



Office for Democratic Institutions and Human Rights

# REPUBLIC OF KAZAKHSTAN

PARLIAMENTARY ELECTIONS

10 January 2021

ODIHR NEEDS ASSESSMENT MISSION REPORT

27-29 October 2020



Warsaw  
18 November 2020

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**REPUBLIC OF KAZAKHSTAN  
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**ODIHR Needs Assessment Mission Report**

## **I. INTRODUCTION**

Following an invitation from the Minister of Foreign Affairs of the Republic of Kazakhstan to observe the 10 January 2021 parliamentary elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 27 to 29 October 2020. The ODIHR NAM included Alexey Gromov, ODIHR Senior Election Adviser, and Kakha Inaishvili, ODIHR Election Adviser. The ODIHR NAM was joined by Anastasia Griadasova, Research Assistant of the OSCE Parliamentary Assembly.

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

ODIHR would like to thank the Ministry of Foreign Affairs and its Permanent Delegation to the OSCE as well as the OSCE Programme Office in Nur-Sultan for their assistance and co-operation in organizing the visit. ODIHR would also like to thank all its interlocutors for taking the time to meet with the NAM and to share their views.

## **II. EXECUTIVE SUMMARY**

On 21 October, the president decreed elections to *Majilis*, the lower chamber of parliament, for 10 January. Citizens will elect for a five-year term 98 deputies from a nationwide constituency on the basis of proportional representation. While some ODIHR NAM interlocutors supported the decision to hold the elections within the constitutional timeframe, others raised questions regarding the timing of the upcoming elections amidst the COVID-19 restrictions and severe weather conditions.

The legal framework for the parliamentary elections has been substantially amended since the last elections, partially addressing a few ODIHR recommendations, including those related to freedom of assembly, decriminalisation of defamation, inclusive participation of women and persons with disabilities. However, many ODIHR priority recommendations remain unaddressed, including those related to freedoms of association and expression, impartiality of election administration, voter and candidacy eligibility, integrity of voter registration, electoral disputes, as well as publication of election results.

Elections are administered by the Central Election Commission (CEC), 232 Territorial Election Commissions, and some 10,000 Precinct Election Commissions. Electoral preparations are underway, including those aimed at improving administration of elections, promoting inclusive participation, and raising public awareness. In light of the COVID-19 pandemic, the authorities are developing special sanitary protective measures for election day. Many ODIHR NAM interlocutors criticized lack of openness, independence and impartiality in the activities of the election administration at all levels.

All citizens over 18 years of age have the right to vote, except those incapacitated by a court and those serving prison sentences, irrespective of the gravity of the crime. Voter registration is passive and local executive authorities compile voter lists based on the state civil registry. The CEC maintains a nationwide electronic voter list, which contains some 11.8 million voters. While the CEC informed of ongoing activities to increase the accuracy of voter lists, some ODIHR NAM interlocutors raised concerns over the integrity of voter registration and safeguards against multiple voting.

Eligible voters over 25 years of age by election day and who have permanently resided in Kazakhstan for the last 10 years may be elected to *Majilis*, unless they have an unexpunged criminal record. Only members of the six registered political parties may be nominated. Some parties expressed concerns over lack of clarity of nomination procedures and a wide discretion of the CEC in rejecting candidates. Civil society representatives informed the ODIHR NAM of burdensome rules for creation of political parties, which effectively limits political pluralism and a meaningful voters' choice.

Women represent 27 per cent of members of the outgoing *Majilis* and remain under-represented in public offices at decision-making positions. Following the 2020 legal amendments, political parties have to nominate at least 30 per cent of female and/or young candidates. Many ODIHR NAM interlocutors questioned the effectiveness of this mechanism and noted a lack of meaningful public discussion with regards to the introduction of the quotas.

The election campaign will start on 10 December and is expected to focus on social policies, health care system, support to businesses, environmental issues, as well as anti-corruption efforts. Parties expect a shift of campaign activities to the Internet. Many ODIHR NAM interlocutors noted considerable limitations of fundamental freedoms of assembly and association by law and practice and expressed concerns about a potential misuse of state resources during the campaign.

Political parties can fund their campaigns from their own resources and private donations. Foreign and anonymous donations as well as contributions from state sources are prohibited. Control over campaign finances is vested with the CEC. Despite legal requirements and practice of public disclosure of the campaign incomes and expenditures before election day, some ODIHR NAM interlocutors raised concerns about the overall lack of transparency of election campaign finance.

The Election Law provides for equal access to free and paid airtime and print space in the media. Despite constitutional guarantees, many ODIHR NAM interlocutors consider freedom of expression, media freedom and the right of access to information to be considerably restricted in practice. Concerns were shared with the ODIHR NAM about pressure on media outlets and journalists as well as about lack of independence of the mainstream media due to media's strong dependence on the state financial support.

Complaints may be filed by all electoral stakeholders with the election commissions or courts. Complaints should be filed and decided upon within short terms, with the decisions subject to further appeals to the higher-level commissions or courts. The majority of non-state ODIHR NAM interlocutors expressed lack of trust in the electoral dispute resolution mechanism citing lack of independence of the election administration and the judiciary and lack of prosecution for electoral fraud in the past.

The Election Law provides for party, citizen and international observation of all stages of electoral process. Several citizen observer groups intend to observe election day procedures as well as other aspects of the process; however, some ODIHR NAM interlocutors feared that a significant number of observers associated with certain political parties or subsidized by the state will register in order to dilute the voice of independent observers.

All ODIHR NAM interlocutors emphasized the value of an ODIHR election observation activity for these elections. Representatives of state institutions reiterated their intention to adhere to international standards for democratic elections and ensure public trust to the process and results of the elections. Some interlocutors noted a limited value of ODIHR observation activities in Kazakhstan, as the authorities have only addressed a few election-related ODIHR recommendations. While a number of ODIHR NAM interlocutors noted a limited value in comprehensive observation of election day proceedings due to opaque counting procedures, others maintained that election day observation can help add transparency to the process. A number of issues, such as the election administration, voter registration, the conduct of the campaign and respect for fundamental freedoms, campaign coverage in the media and tabulation of voting results, will benefit from specific attention.

Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) for the upcoming parliamentary elections, subject to availability of financial resources and public health considerations and potential travel restrictions in light of the ongoing COVID-19 pandemic. In addition to a core team of experts, ODIHR should request the secondment by OSCE participating States of 30 long-term observers to follow the electoral process countrywide, and 300 short-term observers to follow election day proceedings. In line with the ODIHR's standard methodology, the EOM should include a media monitoring element.

### III. FINDINGS

#### A. BACKGROUND AND POLITICAL CONTEXT

On 21 October, the president decreed elections to the lower chamber of parliament (hereinafter parliamentary elections) for 10 January.<sup>1</sup> Elections to local councils (*maslikhats*) will be held concurrently with the parliamentary elections. While some ODIHR NAM interlocutors supported the decision to hold the elections within the constitutional timeframe, several political party and civil society representatives raised questions regarding the timing of the upcoming elections not conducive to effective campaigning due to COVID-19 restrictions and severe weather conditions.

Kazakhstan has a presidential system in which the executive branch exercises wide authority relative to the parliament. Legislative powers are vested in bicameral parliament comprising *Majilis* (the lower house) and Senate (the upper house). The outgoing *Majilis* was elected in January 2016, and the ruling *Nur Otan* party, led by then president Nursultan Nazarbayev, received 84 of the 98 directly-elected seats. The Democratic Party *Ak Zhol* and the Communist People's Party won seven seats each.

The political landscape is dominated by *Nur Otan*, and the line between the party and the authorities at all levels is often blurred. The authorities informed the ODIHR NAM about the ongoing political modernization aimed at enhancing multiparty system and inclusiveness in politics. A number of ODIHR NAM interlocutors raised concerns about the exercise of fundamental freedoms of association, assembly and expression,<sup>2</sup> noting that elections in Kazakhstan had not fulfilled their democratic function for a long time.

Women generally remain under-represented in public offices, holding 29 out of 107 seats (27 per cent) in the outgoing *Majilis*, 9 of the 49 Senators, 2 out of 23 members of the government, and 1 of the 17 heads of regions. The UN Committee on the Elimination of Discrimination against Women

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<sup>1</sup> After the 2011 presidential election, all parliamentary and presidential elections were held early.

<sup>2</sup> See also the 2016 UN CCPR [Concluding observations on the second periodic report of Kazakhstan](#), paragraphs 51-54.

has previously expressed concern about the low participation of women in decision-making positions at the ministerial level and in local administrations as well about discriminatory gender stereotypes hindering the participation of women in political and public life.<sup>3</sup>

ODIHR has observed 10 elections in Kazakhstan.<sup>4</sup> The ODIHR Election Observation Mission for the 2019 early presidential election found that the election “offered an important moment for potential political reforms, but it was tarnished by clear violations of fundamental freedoms as well as pressure on critical voices. While there were seven candidates, including for the first time a woman, considerable restrictions on the right to stand, and limits to peaceful assembly and expression inhibited genuine political pluralism. Despite the short time available, preparations for the election were efficiently organized and election day proceedings were orderly. However, significant irregularities were observed on election day, including cases of ballot box stuffing, and a disregard of counting procedures meant that an honest count could not be guaranteed, as required by OSCE commitments. There were widespread detentions of peaceful protesters on election day in major cities”. The final report, issued in October 2019, contains 31 recommendations, including 11 priority ones, for the authorities to improve electoral process and bring it closer in line with OSCE commitments.<sup>5</sup>

## B. LEGAL FRAMEWORK

The legal framework for parliamentary elections comprises the 1995 Constitution (last amended in 2019), the 1995 Constitutional Law on Elections (hereinafter Election Law), the 2002 Law on Political Parties, the 2020 Law on Peaceful Assemblies, the 1999 Law on Mass Media, the 2004 Law on Communications, and the 2012 Law on Broadcasting, all of these laws were amended in 2020, as well as relevant provisions of the Criminal Code, the Administrative Offenses Code and the Civil Procedures Code. The Central Election Commission (CEC) issues regulations to provide further details on legal provisions. Kazakhstan is a party to major international and regional instruments related to the holding of democratic elections.<sup>6</sup>

Following the 2017 constitutional reform, mainly related to the transfer of certain powers from the president to the government, the Election Law was amended in 2017, 2018, 2019 and 2020. The legal amendments, among others, altered formation and structure of lower-level election commissions, changed voter registration processes and introduced a minimum of 30 per cent representation of women and youth, jointly, in the candidate lists. A number of new provisions focus on enhancing participation of voters with disabilities, including on voter information in different formats, assistive tools in and independent access to polling stations.

In an effort to address previous recommendations of ODIHR and the UN Special Rapporteur on the rights of assembly and association, the new Law on Peaceful Assemblies introduced a mechanism of notification about planned pickets, rallies and other meetings instead of previously used authorization

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<sup>3</sup> See UN Committee on the Elimination of Discrimination against Women [Concluding observations on the fifth periodic report of Kazakhstan](#) (12 November 2019), CEDAW/C/KAZ/CO/5, paragraphs 24, 29 and 30.

<sup>4</sup> See all previous [ODIHR election-related reports on Kazakhstan](#).

<sup>5</sup> In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. See ODIHR Electoral Recommendations Database [Paragraph25.odihr.pl](#).

<sup>6</sup> Including the 1966 International Covenant on Civil and Political Rights, 1979 Convention for the Elimination of All Forms of Discrimination against Women, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 2003 Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities (CRPD), and the 2002 CIS Convention. Kazakhstan is also a member of the Council of Europe’s Commission for Democracy through Law and, since 2020, of the Group of States against Corruption.

of gatherings.<sup>7</sup> Requests for demonstrations and processions have to be submitted seven days before the planned event and still require authorisation from local authorities. Many ODIHR NAM interlocutors still regard this mechanism as a restrictive tool in the hands of local executive bodies to limit the freedom of assembly citing too wide discretion to deny peaceful gatherings.

Many previous ODIHR priority recommendations remain unaddressed, including those related to freedoms of association and expression, impartiality of election administration, candidacy requirements, integrity of voter registration, freedom to campaign and campaign coverage in media, as well as electoral dispute resolution and publication of election results.

### C. ELECTORAL SYSTEM

Kazakhstan's bicameral parliament consists of a 107-member *Majilis* and a 47-member indirectly elected Senate.<sup>8</sup> Ninety-eight *Majilis* deputies are elected by popular vote in a nationwide constituency for a five-year term on the basis of proportional representation. The remaining nine members are elected by the Assembly of the People of Kazakhstan (APK), an advisory body formed by the president and representing the various ethnic groups of the country.<sup>9</sup> ODIHR has previously recommended that electoral system be brought in line with OSCE commitments, which maintain that all seats in at least one chamber of the national legislature be directly elected.

Parties must obtain at least seven per cent of the all votes cast to qualify for seat allocation. If only one party passes the threshold, the party with the second highest number of votes will also participate in allocation of the seats and will be given at least two seats. Seats to individual candidates on the lists are allocated by the parties entering *Majilis*, and the parties are not bound by any list order.

### D. ELECTION ADMINISTRATION

Elections are administered by the CEC, 232 Territorial Election Commissions (TECs), and 10,054 Precinct Election Commissions (PECs).<sup>10</sup> Out-of-country voting will be conducted at 66 polling stations established at embassies and consulates. Commissions at all levels are appointed for five-year term and, except for the PECs, consist of seven members.<sup>11</sup>

The CEC is responsible for the overall conduct of the elections and issues sub-legal regulations, registers candidate lists, maintains the nationwide voter register, controls party campaign finance as well as tabulates and establishes the election results. The CEC chairperson and two members are appointed by the president, while the lower and upper chambers of parliament each appoint two members. Two of the current CEC members are women.

The CEC informed the ODIHR NAM that, in light of the COVID-19 pandemic, that the Ministry of Health in co-ordination with the CEC was developing precautionary and protective measures related to voting procedures, including social distancing at voting premises, and provision of disinfectant materials at polling stations and personal protective equipment to electoral officials. Detailed measures and instructions will be developed in line with the recommendation of the Chief Sanitary

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<sup>7</sup> See the 2015 [Report](#) of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, paragraphs 59 and 97.

<sup>8</sup> The representative bodies of each of the 14 regions of the country, as well as the cities of Nur-Sultan and Almaty, elect two senators each. In addition, the president appoints 15 senators.

<sup>9</sup> Members of the APK maintain the right to vote for the directly-elected *Majilis* deputies and thus effectively enjoy two votes in the same elections, contrary to the principle of equality of the vote

<sup>10</sup> In the TECs, only the chairperson and secretary are employed full-time. PECs only work around election period.

<sup>11</sup> By law, the PECs should have odd number of members and may consist of either 5 or 7 members to serve up to 2,000 voters or 7 to 11 members for up to 3,000 voters.



Officer. The CEC noted that voters are responsible for their own protection when visiting the polling stations.

Preparations for the elections are ongoing and the CEC has adopted calendar plan of its activities, as well as instructions related to the work of international observers and foreign media outlets, registration of voters, training of lower-level commissions, public awareness raising, and electoral participation of voters with disabilities. The CEC website provides a range of election-related information to the public, including in large font. According to the CEC, relevant national and local executive bodies were instructed to ensure that conditions at polling stations be conducive for citizens with disabilities to exercise their electoral rights, and information on the location of polling stations be available at the portal “Interactive Accessibility Map”.

Lower-level commissions were formed in January 2019 by local councils (*maslikhats*), based on nominations from registered political parties.<sup>12</sup> In case of insufficient proposals, *maslikhats* may consider nominations from public associations or from superior commissions. The CEC informed the ODIHR NAM that a comprehensive training programme had been developed for lower-level commissions to cover the preparations for elections and election day proceedings. Due to the COVID-19 pandemic, the CEC decided to organize mandatory remote training of TEC members and PEC chairpersons, their deputies and secretaries, as well as cascade training of other PEC members.

While no ODIHR NAM interlocutors raised concerns about the administration of technical aspects of elections, many media and civil society representatives expressed their lack of confidence in the independence and impartiality of the election administration at all levels. Some party, media and civil society interlocutors informed the ODIHR NAM of regular delays or lack of response from the CEC, including with regards to requests for clarification of unclear legal provisions. The CEC informed the ODIHR NAM that it adheres to the 15 days legal deadline for addressing the requests.

## E. VOTER REGISTRATION

The right to vote is extended to citizens who have reached the age of 18 on election day. Despite previous ODIHR recommendations, the Election Law continues to disenfranchise citizens serving a prison sentence, irrespective of the severity of the crime committed. Citizens who are declared incapacitated by a court decision, including based on intellectual or psychosocial disability, are also ineligible to vote and stand for election.<sup>13</sup>

Voter registration is passive, and voters are included in voter lists based on their permanent place of residence. Local executive bodies (*akimats*) compile voter lists based on data from the state civil register. The lists are further verified by the TECs and PECs. *Akimats* submit voter lists to respective TECs twice a year, the TECs cross-check the lists with the data from the CEC that maintains a separate unified electronic voter register. In case any discrepancies or duplications are found, they are forwarded to *akimats* for their consideration. As per CEC data, a total of 11,820,318 voters are registered for the upcoming elections.

Preliminary voter lists are to be prepared and delivered by respective *akimats* to polling stations by 21 December. Starting from 26 December, voters may verify their records by visiting a respective

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<sup>12</sup> Parties not represented in commissions may appoint non-voting representatives for the election period.

<sup>13</sup> According to Articles 12 and 29 of the [CRPD](#), “State Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life” and ensure their “right and opportunity [...] to vote and be elected”. See also the 19 January 2018 [Report of the UN Special Rapporteur on the rights of persons with disabilities on her mission to Kazakhstan](#), paragraphs 55 and 91.



polling station or by calling to call centres. Eligible voters not included in the voter lists and who can prove their residence within the precinct, can be added to the lists before or on election day.

Voters may request to temporarily change their electoral address in order to vote at the place of their temporary residence. Such requests should be submitted to respective *akimats* no later than 11 December. Within the last two weeks before election day, voters may also apply for an Absentee Voting Certificate, which allows them to vote in any polling station outside their permanent registration.

While the CEC informed the ODIHR NAM of some efforts to improve the quality of voter registration, including for absentee voting, many ODIHR NAM interlocutors questioned the accuracy of the voter lists and expressed their concerns regarding the lack of practical safeguards against multiple voting or impersonation, which might be used to inflate turnout.

## F. CANDIDATE REGISTRATION

Candidates may be nominated only by the six registered political parties. Following the recent amendments to the Law on Political Parties, the minimum number of party members required for party registration was halved from 40,000 to 20,000, with at least 600 members per branch in every *oblast* and cities of Almaty, Nur-Sultan and Shimkent.

Some civil society and media interlocutors informed the ODIHR NAM of burdensome regulations and suppression of initiatives for creation of political parties.<sup>14</sup> They referred to a resulting limitation of political pluralism and, combined with an absence of genuine opposition in the country, to the lack of opportunities to ensure a meaningful choice for the electorate.

Eligible voters of at least 25 years of age who have permanently resided in Kazakhstan for the last 10 years can stand for the parliamentary elections. The Election Law further restricts candidacy rights for citizens with an unexpunged criminal record and those found guilty of a corruption offence. Self-nominated candidates and the formation of electoral blocs are not permitted, and a political party is not allowed to nominate candidates other than its members.

Parties may submit their candidate lists to the CEC until 30 November, and the CEC has to decide on their registration until 10 December.<sup>15</sup> For registration the candidate list, a political party is required to pay a deposit of KZT 637,500 (some EUR 1,220) for each candidate in the list.<sup>16</sup> The CEC informed the ODIHR NAM that only three out of six eligible parties would have to pay the deposits.<sup>17</sup>

While no registered political parties raised issues with regards to the size of the deposit for parliamentary elections, some ODIHR NAM interlocutors voiced concerns that newly established

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<sup>14</sup> Since 2013, no new political party has been registered. After the 2019 presidential elections, there were attempts of creating at least two new political parties, Democratic Party and *HAQ* Party, but both faced excessive requirements from the Ministry of Justice, such as presenting numerous documents and detailed data about at least 1,000 members of their initiative groups and 40,000 members of the party to be created. In addition, the ODIHR NAM was informed of isolated cases of targeted pressure on delegates of the constituent assembly of Democratic Party scheduled for February 2020. In protest, the initiative group has suspended creation of this party.

<sup>15</sup> Parties have to submit to the CEC their registration certificate, the decision on nomination of the candidate list, certificates on party membership of each candidate and their biographies and statements of consent for nomination. In addition, the candidates have to submit their income and property declarations to the financial authorities.

<sup>16</sup> EUR 1 equals some KZT 515 (Kazakhstani *Tenge*). Electoral deposits are refunded only to parties that receive at least seven per cent of votes cast.

<sup>17</sup> Parties that reached the 7 per cent threshold in the previous elections are exempt from paying the deposit, while the parties that received 3 to 5 and 5 to 7 per cent of votes, are entitled to 30 and 50 per cent reduction of the deposit, respectively.

parties, if any, would find it difficult to deposit the required amount. Some political parties informed the ODIHR NAM on lack of clarity how to hold the congress for nomination of candidates in the light on ongoing COVID-19 pandemic and raised concerns over the wide discretion of the CEC in deciding on rejection of candidates, including due to minor technical mistakes in nomination documents.

Following the 2020 legal amendments, political parties are now required to ensure that the number of women and people not older than 29 years of age jointly constitute at least 30 per cent of candidates in the party lists. Although largely referred to as a quota for women and youth, this mechanism does not translate into mandatory representation of the above-mentioned groups in *Majilis*. Many ODIHR NAM interlocutors questioned the effectiveness of the new mechanism and regretted that legislators had not meaningfully discussed the introduction of the quota with relevant institutions and civil society.

## G. ELECTION CAMPAIGN AND CAMPAIGN FINANCE

The official campaign will start on 10 December and end 24 hours before election day. Campaigning in public institutions is prohibited, and campaign posters can only be displayed in designated public places. The election administration is responsible for ensuring equal campaign opportunities for contesting parties. Political parties informed the ODIHR NAM that the campaign is expected to focus on social policies, support to businesses, the health care system, including measures to fight the COVID-19 pandemic, environmental issues, as well as anti-corruption efforts. Several ODIHR NAM interlocutors noted that the COVID-19 pandemic restrictions would negatively affect the usual ways of communication with voters through personal meetings and door-to-door canvassing. Some parties stated that social media would become an alternative platform for their campaigns. The CEC informed the ODIHR NAM on their plans to clarify the rules of campaigning online.

Many ODIHR NAM interlocutors noted that, although guaranteed by the Constitution, fundamental freedoms of assembly and association are considerably limited by the legal framework and its implementation.<sup>18</sup> Some representatives of civil society informed the ODIHR NAM that the new Law on Peaceful Assemblies is vague and would be selectively applied by local authorities in favour of pro-government groups and against alternative initiatives. Many ODIHR NAM interlocutors voiced concerns about potential abuse of administrative resource during the campaign, including pressure on public sector employees and students, by the ruling party.

Several ODIHR NAM interlocutors acknowledged that despite restrictions, there are citizens' platforms, which provide for a possibility to hold genuine debates and public campaigns, largely online, about alternative ways for improving political and economic situation in Kazakhstan.

To finance their campaign, parties can use their own funds up to KZT 212.5 million. In addition, parties can also accept donations from citizens and organizations, jointly up to KZT 425 million throughout the campaign. Foreign and anonymous donations as well as contributions from state sources are prohibited. Upon registration of a candidate list, the CEC opens a dedicated bank account for the political party to finance its campaign, and the bank weekly notifies the CEC of the party income and spending. The CEC publishes the summaries of electoral funds twice a month.

Within five days after the announcement of the election results, each contesting party is obliged to submit a campaign finance report to the CEC who will then publish it on its website. The law obliges the CEC to verify the reports and cross-check the data in the reports with the data from the bank.

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<sup>18</sup> In addition, see also the UN Human Rights Committee "[Concluding observations on the second periodic report of Kazakhstan](#)" (9 August 2016), CCPR/C/KAZ/CO/2, paragraphs 51-54.

Minor sanctions for breaches of campaign finance rules are defined in the Administrative Offences Code. The Election Law additionally provides for deregistration of parties for any violation of financial rules, lacking established criteria for applying this sanction. While some parties referred to publication of party financial reports as a measure of accountability, other ODIHR NAM interlocutors raised concerns about lack of transparency of the campaign finance.

## H. MEDIA

According to the Ministry of Information and Social Development, there are over 4,500 registered media outlets in the country, including 175 television (TV) channels, 74 radio channels, and 395 information agencies. TV remains the main source of political information, but the Internet increasingly serves as an alternative source of information. Several ODIHR NAM interlocutors noted that the ubiquitous practice of contracting the private media by the state to produce and disseminate information of public interest, combined with a limited advertising market, effectively undermines media independence. Some political parties and NGOs noted scarce access to broadcast media.

Freedom of expression, media freedom and the right of access to information are guaranteed in the Constitution. In line with previous ODIHR recommendations, defamation was decriminalised in June 2020. At the same time, the Criminal Code still prohibits the insult and protects the honour and dignity of the First President and his family, the president and members of parliament.<sup>19</sup> Spreading of false information is subject to criminal sanctions of up to seven years of imprisonment.

The Ministry of Information and Social Development, the Prosecutor General and the National Security Committee are entitled to block websites and halt media outlet operations, without prior judicial oversight.<sup>20</sup> Several ODIHR NAM interlocutors noted that the government had not blocked online resources with political content since the 2019 presidential election. At the same time, many interlocutors acknowledged that journalists work under pressure, which induces self-censorship, and lack access to information, especially from the authorities.<sup>21</sup>

The Ministry of Information and Social Development is responsible for regulating print, broadcast and Internet media and granting broadcasting licenses. It controls the compliance of all media with the election-related legislation. The Ministry informed the ODIHR NAM that it had developed and would soon publish the Guidelines regarding media coverage of elections and campaign in media with the aim to ensure equal coverage conditions for all contestants. While the Ministry conducts media monitoring and monitoring of social networks and communication messengers, including with regards to ensuring equal conditions for access of contesting parties to the media resources, there are no plans to publish the monitoring results. Several ODIHR NAM interlocutors noted that the CEC also monitors media coverage of the campaign. The Ministry considers complaints on media-related violations and can also act *ex officio* in such cases, but the decisions on applying election-related sanctions are within the competence of the CEC and prosecutor office.

The Election Law obliges the media to provide objective coverage of contestants' campaigns and refrain from publicising information deliberately defaming candidates. The law guarantees political parties equal access to paid and free-of-charge media resources.<sup>22</sup> The CEC informed the ODIHR

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<sup>19</sup> The OSCE Representative on Freedom of the Media (RFoM) has [urged](#) the authorities to repeal a number of tools in the Criminal Code, which refer to defamation and which may stifle freedom of expression (7 May 2020).

<sup>20</sup> In addition, the government has authorised the Prosecutor General, National Security Committee and Ministries of Interior Affairs, of Defence and of Emergency Situations to halt or have prioritized access to communications in case of state of emergency, but also in a case of perceived threat, including of "social character".

<sup>21</sup> See also OSCE RFoM statements from [5 April 2018](#), [8 November 2018](#), and [27 February 2019](#).

<sup>22</sup> Prices for paid advertisement should be published by the media and presented to the CEC no later than five days before the official start of the campaign and apply equally to all parties.

NAM that it was developing relevant instructions detailing the procedures for receiving paid and free airtime and printed space as well as modalities for holding the debates between contesting parties on a nationwide TV channel. Several ODIHR NAM interlocutors mentioned that the practice of broadcasting only pre-recorded debates as well as overregulation of their format by the CEC jointly diminish the value of nationwide debates as a platform for the voters to make an informed choice.

The state broadcasting corporation *Qazaqstan* informed the ODIHR NAM that it had developed internal rules for electoral coverage in its news and other political programmes. It plans to provide the news with sign language interpretation and integrate gender equality issues into the election coverage.

## I. COMPLAINTS AND APPEALS

Election-related complaints, including on election results, may be submitted by all electoral participants and public associations to either the superior election commission or courts within 10 days of the decision, action or inaction in question.<sup>23</sup> Decisions on complaints can be further appealed to the higher-level commission or to the court within three days of a decision. Reports of election offenses can also be filed with public prosecutors, who are proactively monitoring media, the Internet and social media to ensure compliance with the law, and bring all cases of election-related administrative violations to the courts.

Courts and election commissions must consider complaints within five days.<sup>24</sup> On appeals, the decisions of courts and lower-level commissions should be considered within three days. Rejection of candidate registration can be appealed to the Supreme Court within seven days. In such a case, the Supreme Court has to decide upon the complaint within seven days and this decision is final.

The final election results, within 10 days of their announcement by the CEC, may be also appealed before the Constitutional Council which is a quasi-judicial body, but the law does not establish clear conditions or criteria for invalidation of election results.<sup>25</sup>

All election-related disputes are public and relevant decisions of election commissions and courts are published.<sup>26</sup> The majority of non-state ODIHR NAM interlocutors consider the electoral dispute resolution mechanism as non-effective citing overly complex mechanism of filing complaints, non-transparent decision-making process and lack of independence of the election administration and the judiciary. Many interlocutors informed the ODIHR NAM that despite numerous electoral violations the perpetrators are not prosecuted, which contributes to perception of impunity for electoral frauds.

## J. ELECTION OBSERVATION

The Election Law provides for observation by contesting parties, as well as citizen and international observers, of all stages of the electoral process. In addition, registered political parties are each entitled to three proxies per polling station, who enjoy similar rights as observers, and, in addition, can also request recounts of results in a polling station. By law, observers are entitled to a copy of the results protocols at polling station level; however, despite previous ODIHR recommendations, the

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<sup>23</sup> In case a complaint is simultaneously submitted to a commission and a court, the election commission must suspend any proceedings until the court ruling enters into force.

<sup>24</sup> Voter registration complaints and complaints submitted less than five days before the elections should be resolved immediately.

<sup>25</sup> Only the president, speakers of both houses of parliament, the prime minister or at least one fifth of the members of the outgoing parliament can appeal to the Constitutional Council.

<sup>26</sup> The Supreme Court informed the ODIHR NAM that the courts could administer the whole dispute resolution process electronically, including filing complaints, holding relevant hearings online and publishing the decisions.

Election Law continues to be silent regarding publication of the results disaggregated by polling stations. Many ODIHR NAM interlocutors noted that past practices of counting votes and the lack of published results by polling station jeopardized the transparency and the integrity of the electoral process.

Several citizen observer groups informed the ODIHR NAM of their plans to observe the elections but regretted that they would not be in a position to observe a large number of polling stations on election day. Some NGOs also plan to assess the inclusiveness of electoral participation, potential misuse of administrative resource, access to media, and transparency of campaign finance. Many ODIHR NAM interlocutors expressed concern that a significant number of citizen observers associated with certain political parties or subsidized by the state would register in order to dilute the voice of independent observers.

#### **IV. CONCLUSIONS AND RECOMMENDATION**

All ODIHR NAM interlocutors emphasized the value of an ODIHR election observation activity for these elections. Representatives of state institutions reiterated their intention to adhere to international standards for democratic elections and ensure public trust to the process and results of the elections. Some interlocutors noted a limited value of ODIHR observation activities in Kazakhstan, as the authorities have only addressed a few election-related ODIHR recommendations. While a number of ODIHR NAM interlocutors noted a limited value in comprehensive observation of election day proceedings due to opaque counting procedures, others maintained that election day observation can help add transparency to the process. A number of issues, such as the election administration, voter registration, the conduct of the campaign and respect for fundamental freedoms, campaign coverage in the media and tabulation of voting results, will benefit from specific attention.

Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) for the upcoming parliamentary elections, subject to availability of financial resources and public health considerations and potential travel restrictions in light of the ongoing COVID-19 pandemic. In addition to a core team of experts, ODIHR should request the secondment by OSCE participating States of 30 long-term observers to follow the electoral process countrywide, and 300 short-term observers to follow election day proceedings. In line with the ODIHR's standard methodology, the EOM should include a media monitoring element.

## **ANNEX: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

Margulan Baimukhan, Deputy Minister  
Timur Sultangozhin, Director, Department of Europe  
Medet Smagulov, Deputy Director, Department of Europe  
Beibit Kulatayev, Counsellor, Department of Europe  
Zhoshykhhan Kuraubayev, Deputy Director, Department of Consular Service

### **Ministry of Information and Social Development**

Kemelbek Oishybayev, Deputy Minister  
Mikhail Komissarov, Head, Analysis and Monitoring Centre  
Alibek Baizhumanov, Head, Administrative Department

### **Parliamentary Committee on Legislation and Judicial and Legal Reform**

Kanat Musin, MP, Chairperson  
Svetlana Bychkova, MP, Secretary  
Snezhanna Imasheva, MP, Member

### **Central Election Commission**

Berik Imashev, Chairperson  
Konstantin Petrov, Deputy Chairperson  
Sabila Mustafina, Secretary  
Yerlan Dauylbayev, Anastassiya Schegortsova, Assylbek Smagulov, Serik Sydykov, Members

### **Supreme Court**

Erbol Ismailov, Judge  
Alfiya Safinova, Judge  
Aslan Tukiev, Judge  
Zhanna Yermagambetova, Judge  
Shakir Shayakhmetov, Head, International Relations Department

### **Prosecutor General Office**

Bulat Dembayev, Deputy Prosecutor General  
Saparbek Nurpeisov, Head, Human Rights Protection Department  
Azamat Sargazin, Senior Aide to Prosecutor General

### **Office of the Commissioner for Human Rights**

Elvira Azimova, the Commissioner for Human Rights  
Zere Utebayeva, Head, National Centre on Human Rights

### **Media**

Serikzhan Mauletbay, journalist, *Informburo* Kazakhstan  
Lyazzat Tanysbay, Chairperson of the Board, *Qazaqstan*  
Ilkhamzhan Ibragimov, Deputy Chairperson of the Board, *Qazaqstan*  
Aydyn Adentayeva, Legal Advisor, *Qazaqstan*  
Zhannur Aidarbekova, Director, Commercial Department, *Qazaqstan*  
Zhalgas Altayev, Director, Department of Information and Analytical Programmes, *Qazaqstan*  
Vyacheslav Abramov, *Vlast.kz*  
Anar Bekbassova, Freelance Journalist

### **Political Parties**

Daniya Espayeva, MP, *Ak Zhol*  
Berik Dusembinov, MP, *Ak Zhol*  
Kenes Absatirov, MP, *Ak Zhol*  
Meruert Kazbekova, MP, *Ak Zhol*  
Aigul Zhumabayeva, Chief of Staff, Parliamentary faction, *Ak Zhol*  
Viktor Smirnov, Chief of Staff, Communist People's Party  
Sunkar Islam, Lawyer, Communist People's Party  
Alibek Aldenei, Secretary, *Nur Otan*  
Arman Kapesov, Deputy Chief of Staff, *Nur Otan*  
Gulbigash Omarova, Deputy Head, Political Department, *Nur Otan*

### **Civil Society**

Yuriy Gusakov, Director, Karaganda branch, International Bureau on human rights and rule of law  
Diana Okremova, Director, Legal Media Centre  
Gulmira Birzhanova, Lawyer, Legal Media Center  
Dimash Alzhanov, Co-ordinator, Movement *Oyan Qazaqstan*  
Arsen Aubakirov, Co-ordinator, New Generation of Human Rights Defenders Coalition  
Pavel Lobachev, Director, Public Foundation "Echo"  
Galym Ageleuov, Head, Public Foundation Liberti  
Zauresh Battalova, Director, Public Foundation for Parliamentary Development in Kazakhstan  
Yelena Shvetsova, Chairperson, Public Foundation "*Yerkindik Qanaty*"  
Roman Reimer, Head, Legal Unit, Public Foundation "*Yerkindik Qanaty*"  
Olga Shiyan, Executive Director, Transparency Kazakhstan Foundation  
Irina Mednikova, Youth Information Service of Kazakhstan  
Alisher Kozhagulov, Youth Information Service of Kazakhstan  
Aliya Zholboldina, Activist on women political participation  
Zhanbolat Mamay, Co-ordinator, Initiative Committee for creation Democratic party

### **International Community**

Ambassador György Szabó, Head, OSCE Programme Office in Nur-Sultan  
Representatives of OSCE participating States in Nur-Sultan and Delegation of the European Union