

## **OSCE ELECTION OBSERVATION MISSION**

### **The Kyrgyz Republic — Pre-term Parliamentary Elections, 16 December 2007**

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#### **STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS**

**Bishkek, 17 December 2007** – The OSCE Election Observation Mission (EOM) for the 16 December pre-term parliamentary elections in the Kyrgyz Republic is a joint undertaking of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the OSCE Parliamentary Assembly (OSCE PA).

This statement of preliminary findings and conclusions is delivered prior to the completion of the election process, including the tabulation and announcement of final results, the handling of possible post-election day complaints or appeals, and the instalment in office of the newly elected members of parliament.

The election is assessed in line with OSCE commitments contained in the 1990 Copenhagen Document, and also in relation to national legislation. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the election process. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for improvements, approximately two months after the completion of the election process.

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#### **PRELIMINARY CONCLUSIONS**

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The 16 December 2007 pre-term parliamentary elections in the Kyrgyz Republic failed to meet a number of OSCE commitments. This was despite respect for some commitments that underscore existing pluralism. If the progress evident during the 2005 presidential election is to be underpinned, further efforts and political will are necessary.

Overall the election represented a missed opportunity, and fell short of public expectations for further consolidation of the election process. Legal actions taken against specific parties contributed to a failure to fully uphold a pluralistic election environment. Voting took place in a generally calm environment, but counting and tabulation challenged transparency and accountability in this election process.

The field of contestants offered voters a diverse choice of 12 political parties, but candidate list registration procedures were at times unequally applied and not fully inclusive. While freedom of assembly was generally respected, limitations were introduced in the capital Bishkek by a decision of the local city council.

The media did not provide adequate information for voters to make an informed choice. In particular, State television and radio (KTR) did not meet its obligation to comprehensively inform the public about contestants. While respecting election code provisions for allocation of free airtime, it only provided limited coverage, albeit equal, amounting to some 25 minutes for each party. This coverage was aired after 23:00 hours and only on 7 out of the 19 days of the official campaign. In addition, parties faced difficulties purchasing airtime. Some challenged this in courts to receive late and limited redress.

Implementation of legal provisions and court decisions, including on candidate registration, although formally respecting domestic legislation overall, ran contrary to rule of law principles as set out in Paragraph 2 of the 1990 OSCE Copenhagen Document. This paragraph states that the rule of law “does not mean merely a formal legality” but justice “guaranteed by institutions providing a framework for its fullest expression”.

The pre-term parliamentary elections were held under a new election system, including unusual provisions for translating votes into parliamentary seats. This required parties to pass two separate thresholds determined as percentages of all registered voters nationwide. Thus, the election system has the potential to defeat the objective of proportional representation. In addition, if no party qualifies, the elections will have to be repeated and could lead to an endless cycle of failed elections. Representatives of the authorities argued that this unconventional system was designed to stabilize the country.

The new legal framework included ambiguous provisions, which the Central Election Commission (CEC) attempted to clarify through resolutions, some of them unusual and with significant implications. Specifically, the CEC resolution defining the calculation of the 0.5 per cent regional threshold on the basis of registered voters nationwide was challenged in the courts. The lack of a final decision prior to election day created an environment of uncertainty in the electoral process. This was further augmented by a lack of a CEC resolution determining to which oblast to allocate the out-of-country votes.

Additional positive aspects of the election process included:

- The CEC generally worked in an open manner, although certain key discussions were held behind closed doors.
- Political parties were involved to some degree in the election administration, contributing to transparency.
- All challenges to the courts took place within legal deadlines and were heard in public.
- The introduction of a new gender quota on candidate lists should address the issue of women’s representation in parliament.
- The introduction of a quota for youth and different nationalities is the first time that youth and nationalities are explicitly recognized in the election code.
- The election campaign was largely free of violence.

The following shortcomings were also noted:

- The short timeframe between adoption of a new electoral framework and these elections compounded challenges for political parties to compete effectively.
- The Pervomaiskiy District Court de-registered the leader of the candidate list of the Social Democratic Party of Kyrgyzstan (SDPK) on spurious grounds, in the very early hours of election day.
- The CEC de-registered an SDPK candidate without respect for the presumption of innocence, as contained in paragraph 5.19 of the OSCE Copenhagen Document.
- The CEC’s denial of registration to the *Rodina* party, and subsequent court proceedings, highlighted procedural inconsistencies and had a negative impact on inclusiveness.
- Confidence in the process was undermined by actions of the CEC and widespread allegations of abuse of administrative resources in favour of the *Ak Jol* party.
- Inconsistency in compiling the voter lists was of particular concern, compounded by the need to improve their accuracy.

- The CEC did not publish disaggregated data by polling station on election day.
- The CEC management of the *GAS Shailoo* system, both with regard to public scrutiny of the voter list and tabulation of polling station data from the count, failed to meet the objective of enhancing transparency.

Election code provisions put undue limitations on the right to seek public office and lacks provisions for independent candidates. It also gives ownership of individual parliamentary mandates to political parties, providing party leaderships with a disproportionate control over deputies elected by popular vote. These provisions challenge OSCE commitments.

Party and civil society observers were extensively present at polling stations throughout the election day, enhancing transparency, but unauthorised persons had also a significant presence contrary to rule of law. In some 50 cases OSCE EOM observers were prevented in conducting their duties despite an overall good cooperation with the authorities.

While opening and voting procedures were assessed positively by observers in some 90 per cent of observations, problems were noted including ballot box stuffing, organized transportation of voters, and inconsistent checking and application of ink as a safeguard against multiple voting. The assessment of counting showed a deterioration of the process, as some 30 per cent of observations were overall negative. This resulted largely from undue delays in the start of counting of ballots, a lack of uniform application of procedures, and signing polling station protocols before protocols were completed. This further deteriorated in higher level election commissions, as indicated by a delayed announcement of nationwide turnout figures and preliminary party totals.

The OSCE/ODIHR and the OSCE PA stand ready to continue to support the authorities, political parties and civil society of Kyrgyzstan in their efforts to improve the electoral process, in line with OSCE commitments for democratic elections.

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## PRELIMINARY FINDINGS

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### Background

Following two years of political instability, including street demonstrations in autumn 2006 and spring 2007, and significant disputes over the process of amending the 2003 Constitution and the existing election code, President Bakiev called a referendum on a new Constitution and election code for 21 October 2007. While the authorities announced the referendum a success, representatives of the international community expressed concern with regard to its conduct. Immediately following this referendum, President Bakiev dissolved parliament on 22 October and on 23 October called pre-term parliamentary elections for 16 December. The OSCE/ODIHR undertook a Needs Assessment Mission on 5 and 6 November and all interlocutors welcomed the deployment of an election observation mission<sup>1</sup>.

### Election System and Legal Framework

For the first time in Kyrgyzstan, all 90 deputies to the unicameral parliament (*Jogorku Kenesh*) will be elected on the basis of a system of proportional representation, with closed

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<sup>1</sup> See OSCE/ODIHR Needs Assessment Mission report:  
[http://www.osce.org/documents/odihr/2007/11/27920\\_en.pdf](http://www.osce.org/documents/odihr/2007/11/27920_en.pdf)

party lists, in one nationwide constituency. Deputies will serve five-year terms. While proportional representation is broadly used in the OSCE region, conditions set by the Kyrgyz legislation for eligibility of parties to participate in the seat allocation are unusual.

In order to qualify for seat allocation, a party needs to win sufficient votes to pass two separate thresholds. The first one is a five per cent national threshold calculated on the basis of all registered voters nationwide. The second one is an additional 0.5 per cent threshold that a party needs to overcome in each of the nine regions (oblasts). As the election code does not clearly specify how this second threshold should be determined, on 19 November the CEC issued a resolution that the 0.5 per cent threshold would also be calculated on the basis of the number of all registered voters nationwide. If no party qualifies, the elections will have to be repeated. Thus, the system allows potentially for an endless cycle of failed elections.

Despite general support for the introduction of a fully proportional representation system, political parties voiced concerns with regard to the hasty call for new elections. Parties indicated their need for more time to prepare themselves to effectively compete under the new system. The lack of a comprehensive public debate about the draft legislation submitted to referendum would appear not to be fully consistent with Paragraph 5.8 of the OSCE Copenhagen Document, which foresees a public procedure before adoption of new legislation. It is also considered good practice to hold elections only after a reasonable time period after fundamental amendments to election legislation, in order to permit stakeholders to accustom themselves to a new framework.<sup>2</sup>

The election code (Art. 40) allows voters to vote “against all” candidate lists, without requiring voters to make a positive choice for an option. While the code fails to clarify the consequence if the votes “against all” pass both thresholds, it stipulates that if “against all” receives the highest number of votes cast, the elections must be repeated with new candidate lists. This provision also allows the possibility of an endless cycle of failed elections.

The election code stipulates that only parties may nominate candidates and offers no possibility for independent candidates. This limits the right of individuals to stand for office provided for in Paragraph 7.5 of the OSCE Copenhagen Document.<sup>3</sup> It also establishes that parliamentary deputies lose their mandate if they leave the party, are dismissed from it, or if the party “ceases its activity”. This provides party leaderships with a disproportionate control over deputies elected by popular vote and challenges the commitment that candidates who obtain the necessary number of votes required by law are permitted to remain in office until their term expires.<sup>4</sup>

In a positive development, the election code introduced quotas enhancing gender equality, youth participation and participation of various nationalities, which, if implemented properly, could improve the representation of these groups in parliament. Article 72.3 of the election code requires that no more than 70 per cent of the candidates in each list be of the same gender, and that a maximum of three consecutive candidates be of the same gender. It further

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<sup>2</sup> See European Commission for Democracy Through Law’s (Venice Commission) *Code of Good Practice in Electoral Matters*. 52<sup>nd</sup> Session, 18-19 October 2002.

<sup>3</sup> “[The participating States will] respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”.

<sup>4</sup> OSCE Copenhagen Document, 1990, Paragraph 7.9.

requires that 15 per cent of the candidates in each list be below 35 years of age and no less than 15 per cent representing various nationalities.<sup>5</sup>

In general, the election code contains inconsistencies and unclear provisions. It fails to address a number of past recommendations made by OSCE/ODIHR. While some of the shortcomings indicated previously have lost relevance due to changes in the electoral system, others have been compounded by new provisions. The arbitrary, and at times restrictive, implementation of vague provisions by the CEC had a further negative effect on the process.

### **Party and Candidate Registration**

In order for political parties to register for these elections, they were required to submit candidate lists to the CEC containing no less than 90 and no more than 100 names. This provision, preventing the submission of candidate lists with less than the number of available mandates, represents an unreasonable hurdle. The election code (Art. 72.5) prohibits changes to candidate lists following submission; only if candidates were withdrawn was it possible for parties to replace them. This proved problematic during the registration process.

On 20, 23 and 27 November and in line with the election code (Art. 27.11), the CEC published the registered party candidate lists in the state newspaper, *Erkintoo*.<sup>6</sup> The process of party and candidate registration by the CEC was, at times, inconsistent and lacking inclusiveness. Registration was granted to 12 of the 19 parties that sought to run in the election.<sup>7</sup> Six of the remaining seven parties had registration denied due to lack of compliance with the gender distribution provision (EC Art. 72.3). However, the candidate list of one party that failed to comply with this provision was registered.

One of the parties denied registration was *Rodina*, perceived by some interlocutors as being affiliated with the Uzbek nationality in Kyrgyzstan. The party was initially refused registration by the CEC on the basis that the Kyrgyz citizenship of 16 of its candidates could not be determined, thus failing to comply with the required minimum number of candidates (election code Art. 25.3). Notwithstanding the subsequent confirmation of citizenship for all candidates concerned by the Department of Passport and Visa Control, the CEC's refusal of registration was supported by the court. The court opined that the party list would not include the required number of candidates because of candidate withdrawals, which the party claimed were coerced.

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<sup>5</sup> With regard to this issue, the following correction has been made to the OSCE/ODIHR EOM Interim Report No. 1, published on 2 December 2007: The last sentence of paragraph 3 of section 4 on page 3 should read "... and quotas for ethnic groups and for youth (15 per cent each) "".

<sup>6</sup> With regard to this issue, the following correction has been made to the OSCE/ODIHR EOM Interim Report No. 1, published on 2 December 2007: Sentence two and three of paragraph 6 of section 7 on page 5 are deleted.

<sup>7</sup> The 12 registered parties were: *Aalam* (Universe – Party of Non-Party Members), *Ak Jol* (Bright Path), *Ar-Namys* (Dignity), *Asaba* (Banner), *Ata Meken* (Motherland), *ErK* (Free Kyrgyzstan), *Erkendik* (Freedom), *Glas Naroda* (The Voice of the People), *Novaya Sila* (New Force), Party of Communists of Kyrgyzstan (PCK), Social Democratic Party of Kyrgyzstan (SDPK), *Turan* (an old Iranian name for Central Asia). The 7 parties refused registration were: the Communist Party of Kyrgyzstan in the CPSU (CPK), the Peasants' (Farmers') Party of Kyrgyzstan, the Green Party of Kyrgyzstan, the Party of War Veterans in Afghanistan and Participants of other Local Battle Conflicts, *Rodina* (Fatherland), *Taza Koom* (Clean Society), and *Zamandash* (Compatriot).

All refusals of registration by the CEC were appealed to the court of first instance. In all seven cases, the court upheld the CEC's resolutions. Five parties appealed further, to the Supreme Court, which in all cases upheld the decision of the first instance court.

The CEC de-registered certain candidates after the registration of party lists. This skewed the gender ordering in some lists. Some candidates were de-registered by the CEC because they did not provide documents demonstrating that they had resigned from or suspended any employment incompatible with candidate status. However, the CEC did not provide a clear explanation as to which posts were not compatible with candidate status.

Mr. Edil Baisalov, an SDPK candidate, was de-registered as a candidate and excluded as a member with advisory vote of the CEC by two CEC resolutions dated 4 December. Deregistration of Mr. Baisalov was triggered by an image of a ballot that appeared on Mr. Baisalov's web-log (blog), following his visit to the printing house where ballots were printed. The CEC argued that Mr. Baisalov had revealed the security features of the ballots and by this obstructed the conduct of the elections. According to Mr. Baisalov, his intention was to show the lack of security features on the initial print run of ballots.

Both resolutions were issued on questionable legal grounds and were adopted before he was proven guilty by a court of law thereby undermining the presumption of innocence and challenging Paragraph 5.19 of the OSCE Copenhagen Document. Furthermore, according to the election code, the CEC could have permitted the prosecution of a candidate, if requested, rather than taking the position of a tribunal itself, thus undermining due process.

Mr. Omurbek Babanov, the leading name on the SDPK candidate list, was de-registered by the Pervomayskiy District Court in Bishkek in the very early hours of election day. The court decided on the basis of an appeal by a private citizen who claimed to have information calling into question Mr. Babanov's Kyrgyz citizenship. While Mr. Babanov previously served as a deputy in the Kyrgyz parliament, the court established that he is not eligible to stand for office. The CEC argued in court that this de-registration came after the respective legal deadlines as established by Article 56 of the election code had expired.

## **Complaints and Appeals**

The election code establishes several complaint venues for election related complaints, including superior election commissions, courts, prosecutors and the police. Before election day, the CEC received a number of complaints, but in the period observed has not reviewed any complaints in open sessions. The CEC has responded to some complaints by letter, signed by the CEC Chairperson, members or staff. However, as the CEC is a collegial body, and although it can assign members and staff preparatory work on responding to complaints, decisions on complaints should be taken by a vote of the CEC.

The courts have heard a number of election-related cases, including those on non-registration of candidate lists. Court cases were heard within the legal deadlines and in the presence of OSCE/ODIHR EOM observers. Most notably, in relation to Mr. Baisalov, the General Prosecutor's Office and the CEC sued the SDPK for damages incurred by the State in printing a second run of ballots. The court decided in favour of the plaintiff and ordered the SDPK to reimburse over 20 million Kyrgyz Som (approx. EUR 400,000) to the CEC. The investigation to determine the guilt of Mr. Baisalov in the alleged wrongdoing is still ongoing. It appeared

that some of the court decisions were politically motivated and contrary to the principles of rule of law as committed to in Paragraph 2 of the OSCE Copenhagen Document.

### **Election Administration**

The elections were administered by a four-tiered election administration, headed by the CEC, comprising seven Oblast Election Commissions and the Bishkek and Osh City Commissions (OECs), 56 Rayon and Town Election Commissions (RECs), and 2,274 Polling Station Election Commissions (PECs), in and out of the country.

The CEC's sessions were generally conducted in an open manner and were attended by representatives of the media and political parties, as well as domestic and international observers. However, the CEC also held meetings behind closed doors, and during at least one held on 4 December, it discussed important election issues.

In accordance with the election code (Article 10.1.1), the CEC is tasked with ensuring its uniform implementation. However, this provision appeared to have been utilized by the CEC to issue far reaching resolutions, including the determination of calculating the 0.5 per cent threshold on the basis of the number of registered voters nationwide. This particular resolution was criticized by ten parties in an open letter to President Bakiev. The *Ak Jol* party, affiliated with the President, challenged this in the Bishkek inter-district court, which upheld the resolution. A further appeal by *Ak Jol* was also not successful. The party then appealed to the Supreme Court; however, by election day, the Supreme Court had not heard the case.

The RECs and PECs were generally formed within legal deadlines. PECs seemed prepared for election day, although some operated under difficult conditions, with insufficient logistical and technical support from local authorities and higher level commissions as required by law. The CEC established 38 out-of-country precincts that, as of 5 December, included 29,614 voters. In addition, the CEC adopted a resolution on 17 December permitting mobile voting in places qualified as "locations frequently attended by Kyrgyz citizens". A CEC member publicly elucidated that that PECs abroad would each undertake their own decisions on mobile voting in such places.

### **Voter Registration**

All citizens of Kyrgyzstan eligible to vote should be included in voter lists (VL) on the basis of registered place of residence and are to be included in only one polling station VL. Voter registration for these elections made use of a computerized voter database, *GAS Shailoo*, which is maintained in the CEC. Information is to be regularly updated by system administrators, who receive updated voter data from passport desks and local authorities. Throughout the whole pre-election period and in contrast to past elections, voters could not check their voter list details on the CEC website.

On 29 November, the CEC declared the total number of voters to be 2,689,341. Voter lists were organised by alphabetic order or by address and should have been available at PECs in country for public scrutiny by 28 November. Spot checks by the OSCE/ODIHR EOM at a number of PECs indicated that few had received the voter lists by this date and that some PECs were closed during working hours. These spot checks, however, still identified a limited number of potential multiple records, within the same polling stations.

The election code (Article 22.10) provides that voter lists are to remain unchanged from the moment they are signed and stamped by heads of local administrations and submitted to the PECs. Nevertheless, a number of PECs visited by the OSCE/ODIHR EOM were undertaking door-to-door checks, sometimes together with local authorities, with a view to amending the voter lists. A number of PECs and local authorities visited mentioned that voters' names could be deleted from voter lists on the basis of their *de facto* absence from their registered place of residence. A few days before the elections, OSCE/ODIHR observers saw what appeared to be newly reprinted voter lists, although the respective receipt protocols for these lists had been dated 28 November.

## **Election Campaign**

The election campaign remained relatively low key throughout the entire campaign period and took place in a calm environment. However, many parties met by the OSCE/ODIHR EOM voiced concerns over the shortened election timeframe. This was coupled with significant recent changes in the political landscape, including the formation of the *Ak Jol* party in October 2007, and affected their abilities to organize their campaigns and reach out to large segments of the electorate.

Confidence in the efficiency and neutrality of election commissions, courts and law-enforcement agencies appeared low amongst parties. On 6 December, a number of political parties and NGOs publicly expressed their lack of confidence in the CEC, due to the perceived failure by the latter to ensure that all political parties participate in the election process on equal terms in “the atmosphere of freedom, free of intimidation and pressure on electoral stakeholders”.

The OSCE/ODIHR EOM received allegations of pressure on and intimidation of certain segments of the electorate. In particular, OSCE/ODIHR observers received reports about pressure exerted on teachers and students in Jayil, Kyzyl Kyya, Naryn, Osh, Sokuluk and Talas. In several instances this included the threat of loss of employment and expulsion from educational establishments. Allegations of pressure on private owners to terminate rent agreements with political parties occurred in Batken, Chui and Osh oblasts. Allegations of intimidation of party activists and candidates were reported to the OSCE/ODIHR EOM in Batken, Chui, Jalal-Abad and Osh oblasts.

Campaigning by the local administration in favour of *Ak Jol* was observed by the OSCE/ODIHR EOM in some instances. Campaign material in favour of *Ak Jol*, in the form of flags, posters and leaflets, was observed in official premises of local authorities and election administrations in Chui, Issyk-Kul, Jalal-Abad and Osh oblasts. In addition, several allegations of the abuse of administrative resources by *Ak Jol* were made in Batken Chui, Issyk-Kul, Jalal-Abad, Osh and Talas oblasts.

Local authorities in Balykchy, Osh and Ton did not meet their responsibilities in allocating official places for posters as set out in election code Article 35.3. This, combined with the inability of some parties to rent billboard space, effectively increased the visibility of one party. The wide network of offices set up for these elections, coupled with the use of innovative campaign techniques, including mobile text messaging, ensured a visible and assertive campaign by *Ak Jol*. Conversely, some other parties appeared restricted in some of their campaign activities. In particular, the leader of *Ata Meken* appealed to the Ministry of

Interior and the General Prosecutor's Office regarding *Ata Meken's* vehicles with loudspeakers being pulled over by the traffic police.

Freedom of assembly was generally respected, however limitations were imposed in Bishkek by decision of the local city council, limiting public meetings. This decision introduced a 10-day notification period, effectively making public meetings impossible during the remainder of the campaign. It was officially published in the state newspaper *Erkintoo* on 7 December. It appears that this decision is not in line with the Constitutional Court ruling of 14 October 2004. One party's request for a meeting in Bishkek was refused on the basis of this decision.

## Media

Media coverage of the campaign was of concern; overall the media offered limited coverage of the political campaign which was not sufficiently diverse and balanced to enable voters to make informed choices on election day. News coverage on main TV stations focused extensively on the activities of the authorities including the President, and State and local government, indirectly benefiting the party *Ak Jol*, broadly perceived to be closely associated with these institutions.

During the campaign period, President Bakiev made appearances in the State media: on 13 December in a live programme on KTR and on 14 December in the newspaper *Vecherny Bishkek*. The President answered citizens' questions and called on citizens to vote. He also discussed the inception of the *Ak Jol* party and expressed his wishes for a constructive opposition in the future parliament. The TV programme lasted nearly two hours and was broadcast during prime time at 20:00 hours.

The OSCE/ODIHR EOM's media monitoring<sup>8</sup> found that State TV gave all parties an equal, albeit limited, amount of free airtime. Aside from official programmes and broadcasting of voter information, it devoted little airtime to the campaign during regular news reporting.

Free airtime on KTR was only broadcast for 7 out of the 19 days of the official campaign. It was broadcast simultaneously on State TV and radio from 4 to 12 December and only after 23:00 hours. In total, each party had only 25 minutes of free airtime on state TV during the whole campaign. Free printed space, barely half an A4 format page per party, was published once (7 December) in the two state newspapers, *Slovo Kyrgyzstana* and *Kyrgyz-Tuusuu*.

KTR did not meet their obligation to provide voters with adequate information on the elections or fair and balanced coverage of the campaign. State TV devoted over 76 per cent of coverage to the authorities, and some 5 per cent to *Ak Jol* (mostly neutral or positive). In contrast, *SDPK* received some 6 per cent of coverage (mostly negative) and *Ata Meken* about 6 per cent (overwhelmingly negative). The main news edition of State radio gave some 76 per cent of coverage to the authorities, and 16 per cent to *Ak Jol*. The OSCE/ODIHR EOM's monitoring of KTR paid airtime showed that *Ak Jol* bought 44 per cent of the total time sold, *Turan* 17 per cent, *Ata Meken* 12 per cent, *Aalam* 11 per cent, and *SDPK* 7 per cent. In all monitored TV channels, *Ak Jol* bought some 49 per cent of the total sold airtime, *Turan* 17 per cent, *SDPK* 16 per cent, with the remainder divided among other parties.

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<sup>8</sup> The OSCE/ODIHR EOM monitored the campaign coverage in 6 TV channels (*KTR*, *ElTR*, *Channel 5*, *Pyramida*, *NTS*, *NBT*), 2 radio stations (*KTR*, "Azattyk") and 12 newspapers (*Aalam*, *Agym*, *Kyrgyz Tuusu*, *Erkin Too*, *De Facto*; *Slovo Kyrgyzstana*, *Vecherni Bishkek*, *MSN*, *Delo Nomer*, *Komsomolskaya Pravda*, *Argumenti I Fakti*, *Litsa*).

*SDPK*, *Asaba*, and *Ata Meken* contested the manner in which paid time for campaigning was distributed on KTR TV. These parties alleged that they were unable to sign contracts for campaign advertisements during prime time (identified by election code Art. 32.1 from 20:00 to 24:00). *Ata Meken* won a court case against KTR on this issue on 7 December. However, KTR did not implement the court's decision and *Ata Meken* appealed to the Supreme Court, which upheld the first decision on 13 December. Subsequently, the OSCE/ODIHR EOM observed some 10 minutes of paid advertisements of *Ata Meken* during prime time on KTR TV on the last days of the campaign, while *SDPK* had only 4 minutes and *Ak Jol* one hour and 11 minutes during the whole campaign period.

Coverage by private TV channels showed a similar bias. In the main private TV *Channel 5*, combined coverage of the authorities and *Ak Jol* approximated 56 per cent of the total political time. *SDPK* received some 18 per cent, but almost 65 per cent of it was negative reporting. In total, on all other monitored TV channels, combined coverage of the authorities and *Ak Jol* was almost 70 per cent.

Newspapers offered a measure of diversity of views, but their impact in the country is limited due to cost and distribution possibilities. Their coverage also focused overwhelmingly on activities of the authorities. Newspapers devoted the majority of their political space, some 60 per cent, to the activities of the authorities (and a further 13 per cent to *Ak Jol* party), apart from paid space provided to political parties.

### **Participation of Women and National Minorities**

According to the Constitution men and women are to enjoy equal rights, freedoms and opportunities. As per the new gender quota, some 39 per cent of registered candidates were women. Yet, women remain underrepresented in decision making posts: of 21 members of government, only 3 were women. In the election administration, 5 of 13 CEC members were women, including the Chairperson. Of 56 RECs, 11 were chaired by women, and 1 of 9 OECs.

According to the 1999 National Population Census<sup>9</sup>, the majority population of Kyrgyzstan are Kyrgyz, some 65 per cent. The second largest group are Uzbeks, some 14 per cent, and the third largest group are Russians with 12.5 per cent. Other nationalities include Dungans, Germans, Kazakhs, Koreans, Tajiks, Tatars, Turks, Uighurs, and Ukrainians. The new 15 per cent quota for various nationalities may increase their representation in the new parliament.

### **Domestic and International Observers**

According to the election code, international observers are accredited only if they have been invited by the President, Parliament, the government or the CEC. In this election, the CEC accredited 594 international observers from the OSCE/ODIHR, OSCE PA, the CIS, the Shanghai Cooperation Organization, international NGOs and bilateral delegations.

A number of domestic non-party election observation groups, such as the Coalition for Democracy and Civil Society, Citizens against Corruption, *Taza Shailoo*, *Interbilim* and others, observed both the pre-election period and election day throughout the country.

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<sup>9</sup> <http://www.stat.kg/Eng/Home/census.pdf>

## **Election Day**

During election day, OSCE EOM observers visited more than 800 polling stations and evaluated the work of PECs during voting as good or very good in over 90 per cent of cases. However, certain concerns and irregularities were identified, and the election process deteriorated significantly during the count, with observers evaluating this stage of the process as bad or very bad in some 30 per cent of cases.

Observers were present at the opening of 89 polling stations throughout the country, and evaluated the opening as good or very good in some 88 per cent. Ballot boxes were properly sealed before voting in all cases observed. Nevertheless, observers noted that in over 50 per cent of polling stations visited, the PECs did not fill out all the relevant sections of protocols, and did not properly record voters that had voted during the early voting period from 10 December. Unauthorized people were observed in some 23 per cent of cases.

Voting was assessed as good in some 90 per cent of polling stations. However, significant problems were observed, including 18 cases of ballot box stuffing, particularly prevalent in Jalal-Abad and Osh regions. In Bishkek, significant irregularities were noted at a polling station at the Kyrgyz National University, including the distribution of ballots to an unauthorized person. The organized transfer of voters by bus was observed in 21 cases. Unauthorized persons were noted in over 14 per cent of polling stations visited. Inking of voters was neither checked nor properly applied in some 15 per cent of polling stations visited. Political party information was not posted in over two thirds of polling stations as required by the law. On election day, party observers were noted as being present in all polling stations visited.

The quality and management of voter lists were of concern. At least two courts in Bishkek were overcrowded, with approximately one thousand people gathered around one to acquire the right to vote. What looked like identical signatures were noted on voter lists in some cases. However, access to voter lists was denied to observers in some 15 per cent of cases.

Observers assessed the organization of the count as bad or very bad in over 30 per cent of cases, with implications for transparency and accountability of the process. Significantly, in some 20 per cent of polling stations observed, the count did not start immediately after closing; in some of these the start of counting was delayed for more than an hour after closing. In some 20 per cent of observations, protocols were not completely filled in before being signed. In addition, over 13 per cent of protocols were not filled out in ink.

Also of concern was that over 47 per cent of PECs did not sign and seal the voter list and that the number of voters in the additional voter list was not counted and recorded in some 28 per cent of polling stations observed. In some 50 per cent of observations, it was noted that the voter's mark on the ballot was not shown to those present during the count. Unauthorized persons were observed in some 39 per cent of polling stations observed during the count, directing the work of the PEC in some 4 per cent. Deliberate abuse of procedures with regard to voter list entries and polling station protocols was noted in some 12 per cent of observations. Observers were hindered in their observation in some 12 per cent of cases. Observers also noted that there was a delay in transferring results protocols from PECs to RECs in some 16 per cent of cases. In some instances PECs visited local administrations before they went to the RECs.

The tabulation process was observed in about one third of RECs and generally evaluated badly. Inside REC premises, observers noted a general lack of transparency with tabulation often taking place in separate rooms to which observers and party representatives often did not have access. In several cases, observers were obstructed in their observation of the process, and in six instances observers were not allowed access to the RECs. Some issues in particular raise concern, including the presence of unauthorized persons, data entry into the tabulation spreadsheet in pencil, and cases of PECs making changes to their protocols at the REC without undertaking recounts. In some instances, problems were observed with the functioning of and data input into the *GAS Shailoo* electronic tabulation system.

From 18:00 hours on election day, the CEC did not provide any information about turnout or preliminary results. Disaggregated data of party totals by polling station were not published. Preliminary turnout figures and party totals were announced by the CEC for the first time at 08:00 hours on 17 December.

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### MISSION INFORMATION & ACKNOWLEDGEMENTS

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The OSCE/ODIHR Election Observation Mission opened in Bishkek on 21 November with 34 experts and long-term observers deployed in the capital and 7 regions. On election day, some 270 observers from 38 OSCE participating States were deployed, including a 26-member delegation from the OSCE PA. The OSCE Election Observation Mission visited over 800 polling stations out of a total of 2,236 in country, and counting in 74 polling stations and observed tabulation in 20 RECs.

Mr. Kimmo Kiljunen, a member of the Parliament of Finland, Vice President of the OSCE PA and Head of the OSCE PA delegation, was appointed as Special Co-ordinator by the OSCE Chairman-in-Office to lead the OSCE short-term observers, and Mr. Nikolai Vulchanov led the OSCE/ODIHR Election Observation Mission.

The OSCE/ODIHR and the OSCE PA wish to thank the Ministry of Foreign Affairs, the Central Election Commission, and other national and local authorities for their assistance and co-operation during the course of the observation. They also wish to express their appreciation to the OSCE Centre in Bishkek and other international organizations and embassies for their co-operation throughout the duration of the mission.

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