



ELECTION OBSERVATION MISSION **Republic of Kazakhstan – Early Presidential Election, 20 November 2022**

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The 20 November early presidential election took place in a political environment lacking competitiveness, and while efficiently prepared, the election underlined the need for further reforms to bring related legislation and its implementation in line with OSCE commitments to ensure genuine pluralism. The incumbent stood as the joint candidate of all parliamentary parties and, in effect, was not meaningfully challenged in a low-key campaign. The ability of citizens to participate in political life remains significantly constrained, with limitations on fundamental freedoms which narrow the space for critical voices. The election administration provided extensive voter information in the media, but scarce campaign coverage by the media and the virtual absence of analytical reporting, including online, limited voters' ability to make an informed choice. While election day was calm and voting procedures were largely followed, important safeguards were disregarded and substantial procedural errors and omissions were observed during counting and tabulation, undermining transparency.

The Constitution, the Election Law and other election related legislation were revised several times in recent years. While including notable technical changes on electoral participation of persons with disabilities, procedural basis for dispute resolutions by the election administration, and the introduction of administrative courts, previous ODIHR recommendations remain unaddressed and the legal framework is not fully consistent with international standards and OSCE commitments for democratic elections. Fundamental human rights and freedoms are constitutionally guaranteed, but continue to be restricted by subordinate legislation and in practice. Notwithstanding the introduction of measures aimed at limiting presidential powers, legislation still grants the head of state significant control over the electoral process. The September 2022 constitutional amendments altering the electoral system for the presidential election were not preceded by any public consultation.

The Central Election Commission (CEC) managed the electoral preparations efficiently in line with the legal deadlines. The CEC held open live-streamed sessions and published its resolution on the day of their adoption. Some ODIHR EOM interlocutors noted that the composition of election administration is not politically diverse and questioned its independence, in particular given the lack of genuine political differentiation between the nominating political parties. The ODIHR EOM positively assessed the attended training sessions organized for lower-level commissions; commissions were experienced and well equipped. The CEC conducted a nationwide comprehensive and inclusive voter awareness campaign in Kazakh and Russian. Several welcomed provisions facilitating access of persons with different types of disabilities were put in place.

Some 11.9 million voters were registered. Voter lists were available for public scrutiny. Restrictions on the right to vote for those with intellectual and psychosocial disabilities and all prisoners remain, contrary to OSCE commitments, international standards and prior ODIHR recommendation. Overall, ODIHR EOM interlocutors raised no major concerns with accuracy of the voter lists. Voters could be added to the voter lists on election day at polling stations without prior judicial oversight, at odds with international good practice. Nevertheless, for the first time, with the aim to prevent multiple voting, voters' registration status had to be verified through the eGovernment portal.

The eligibility requirements for presidential candidates are overly restrictive, unreasonably limiting the constitutionally guaranteed right of citizens to stand for elections. Amongst others, requirements

concerning education, residency, experience in the civil service or elected government office, are at odds with OSCE commitments and other international standards. Contrary to OSCE commitments, independent candidates are not allowed to run for election. Out of 12 nominees, the CEC registered 6 candidates, including 2 women. Four nominees, out of whom one was denied registration, did not meet the eligibility requirements, and two prospective candidates failed to collect the required number of signatures.

The online and in-person campaign was low-key, generated limited public engagement and lacked a genuine competitive nature. None of the contestants convincingly challenged the incumbent's policies, limiting the choice for voters. Messages related to 'Fair Kazakhstan' dominated the campaign discourse; on social networks, topics were more diverse. Legislation provides for specially designated places for outdoor campaigns, nevertheless their numbers and capacity are limited. No registered candidate raised concerns regarding freedom of assembly but civil society and some opposition representatives noted lack of opportunities to engage in peaceful assemblies of political nature.

The Constitution prohibits gender-based discrimination; nevertheless, the specific measures to promote women's participation are limited and women remain under-represented in public and political life. Women currently hold 28 out of 107 seats (26 per cent) in the lower chamber of the parliament, 2 out of 22 ministerial positions and none out of 20 posts of regional *Akims*. Two out of six candidates were women. Gender issues did not prominently feature in the campaign. At the same time, women are well-represented among the judiciary, at district and regional courts, and lower-level election administration.

The Election Law provides for public and private funding of election campaigns. Public funds are administered by election commissions. The CEC, as campaign finance oversight body, published aggregated information on candidates' campaign incomes and expenditures prior to election day. Expenditures from public funds are not disclosed at all, but according to the CEC may be provided upon citizens' request. Sanctions for breaches of campaign finance rules, such as deregistration of candidates and invalidation of election results, are not proportionate and legislation allows for wide discretion in their application. No sanctions were applied for this election. The CEC does not conduct an audit of campaign finance reports, as it is not required by the electoral legislation, making the campaign finance oversight ineffective.

Freedom of speech and access to information guaranteed by the Constitution is limited by the restrictive legal framework and its uneven implementation. Combined with cases of intimidation and attacks against journalists, this results in self-censorship and lack of scrutiny. All TV stations monitored by the ODIHR EOM respected legal provisions for equal coverage in the news, but refrained from covering the campaign in analytical programmes. Apart from one televised debate organized by the CEC, candidates' campaign in media was exclusively conducted via political paid advertising. The scarce coverage of the campaign by the news programmes, combined with lack of critical analysis of the candidates and their platforms by the media, limited voters' ability to make an informed choice.

The legislation provides for the resolution of disputes by the election administration and courts and establishes reasonable deadlines. Positively, recent digitalization initiatives in the justice sector facilitated the procedure of complaint submission and increased state bodies' responsiveness rate. Also, election-related disputes were transferred from civil to specialized administrative courts. While the CEC keeps a database of complaints, this information is not publicly available and complaints are not discussed in public sessions, reducing transparency. The president is one of the few subjects with legal standing to challenge the final election results with the Constitutional Council, whereas citizens and other candidates are deprived of this possibility, contrary to international good practice.

The Election Law provides for both citizen and international observers. While international observers are accredited by the CEC, there is no formal accreditation procedure for citizen observers. Citizen observers are entitled to observe the voting and counting but not the tabulation process. A number of

ODIHR EOM interlocutors raised concerns that the space for independent observers was shrinking and government affiliated organizations were becoming more prominent.

Overall, election day was calm. Voting was organized efficiently and procedures were generally followed. Nevertheless, the EOM assessed counting procedures negatively in more than half of the observations, as important procedural safeguards were often omitted, raising questions about whether ballots were counted and reported honestly, in line with paragraph 7.4 of the 1990 OSCE Copenhagen Document. Meaningful observation was often not provided for, as both international and citizen observers were not able to observe the counting and tabulation procedures without restrictions, undermining transparency.

PRELIMINARY FINDINGS

Background and Political Context

On 21 September, President Kassym-Jomart Tokayev called an early presidential election to be held on 20 November.¹ The early presidential election took place against the backdrop of constitutional and related legislative reforms announced by the President since his coming to power, as well as discussions on the country's economic and political transformation and the associated restructuring of the public administration.² The President proclaimed that the successful implementation of these reforms aimed at building a 'Fair Kazakhstan' requires a new mandate of trust of the people. The election followed a constitutional referendum held on 5 June 2022 and political turmoil and deadly violence of 'January events' earlier in the year. This was the sixth consecutive direct national election to take place early.

The initiated reforms and statements by the President were seen by some as a move towards a more pluralistic and competitive political environment. Nevertheless, the ability of citizens to participate in political life continues to be significantly constrained. No new political party has been registered since 2013, despite 19 applications submitted since 2019, as confirmed to the ODIHR EOM by the Ministry of Justice (MoJ).³ The incumbent President stood as a joint candidate of all three parliamentary parties, the ruling *Amanat*, the Democratic Party of Kazakhstan *Ak Zhol* and People's Party of Kazakhstan.⁴ Combined with restrictive registration requirements for candidates and political parties, this challenged the pluralistic nature of the contest in which the election took place, in contravention to paragraphs 3 and 7.6 of the 1990 OSCE Copenhagen Document.⁵

¹ The holding of early presidential election in the fall of 2022 and early parliamentary elections in the first half of 2023 were initially announced by the President on 1 September.

² See among others the state of the nation addresses of President Tokayev on [16 March](#) and [1 September](#) 2022. On 26 April, in line with the announced reforms, President Tokayev renounced his membership in the ruling *Amanat* party. The president retains vast executive powers and issues binding decrees, determines domestic and foreign policy, and appoints and dismisses ministers and all regional *Akims* (governors).

³ Out of the 19 submissions, after verification of requirements, the MoJ granted 10 permissions to continue the application process, out of which 6 were not used and expired. The other applications are pending. The aspiring political party *Alga Kazakhstan* reported to the ODIHR EOM that only in 2022 the MoJ refused to receive their registration documents 6 times: on 18 April, 5 May, 22 September, 12 and 26 October, and 9 November. The registration documents were returned citing alleged non-compliance with the Law on Political Parties.

⁴ The remaining candidates were nominated either by non-parliamentary parties or public associations. Besides the three parliamentary parties, there are three other registered political parties in Kazakhstan: *Auyl*, the Nationwide Social-Democratic Party and *Adal*, which in 2022 merged with *Amanat*, but retains official registration.

⁵ In Paragraph 3 of the [1990 OSCE Copenhagen Document](#), the OSCE participating States recognized "the importance of pluralism with regard to political organizations". Paragraph 7.6 refers to "the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations". See also paragraphs 4 and 27 of the 1996 United Nations Human Rights Committee General Comment General Comment No. 25 to the 1966 International Covenant on Civil and Political Rights (CCPR General Comment No.25). See also *Candidate Registration*.

Several ODIHR EOM interlocutors questioned the public benefit of holding an early presidential election and opined that the election was called by the incumbent to enhance his legitimacy. On 5 September, the Coalition of Democratic Forces, which includes opposition politicians and civil activists, called against holding of early presidential election.⁶

While the Constitution prohibits gender-based discrimination, the specific measures to promote women's participation are limited and women remain under-represented in public and political life.⁷ Women currently hold 28 out of 107 seats in the lower chamber of the parliament *Majilis* (26 per cent), 2 out of 22 ministerial positions and none out of 20 posts of regional *Akims*. At the same time, women are well-represented among the judiciary, at district and regional courts, and lower-level election administration.

Electoral System and Legal Framework

The president is directly elected by an absolute majority (50 per cent plus one vote) of all votes cast from a single nationwide constituency. If no candidate receives the required number of votes, a second round between the two candidates with the highest number of votes is held within two months on a date set by the Central Election Commission (CEC). In the second round, the candidate who receives the higher number of votes is elected.

The legal framework for the presidential election comprises the Constitution, the Constitutional Law on Elections (Election Law, last amended on 5 November 2022), and relevant provisions of other laws, including, legislation related to media, Law on Peaceful Assemblies, Law on Political Parties, Law on Public Associations, Law on State Service, the Administrative Procedural Code and the Criminal Code.

On 17 September, the constitutional provisions regulating the electoral system for the presidential election were altered, increasing the term of office from five to seven years and limiting the number of terms to one. The amendments were adopted by the parliament after the announcement of the early election, and were not preceded by any public consultation.⁸ On 5 November, the President signed a number of laws, including amendments to the Election Law.⁹ All new election-related provisions, with the exception of the one regulating the term limits, are not applicable to this election.

Both the Constitution and the Election Law have been amended on several occasions in recent years. Nevertheless, the legal framework for presidential elections does not yet provide sufficient guarantees for the effective exercise of electoral rights, as a number of provisions fundamental for holding democratic elections remain at odds with OSCE commitments and international standards. Previous ODIHR recommendations remain unaddressed, in particular with respect to candidate nomination and

⁶ The coalition, among others, [opposed](#) the holding of the early election before the reforms, including the amendments to the Election Law, were implemented.

⁷ In the 2019 Concluding observations on the fifth periodic report of Kazakhstan, the [UN Committee on the Elimination of Discrimination against Women \(CEDAW\)](#) expressed concerns about the low representation of women in decision-making positions and discriminatory gender stereotypes hindering the participation of women in political and public life.

⁸ The draft became available to the public two days before the 16 September vote in parliament after the Constitutional Council confirmed the constitutionality of the amendments. Paragraph 5.8 of the 1991 OSCE Copenhagen Document provides that legislation is “adopted at the end of a public procedure” and Paragraph 18.1 of the [1991 Moscow Document](#) states that “legislation will be formulated and adopted as the result of an open process”.

⁹ Before 5 November, the constitutional changes of term limits were not reflected in the electoral legislation.

registration requirements and restrictions related to fundamental freedoms of association,¹⁰ assembly,¹¹ expression,¹² transparency and access to information,¹³ including publication of disaggregated election results. In addition, broad formulation of other legal provisions gives the authorities wide discretionary powers in the implementation of the law, challenging legal certainty and uniform application of the law.¹⁴

Notable positive steps were taken related to electoral participation of persons with disabilities, procedural basis for dispute resolutions by election administration, and the introduction of administrative courts.

The reforms have begun to reduce “super-presidential” powers but the legislation still provides the head of state with significant control over the electoral process. Contrary to democratic standards and a previous ODIHR recommendation, the Constitution grants an unconditional prerogative to the president to call an early presidential election.¹⁵ Decrees of the president are exempt from judicial review, with the result that all legal challenges of a presidential decree on calling an early election are inadmissible.¹⁶ The president, but no other candidates have the right to challenge the results of the presidential election before the Constitutional Council (see *Complaints and Appeals*).

Election Administration

A three-level structure of election commissions administered the presidential election: the CEC, 239 Territorial Election Commissions (TECs) and 10,101 Precinct Election Commissions (PECs).¹⁷ The CEC has regulatory authority within its powers given by the legislation. The CEC and TECs are

¹⁰ The procedures for registering political parties and public associations give the authorities broad discretionary powers. The Law on Political Parties provides for a notification procedure prior to the establishment of a political party. The notification should be presented on behalf of an initiative group of not less than 1,000 citizens representing two thirds of regions. The ODIHR EOM was made aware of multiple practices of refusal of such notifications claiming some members of such initiative groups did not meet the required legal requirements. Authorities do not disclose the names of these individuals citing personal data protection legislation, effectively eliminating any opportunity for rectifying the situation or proving the opposite. See also the [2016 Concluding observations on the second periodic report of Kazakhstan by the UN Human Rights Committee \(CCPR\)](#).

¹¹ In particular, contrary to international standards, the Law on Peaceful Assemblies reserves the right of executive bodies to permit or refuse an event after receiving ‘notification’ on a wide list of grounds or offering another place/time for holding public events. See also *Campaign* section.

¹² See *Media* section.

¹³ For example, the Law on Access to Information allows for broad discretion of state bodies to limit the access to information of public interest. Information on complaints and requests handled by election administration is not public and access to court decisions is limited.

¹⁴ See *Campaign, Campaign Finance, Media and Complaints and Appeals*.

¹⁵ Since the Constitution was amended to grant discretionary power to the president to call an early election in 2011, all presidential elections held in Kazakhstan have been called early by incumbent presidents. [The Venice Commission in one of its opinions](#) stated that granting a president the exclusive and discretionary power to call an extraordinary election is “incompatible with democratic standards” as it “may turn elections into plebiscites on the leadership of the country and provide legitimacy to authoritarian tendencies”. Paragraph 9 of the CCPR General Comment No.25 states that “genuine periodic elections are essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them”.

¹⁶ In 1999, the Constitutional Council issued a resolution stating that “actions of the president cannot be subject of consideration in courts”. Paragraph 18 of the 1991 OSCE Moscow Document stipulates that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity. To the same end, there will be effective means of redress against administrative regulations for individuals affected thereby. The participating States will endeavour to provide for judicial review of such regulations and decisions”.

¹⁷ There were 17 regional (*oblast*) TECs, one TEC for each of the cities of republican significance Astana, Almaty and Shymkent, and 166 district (*rayon*) TECs and 37 city TECs. PECs comprised 9,556 regular PECs, 477 PECs for special needs voting, and 68 PECs established in 53 embassies and consulates for out-of-country voting. In total, some 70,946 electoral commissioners were involved in the electoral process.

permanent bodies composed of seven members appointed for a five-year term. For the TECs, only two members work permanently.¹⁸ PEC membership varies depending on the number of registered voters assigned to the respective polling station between 5 and 11 members.¹⁹ Although there are no legal provisions for a gender-balanced representation within the election administration, women were well represented. Two of the CEC commissioners and two-thirds of the members of lower-level commissions were women.²⁰

The president appoints the CEC chairperson and two members, while the Senate and the *Majilis* appoint two members each. The CEC Chairperson was appointed in January 2022.²¹ The TEC and PEC members were elected by local councils (*Maslikhats*) in 2019, based on nominations from registered political parties, with a maximum of one representative per election commission. Nominated individuals do not have to be members of the proposing organization, and *Maslikhats* may accept or reject individual nominations of any of the nominating bodies through a vote. In case of insufficient proposals, applications from non-profit and public associations are considered and, if still insufficient, from higher-level commissions.²² Since the 2019 nomination process, the CEC reviewed the composition of lower-level commissions before each election or referendum due to the withdrawal of some members.

Given the predominance of the ruling party in the parliament and the fact that the incumbent President stood as a joint candidate of all three parliamentary parties, signaling lack of genuine political differentiation between the parties represented in the *Majilis*, the composition of election administration is not politically diverse and balanced. A number of ODIHR EOM interlocutors raised concerns with respect to the mechanism of appointment and composition of election administration and their ability to conduct their duties independently and impartially, in particular on election day.²³

The CEC managed the electoral preparations efficiently and within the legal deadlines. The CEC held regular public live-streamed sessions attended by observers, media representatives, and party proxies, followed by a press briefing. The CEC members adopted resolutions unanimously, with no discussion in most public sessions, decreasing transparency of decision-making. Positively, the resolutions were posted online on the day of their adoption.²⁴

Lower-level commissions, were experienced, well equipped, and prior to election day, undertook their work efficiently.²⁵ However, sessions were often held on an *ad-hoc* basis without informing stakeholders, which lessened transparency. While TECs are obliged to publish their decisions, the ODIHR EOM observed that, in many cases, these were not regularly published.

A nationwide cascade-training on election day procedures took place from late October to November both online and offline. ODIHR EOM assessed the observed training sessions as informative, comprehensive and innovative, supplemented with videos and interactive role-play sessions. The CEC

¹⁸ In most cases, the chairpersons and secretaries.

¹⁹ PEC members work only during the time of elections.

²⁰ According to the CEC, 67.7 per cent of lower-member commissioners (TECs and PECs included) were women.

²¹ Three CEC members were reappointed for a second term in 2021.

²² Nationwide, according to the CEC, only some 2.7 per cent of lower-level commission members had been nominated by higher-level commissions. The CEC informed the ODIHR EOM that for TECs, political parties nominated 59 per cent and public associations 36 per cent members.

²³ Paragraph 20 of the CCPR General Comment No. 25 requires that “an independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant”.

²⁴ The CEC used its *Telegram* social media channel to inform stakeholders before the sessions. The main resolutions detailed, among others, the establishment of the lower-level commissions, the process related to candidate registration, the rules and regulations for the media, the measures to enhance participation of persons with disabilities, the design of the ballot paper, and the accreditation of international observers.

²⁵ According to the CEC, 1,672 of TEC members (67.4 per cent) served in this position since their appointment in 2019.

also produced a user-friendly booklet on counting procedures, addressing a previous ODIHR recommendation.

The CEC undertook a number of initiatives to enhance access and participation of persons with disabilities to the electoral process in co-operation with representatives of regional non-profit organizations. Live-streamed CEC meetings and voter information videos were aired with sign language interpretation. The CEC conducted dedicated sessions and workshops for lower-level commissions on the topic and produced detailed guidelines for PEC members on how to effectively assist persons with disabilities on election day. Unimpeded access for voters with reduced mobility to polling stations and the provision of *Braille* sleeves for visually impaired voters were also envisaged.²⁶

The CEC maintains a comprehensive website and conducted an extensive voter information programme in Kazakh and Russian. Since the beginning of the campaign, a series of voter information videos, among others, informing voters of the date of the election and encouraging participation, was aired by various media outlets or disseminated through messages, mainly on the CEC *Telegram* channel.²⁷ Many PECs informed the ODIHR EOM long-term observers that they conducted door-to-door visits to provide voters with printed invitations to inform them of the date of the election and the polling station number.

Voter Registration

Citizens over the age of 18 have the right to vote, except those declared incompetent by a court decision on the basis of intellectual or psychosocial disabilities, and those serving a prison sentence, irrespective of the gravity of the crime. These restrictions are at odds with OSCE commitments and other international obligations.²⁸

Voter registration is passive and based on permanent residency. Overall, ODIHR EOM interlocutors raised no major concerns with accuracy of the voter lists. Voter lists are compiled by the *Akimats* (local executive bodies) from the state civil registry data. The *Akimats* submit the updated voter lists to respective TECs twice a year, and the TECs review the lists against data maintained by the CEC. On 31 October, the CEC reported 11,950,485 registered voters.

Up to 30 days before election day, voters who wished to vote outside of their place of permanent residence could request to be included in the relevant list.²⁹ Additionally, by 5 November voters could apply for an Absentee Voting Certificate (AVC), which allowed them to vote in any polling station outside their permanent residence.³⁰ Special needs registration and homebound voting provisions were

²⁶ In co-operation with lower-level commissions, the CEC put in place a regional monitoring tool to identify specific needs related to different types of disabilities within each region. The CEC ensures that the [information portal](#) for the social protection of persons with disabilities, established in 2022 by the Ministry of Labour and Social Security, provides accurate information regarding accessibility of buildings that serve as polling stations.

²⁷ At occasions, CEC messages were also in form of LED screens, ATM advertisement screens and announcements on domestic flights. Eligible voters also received SMS informing about their polling station location. This information could also be obtained through the [eGovernment portal](#).

²⁸ See Articles 12 and 29 of the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD). See also paragraph 9.4 of the 2013 CRPD Committee's Communication No. 4/2011, which states that Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Paragraph 24 of the 1990 OSCE Copenhagen Document provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law". Paragraph 14 of the CCPR General Comment No. 25 states that grounds for deprivation of voting rights should be "objective and reasonable".

²⁹ With the provision to be removed from the voter list at their place of residence. According to the CEC, 80,000 such applications were submitted.

³⁰ According to the CEC, by 19 November, 22,578 AVCs had been issued.

also in place.³¹ From 5 November, voter lists were displayed for public scrutiny offering an opportunity for voters to appeal. During this phase, voters were able to verify their records and request clarifications either in person at polling stations, through call centres or online.

Contrary to international good practice, voters not included in the voter list who proved their residence within the precinct, could be added by the relevant PEC to an *ad hoc* supplementary voter list on election day, without prior judicial or administrative oversight.³² Six days prior to the election, the CEC communicated that supplementary registration on election day would be possible in some 42 per cent of polling stations countrywide. As a first time measure, with the aim to prevent multiple voting, PECs had to verify the registration status of all voters added to the voter list on election day, through the online eGovernment portal.

Candidate Registration

By Constitution, in addition to having the right to vote and being a minimum of 40 years of age, prospective candidates must be fluent in the Kazakh language, be citizens by birth, have a higher education and officially resident in the country for the last 15 years. The three latter requirements as well as the provision in the Election Law, which grants the right to stand only to individuals with at least five years of experience as civil servants or elected officials, run contrary to international standards.³³ At odds with OSCE commitments, independent candidates are not allowed to stand and the Election Law further disenfranchises persons serving criminal sentences (including probation), those with an unexpunged criminal record, and those with a prior conviction for a crime or administrative offence involving corruption.³⁴ Overall, the eligibility requirements for presidential candidates are excessively restrictive, unreasonably limiting the constitutionally guaranteed right of citizens to stand for elections.

Twelve nominees submitted candidacy applications to the CEC within the legal deadline. Four did not meet the eligibility requirements, and their applications were refused.³⁵ The CEC denied nomination of one of the four nominees, Nurzhan Altayev, following the decision of an Astana district civil court

³¹ Special polling stations were set up in rest homes, hospitals, or other medical centres, remote locations, pre-trial detention facilities, consular offices and state agencies abroad, military units and ships at sea. Homebound voting was possible based on a written application to the designated PEC 15 days prior to election day, due to a health condition, responsibility of looking after a sick family member, or being in a remote and hard-to-reach location.

³² As per the [Government Decree No 845 of 22 October 2022](#) amending a 2011 Resolution of the Government On approval of the Rules of registration of internal migrants and making amendments to some decisions of the Government. [Section 1.2.iv of the 2002 Venice Commission's Code of Good Practice in Electoral Matters](#) recommends that "polling stations should not be permitted to register voters on election day itself".

³³ Paragraph 15 of the CCPR General Comment No. 25 confirms that the "persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation". Paragraph 25 further underlines that "no distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". Paragraphs 7.3 and 24 of the 1990 OSCE Copenhagen Document guarantee equal and universal suffrage and require that any restrictions be proportionate to the aim of the law. Article 2 of the 2002 CIS Convention states that "the citizen's right to elect and to be elected to the bodies of state power [...] does not depend on and is exercised without any limitations of a discriminatory nature in terms of sex, language, religion or denomination, political or other convictions, national or social origin, membership of a national minority or ethnic group, property status or other circumstances".

³⁴ Candidates can be nominated only by political parties or registered national public associations with registered offices in more than half of the regions. Paragraph 7.5 of the 1990 OSCE Copenhagen Document requires that citizens be permitted "to seek political or public office, individually or as representatives of political parties or organizations, without discrimination". Paragraph 24 of the 1990 OSCE Copenhagen Document states that "any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law".

³⁵ Three nominees did not possess sufficiently long working experience in civil service or in an elected public position; in addition, one of the three was not Kazakh citizen by birth. On 13 October, during its session, the CEC explained the reasons for rejecting these nominees; nevertheless, the respective CEC resolutions did not specify which eligibility criteria were not met or what the justification for refusal was.

deeming the nomination protocol invalid. While the case was pending in the court, the registration process of this nominee was ‘suspended’ by the CEC, preventing the nominee from collecting signatures.³⁶

During the signature verification period, the remaining eight prospective candidates, with the exception of the incumbent, had to undergo a mandatory Kazakh language fluency test consisting of writing an essay, reading a text with appropriate diction, and public speaking for 15 minutes.³⁷ Although all prospective candidates passed the language test, the language fluency verification process raises questions from the perspective of safeguards against arbitrariness. Additionally, prospective candidates were required to pass a medical test.³⁸

Two prospective candidates who fulfilled all eligibility requirements failed to collect the required number of signatures. Prospective candidates had between 3 and 8 days to collect the minimum number of 118,273 signatures (1 per cent of the registered voters), equally representing at least two-thirds of the 20 regions. The authenticity of collected signatures within each region was subsequently verified by the Committee of Migration Service of the Ministry of Internal Affairs within five days. In the next step, the TECs submitted the authentication protocols to the CEC. Several ODIHR EOM interlocutors opined that the signature collection and verification period was unreasonably short and lacked transparency.³⁹

For this election, the CEC registered six candidates, including two women.⁴⁰ Prior to their registration, the six had to pay an election deposit of some EUR 6,500 (KZT 3 million) and submit their individual and spouse’s tax declarations.⁴¹

Election Campaign

The campaign started on 21 October, once candidate registration was finalized, and ended at midnight on 19 November. The Election Law and the Law on Peaceful Assemblies regulate campaign events.⁴² To hold certain outdoor campaign-related assemblies, contestants should notify local authorities at least five days before the event.⁴³ Against international standards on freedom of assembly, the law reserves the right of *Akimats* to permit or refuse an event after receiving ‘notification’ on a broad list of

³⁶ Suspension is not provided for by the law and, in practical terms, meant that signature collection sheets were not issued to the nominee. The CEC stated during court hearings that it exercised its discretion in this case.

³⁷ On 7 October, the CEC established a six-member Linguistic Commission, composed of academicians, in charge of conducting the language test.

³⁸ The [2019 joint resolution](#) of the CEC and the Ministry of Health Care established 107 mental conditions that prevent candidate registration.

³⁹ The CEC in its resolution established a list of grounds for invalidating signatures, including through checking if the signing was performed by one person on behalf of several voters, or if the voter signed more than once for one candidate. Nevertheless, the resolution also gave TECs the competence to invalidate signatures on any other grounds in violation of the law. Section I.1.3.iii of the 2002 Venice Commission’s Code of Good Conduct in Electoral Matters recommends that “checking of signatures must be governed by clear rules”.

⁴⁰ The registered candidates were Karakat Abden, nominated by the National Alliance of Professional Social Workers public association; Nurlan Auesbayev, nominated by the National Social Democratic Party; Zhiguli Dayrabayev, nominated by the *Auyl* party, Meyram Kazhyken from the Federation of Trade Unions *Amanat*, Kassym-Jomart Tokayev, nominated jointly by the three parliamentary parties, the *Amanat* party, *Ak Zhol* party and Peoples’ Party, as well as several public associations, and Saltanat Tursynbekova, nominated by *Kazakh Analary–Dasturige Zhol* public association.

⁴¹ The deposit is based on a 50-times minimum wage (60,000 KZT), EUR 1 is equal to some KZT 465, and will be returned to candidates who obtained no less than 5 per cent of votes.

⁴² The Law on Peaceful Assemblies does not regulate indoor campaign events nor does it distinguish between assemblies held during the election campaign and those outside it.

⁴³ While peaceful assemblies in the form of picketing, gatherings and rallies require notification, permission is still required for peaceful assemblies in the form of demonstrations and processions.

grounds.⁴⁴ *Akimats* allocated designated stands for campaign materials and premises for holding indoor campaign events. While legislation provides for specially designated places for outdoor campaign events, the number and capacity of those places are limited in practice.⁴⁵ No registered candidate raised concerns regarding freedom of assembly. Nevertheless, ODIHR EOM interlocutors representing some opposition and civil society noted that possibilities of individuals and groups to engage in peaceful assemblies of a political nature are limited. The non-registered opposition group *Alga Kazakhstan* announced peaceful demonstrations for 20 November against holding of the early election. Notifications were refused by *Akimats* in several cities and detentions and administrative arrests were applied to organizers and potential participants.⁴⁶

Overall, the campaign was low-key and lacked genuine competitiveness. All three parliamentary parties, including those that identify themselves as “constructive opposition”, jointly nominated the incumbent, further reducing the non-pluralistic nature of the campaign environment.⁴⁷ Many ODIHR EOM interlocutors noted that all candidates, with the exception of Mr. Tokayev, were largely unknown to the public. In general, the incumbent did not face significant opposition from the other candidates and no contestant meaningfully challenged or spoke critically about the President’s policies, limiting the choice for voters. Even though all candidates toured the regions, the campaign generated limited public engagement. Some contestants informed the ODIHR EOM that their primary aim was to increase their personal and their party’s visibility ahead of the early parliamentary elections scheduled for next year.

Campaign outreach methods included billboards, posters, and TV and social media advertisements in Kazakh and Russian languages. Most campaign events were small-scale, indoor gatherings oftentimes conducted at places of work, including in industrial enterprises, hospitals, libraries, and cultural centres. This potentially raises concerns about exerting pressure on voters to attend the campaign events. More than half of the campaign venues observed by the ODIHR EOM were accessible for independent access for persons with physical disabilities. The tone of the campaign, both online and in-person, was positive or neutral. No discriminatory rhetoric against national minorities during the campaign was reported or observed by the ODIHR EOM. The campaign focused on three main topics: fair state (political modernization and the rule of law), fair economy (competitive economy and agriculture), and fair society (accessible education and healthcare). Security and stability were also prominent in the discourse. Other campaign messages referred to social protection, public administration and judiciary reform, and support for business and agriculture.

⁴⁴ The *Akimat* of Almaty informed the ODIHR EOM that out of 351 notifications received in 2022, approval was granted to 44. Some 101 notifications were denied as they did not comply with the law. For 156 notifications, alternative venues were proposed, due to the occupancy of the requested site, repair work, and other activities. Twenty-two applicants withdrew their requests. Paragraph 73 of 2020 [General comment No. 37 on the right of peaceful assembly \(Article 21\)](#) states that “notification regimes, for their part, must not in practice function as authorization systems”.

⁴⁵ The three biggest cities (Almaty, Astana and Shymkent) as well as most regional capitals have only three such designated places each, with allowed occupancy between 100 and 1,000 people.

⁴⁶ In the run up to the election, *Akimats* of Almaty, Astana, Kostanay, Petropavlovsk, Shymkent and Taraz refused to hold peaceful protests on 20 November in response to notifications from civil activists and members of *Alga Kazakhstan*. On 11 and 15 November, a number of activists were detained or received administrative arrests in Almaty, Astana, East Kazakhstan, Ust-Kamenogorsk, and Zhanaozen. In addition, on 11 November, the court of Astana sentenced to 15 days of administrative arrest 5 members of the *Alga Kazakhstan* for “violating the rules of organizing peaceful assemblies” in connection with the party’s rally held on 21 August 2022. Paragraph 36 of [General comment No. 37 \(2020\) on the right of peaceful assembly \(article 21\)](#) states that “the imposition of any restrictions should be guided by the objective of facilitating the right, rather than seeking unnecessary and disproportionate limitations on it. Restrictions must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect”.

⁴⁷ Both parties informed the ODIHR EOM that running with their own candidate against the incumbent in such volatile times could jeopardise the country’s unity and stability.

The campaign of the incumbent was predominant and mostly conducted by the candidate's authorized representatives. Mr. Tokayev undertook a number of regional visits in his official capacity as president, making campaign promises, announcing development projects and inaugurating companies.⁴⁸

The lacklustre nature of the campaign was mirrored in social networks. The ODIHR EOM observed candidates' campaigns on three social network platforms: Instagram, Facebook and YouTube. The posts by the incumbent generated more public engagement as compared to the posts by other candidates. President's campaign slogan "For a fair Kazakhstan" was widely used on social networks, including by senior state officials. Compared to the official electoral contestants, prominent influencers and opposition political figures openly criticized the political establishment and generated high engagement. The posts included a more comprehensive range of topics and focused, among others, on high-level corruption, January events and its aftermath, the use of Kazakh language, inflation and poverty, as well as current geopolitical developments in the region.

Gender issues did not prominently feature in the campaign. One woman candidate raised the issue of gender equality and domestic violence. Women comprised around 47 per cent of attendees at 16 campaign events observed by the ODIHR EOM.

Campaign Finance

The Election Law provides for public and private funding of election campaigns. Presidential candidates were entitled to public funding from the state budget to cover expenses specified in an exhaustive list, which includes media appearances, printed materials and holding rallies.⁴⁹ Candidates did not receive public funds directly but had to apply by submitting contracts with the service providers and invoices; five candidates, but the incumbent used this opportunity. The funds were administered and the submitted documents checked by the Astana TEC. Expenditures from state funding are not published before or after election day, although, according to the CEC, this data may be provided to citizens upon request.

Private funds may consist of the candidates' own funds, contributions from the political parties or associations that nominated them, and donations from individuals and legal entities.⁵⁰ Following their registration, candidates opened dedicated accounts in a bank chosen by the CEC, which is the main campaign finance oversight body. By law, the bank is obliged to report to the CEC weekly on all incomes and expenditures.

⁴⁸ On 7 November, in Mangistau region during a meeting held with the public, the President [stated](#) that "for 2023-2026, it is planned to implement 29 projects worth more than KZT 1 trillion, which will create more than 3,000 permanent jobs". In Atyrau, on 8 November, the President during a meeting with public [announced](#) plans to turn Atyrau region into country's leading economic centre for deep processing of oil and gas and launched a gas chemical complex. On 15 November, the President [launched](#) the construction of an automobile plant in Almaty. Prior to the official start of the campaign, between 27 September and 20 October, the President visited the regions of Abay, Almaty, Jetisu, Pavlodar, Qaraghandy, Shymkent and Turkistan. All events were also featured on the official 'Akorda' website of the President. Sections B.1.1. and B.1.3. of the 2016 ODIHR and Venice Commission Joint Guidelines for Preventing and Responding to Misuse of Administrative Resources in Electoral Processes state that "the legal framework should provide effective mechanisms for prohibiting public authorities from taking unfair advantage of their positions by holding official public events for electoral campaigning purposes, including charitable events, or events that favour or disfavour any political party or candidate. [...] In order to prevent the misuse of administrative resources to imbalance the level playing field during electoral competitions, the legal framework should state that no major announcements linked to or aimed at creating a favourable perception towards a given party or candidate should occur during campaigns".

⁴⁹ According to a CEC resolution, each candidate was entitled to some KZT 9 million for television and radio appearances; KZT 800,000 for public events and printed materials; and KZT 500,000 for transportation expenses.

⁵⁰ Cumulative funds of candidates and nominating bodies are limited to KZT 720 million and donations from citizens and legal entities are limited to KZT 900 million. Parliamentary political parties are entitled to annual public funding proportionally to the votes received in the last parliamentary elections. It is prohibited to spend the annual public funds on election campaigning activities.

Prior to election day, the CEC made public aggregated information on candidates' campaign incomes and expenditures. Nevertheless, these data did not disclose the amounts of individual contributions and sources of funds limiting information available to voters.⁵¹ Five days after the announcement of the election results, candidates are obliged to submit a report on their campaign finances to the CEC, which publishes them on its website. There are no legal provisions on audit in the election-related legislation. The CEC does not conduct an audit, but merely cross-checks the data from the reports with the data submitted by the bank, making the campaign finance oversight ineffective.

The Administrative Offences Code defines sanctions for breaches of campaign finance rules, including fines for failure to report campaign expenditures and for funding the campaigns bypassing the designated bank account. No such sanctions were reported to be imposed in this election thus far. Additionally, the Election Law provides for deregistration of candidates and for the invalidation of election results if campaign finance violations are revealed after the vote. The law does not set any specific criteria for application of these disproportionate sanctions and allows for wide discretion in their application.⁵²

Media

Despite a large number of media outlets, there is a lack of plurality of information available in the traditional media. Television still remains an important source of political information, although the popularity of online media and social networks is increasing.⁵³ The information on ownership of private media outlets is protected as a commercial secret. Many ODIHR EOM interlocutors noted that the fact that most media are either state-owned or state-subsidized, results in interference in medias' editorial policies, thus significantly limiting the possibility of voters of making an informed choice.⁵⁴

The freedom of speech and access to information, guaranteed by the Constitution, is undermined by the restrictive legal framework and its selective implementation. Notwithstanding the decriminalization of "slander" in 2020, a number of provisions related to defamation, including "insult" and "distribution of deliberately false information", the latter punishable with up to seven years of imprisonment, are broadly formulated, contrary to international commitments.⁵⁵ Furthermore, the legal framework treats online media and accounts in the social network as media outlets. The Ministry of Information and Social Development (MISD), among other state bodies, is entitled to restrict content on websites and halt media

⁵¹ According to Article 12.4 of the 2002 [CIS Convention](#), the signatory states "shall provide for an open and transparent nature of all money donations to candidates, political parties (coalitions), participating in elections, in order to avoid any prohibited donations". Article 7.3 of [the 2003 UNCAC](#) recommends states to "take appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office".

⁵² Paragraph 273 of [the ODIHR and Venice Commission 2020 Joint Guidelines on Political Party Regulation](#) states that "sanctions must bear a relationship to the violation and respect the principle of proportionality".

⁵³ According to [IREX's Vibrant Information Barometer 2022](#), more than 65 per cent of the population turns to television for their news. See also Kantar [data](#) on the latest media consumption trends.

⁵⁴ The [state media budget](#) is comparable to the entire country's advertising market. In 2021, the state [budget](#) for conducting state information policy amounted to KZT 56.9 billion, while according to the [Central Asian Advertising Association](#), the entire advertising in 2021 amounted to KZT 76.5 billion. In the first half of 2022, the advertising market amounted to KZT 31.6 billion, and the projected state budget for 2022 was KZT 58.8 billion.

⁵⁵ According to the [data](#) by the International Foundation for the Protection of Freedom of Speech "Adil Soz", 19 criminal charges (including 1 related to Article 131 regulating insult and 7 related to Article 274 regulating the dissemination of false information), 39 civil claims and lawsuits, and 20 administrative charges were filed in connection with the exercise of the right to freedom of expression in 2022. On 2 November, the Prosecutor General [stated](#) that in the first nine months of 2022, 100 criminal cases were initiated for the dissemination of knowingly false information. Paragraph 47 of the [General Comment No.34 to the ICCPR](#) calls for states to "consider the decriminalisation of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty".

outlet operations on a broad list of grounds, without prior judicial oversight.⁵⁶ Many ODIHR EOM interlocutors noted long-standing difficulties in obtaining information on topics of public interest.⁵⁷ Overall, the restrictive legal framework combined with cases of threats and attacks against journalists has a chilling effect on the freedom of expression resulting in self-censorship.⁵⁸

Some ODIHR EOM interlocutors complained about the restrictive rules for conducting public opinion polls and the prohibition on conducting exit polls.⁵⁹ In their opinion, only organizations aligned with the government are effectively allowed to conduct opinion polls.⁶⁰

The Election Law obliges media to ensure objective coverage of candidates and to provide for equal access to paid airtime and space. In the news and analytical programmes, the media must cover the activities of candidates in equal shares.⁶¹ Additionally, candidates were provided with an equal share of airtime and print space covered by the state budget.⁶² The CEC oversaw the provision of paid air time and space. The MISD conducted monitoring during the campaign; however, the methodology was not made public. On 18 November, the MISD concluded that the 578 monitored media outlets complied with the principle of equal media coverage.

ODIHR EOM media monitoring results reveal that the overall amount of coverage devoted to the election campaign on TV and online media outlets was limited.⁶³ Monitored TV stations generally followed their obligation to devote an equal amount of coverage to contestants in their news programmes. State-owned *Khabar TV*, *Qazaqstan TV* and First Eurasian Channel devoted in average some 9, 8 and 7 per cent of coverage to candidates, respectively. However, the incumbent was covered in his institutional capacity as president with 21 per cent on *Khabar TV* and 23 per cent on *Qazaqstan TV*

⁵⁶ For [example](#), only in October 2022 the MISD imposed a limit on the distribution of 2,760 Internet resources, including 77 for dissemination of knowingly false information. In addition, during emergencies, [other authorized bodies](#) can block Internet access. See Paragraph 43 of the [General Comment No.34 to the ICCPR](#).

⁵⁷ Paragraph 295 of [GRECO Evaluation Report on Kazakhstan](#) from June 2022 states that “while public access to information on legislation is in place to some extent, the practical implementation is not working properly, as no adequate mechanism is currently in place to effectively deal with and sanction unlawful restriction of access to information”. According to [IREX’s Vibrant Information Barometer 2022](#), “access to information from official sources can be limited. For example, government agencies repeatedly classify information as ‘for official use’ - a key source of dissatisfaction among journalists”. According to the [Legal Media Center](#), journalists face particular difficulties to get access *inter alia* to financial information regarding disbursement of funds and tenders, but also information from *mashlikhats*. Following the January events, the UN High Commissioner for Human Rights urged the authorities of Kazakhstan on 6 January 2022 “to ensure that Internet services are immediately and completely restored”; the OSCE RFoM [stated](#) on 12 January that “unrestricted access to information, offline and online, represents important elements of public security and should always be respected”. Paragraph 19 of [General Comment No.34 to the ICCPR](#) requires the States parties to “proactively put in the public domain Government information of public interest” and “make every effort to ensure easy, prompt, effective and practical access to such information”.

⁵⁸ In the first nine months of this year, Adil Soz [recorded](#) 27 attacks against journalists, bloggers and media editorial offices, 26 cases of threats, and 17 detentions of journalists. There were also 9 arrests, imprisonments or restrictions on freedom, and 80 charges of journalists violating the law. The Committee to Protect Journalists [reported](#) on threats, online harassment and cyber-attacks against journalists and media outlets. On 12 October, journalist Duman Mukhametkarim was arrested on charges of violating the procedure for organizing and holding of peaceful assemblies. A number of ODIHR EOM interlocutors reported being subject of [smear campaigns](#) both on social networks and online portals.

⁵⁹ The 2018 amendments to the Election Law limited the conduct of opinion polls only to organizations registered in the country with at least five years of relevant experience.

⁶⁰ For this election, the CEC published a list of [seven](#) entities authorized to conduct opinion polls.

⁶¹ A number of regional broadcasters informed the ODIHR EOM that they had difficulties complying with the strict rule of equal airtime coverage in news and analytical programmes and thus decided not to cover the campaign at all.

⁶² This translates into 15 minutes on television, 10 minutes on radio and 2 articles in case of print or online web portals.

⁶³ ODIHR EOM monitored six TV stations: *Khabar TV*, *Qazaqstan TV*, KTK, First Eurasian Channel, 7 Channel and 31, six online media outlets, and *tengrinews.kz*, *zakon.kz*, *vlast.kz*, *azattyq.org*, *kaztag.kz* and *orda.kz* from 21 October until 18 November 2022.

and 17 per cent on the First Eurasian Channel. The private Channel 7 followed a similar trend dedicating in average some 3 per cent of coverage to each candidate while the incumbent was covered with 13 per cent. The private KTK and Channel 31 each devoted some 9 per cent of coverage to candidates and 13 and 6 per cent to the incumbent, respectively. All news coverage was in a positive or neutral tone. Most channels had sign language interpretation for news. There was one televised debate organized by the CEC and broadcast on *Khabar TV*.⁶⁴ Apart that, candidates' campaign in media was conducted exclusively via political paid advertising.⁶⁵ The CEC's extensive voter information campaign on TV was oftentimes more visible than candidates' political advertising.⁶⁶ The lack of critical analysis by the media during the campaign limited voters' ability to make an informed choice.

The coverage of candidates' campaigns in online media was very limited and mostly neutral or positive in tone. However, while nearly not covering other candidates, *azattyq.org* was reporting critically about Mr. Tokayev, both as a candidate and in his official capacity.

Complaints and Appeals

The electoral legal framework provides for the resolution of disputes by the election administration and courts.⁶⁷ Overall, the Election Law and the Administrative Procedural Code establish reasonable deadlines for the resolution of election related disputes.⁶⁸

In recent years, substantial digitalization initiatives have been introduced in the justice sector, including the creation of an online portal for submitting election-related complaints to the election administration, law-enforcement bodies, and courts. All ODIHR EOM interlocutors underlined that this significantly facilitated the procedure of complaint submission and increased state bodies' responsiveness rate.⁶⁹ At the same time, many interlocutors regretted that, at times, the answers from the authorities, including the CEC, merely reiterate the legal provisions without reasoning how they apply to the issues in question.

While the CEC keeps a database of complaints and other communications it receives, this information is not publicly available. Upon request, the ODIHR EOM received an extract from the CEC's database containing some 200 applications. The CEC did not discuss complaints in public sessions, reducing transparency.

The 2020 Administrative Procedural Code introduced significant changes concerning dispute resolution by courts. Disputes related to public administration, including election-related cases, were transferred from civil courts to specialized administrative courts. However, the positive potential of administrative justice for election related disputes was weakened by narrow rules on legal standing, exemption of presidential decrees from judicial review and lack of clarity with respect to competences of different

⁶⁴ The debate was aired on 11 November. All candidates were present in person, apart from the incumbent, who was represented by his proxy.

⁶⁵ While Mr. Tokayev had 11 different types of paid political ads, other candidates had between 1 and 4 paid ads in Kazakh and Russian.

⁶⁶ For example, on *Khabar TV*, the CEC voter information time was more present than the total time of all candidates' political advertising.

⁶⁷ In case a complaint is submitted to both an election commission and a court, court proceedings take precedence.

⁶⁸ Electoral stakeholders may file complaints with election commissions or courts within 10 days. Election commissions have five days to consider complaints and three days to review appeals against decisions of lower-level commissions.

⁶⁹ Once a complaint is submitted, the services automatically calculate legal deadlines to upload a decision or a response, in accordance with relevant legislation.

types of courts over election-related disputes.⁷⁰ For this election, the Supreme Court received 10 complaints against CEC decisions, including cases related to candidate registration, and upheld all CEC decisions. Two were dismissed either for lack of legal standing or jurisdiction of the court on complaints related to the unconstitutionality of eligibility requirements.⁷¹ Court sessions are open to the public, but information about the time and venues of hearings is only communicated to the parties in the case. Decisions are uploaded online, but impossible to search without knowledge of case numbers and names of the parties, reducing the openness of justice administration.⁷²

Final election results may be appealed to the Constitutional Council within ten days of the announcement. By law, only the president, speakers of both houses of parliament, at least one-fifth of the members of parliament and the prime minister have the legal standing to challenge the results of the presidential election before the Constitutional Council. This deprives citizens and other candidates of a possibility to challenge the outcome of elections contrary to international good practice.⁷³

Citizen and International Observers

The Election Law provides for citizen and international election observation. Public associations or non-profit organizations may nominate citizen observers. While international observers are accredited by the CEC, there is no formal accreditation procedure for citizen observers.⁷⁴ Citizen observers are authorized to observe the voting and counting in polling stations upon presentation of their ID card and a letter from their nominating organization.⁷⁵ Nevertheless, they are not authorized to observe the tabulation process at the TECs. Candidates and registered political parties are also entitled to deploy their representatives (proxies) and observers.

Most citizen observer groups focused their efforts on mobilization and training of short-term observers and subsequent observation of voting and counting procedures on election day. Some of the observer groups informed the ODIHR EOM that a long-term observation approach and their preparatory work, including fundraising, was negatively impacted by the calling of the early election and insufficient resources; independent citizen observers worked almost exclusively on a voluntary basis.⁷⁶ A number of

⁷⁰ The law defines legal standing on candidate registration narrowly, allowing only candidates and nominating associations to challenge registration decisions in their own cases. A civil court assumed jurisdiction in the case of non-registered candidate Mr. Altayev, although Article 162 of the Administrative Procedural Code stipulates that election-related complaints against organizations and their officials are under administrative jurisdiction. A citizen who submitted this complaint was aware of its election-related nature, as simultaneously, the complaint was channeled to the CEC. Paragraph 5.10 of the 1990 OSCE Copenhagen Document commits participating States to provide everyone with “effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”.

⁷¹ In line with the June 2022 constitutional amendments, the Constitutional Court will be in place from 1 January 2023.

⁷² Article 19 of the General Comment 34 to ICCPR stipulates that “to give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information”.

⁷³ Section II.3.3.3.f of the 2002 Venice Commission’s Code of Good Practice in Electoral Matters recommends direct legal standing in challenging election results by stating that “all candidates and all voters [...] must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections”.

⁷⁴ The CEC accredited a total of 641 international observers, 532 from 10 international organizations and 109 from 35 foreign states.

⁷⁵ Provisions for accreditation of citizen observers, introduced by 5 November amendments, will enter into force in January 2023.

⁷⁶ Some of the independent groups that observed this election were Centre for Non-Party Observers, Echo, HAQ, Wings of Liberty, and Youth Information Service of Kazakhstan (MISK). While these organizations informed the ODIHR EOM about their intention to deploy several hundred observers throughout the country, others planned to deploy some 10,000 observers, one per polling station.

ODIHR EOM interlocutors raised concerns that the space for independent observers was shrinking and government-affiliated organizations were becoming more prominent.⁷⁷

Election Day

Overall, election day was calm. The voting procedures were mainly followed; however, the EOM assessed counting negatively in more than half of the observations and the tabulation process lacked transparency. Throughout election day, the CEC shared updates about the polling, including voter turnout. The preliminary turnout countrywide was reported at 69 per cent, with significant regional difference noted in Almaty and Astana cities with around 29 and 49 per cent turnout, respectively. The vast majority of PEC members in the polling stations observed were women, including as chairpersons (63 per cent). A number of independent citizen observer groups reported pressure and restrictions against their observers among others in Almaty, Astana and Oskemen.⁷⁸ Small-scale protests, held by the nonregistered Democratic Party of Kazakhstan and the civil movement Oyan Kazakhstan in Almaty, were dispersed and participants detained by the police.⁷⁹

The EOM observed the opening in 127 polling stations. Overall, all polling stations observed opened on time. The EOM assessed the opening positively in all but three polling stations observed. Procedures were, by and large, followed. However, in 30 cases, the ballots were not counted, and their number was not announced prior to the start of the polls. In a few cases, the security of the ballot was not ensured as legally prescribed, and the ballot boxes were not shown to be empty and securely sealed.

The EOM observers assessed the voting process positively in 95 per cent of the 1,131 observations. Voting procedures were mainly followed. The EOM observed significant irregularities, including series of seemingly identical signatures (in 8 per cent of observed polling stations), group voting (in 3 per cent), and indications of ballot stuffing, proxy and multiple voting in a few instances. Individuals outside the polling station were systematically recording or tracking voters who turned out to vote in 5 per cent of polling stations observed. In a number of polling stations, EOM observed voters taking picture of their ballots; in some cases voters informed the EOM they were doing so as proof for their employers.

The layout did not ensure the secrecy of the vote in 4 per cent of the observed polling stations. PECs never retained the AVCs and never added to the voter list the personal data of voters who voted with AVCs, in 9 and 8 per cent of the observations, respectively, potentially undermining the integrity of the process. In some 14 per cent of the observed polling stations, at least one voter was refused the opportunity to vote mainly due to lack of proper identification document (ID) or not being included in the voter list. In 3 per cent, at least one voter without an appropriate ID was allowed to vote.

Although unauthorized persons were present in 6 per cent of the observations, in general, they did not interfere in the work of the PECs. Political party and candidate observers were present in over two-thirds of the observations, predominantly representing the *Amanat* and the incumbent, and citizen observers were present in 85 per cent of the observations. Nevertheless, observers did not have a clear view of the voting procedures in 7 per cent and EOM observers were not able to observe the voting procedures

⁷⁷ The independent citizen observer organization Wings of Liberty informed the ODIHR EOM that while selecting their observers they had to follow rigorous screening procedures to ensure observers' independence. On 7 November, Wings of Liberty published an open letter stating that since mid-September their databases had been hacked and the information on their observers published on social network accounts.

⁷⁸ These included Wings of Liberty, MISK and Independent Observers. MISK among others reported refusal of access and expelling of observers from polling stations, restriction of movement inside polling stations and obstruction of view.

⁷⁹ Prior to election day, the Prosecutor General repeatedly called on citizens not to participate in unauthorized rallies on election day.

without restrictions in 5 per cent of the polling stations observed. Combined, this negatively impacted the transparency of the process.

Notwithstanding the introduced measures to facilitate access of persons with different types of disabilities to the polling process, independent access for persons with physical disabilities was not ensured in 28 per cent of polling stations observed, layout was not suitable and polling stations were not equipped with specific accessories, including a *Braille* sleeve in 6 per cent of observations.

The EOM assessed counting negatively in 65 of the 111 polling stations observed due to substantial procedural errors and omissions, raising serious questions about whether ballots were counted and reported honestly, in line with paragraph 7.4 of the 1990 OSCE Copenhagen Document. The EOM observers were not able to observe counting procedures without restrictions in more than one third of polling stations and citizen observers did not have a clear view of counting procedures in 47 cases, undermining transparency of the counting process.

In more than half of the polling stations observed, the counting procedures were not consistently followed, and the counting was poorly organized in 49 cases. In more than half of observations, PEC members skipped important reconciliation safeguards, failing to announce the voters' choice for each ballot (88 cases), the total number of voters on the voter list (72 cases) and to determine the number of ballots issued based on signatures in the voter list (71 cases).

Ballots were not counted before being sorted by candidates in 67 cases and the number of ballots from all ballot boxes was higher than the number of voters who voted in 13 cases. In more than half of the observations, EOM observers could not see voters' mark on ballots. The PEC members did not determine the validity of ballots in a reasonable and consistent manner in 34 and 30 cases, respectively. The results protocols were not filled in completely and in pen (24 cases) and the entered figures were not announced loud (60 cases). In 33 cases, signed protocols were not posted for public display.

Tabulation was assessed negatively in 30 out of the 99 TECs observed, mainly due to lack of transparency. Significant procedural errors and omissions in the work of the observed TECs included PECs completing protocols at the TEC premises (22 cases) and modifying protocols without prior TEC's formal decision (13 cases). The conditions were inadequate for reception and tabulation of protocols in 18 observed TECs due to poor organization and insufficient space and in 9 TECs due to overcrowding. In one-third of the cases, EOM observers could not observe the tabulation procedures unrestricted. In 14 observed TECs, EOM observers were denied access and in 5 cases, they were informed that the tabulation would take place at the regional level TEC or the CEC.⁸⁰

***The English version of this report is the only official document.
Unofficial translations are available in Kazakh and Russian.***

⁸⁰ EOM observers were denied access to TECs in Almaty, Astana, Karaganda, Kostanay, Kyzylorda, Oskemen, Pavlodar, and Shymkent, and they were informed about tabulation at higher-level commissions in Aktau, Oral, Petropavlovsk, and Shymkent.

MISSION INFORMATION & ACKNOWLEDGEMENTS

Astana, 21 November 2022 – This Statement of Preliminary Findings and Conclusions is an assessment made to determine whether the election complied with OSCE commitments, international obligations and standards for democratic elections, and with national legislation.

ODIHR has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some months after the completion of the electoral process.

The ODIHR EOM, headed by Ambassador Urszula Gacek, was deployed from 17 October and consists of a core team of 11 international experts based in Astana and 30 long-term observers deployed throughout the country. On election day, 299 observers from 35 countries were deployed. Opening was observed in 127 polling stations and voting was observed in 1,131 polling stations across the country. Counting was observed in 111 polling stations, and the tabulation in 99 TECs.

The EOM wishes to thank the authorities for their invitation to observe the election, and the Central Election Commission and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties, media and civil society organizations, and international community representatives for their co-operation.

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