/ODIHR EOM continued its regular activities, including meeting with senior state officials, representatives of political parties, self-nominated candidates, representatives of the judiciary, the election administration, the media and civil society. A briefing for representative of diplomatic missions and international organizations accredited in Tajikistan was conducted on 4 February. Long-term observers continue to observe electoral preparations and the campaign in the regions, and are preparing for the deployment of short-term observers. The OSCE/ODIHR EOM has also maintained regular contact with the resident OSCE Mission. It has also been co-ordinating with the OSCE Parliamentary Assembly (OSCE PA) and the European Parliament, who will join efforts for election day observation. Ms. Pia Christmas Møller, Vice-President of the OSCE PA, has been appointed Special Co-ordinator by the OSCE Chairman-in-Office, to lead the OSCE short-term observer mission.

³³ Article 9, Gender equality law: "The Constitutional principle of equal rights and equal opportunities for men and women shall be applied in the process of the establishment of the Central Commission on Elections and Referenda, and oblast, city, rayon and district election commissions."

³⁴ The CCER is responsible for ballot printing and DECs submit a request including the overall number of ballots as well as the number of ballots required in minority languages for the respective constituency. Ballots for five districts in the Sughd region are printed in Uzbek language, for one district in Gorno-Badakhshan in Kyrgyz, and for Chkalovsk and the four Dushanbe districts in Tajik, Uzbek and Russian.