



Office for Democratic Institutions and Human Rights

KYRGYZ REPUBLIC

PRESIDENTIAL ELECTION

15 October 2017

OSCE/ODIHR Election Observation Mission
Final Report



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TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	1
II.	INTRODUCTION AND ACKNOWLEDGMENTS	4
III.	BACKGROUND AND POLITICAL CONTEXT	4
IV.	ELECTORAL SYSTEM AND LEGAL FRAMEWORK.....	5
V.	THE ELECTION ADMINISTRATION	6
VI.	VOTER REGISTRATION	8
VII.	CANDIDATE REGISTRATION	10
VIII.	THE CAMPAIGN ENVIRONMENT.....	11
IX.	CAMPAIGN FINANCE.....	13
X.	THE MEDIA	15
	A. THE LEGAL FRAMEWORK AND THE MEDIA LANDSCAPE.....	15
	B. THE COVERAGE OF THE ELECTION CAMPAIGN.....	16
XI.	PARTICIPATION OF NATIONAL MINORITIES	17
XII.	CITIZEN AND INTERNATIONAL OBSERVERS.....	18
XIII.	COMPLAINTS AND APPEALS	19
XIV.	ELECTION DAY.....	20
	A. OPENING AND VOTING	21
	B. VOTE COUNT	23
	C. TABULATION OF RESULTS	23
XV.	POST-ELECTION DEVELOPMENTS	24
XVI.	RECOMMENDATIONS	25
	A. PRIORITY RECOMMENDATIONS.....	25
	B. OTHER RECOMMENDATIONS.....	26
	ANNEX 1 –ELECTION RESULTS	29
	ANNEX II: LIST OF OBSERVERS IN THE INTERNATIONAL ELECTION OBSERVATION MISSION.....	30
	ABOUT THE OSCE/ODIHR	37

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I. EXECUTIVE SUMMARY

Following an invitation from the Central Commission for Elections and Referenda (CEC) of the Kyrgyz Republic, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 5 September to observe the 15 October presidential election. The ODIHR EOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections, as well as national legislation. For election day, the ODIHR EOM was joined by delegations of the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe, and the European Parliament to form an International Election Observation Mission (IEOM).

The Statement of Preliminary Findings and Conclusions issued by the IEOM on 16 October concluded that the election “contributed to the strengthening of democratic institutions by providing for an orderly transfer of power from one elected president to another. The election was competitive, as voters had a wide choice and candidates could, in general, campaign freely, although cases of misuse of public resources, pressure on voters, and vote-buying remain a concern. The technical aspects of the election were well-administered, but the adjudication of election disputes by the [CEC] was, at times, biased. While televised debates contributed to greater pluralism, self-censorship and limited editorial coverage of the campaign signalled deficiencies in media freedom. Voting was orderly and well organized in the large majority of polling stations observed, despite problems with ballot secrecy. Numerous and significant procedural problems were noted during the vote count and the initial stages of tabulation”.

The legal framework, which underwent numerous amendments in June 2017, in general adequately regulates issues related to election-day procedures and voter-list administration, as well as voter identification. Regulation of campaigning, campaign financing, citizen observation, and complaints is not clear or comprehensive, and, at times, departs from international standards. In particular, prohibitions aimed at preventing misuse of public resources are inadequate, and public-sector employees are not shielded from pressure and intimidation. Rules for verifying campaign violations are unclear and there is no system of proportionate sanctions. The legal framework does not effectively deter vote-buying, leaving a prior ODIHR recommendation unaddressed.

CEC sessions included substantive discussions and were open to various stakeholders. While decisions on technical matters were usually passed unanimously, the CEC was frequently divided while handling complaints against the two main contenders. CEC members favoured certain candidates, which negatively affected CEC impartiality. At the Territorial and Precinct Election Commission (TEC and PEC) level, technical preparations for the election were organized well. Most ODIHR EOM interlocutors did not question the impartiality of lower-level commissions. A number of problems observed during election day indicate a lack of proper training of PEC members.

While by law voting premises must be accessible for persons with physical disabilities, the majority of polling stations observed were not arranged accordingly. Positively, assistive tools for voters with

¹ The English version of this report is the only official document. Unofficial translations are available in Kyrgyz and Russian.

visual impairments were used in most polling stations observed. Many IEOM interlocutors welcomed the efforts of the CEC to facilitate the electoral participation of persons with disabilities.

The Electoral Law disenfranchises all those serving a prison sentence and those having been declared incompetent by a court decision, which is at odds with international standards. ODIHR EOM interlocutors expressed general confidence in the accuracy and transparency of the voter registration and verification system, and public scrutiny of voter lists contributed to the transparency. However, in a considerable number of cases observed on election day, voters were turned away because their name was not on the voter list. A significant number of citizens, mainly those residing abroad, did not undergo biometric registration, a prerequisite to be included in the voter register, thus effectively disenfranchised. The CEC published the list of all citizens who voted in the presidential election.

Eleven candidates stood for election, including one woman, giving voters a wide choice. Another 48 prospective candidates were not registered or withdrew from the race. The inclusiveness of the registration process was challenged by a burdensome nomination process, including the collection of support signatures, and a restrictive approach of the CEC in their verification. The law continues to provide overly broad grounds for candidate deregistration.

The contestants could, in general, campaign freely. Freedom of assembly was generally respected, with the significant exception of central Bishkek where the city authorities imposed a ban of public gatherings near official buildings throughout the election period. The election campaign was peaceful; however, over time, it became more confrontational, as signalled by several accusations of misconduct. State officials, including the outgoing president, became heavily involved in the campaign. The ODIHR EOM received credible reports of widespread misuse of public resources and pressure on voters, as well as of vote-buying. The election was held concurrently with several criminal cases against opposition politicians and their supporters.

The recent legal amendments significantly increased the limits for candidates' own contributions and for donations to candidates' election campaigns, and removed the limit on presidential campaign spending altogether. This could challenge the free choice of voters and equality of opportunities of candidates. Candidates' campaign finance reports are audited by the CEC audit group, but there is no requirement to publish these reports and audit results. Transparency of campaign financing was insufficient. The law does not provide dissuasive and proportionate sanctions for violations of campaign finance rules.

While the Constitution guarantees freedom of expression and prohibits criminal prosecution for defamation, the president enjoys higher protection in civil defamation cases. An increasing number of excessive damages awarded against media and journalists in defamation cases had an adverse effect on the debate on matters of public concern and resulted in self-censorship among journalists. Broadly formulated provisions of the Criminal Code regarding "incitement of national (inter-ethnic), racial, religious or interregional enmity" were applied during the election, significantly affecting the freedom of expression.

The law requires media to provide unbiased information and to treat candidates equally. However, no institutional media monitoring was conducted to ensure compliance with the law. ODIHR EOM media monitoring results showed that broadcasters preferred airing paid political advertising, rather than covering the campaign in the news. Within the limited amount of campaign coverage, TV stations, including public broadcasters, were clearly biased. While televised debates provided a welcome opportunity for voters to get information about all candidates thus contributing to greater pluralism, they could not counterbalance the lack of unbiased information.

Principles of non-discrimination and equality are enshrined in the Constitution and other laws. Although issues related to inter-ethnic peace and national unity featured in some candidates' campaign rhetoric, contestants' platforms did not specifically address the situation of national minorities, inter-ethnic relations, or integration of society. The ODIHR EOM did not observe any anti-minority rhetoric, but inter-ethnic and identity issues were, at times, utilized for political ends, contributing to the confrontational nature of the campaign. The intensive coverage of a rally of one of the main contenders, largely taken out of context, and the subsequent reactions caused considerable disquiet to members of the Uzbek community. Alleged cases of misuse of public resources, pressure, and vote-buying particularly contributed to the sense of vulnerability and anxiety among representatives of minority communities.

Women remain underrepresented in politics, including in elected office. Candidates did not specifically address gender issues in their campaign platforms. There are no temporary special measures in the legal framework to promote women candidates for the post of the president. Women were well represented in TECs, as well as in PECs visited by IEOM observers on election day.

Recent legal amendments limit the number of observers that civil society organizations and candidates can deploy and remove the right of citizen observers to appeal election results. A number of citizen observer groups reported arbitrary application of the accreditation rules in the regions. Some civil society organizations undertook comprehensive long-term observation. On election day, candidate and citizen observers were present at all electoral stages, contributing to the transparency.

Positively, complaints were handled in an open manner and registries of complaints and court appeals, as well as CEC decisions and court rulings, were published, enhancing transparency. Legal deadlines were generally respected, and, despite some notable exceptions, parties could present their arguments. However, the handling of complaints by the CEC about the misuse of public resources and intimidation of voters lacked diligence and effectiveness. A number of ODIHR EOM interlocutors raised concerns about the lack of independence of the judiciary.

Election day was peaceful and proceeded in a largely orderly manner throughout the country. However, problems with the secrecy of the vote were of particular concern. Unauthorized people, especially police, local officials, and so-called 'volunteers', were often observed in polling stations. IEOM observers reported some serious violations, including group voting, attempts to influence voters who to vote for, and series of seemingly identical signatures on voter lists.

Over one third of vote counts observed were assessed negatively, which is a high quantity that is of concern. Many PECs disregarded mandatory procedures during the manual vote count. The IEOM assessed the tabulation of results negatively in nearly one half of the TECs, largely due to the chaotic and poorly organized reception of election materials. Positively, the CEC published detailed preliminary and official election results by polling station, thereby increasing transparency.

The post-election period was calm. While none of the losing candidates explicitly recognized the election results, few complaints were filed. The CEC invalidated the results from eight polling stations due to significant discrepancies in the numbers of ballots cast.

This report offers a number of recommendations to support efforts to bring elections in the Kyrgyz Republic further in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations relate to inclusive and timely electoral reform, effective measures against misuse of public resources and vote-buying, including during complaints and appeals process, guaranteeing the right to a free and secret ballot, greater transparency of campaign finance, adjustment of legal remedies available in defamation cases, and proper legal definition of "incitement of national (inter-ethnic), racial, religious or interregional enmity". ODIHR

stands ready to assist the authorities to improve the electoral process and to address the recommendations contained in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Central Commission for Elections and Referenda (CEC) of the Kyrgyz Republic and the conduct of a Needs Assessment Mission from 24 to 26 May 2017, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 5 September to observe the 15 October 2017 presidential election. The ODIHR EOM was headed by Ambassador Alexandre Keltchewsky and consisted of 17 experts and 26 long-term observers, who were based in 10 locations throughout the country.

For election day, the ODIHR EOM was joined by delegations from the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP) to form an International Election Observation Mission (IEOM). Mr. Azay Guliyev was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and leader of the short-term OSCE observer mission. Mr. Artur Gerasymov headed the OSCE PA delegation. Ms. Doris Fiala headed the PACE delegation. Ms. Laima Andrikiienė headed the EP delegation. Each of the institutions involved in this IEOM has endorsed the 2005 Declaration of Principles for International Election Observation.² In total, 369 observers from 43 countries were deployed, including 298 long-term and short-term observers deployed by ODIHR, as well as a 37-member delegation from the OSCE PA, a 23-member delegation from the PACE, and a 11-member delegation from the EP. Opening procedures were followed in 112 polling stations, voting in 1,213 polling stations, the vote count in 139 out of 2,375 polling stations, and the tabulation of results in 50 out of 54 TECs.

The ODIHR EOM assessed compliance of the electoral process with OSCE commitments and other international obligations and standards for democratic elections, as well as national legislation. This final report follows a Statement of Preliminary Findings and Conclusions, which was released at a press conference in Bishkek on 16 October 2017.³

The ODIHR EOM wishes to thank the CEC and the Ministry of Foreign Affairs, including its Permanent Mission, for their co-operation and assistance. The ODIHR EOM also wishes to express appreciation to other national and local state institutions, election authorities, political parties, candidates, media and civil society organizations for their co-operation, and to the OSCE Programme Office in Bishkek, embassies of OSCE participating States and Partners for Co-operation, and international organizations accredited in Kyrgyz Republic for their co-operation and support.

III. BACKGROUND AND POLITICAL CONTEXT

The Kyrgyz Republic has a semi-presidential system of government. The 2017 presidential election was the second one since the adoption of the current Constitution in 2010, under which the president can only serve one single term in office. The date was subject to recent amendments to the Constitutional Law on Presidential and Parliamentary Elections (hereinafter Electoral Law) that advanced the election by one month from the initially planned date of 19 November, in order to ensure that the presidency does not remain vacant at the end of the incumbent's term in office.

² See the [Declaration of Principles for International Election Observation](#).

³ See [all previous ODIHR reports on the Kyrgyz Republic](#).

The amendments to the Constitution were initiated in 2016 by members of parliament (MPs), including from the ruling Social Democratic Party of Kyrgyzstan (SDPK). This initiative met strong resistance from parts of the opposition and from civil society organizations (NGOs) who claimed that the law prohibited changes to the constitutional powers of the president and parliament until 2020. The amendments were eventually adopted through a referendum in December 2016. ODIHR and the Council of Europe's European Commission for Democracy through Law (Venice Commission) in their assessment of the amendments noted potentially negative consequences for the rule of law and the protection of human rights.⁴

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The president is elected for a single six-year term, by direct universal suffrage. A candidate who receives more than one half of the votes cast in the first round is declared elected. If no candidate receives the required majority, a runoff takes place between the two candidates with the most votes. There is no turnout requirement for the validity of either round. The law does not specify a deadline for the second round, which reduces legal certainty.⁵

Consideration should be given to setting in the law a clear deadline for a possible second round.

Kyrgyzstan is a party to major international instruments related to democratic elections, which form part of the national legal system.⁶ The legal framework for presidential elections comprises the Constitution, the 2011 Electoral Law, the 2011 Law on Electoral Commissions, and other legislation.⁷ Numerous amendments were made to the Electoral Law in June 2017.⁸ Some ODIHR EOM interlocutors opined that these amendments were insufficiently consulted with electoral stakeholders.

The legal framework, in general, adequately regulates issues related to election-day procedures and voter-list administration, as well as voter identification. Rules on candidate nomination and registration are detailed but complex, making compliance difficult. At the same time, regulation of campaigning, campaign financing, citizen observation, and complaints is not clear and comprehensive, and, at times, departs from international standards. In particular, prohibitions aimed at preventing misuse of public resources are imprecise and do not ensure remedial action.⁹ There are no specific provisions to protect civil servants and employees of the public sector against pressure and intimidation. The law does not provide clear rules for establishing campaign violations and consistent

⁴ See ODIHR and Venice Commission's [Joint Opinion on the draft Law "On Introduction of Changes and Amendments to the Constitution"](#).

⁵ The second round is held no earlier than two weeks from the announcement of the first-round results, which the CEC must establish within 20 days of the first-round election day.

⁶ Including the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1979 Convention on the Elimination of All Forms of Discrimination against Women, and the 2003 UN Convention against Corruption (UNCAC).

⁷ Including the 1999 Law on Political Parties, the 2012 Law on Peaceful Assemblies, the 1998 Code on Administrative Liability, and the 1997 Criminal Code.

⁸ Changing, *inter alia*, provisions related to campaigning in online media, handling of voter lists, voter identification, election-day procedures, campaign finance, electoral deposits, and the status of citizen observers.

⁹ For example, the CEC decided that the law did not prohibit a school director from calling attendants at a meeting with parents to vote for candidate Sooronbay Jeenbekov; and that the head of the state railways was allowed to do the same during a meeting with workers. According to paragraph II.A.1.1. of the 2016 ODIHR and Venice Commission's [Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes](#) "prohibition [of misuse of administrative resources] has to be established in a clear and predictable manner. Sanctions for misuse of administrative resources have to be provided for and implemented". See also paragraph B.1.

application of proportionate sanctions.¹⁰ Newly introduced rules for citizen observers contributed to inconsistent regulation.¹¹ Deadlines for filing complaints with the courts are unclear in the law, which led to denial of an effective remedy.¹² The legal framework does not effectively deter vote-buying, leaving a prior ODIHR recommendation unaddressed.¹³

The legal framework should be reviewed to address identified shortcomings through an inclusive and consultative process and in a timely manner. In particular, the law should be amended to include clear prohibitions and effective sanctions against the misuse of public resources. Consideration should be given to making vote-buying a criminal offence that is a matter of public prosecution. Public sector employees should be shielded from pressure and intimidation. Procedures for establishing campaign violations should be clarified and a system of proportionate sanctions developed, with cancellation of a candidate's registration possible only as an extraordinary measure for the most serious violations.

V. THE ELECTION ADMINISTRATION

The presidential election was administered by the CEC, 54 Territorial Election Commissions (TECs) and 2,375 Precinct Election Commissions (PECs), including 37 polling stations established in embassies and consulates of the Kyrgyz Republic for voters abroad.

The CEC is a permanent, collegial body responsible for the organization of elections and referenda.¹⁴ Its sessions included substantive and extensive discussions and were open to and regularly attended by various stakeholders.¹⁵ According to the law, CEC decisions must be published on the CEC website within 24 hours; however, this was not the case for all decisions. While decisions on technical matters were usually passed unanimously, the CEC was frequently divided while handling complaints against candidates Omurbek Babanov and Sooronbay Jeenbekov, who were seen as the main contenders. At times, discussions on such complaints were tainted by mutual personal accusations among CEC members. Some CEC members and candidate representatives, during sessions, repeatedly called upon other CEC members to refrain from taking politically motivated decisions. CEC members favoured

¹⁰ The law prohibits incitement of hatred in campaigns, defamatory publications, and vote-buying but does not contain procedures and criteria for establishing such violations by election commissions. The only sanctions for campaign violations in the Electoral Law are a warning and the possibility of deregistration for “repeat violation”. While fines may be imposed under the Code on Administrative Liability, election commissions did not apply such sanctions.

¹¹ The term “citizen observers” was introduced in the Electoral Law with the 2017 amendments. Many provisions of the law continue to refer only to “observers” (e.g. Articles 8, 29, 31, 33, 35, 36, 39, 43, and 44), and it is unclear whether they also cover citizen observers.

¹² Several court appeals against CEC decisions were rejected because they were submitted within three, and not two days from the date of the respective decisions. Since copies of CEC decisions are not available the same day the decisions are taken, two days may be insufficient for adequate preparation of court appeals.

¹³ Vote-buying is criminalized but is a matter of “private prosecution”. The Prosecutor General’s office confirmed to the ODIHR EOM that vote-buying is neither investigated nor prosecuted by law-enforcement bodies. Complaints are transferred directly to court and it is up to the victim to provide evidence and support prosecution, or settle the case.

¹⁴ The 12 CEC members are appointed for a five-year term by the parliament, upon nominations from the president, the parliamentary majority, and the parliamentary opposition, who each nominate four members. Five of the current CEC members, including the chairperson and one of her two deputies, are women.

¹⁵ Since the election was called and until 26 October, the CEC conducted some 70 sessions and adopted some 350 decisions and regulations.

certain candidates, which resulted in disagreements during decision-making and negatively affected CEC impartiality, especially with regard to the handling of complaints.¹⁶

The law on election commissions should be amended to include impartiality as one of the guiding principles for activities of election commissions, in line with international standards. Consideration could be given to allowing non-political bodies, such as civil society and the judiciary, to appoint CEC members with a view to enhancing the CEC's impartiality and pluralism.

CEC decisions are taken by the majority of votes of the members.¹⁷ The law provides for mandatory participation of CEC members in all sessions. However, those who expect to be absent may, in advance of a session, deposit their votes for or against a decision in writing.¹⁸ On a number of occasions, such votes were deposited and counted, even though some draft decisions were amended during the respective session. This practice could undermine the collegiality in the work of the CEC.

In order to further enhance collegiality in and openness of decision-making processes, the CEC should consider removing the possibility for its members to vote while absent.

Lower-level election commissions were formed for two-year terms.¹⁹ The ODIHR EOM observed that technical preparations for the election were well-organized, and TECs and PECs visited were well-resourced and operational. Most interlocutors of the ODIHR EOM did not raise any questions regarding the impartiality of lower-level commissions. TECs, however, often did not notify observers about the time of their sessions and did not publicize session agendas in advance, thus decreasing the transparency of their work. Women were well represented in TECs, accounting for 48 per cent of all members, although they only accounted for 33 per cent of TEC chairpersons. Some 67 per cent of PEC chairpersons of polling stations observed on election day were women, who also accounted for 71 per cent of all PEC members in these polling stations.

Positively, the CEC prepared and aired on public television (TV) voter information spots in Kyrgyz and Russian languages, focusing on the importance of elections, voter registration, participation of out-of-country voters and voters with disabilities, election-day procedures, and the illegality of vote-buying. Some of the spots were supported by sign language.

The legal framework recognizes the right of persons with disabilities to political participation, including the right to elect and to be elected, the right to assembly, and the right of access to information.²⁰ While, according to ODIHR EOM interlocutors, the newly established CEC working group on rights of citizens with disabilities identified key priorities to enhance their political participation, due to the short timeframe, most of these issues remain to be addressed in the next electoral cycle.

¹⁶ Paragraph 20 of the 1996 UN Human Rights Committee's (CCPR) General Comment 25 to the ICCPR states 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".

¹⁷ Article 18.2 of the Law on Election Commissions stipulates that certain decisions (e.g. registration of a candidate) require two thirds of the votes to be adopted.

¹⁸ Article 25 of the Rules of Procedure of the CEC stipulates that a CEC member who is absent for valid reasons may familiarize herself or himself with the agenda and draft resolutions in advance and leave her/his decision in writing. In such cases, the CEC member is considered to have voted.

¹⁹ One half of the members of each commission are nominated by political parties, while the rest are nominated by local councils. Each political party can only have one member in a TEC or a PEC.

²⁰ See the 2008 [Law on the Rights and Guarantees of Persons with Disabilities](#). In the campaign period, ODIHR EOM observers assessed the accessibility of nine public campaign venues in different regions, and found that seven were accessible for persons with disabilities, while two were not.

In order to facilitate participation of persons with disabilities in political life, the CEC, in co-operation with other stakeholders, should guarantee that the voting rights of these persons are respected. In particular, it should be ensured that the accessibility and layout of polling stations are suitable for voters with different types of disabilities.

VI. VOTER REGISTRATION

The Constitution establishes inclusive criteria for suffrage rights by granting the right to vote to all citizens who have reached the age of 18 before or on election day. However, the Electoral Law disenfranchises those serving a prison sentence, irrespective of the gravity of the crime committed, and those having been declared incompetent by a court decision, including for reasons of mental disability. These blanket restrictions could be regarded as disproportionate and are at odds with OSCE commitments and international standards.²¹

The withdrawal of suffrage rights of prisoners, irrespective of the gravity of the crime committed, as well as the restriction based on mental disabilities should be reconsidered. Consideration should be given to ratifying the CRPD.

The voter registration system is passive. Voter lists, which include voters residing in Kyrgyz Republic as well as abroad, are compiled on the basis of the Unified Population Register, which is maintained and updated by the State Registration Service (SRS). Although voters are automatically included in the voter register, the legislation sets as a prerequisite that eligible citizens deposit to the database of the SRS their biometric data, such as digital fingerprints of all fingers, photo, as well as a signature. ODIHR EOM interlocutors, in general, noted a growing confidence in the biometric voter registration system. However, a number of interlocutors expressed concerns to the ODIHR EOM about the use and protection of personal data and that some citizens were unwilling to undergo biometric registration; as a consequence, these citizens are not included in the voter register.²²

During the public scrutiny period, which ran between 16 August and 29 September, citizens could verify their voter list records. The ODIHR EOM noted that in general, the inter-institutional cooperation between the SRS and CEC provided sufficient mechanisms for voters to initiate changes and corrections in the voter lists, despite occasional long queues and overcrowding at some biometric data collection points. During the public scrutiny period, 111,182 citizens submitted their biometric data and were added to the voter register, and 28,397 citizens initiated corrections.

In a step to facilitate the exercise of their right to vote, voters are allowed to change their registration to a temporary address where they would be on election day; PECs received a total of 316,064 such

²¹ Paragraph 24 of the 1990 OSCE Copenhagen Document provides 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”. Paragraph 14 of the 1996 CCPR General Comment 25 to the ICCPR requires that “if a conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence”. Article 29 of the [Convention on the Rights of Persons with Disabilities](#) (CRPD) stipulates that state parties to the convention shall “Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others; [...] including the right and opportunity for persons with disabilities to vote and be elected”. The CRPD was signed by the president of the Kyrgyz Republic in 2011; however, the parliament has thus far not ratified it. According to the Paragraph 5.20 of the 1990 OSCE Copenhagen Document “the participating States reaffirm that they will consider acceding to ... relevant international instruments, if they have not yet done so”.

²² Paragraph 11 of the 1996 CCPR General Comment 25 to the ICCPR provides that “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed”.

requests.²³ In order to accommodate voters who requested a temporary voting address, 33 additional polling stations were established in Bishkek.²⁴ Several interlocutors, mainly from civil society, shared credible information with the ODIHR EOM about cases of university students, civil servants, and employees of state-owned companies being pressured to request temporary voting addresses and vote for Mr. Jeenbekov.²⁵ However, little evidence was formally brought forward to substantiate such claims, and many ODIHR EOM interlocutors attributed this to fear of repercussions and a lack of trust in law enforcement and the judiciary.²⁶

After the end of the public scrutiny period, the final voter lists were published on the CEC website and at polling stations on 12 October. The final voter register included 3,025,770 voters, or around 80 per cent of the total estimated number of eligible voters.²⁷ According to most ODIHR EOM interlocutors, including the SRS and CEC, this discrepancy is due to the significant number of citizens residing abroad. Since the large majority of these citizens have not submitted their biometric data, they are effectively deprived of their right to vote.²⁸

Authorities should undertake comprehensive efforts, such as having additional data collecting points at main border crossings, to encourage and facilitate biometric registration for all eligible voters, especially those residing abroad.

On 21 October, the CEC published on its website the list of all citizens who voted in the presidential election. Some ODIHR EOM interlocutors noted that the publication of these lists is not necessary, since already existing safeguards should provide sufficient protection against voter impersonation, multiple voting, and ballot box stuffing, and expressed concerns that this new practice, introduced by the 2017 amendments of the Electoral Law, may lead to undue control of citizens and pressure on voters. Furthermore, the published list of voters who voted contains the birth date of citizens,²⁹ which raises questions of personal data protection.³⁰

²³ As a result of voters requesting temporary voting addresses, the number of voters registered in some major cities grew significantly; according to data from the SRS, in Bishkek it increased from 321,750 to 426,722, and in Osh from 120,622 to 159,348.

²⁴ Some stakeholders considered that the creation of new polling stations did not take place according to the law and lacked transparency. One complaint was filed at the Bishkek TEC and two at the CEC, on the grounds that the additional polling stations were created after the legal deadline and without having been assigned an actual precinct; all three complaints were rejected. On election day, a few complaints were filed by voters who claimed to have been transferred from one polling station to another without requesting a temporary address.

²⁵ Media also reported about public officials strongly encouraging voters to register new temporary voting addresses and to support Mr. Jeenbekov.

²⁶ In one case of a teacher of the Kyrgyz State Law Academy, the Prosecutor General's office launched an investigation into the allegation that she pressured students to vote for Mr. Jeenbekov.

²⁷ According to [data](#) from the National Statistical Committee, the estimated number of Kyrgyzstani citizens above the age of 18 as of 2017 is 3,876,985.

²⁸ The number of registered out-of-country voters was 18,580. Turnout abroad was approximately 25 per cent, substantially lower than in the country.

²⁹ While Article 14 of the Electoral Law explicitly mentions that the preliminary online voter register must not contain sensitive personal data, such as voters' addresses and birth dates, the law is silent on what kind of information the list of citizens who voted may include.

³⁰ [Interpretative Declaration 840/2016](#) of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that "The publication of the lists of voters having participated in elections should be avoided". See Article 3 of the 1990 UN General Assembly [Guidelines for the Regulation of Computerized Personal Data Files](#).

VII. CANDIDATE REGISTRATION

Any Kyrgyzstani citizen between the age of 35 and 70 who has resided in the country for more than 15 years in total and has command of the state language, can stand for presidency. The Electoral Law bans from candidacy individuals who are not eligible to vote, as well as those with unexpunged or unexpired criminal records.³¹ Candidates can be nominated by political parties or through self-nomination. To register, each candidate has to establish an electoral fund, submit an electoral deposit, and provide support signatures of at least 30,000 voters.³²

The CEC registered 13 out of the 59 initially nominated candidates, including 1 woman and 5 candidates nominated by political parties.³³ Nine nominees withdrew before registration, and the CEC denied registration to 37 candidates, mostly due to failure to establish electoral funds, provide sufficient valid support signatures, or pass the language test. Seven rejected candidates appealed the respective CEC decisions to the court, without success.

Access to the ballot proved to be cumbersome for some candidates. Although voters eventually had a wide choice of candidates, the inclusiveness of the registration process was challenged by burdensome regulations and collection of support signatures, and a restrictive approach of the CEC in the verification of these signatures.³⁴ Some ODIHR EOM interlocutors also raised serious questions regarding the procedure and methodology used to verify support signatures.³⁵

In the case of prospective candidate Rita Karasartova, who submitted 31,706 support signatures, the CEC found 936 invalid signatures in the sample of signatures it examined (i.e. 2.9 per cent of the total number of signatures submitted). After examining a 20 per cent sample, the CEC multiplied the number of invalid signatures found in the sample by five and subtracted that figure from the total number of submitted signatures. As a result, the CEC invalidated 4,680 signatures, leaving Ms. Karasartova with 27,026 valid signatures – 2,974 short of the number needed to stand as candidate.

³¹ Convicted offenders retain a criminal record for up to 10 years after they serve their sentence, depending on the gravity of the crime committed. A motion may be made to a court to expunge the criminal record before it expires. Prospective candidate Ahmatbek Keldibekov was denied registration due to his criminal record, which was due to expire in November 2017.

³² The 2017 legal amendments increased tenfold the electoral deposit, to 1 million Kyrgyzstani *Som* (KGS, some EUR 12,500; EUR 1 was approximately KGS 82 at the time of candidate registration). The deposit is returned to candidates who receive at least 5 per cent of all votes cast. On 2 October, the CEC decided to return the deposit to all five nominees who had paid the deposit but had not been registered as candidates.

³³ Arstanbek Abdyldayev, Omurbek Babanov, Azimbek Beknazarov, Sooronbay Jeenbekov, Ulukbek Kochkorov, Adakhan Madumarov, Arslanbek Maliev, Taalatbek Masadykov, Temir Sariev, Kamchybek Tashiev, Bakyt Torobayev, Toktayim Umetalieva, and Ernis Zarlykov.

³⁴ Of the 37 rejected candidates, 10 submitted more than 30,000 signatures, but the CEC considered most of them to be invalid for various reasons. For instance, nominees Omurbek Tekebayev and Iskhak Masaliev were denied registration primarily because the costs for producing signature collection sheets had not been covered from their electoral fund accounts. In her court complaint, nominee Kamila Sharshkeeva argued that CEC members invalidated the same signatures on different grounds but accounted for them multiple times, artificially inflating the number of invalid signatures. Paragraph 17 of the 1996 CCPR General Comment 25 to the ICCPR states that “if a candidate is required to have a minimum number of supporters for nomination, this requirement should be reasonable and not act as a barrier to candidacy”. Section I.1.3.iii of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that “Checking of signatures must be governed by clear rules”.

³⁵ The Electoral Law allows for full or partial verification of signatures, the latter by randomly selecting and verifying 20 per cent of the submitted support signatures. Criteria for determining the validity of the support signatures and details on the verification process are regulated by the CEC Instruction No. 165 of 17 June 2017. The number of valid signatures is determined by multiplying the number of invalid signatures found during verification by five and subtracting that figure from the total number of submitted signatures.

Indeed, the extrapolation of the number of invalid signatures from a verified sample to the total number of collected signatures may lead to an unjustified refusal in registration, thus endangering the right to stand.³⁶ Thus, the CEC did not register five prospective candidates based only on the presumption of invalidity of signatures that had not been verified as such.³⁷

Should the collection of support signatures remain a requirement for candidate registration, consideration should be given to simplifying the signature collection procedure and introducing clear and reasonable signature verification rules. At a minimum, the extrapolation formula used for validation of signatures should be removed.

The signature verification process was largely open to candidate representatives.³⁸ The law is silent regarding the right of citizen observers to scrutinize the verification process.³⁹ While no candidates were deregistered, the law, despite previous ODIHR recommendation, continues to provide for overly broad grounds for deregistration of candidates, including for violating campaign finance regulations and campaign rules, or if candidate's official representatives are involved in vote-buying.

VIII. THE CAMPAIGN ENVIRONMENT

The official election campaign lasted from 10 September to 13 October. The registered candidates could, in general, campaign freely. However, several candidates informed the ODIHR EOM that they had faced difficulties during the collection of support signatures, mainly due to concerns that trying to explain to citizens why they should support their candidacy could be interpreted as campaigning before the start of the official period.

The definition and restrictions related to the campaign should apply to the official campaign period only so that not to preclude regular political activities at other times and provide prospective candidates with a possibility to present their programmes while collecting support signatures.

Several candidates and their regional structures were actively campaigning throughout the country, using a variety of campaign methods.⁴⁰ Campaign materials of candidates Babanov and Jeenbekov were the most visible, followed by those of candidate Sariev. Some candidates were predominantly active on social media and in low-profile encounters with voters, rather than at rallies. Of the initial 13 candidates, 2 withdrew from the race and endorsed the leading contenders.

The campaign took place amid several criminal cases against opposition politicians and their supporters. On 16 August, the leader of opposition party *Ata-Meken*, MP Omurbek Tekebayev, was sentenced to eight years in prison for corruption.⁴¹ On 10 October, another member of *Ata-Meken*, MP

³⁶ According to Article 25 of the ICCPR, every citizen shall have the right and the opportunity to be elected without unreasonable restrictions. Section I.1.3.iv of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that the “[c]hecking process must in principle cover all signatures”. See paragraphs 52–55 of ODIHR and Venice Commission [Joint Opinion “On the Draft Electoral Law of the Kyrgyz Republic”](#).

³⁷ See CEC decisions No. [65](#), [66](#), [67](#), [68](#), and [73](#) regarding denial in registration of prospective candidates.

³⁸ On 4 September, the CEC conducted an additional verification of Mr. Isayev's support signatures, whereby an additional 2,080 signatures were recognized as invalid. According to the complaint submitted to the court, neither the nominee nor his representative were invited to attend this signature verification, contrary to the law.

³⁹ The ODIHR EOM is aware of one citizen observer organization, which was not granted access to the signature verification process.

⁴⁰ Mr. Babanov, leader of the opposition *Respublika-Ata-Jurt* party, Mr. Jeenbekov, nominated by the SDPK, and Mr. Sariev, leader of the *Akshumkar* party, all three former prime ministers, led the most active campaigns.

⁴¹ The case dated back to 2010. After subsequent application of an amnesty, the sentence was reduced to 4.5 years of imprisonment.

Aida Salyanova, was sentenced to five years in prison for misuse of office in 2010.⁴² Several IEOM interlocutors opined that they were a result of *Ata-Meken*'s opposition to the 2016 constitutional amendments. On 30 September, MP Kanatbek Isayev, a supporter of Mr. Babanov, was detained on suspicion of preparing mass disturbances and a violent takeover of power. Three more people have since been detained in connection with this case.

The election campaign was generally peaceful. It, however, became more confrontational closer to election day, and the ODIHR EOM received credible reports of widespread misuse of public resources and pressure on voters, as well as allegations of vote-buying. The ODIHR EOM also received information of cases of destruction of campaign materials in several regions.⁴³

The Electoral Law bans the participation in campaigns of certain individuals, including public officials, charity workers, religious figures, and minors. On 21 September, Prime Minister Sapar Isakov relieved Deputy Prime Minister Duishenbek Zilaliev of his duties as head of the task force for technical and logistical support to the electoral commissions, after it emerged that Mr. Zilaliev during a meeting in Batken city hall had called on state employees to vote for Mr. Jeenbekov.⁴⁴ Towards the end of the election campaign, President Almazbek Atambayev made several statements in support of Mr. Jeenbekov. On 4 October, in response to claims of Mr. Babanov that he would be elected in the first round, President Atambayev made an official statement that in order to ensure the free expression of the voters' will and to prevent "imposition of false information", he was releasing poll results with "real information".⁴⁵ During the 9 October funeral of Deputy Prime Minister Temir Dzhumakadyrov and during a 12 October visit to Osh, President Atambayev made several harsh statements against Mr. Babanov. These actions combined challenged paragraph 7.6 of the 1990 OSCE Copenhagen Document.⁴⁶

The authorities should undertake efforts to create equal opportunities for all candidates. In particular, the rules for state officials in relation to the election campaign should be clarified, and penalties be increased for misuse of public resources. Furthermore, in line with the legislation, officials should avoid taking actions and making statements in favour of or detrimental to certain candidates.

On 28 September, Mr. Babanov made a speech in Osh addressing the local Uzbek community. Starting from the next day, several TV stations, especially public broadcasters, started intensive coverage of this speech, largely taken out of context, implying that the speech constituted incitement of inter-ethnic hatred. Subsequent, potentially orchestrated, demonstrations against Mr. Babanov in Bishkek, Jalal-Abad, and Osh were covered for several days on TV. In the aftermath of the Osh speech, the CEC received multiple complaints requesting to deregister candidate Babanov and issued a warning to him.

⁴² In addition, former MP and *Ata Meken* member Raikan Tologonov was sentenced to 15 years in prison on 27 October, for allegedly looting the property of ousted President Kurmanbek Bakiev in 2010.

⁴³ The Ministry of Interior informed the ODIHR EOM that it received over 40 complaints about damage to and destruction of campaign materials. Representatives of some campaign offices opined to the ODIHR EOM that they did not have confidence in the impartiality and effectiveness of the police in these cases.

⁴⁴ During the inauguration of a sports stadium on 3 October, the ODIHR EOM observed that Mr. Zilaliev used more careful language but again, in effect, campaigned for Mr. Jeenbekov.

⁴⁵ The [statement](#) was accompanied by previously unpublished survey results of voting intentions for leading candidates, with largely positive dynamics in favour of Mr. Jeenbekov. These opinion poll results did not contain all elements required by the Electoral Law, including the survey method, margin of error, and the person who ordered and paid for the poll.

⁴⁶ Paragraph 7.6 of the 1990 OSCE Copenhagen Document commits participating States to "provide ... parties ... with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities".

Freedom of assembly was generally respected during the election campaign, with the significant exception of Bishkek, where the city authorities imposed a ban on public gatherings near official buildings throughout the election period, contrary to the legislation and international standards.⁴⁷ Two district courts in Bishkek confirmed this prohibition.⁴⁸ Nevertheless, on 13 October, the final campaign rally of Mr. Jeenbekov took place at Ala-Too square, the main square of Bishkek, explicitly restricted for campaign rallies. The ODIHR EOM was informed about other candidates encountering problems with the local authorities in organizing campaign events, especially in the south of the country.⁴⁹

Women remain underrepresented in political life, including in elected office. As of election day, 19 of the 120 MPs, 3 of the 22 members of the government, and none of the 9 governors were women. There are no temporary special measures in the legal framework to promote women candidates for the post of president, such as a lower support signature requirement, lower electoral deposit, or financial incentives for political parties to nominate women candidates.⁵⁰ While the ODIHR EOM observed gender balance among voters attending the rallies, there was a strong predominance of men among campaign staff, and a lack of candidates' platforms addressing gender issues in society. According to the CEC, women were more active than men in terms of voter turnout, in all regions of Kyrgyz Republic. Despite efforts to address women's and children's concerns in her electoral platform, the only female candidate, Ms. Umetalieva, received the least votes of all candidates.

Women's active participation in public and political life should be encouraged by means of comprehensive legal, institutional, and educational initiatives. Consideration should be given to introducing temporary special measures to facilitate participation of women candidates in presidential elections.

IX. CAMPAIGN FINANCE

Election campaigns may be financed from candidates' own contributions, as well as by donations from citizens and legal entities.⁵¹ Candidates do not receive public funding. In June, the limits for own contributions and for donations to election campaigns were significantly increased, while the limit on

⁴⁷ Paragraph 9.2 of the 1990 OSCE Copenhagen Document states that "everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards". See also Article 21 of the ICCPR.

⁴⁸ On 28 July, the Pervomaiskiy district court of Bishkek upheld the application of the district administration to ban all peaceful assemblies in specified central locations of Bishkek, including Ala-Too square, between 27 July and 20 October 2017, "with the exception of official cultural mass gatherings". On 26 September, a similar application of the Oktyabrskiy district administration of Bishkek was upheld by the Oktyabrskiy district court, banning all peaceful assemblies anywhere in the district, with the exception of the Botanical Garden, until 20 October. The Law on Peaceful Assemblies only provides for the possibility of restricting a specific assembly proposed by an organizer, but not for a pre-emptive blanket ban on assemblies.

⁴⁹ The most visible case, in Kochkor-Ata (Jalal-Abad region), was [highlighted by media](#) when on 8 October, candidate Jeenbekov organized a rally in the town's only stadium. According to his campaign office, candidate Madumarov was scheduled to have a rally on the same day; as a result, Mr. Madumarov had to cancel his campaign event.

⁵⁰ In its [Concluding observations on the fourth periodic report of Kyrgyzstan](#), the UN Committee on the Elimination of Discrimination against Women recommended adopting and implementing temporary special measures "directed towards the achievement of de facto or substantive equality of women and men in all areas where women are underrepresented or disadvantaged, including in political and public life" (see paragraph 14).

⁵¹ Donations from foreign sources and stateless individuals, public bodies and companies with state participation, religious and charitable organizations, tax and social security debtors, and anonymous donors are prohibited.

campaign spending was removed from the law.⁵² Unlimited campaign spending, particularly in the absence of direct public funding, may undermine the free choice of voters and equality of opportunities of candidates.⁵³

Consideration could be given to setting reasonable limitations on campaign expenditure.

Nominated candidates are required by law to open designated bank accounts for their electoral funds. The CEC published on a weekly basis the total amounts of income, expenditure, and balance on these accounts.⁵⁴ In line with a CEC instruction, all candidates presented interim reports of their campaign revenues and expenditures prior to election day. These reports, as well as candidates' final reports presented 10 days after election day, are audited by the CEC audit group to oversee compliance with campaign finance rules. There is no requirement to publish these reports and audit results.⁵⁵

Transparency of campaign financing was insufficient, and prior ODIHR recommendations in this area remain unaddressed. The legal framework requires improvement to meet international standards and contemporary challenges of political finance regulation.⁵⁶ The Law on Political Parties does not provide for annual financial reporting by political parties.⁵⁷ The Electoral Law does not require disclosure of sources of campaign funding, departing from the international obligation to provide transparency.⁵⁸ The law does not provide a range of dissuasive and proportionate sanctions for violations of campaign finance rules either.⁵⁹

The legal framework on political and campaign finance should be improved to ensure greater transparency. Political parties should be required to submit financial reports on an annual basis. Campaign finance regulations should provide for an obligation to disclose sources of campaign funding before election day, publishing detailed final reports on campaign incomes and expenditures and results of their audit, and envisage a range of dissuasive and proportionate sanctions for violations of campaign finance rules.

⁵² A candidate may contribute KGS 15 million (EUR 187,000), while an individual or legal entity may donate up to KGS 50 million (EUR 623,300). Before the 2017 legal amendments, a candidate could contribute up to KGZ 1.5 million, and individuals and legal entities could donate up to KGZ 5,000 and KGZ 5 million respectively. Paragraph 19 of the 1996 CCPR General Comment 25 to the ICCPR states that “reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party”.

⁵³ Section I.2.3.e of the 2002 Venice Commission Code of Good Practice in Electoral Matters states that “[t]he principle of equality of opportunity can ... lead to a limitation of [campaign] spending, especially on advertising”.

⁵⁴ The largest amounts were spent by candidates Babanov (some KGS 229 million), Jeenbekov (some KGS 158 million), and Sariev (some KGS 42 million). The other eight candidates spent a combined total of some KGS 29 million.

⁵⁵ According to paragraph 200 of the 2010 ODIHR and Venice Commission’s [Guidelines on Political Party Regulation](#), “it is good practice for... financial reports to be made available on the Internet in a timely manner”.

⁵⁶ Section II.B.2.2.3 of the 2016 ODIHR and Venice Commission’s [Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) recommends: “Political parties and candidates should be required to report on the origin and purposes of all the campaign finance transactions in order to facilitate transparency and the detection of the potential misuse of administrative resources”.

⁵⁷ Paragraph 202 of the 2010 ODIHR and Venice Commission’s [Guidelines on Political Party Regulation](#) recommends that “[p]olitical parties should be required to submit disclosure reports to the appropriate regulatory authority on at least an annual basis in the non-campaign period. These reports should require the disclosure of incoming contributions and an explanation of all expenditures”.

⁵⁸ Article 7.3 of the UNCAC prescribes to consider taking “appropriate legislative and administrative measures ... to enhance transparency in the funding of candidatures for elected public office”.

⁵⁹ The only available sanctions for violations of campaign financing rules are a warning, possible deregistration of a candidate by the CEC, and criminal charges under the Criminal Code.

X. THE MEDIA

A. THE LEGAL FRAMEWORK AND THE MEDIA LANDSCAPE

The Constitution guarantees freedom of expression and explicitly prohibits criminal prosecution for defamation.⁶⁰ However, contrary to international standards, the Article 4 of the Law on Guarantees for Activity of the President grants higher protection to the president and to ex-presidents in civil defamation cases, and the Civil Code does not limit the amount of damages awarded to the plaintiff.⁶¹ An increasing number of defamation cases with excessive damages claimed by the Prosecutor General on behalf of the incumbent president and by Mr. Jeenbekov, and awarded against media and journalists before and during the campaign, had an adverse effect on an open debate on matters of public concern.⁶²

Article 4 of the Law on Guarantees for Activity of the President should be abolished to ensure that the reputation of the president is protected without undue privileges. The law should prioritize the use of non-pecuniary remedies, and a ceiling should be set for awarding damages that should take into account actual harm proven by the plaintiff as well as any redress already provided through non-pecuniary remedies. The plaintiff should bear the burden of proving the falsity of any statements of fact on matters of public concern.

In order to “participate in the election campaign” – to sell advertising time or space, as well as to cover the activities of the CEC – media outlets, including online media, had to be accredited by the CEC. Thirteen complaints on alleged defamation were filed with the CEC against different media, in most cases demanding, among others, that the media’s accreditation be revoked.⁶³ Although the CEC revoked only one accreditation, the threat of losing accreditation leading to financial damages was regarded by ODIHR EOM media interlocutors as resulting in self-censorship among journalists.

⁶⁰ The OSCE Representative on Freedom of the Media (RFoM) [criticized](#) that a May 2014 amendment to the Criminal Code regarding a “knowingly false report of a crime” could *de facto* criminalize defamation.

⁶¹ Paragraph 38 of the 2011 CCPR General Comment No. 34 to the ICCPR states that “all public figures, including those exercising the highest political authority such as heads of state ..., are legitimately subject to criticism and political opposition. Accordingly, the [CCPR] expresses concern regarding laws on such matters as... defamation of the head of state and the protection of the honour of public officials, and laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned. States parties should not prohibit criticism of institutions, such as the army or the administration”. Paragraph 47 further states that “Defamation laws must be crafted with care to ensure that they ... do not serve, in practice, to stifle freedom of expression ... Care should be taken by States parties to avoid excessively punitive measures and penalties. Where relevant, States parties should place reasonable limits on the requirement for a defendant to reimburse the expenses of the successful party”. In 2015, the OSCE RFoM [noted](#) that “[e]xcessive fines imposed on journalists and media outlets as a means of protecting the head of a state can lead to self-censorship”.

⁶² On 5 October, the court awarded Mr. Jeenbekov KGS 10 million (EUR 124,700) in a defamation suit against the online news portal *24.kg* and journalist Kabay Karabekov. The lawsuit was filed already after Mr. Jeenbekov was given the right to refutation by *24.kg* and the incriminated article was removed from its website following a complaint filed with the CEC on 15 September in the same case. The article implied concerns expressed by the Russian Secret Service over alleged ties of Mr. Jeenbekov’s brothers with extremist groups. Other cases included a total of KGS 27 million awarded in August and September 2017 in five claims filed by the Prosecutor General on behalf of President Atambayev against the NGO *ProMedia* and one of its founders, Mr. Naryn Aiyp.

⁶³ On 4 October, the CEC amended its Regulation on Media Accreditation to provide that media accreditations can only be revoked for repeat violation and that media must be warned before their accreditation is withdrawn. On 9 August, the CEC decided in favour of Mr. Babanov and revoked the accreditation of *chagylgan.kg*. The Internet source had published an article alleging that Mr. Babanov’s campaign was financed by an organization which in some countries is categorized as a terrorist organization. The case was further forwarded to the prosecutor.

Accreditation requirements for media outlets in order to “participate in the election campaign” should be abolished.

Provisions of Article 299 of the Criminal Code, regarding “incitement of national (inter-ethnic), racial, religious, or interregional enmity” are broadly formulated and are not in line with international standards on freedom of expression.⁶⁴ On 29 September, the Bishkek City Court upheld the conviction of journalist Zulpukaar Sapanov based on Article 299, but changed the sentence from the initial four years imprisonment to two years on probation.⁶⁵ The use of Article 299 of the Criminal Code against a journalist during the campaign and against one of the candidates (see *Post-Election Developments*) significantly affected the freedom of expression.

Article 299.1 of the Criminal Code should be revised to define “incitement of national (inter-ethnic), racial, religious or interregional enmity” in line with specific standards set by Article 20.2 of the ICCPR. Furthermore, key terms of the law, such as hatred, discrimination, hostility, and violence, should be clearly defined.

While ultimate media ownership is not transparent, commercial TV stations are publicly perceived as being owned by political actors. Public broadcasters, still the main source of information, are not perceived as independent from the government.⁶⁶ The closing of TV station *Sentyabr* by a court on 22 August for broadcasting allegedly extremist content further reduced views critical of the government. Positively, a generally free Internet increasingly provides room for alternative information.⁶⁷



B. THE COVERAGE OF THE ELECTION CAMPAIGN

The Electoral Law requires media to provide unbiased information and to treat candidates equally. However, the provision remains declarative since the law does not define “unbiased information”. No institutional media monitoring is conducted to ensure compliance with the law. Moreover, the CEC Instruction on Media Accreditation implies that covering candidates’ campaigns could *de facto* be equated to “participating in the election campaign”. Journalists told the IEOM that they refrained from covering the campaign in order not to violate the law, which they interpreted as permitting campaigning only on a contractual basis and if paid from the candidate’s funds. ODIHR EOM media monitoring results⁶⁸ revealed that 68 hours of paid political advertising were broadcast during the campaign period on the four monitored TV stations, compared to only 19 hours of campaign coverage in their news.⁶⁹ Within the limited amount of campaign coverage, TV stations were

⁶⁴ Article 299.1 of the Criminal Code does not explicitly define “incitement of national (inter-ethnic), racial, religious or interregional enmity” as “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility, or violence”, as required by Article 20.2 of the ICCPR. Also, Article 299 is not formulated with sufficient precision to enable people to regulate their conduct and as such does not conform to Article 19.3 of the ICCPR (see also paragraph 25 of the CCPR General Comment No. 34 to the ICCPR).

⁶⁵ Mr. Sapanov was convicted for publishing a book which, according to the court, called upon all Turkic peoples to unite and, at the same time, incited inter-religious enmity.

⁶⁶ Starting on 29 September, public *KTRK* and *EITR* started intensive coverage of Mr. Babanov’s speech in Osh, largely taken out of context and implying that it *de facto* constituted incitement to inter-ethnic hatred. Subsequent demonstrations against Mr. Babanov received coverage for several days on TV as well (see *Election Campaign*). In contrast, matters of public interest like the conviction of Mr. Sapanov were not featured in the news on public *KTRK* and *EITR*.

⁶⁷ Internet penetration is low at 34.5 per cent according to [Internet World Stats](#).

⁶⁸ From 10 September to 13 October, the ODIHR EOM conducted quantitative and qualitative monitoring of the prime-time coverage of political actors on four TV stations - the public *EITR* and *KTRK*, the commercial *NTS* and *7 Channel*, and three newspapers *Delo No*, *Super Info*, and *Vecherniy Bishkek*. The ODIHR EOM also followed the campaign coverage on online outlets *jalbyrak.tv* and *kaktus.media*.

⁶⁹ Some 85 per cent of the total paid airtime on the monitored TV stations were purchased by Mr. Babanov and Mr. Jeenbekov.

clearly biased.⁷⁰ An additional 2.7 hours of coverage on both public TV stations of President Atambayev *de facto* campaigning for Mr. Jeenbekov gave the latter a distinct advantage. Monitored newspapers and online news sources also did not provide an adequate amount of coverage and, at times, displayed bias, albeit to a lesser extent (see Media Monitoring Annex).

In order to implement provisions on “unbiased coverage”, the law should contain a clear reference to editorial coverage and define criteria for unbiased coverage in news and current affairs programmes. These provisions should be monitored by an independent supervisory body.

Televised debates provided a welcome opportunity for voters to get information about the candidates who were otherwise virtually invisible to the audience to present their platform. This contributed to greater pluralism. Nevertheless, this could not counterbalance the absence of sufficient, unbiased, and analytical information for voters on television.

XI. PARTICIPATION OF NATIONAL MINORITIES

Inter-ethnic relations remain a relevant factor in Kyrgyzstani politics, as national minorities constitute 27 per cent of population, with the biggest communities residing compactly in the south of the country.⁷¹ The Constitution acknowledges that the population of Kyrgyz Republic is composed of different ethnicities, with principles of non-discrimination and equality enshrined in the Constitution and other laws. There is neither a law on national minorities nor a separate anti-discrimination law, but non-discrimination provisions feature in the Criminal Code.

National minorities were significantly under-represented in the composition of most TECs, even in the areas where they reside compactly.⁷² All voter education material was published in the state (Kyrgyz) and official (Russian) languages. While ODIHR EOM interlocutors did not raise any complaints with regard to lack of materials in minority languages, this practice does not correspond to OSCE commitments and international standards.⁷³ The law does not limit campaigning in minority languages, but campaign materials were produced in the Kyrgyz and Russian languages only, with very few exceptions.

⁷⁰ Both public broadcasters, *KTRK* and *EITR*, displayed bias in favour Mr. Jeenbekov. *KTRK* devoted 70, 16, and 6 per cent of its relevant news coverage to Mr. Babanov, Mr. Jeenbekov, and Mr. Sariiev, respectively. However, 84 per cent of Mr. Babanov’s coverage was in a negative tone, while 88 per cent of Mr. Jeenbekov’s coverage was positive. Mr. Sariiev’s coverage was in 98 per cent positive in tone. *EITR* devoted 70 and 22 per cent of its news to Mr. Babanov and Mr. Jeenbekov, respectively. However, 95 per cent of Mr. Babanov’s coverage was in a negative tone, while Mr. Jeenbekov’s coverage was 98 per cent positive. *7 Channel* (formally owned by Mr. Tashiev’s brother, but reportedly affiliated with people close to the president) devoted 54, 8, 11, and 12 per cent of its news coverage to Mr. Babanov, Mr. Jeenbekov, Mr. Tashiev, and Mr. Torobayev, respectively. However, 90 per cent of Mr. Babanov’s coverage was in a negative tone, while 93 per cent of Mr. Jeenbekov’s coverage was positive. Mr. Tashiev was covered in 96 per cent in a positive tone and Mr. Torobayev in 82 per cent in a negative tone. *NTS* (reportedly owned by a businessman connected to Mr. Babanov) devoted 39 and 54 per cent of its news to Mr. Babanov and Mr. Jeenbekov, respectively. However, 96 per cent of Mr. Babanov’s coverage was in a positive tone, while 96 per cent of Mr. Jeenbekov’s coverage was in a negative tone.

⁷¹ The second-biggest ethnic community following ethnic Kyrgyz are ethnic Uzbeks, who make up about 14.6 per cent of the country’s population and compactly reside predominantly in Osh and Jalal-Abad regions. Other sizeable ethnic communities include Russians (5.8 per cent), Dungans, Tajiks, and Uigurs (1 per cent each).

⁷² Paragraph 35 of the 1990 OSCE Copenhagen Document provides that “participating States will respect the right of persons belonging to national minorities to effective participation in public affairs”.

⁷³ Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that “persons belonging to national minorities have the right (...) to disseminate, have access to and exchange information in their mother tongue”. Paragraph 12 of the 1996 CCPR General Comment 25 to the ICCPR states: “Information and materials about voting should be available in minority languages”.

The CEC should adopt measures to ensure that national minorities are adequately represented in election commissions in areas compactly populated by these minorities.

Although issues related to inter-ethnic peace and national unity featured in some candidates' rhetoric at campaign events observed by the ODIHR EOM, contestants' platforms did not specifically address the situation of national minorities, inter-ethnic relations, or integration in the society.

The ODIHR EOM did not observe any anti-minority rhetoric, but inter-ethnic and identity issues were at times utilized for political ends, contributing to the confrontational nature of the campaign. In particular, the stir related to Mr. Babanov's 28 September campaign event in Osh and the subsequent reaction by a number of officials and prominent public figures (see *Election Campaign*) caused considerable disquiet to members of the Uzbek community. Alleged cases of misuse of public resources, pressure, and vote-buying were reported from all parts of the country. This, according to ODIHR EOM interlocutors, particularly contributed to a sense of vulnerability and anxiety among representatives of minority communities in the south of the country.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

Election observers may be appointed by candidates, NGOs, and international organizations. While the Electoral Law provides for observation of all stages of the electoral process, there are disproportional restrictions with regard to candidate and citizen observers' mobility on election day (as they can only be accredited to observe at one specific commission).⁷⁴ In addition, recent amendments limit the number of observers that NGOs and candidates can deploy (to one and two per election commission, respectively), and remove the right of citizen observers to appeal election results.

The rights of citizen observers should not be unduly restricted. While the law may limit the number of observers at a polling station, it should allow civil society organizations to accredit enough observers to adequately follow developments at any given election commission. Considerations could be given to lifting restrictions on the number of commissions where an individual can observe.

Citizen observers are accredited by the election commission where they observe. A number of ODIHR EOM civil society interlocutors reported arbitrary application of the accreditation rules by some lower-level commissions, including requesting documents not foreseen by the law.

The ODIHR EOM noted that in the pre-electoral period, NGOs, such as Civic Platform, Coalition for Democracy and Civil Society, and *Taza Shailoo*, played an important role in civic and voter education campaigns and undertook comprehensive long-term observation. On election day, during voting hours, candidate observers, mainly representing candidates Jeenbekov and Babanov, were present in 99 per cent of polling stations observed, while citizen observers were present in 67 per cent, contributing to the transparency of the process. During the tabulation of results at TECs, the presence of candidate observers was noted in 20 per cent of observations, while citizen observers were noted in 61 per cent of observations.

⁷⁴ Paragraph 18 of [Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations](#) states that "In order for non-partisan election observation ... by citizen organizations to be conducted successfully ... election management bodies and other governmental authorities ... honour the right to participate in government and public affairs by providing ... access to polling stations and all other election related facilities and processes ..., including by providing accreditation, where it is required for access, in a timely manner, without proscribed discrimination or unreasonable restrictions, such as providing less access than allowed to international election observers, the media or political party and candidate observers".

The CEC also accredited some 780 international observers, representing 57 international organizations and foreign election commissions, to observe this election.

XIII. COMPLAINTS AND APPEALS

Complaints about violations of electoral rights may be filed by voters, candidates, political parties, NGOs, their representatives and observers to election commissions, police, and prosecutors. Decisions and actions or inaction of election commissions and their officials are appealed to the higher-level election commission. Complaints about the CEC and appeals against its decisions are submitted to the Inter-district Court for Bishkek City (ICB), whose rulings may be appealed to the Supreme Court for a final decision.⁷⁵

Few complaints were filed with TECs before election day. A number of ODIHR EOM interlocutors, including from NGOs and candidates' campaign offices, indicated that they did not have confidence in impartial and effective complaint resolution by election commissions. Perfunctory handling of complaints by some TECs, both before and on election day, could not have contributed to strengthening confidence in handling the election related disputes.⁷⁶

The CEC received some 90 complaints before election day, primarily related to violations of campaign rules.⁷⁷ Meetings of the CEC working groups addressing complaints were open to observers and the media.⁷⁸ Positively, and addressing a prior ODIHR recommendation, the CEC maintained online registries of complaints and court appeals, enhancing the transparency of complaint resolution. Legal deadlines were generally respected, and parties could present their arguments, with some notable exceptions.⁷⁹ Three of a total of four warnings for violations of campaign rules were issued to one candidate, while complaints against other candidates were not subjected to the same scrutiny or procedure, revealing a bias in the CEC's interpretation and application of the law.⁸⁰ The CEC considered most complaints, but did not always use the sanctions available or provide effective

⁷⁵ Complaints must be filed within two days from the time the complainant became aware of the infringing action. Election commissions and courts must decide on pre-election complaints within three days; this period may be extended to five days for additional verification.

⁷⁶ For example, the complaint by Mr. Babanov's campaign in Leylek district (Batken region) that the local administration removed his banners in several villages and replaced some with banners of Mr. Jeenbekov was dismissed by TEC Leylek on 6 October because the applicant "did not provide sufficient evidence". On election day, TEC Osh city responded to complaints about violations of secrecy of the vote and pressure on voters inside polling stations with letters stating that PEC chairpersons did not confirm such violations.

⁷⁷ Including violations by candidates and the media, campaigning by officials, and misuse of public resources.

⁷⁸ Complaints were primarily reviewed by the working groups on complaints and on campaigning, sometimes jointly. Reflecting divisions within the CEC, these working groups suggested different draft decisions on some complaints.

⁷⁹ Two complaints against Mr. Babanov by Mr. Jeenbekov's representative that resulted in written warnings to Mr. Babanov were filed after the two-day deadline for submitting complaints, and the CEC decisions were made after the five-day deadline. At the CEC session on 7 October, Mr. Babanov's representative was not given the opportunity to present his views on the proposed second warning, on the grounds that he had addressed CEC working group meetings earlier. After he protested, he was expelled from the CEC session.

⁸⁰ The decision to issue the first warning to Mr. Babanov for his campaign billboards broadly interpreted provisions of the Electoral Law prohibiting campaigning by officials and false and defamatory publications. The second warning to Mr. Babanov, for endorsement by a religious figure during a rally, followed a thorough investigation by the CEC effectively aimed at refuting the evidence submitted by Mr. Babanov's representative. Similar investigations were not undertaken with respect to other complaints. By contrast, Mr. Jeenbekov did not receive a warning for participating in a campaign event where he was endorsed by an influential religious leader.

remedies.⁸¹ In particular, the CEC's handling of complaints about the misuse of public resources and intimidation of voters lacked diligence and effectiveness.⁸² Responses to complaints against President Atambayev implied that the president could ignore the law.⁸³

The CEC's handling of complaints about the misuse of public resources and intimidation of voters must utilize all available legal remedies to discontinue, sanction, and prevent such practices, conveying a strong message to the public and to offenders that such practices will not be tolerated. To this end, the authorities could create an inter-institutional task force ahead of the next elections, with the inclusion of the CEC, key ministries, law enforcement, and other relevant agencies.

Some 30 appeals against the CEC decisions were made to courts before election day. The ICB and the Supreme Court upheld all contested CEC decisions.⁸⁴ The parties were able to present their cases in courts, and the court rulings were reasoned. However, the scope of judicial review was often limited and indicated reluctance to question CEC decisions, especially related to candidate registration, challenging paragraph 5.10 of the 1990 OSCE Copenhagen Document.⁸⁵ The law allows courts to quash unlawful decisions but does not empower them to compel the taking of actions, for example by ordering the CEC to register a candidate who had been rejected unlawfully. A number of ODIHR EOM interlocutors raised concerns about the lack of independence of the judiciary.⁸⁶ Positively, court rulings were published online.⁸⁷

To provide an effective review of appealed CEC decisions, courts should also examine the legality and procedural propriety of the acts on which these decisions are based. In addition to quashing a decision found unlawful, courts should also be empowered by law to order the performance of a duty by the CEC.

XIV. ELECTION DAY

Election day was peaceful and proceeded in a largely orderly manner throughout the country. The CEC announced final voter turnout at 56.3 per cent. Although large parts of the voting process were assessed positively, IEOM observers noted significant problems with respect to the secrecy of the

⁸¹ The CEC discussed imposing administrative fines on several occasions but did not impose any. Complaints against officials and a religious figure who were found in breach of campaign rules were forwarded to other bodies with a request to "consider the issue of liability". On 26 September and on 2 October, the CEC was unable to reach the required majority to decide on two complaints, while on 23 October, it avoided taking a decision on a complaint. The law does not prescribe the consequences of such "non-decision".

⁸² Of some 20 complaints which alleged such violations, 2 were forwarded to the Prosecutor General and one to the government. The rest were dismissed due to lack of evidence, missed deadline, or because the CEC did not find a violation of the law.

⁸³ The CEC working group dismissed complaints against campaigning by President Atambayev with reference to the Law on Guarantees for Activity of the President, stating that "[n]o person and no state body may take measures or actions that encroach on immunity of the President".

⁸⁴ In one appeal against CEC inaction, the ICB ruled that the CEC must make a decision.

⁸⁵ Three challenges of CEC decisions on the results of support signature verification, by Mr. Masaliev, Mr. Isayev, and Ms. Sharshkeeva, were rejected by the ICB because they were filed after the two-day deadline, although a three-day deadline could be applied to such appeals. A subsequent appeal by Mr. Isayev of the CEC resolution denying him registration was not satisfied by the court, which did not examine the legality of the underlying CEC decision. Paragraph 5.10 of the 1990 OSCE Copenhagen Document states: "...everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity". See also Article 2.3 of the ICCPR.

⁸⁶ See also the UN Human Rights Committee's [Concluding observations on the second periodic report of Kyrgyzstan](#), at para 18.

⁸⁷ Court rulings are edited to remove the names of the parties in a case and are posted on the official website sot.kg.

vote, as well as other serious procedural irregularities. Unauthorized people, including so-called ‘volunteers’, were present at all stages of election day, at times interfering in the work of election commissions. Numerous and significant procedural problems were noted during the vote count and the tabulation of results.

A. OPENING AND VOTING

Opening procedures were assessed negatively in 11 of the 112 polling stations observed, largely due to the presence of unauthorized people. Despite the generally positive evaluation, IEOM observers reported some procedural problems with the sealing of ballot boxes, or control sheets not being inserted in ballot boxes (six reports each).

The voting process was assessed positively in 94 per cent of polling stations observed. It was orderly and well organized in the large majority of polling stations observed, despite the presence of and interference by unauthorized people in a number of cases, and problems with ballot secrecy. Voting was assessed more negatively in Jalal-Abad, Osh, and Chui regions. IEOM observers reported overcrowding from 7 per cent of polling stations observed, and voters waiting to vote outside from 19 per cent of polling stations observed.

All polling stations were provided with automatic ballot scanners attached to ballot boxes. The CEC organized trainings for PEC members on the use of these scanners a few weeks before election day. However, IEOM observers noted in some 15 per cent of observations, that the PECs had difficulties setting up the ballot scanners on election day. The voter identification equipment generally worked well, and identification procedures were adhered to in most polling stations observed. However, in 12 per cent of polling stations observed, not all voters could be identified by fingerprint scanning. In 28 per cent, a number of voters were turned away because their name was not on the voter list, which could indicate a continued need to strengthen outreach to voters. In 3 per cent of polling stations observed, the ballot scanner had to be replaced due to equipment failure.

Problems with the secrecy of the vote were of particular concern.⁸⁸ IEOM observers reported from 16 per cent of polling stations observed that not all voters marked their ballots in secrecy, largely due to inadequate layout of polling stations and the positioning of the voting screens. In 55 per cent of polling stations observed, voters’ choice could be seen as they took their ballot to the ballot box. In dozens of cases observed, voters tried to feed their ballot into the automatic scanner face up, thus exposing their choice. IEOM observers noted some procedural problems, in particular ballot boxes that were not properly sealed (in 11 per cent of polling stations observed).

PEC members should inform voters about their right and obligation to secrecy, as well as ensure that observers and polling staff do not stand too close to voters while they are casting their ballot. The use of tools to help safeguard the secrecy of the vote, such as ballot secrecy sleeves, could be considered.

IEOM observers also reported some serious violations, including group voting (4 per cent), attempts to influence voters who to vote for, and series of seemingly identical signatures on voter lists (2 per cent each). IEOM observers also reported cases of tension, intimidation of voters, and indications of vote-buying (1 per cent each).

⁸⁸ Paragraph 7.4 of the 1990 OSCE Copenhagen Document commits participating States to “ensure that votes are cast by secret ballot or by equivalent free voting procedure”. Article 25 of the ICCPR states “Every citizen shall have the right and the opportunity...[t]o vote and to be elected at genuine periodic elections which ... shall be held by secret ballot, guaranteeing the free expression of the will of the electors”.

Observers noted practices which could have further compromised the secrecy of the vote.⁸⁹ Namely, in a few instances, candidate observers or unidentified people were observed keeping track of those who had voted.⁹⁰ IEOM observers reported two cases where a PEC member handed pre-marked ballots to voters, and one case of an armed person standing next to the ballot box and talking to voters as they cast their ballots. In two of these polling stations, candidate Jeenbekov received all votes cast, and in the third one, all votes but one.⁹¹ Many IEOM observers reported that the design of the ballot boxes actually compromised the secrecy of the vote.⁹² PEC members or candidate observers seated close to the ballot box could thus clearly observe how voters voted.

The state should guarantee the right to a free and secret ballot. Any form of pressure to disclose how voters intend to vote or how they voted should be prevented. It should not be possible to associate a voter and her/his vote.

Unauthorized people, especially police and local officials, were observed in 30 per cent of the polling stations, while in 5 per cent of polling stations observed non-PEC members directed or interfered in the work of the PEC.

The Electoral Law stipulates that voting premises must be accessible for persons with physical disabilities. However, on election day IEOM observers noted that 60 per cent of polling stations observed were not accessible for such voters, and the layout of 29 per cent of polling stations observed was not suitable for persons with special needs.⁹³ In a positive development, assistive tools for voters with visual impairments, such as magnifying glasses and tactile ballot guides, were used in 85 per cent polling stations observed.

The CEC reported that it responded to over 300 telephone calls on election day, primarily related to voter lists and the location of PECs. Some 20 complaints were made to PECs and TECs by voters who did not find themselves on voter lists, and by observers about procedural irregularities, including violations of the secrecy of the vote.

⁸⁹ According to paragraph 20 of the 1996 CCPR General Comment 25 to the ICCPR, “States should take measures to guarantee the requirement of the secrecy of the vote during elections, [...]. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process. Waiver of these rights is incompatible with article 25 of the Covenant”. Paragraph 7.7 of the 1990 OSCE Copenhagen Document requires participating States to “ensure that ... neither administrative action, violence nor intimidation ... prevents the voters ... from casting their vote free of fear of retribution”. Article 8.2 of the 2002 Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States (CIS Convention) states that “Citizen’s participation in elections is free and voluntary. Nobody can force him/her to vote for a definite candidate... No voter may be forced to declare ... how she/he has voted”. See also Article 5.4 of the 2002 CIS Convention.

⁹⁰ Such instances were observed in Moskva (Chuy region), Jety-Oguz (Issyk-Kul region), Naryn (Naryn region), Osh city and Aravan (Osh region).

⁹¹ These cases were directly observed by IEOM observers in Kara-Kulja (Osh region). It is noteworthy that the ODIHR EOM identified 9 polling stations throughout the country in which candidate Jeenbekov received all votes, and 11 polling stations where he received all votes but one.

⁹² The transparent openings on the sides of ballot boxes, as well the fact that cast ballots were deposited by the ballot scanners face up, allowed anyone standing close to the ballot box to see a voter’s choice.

⁹³ See Article 29(a) of the CRPD, which obliges the States to “ensure that persons with disabilities can effectively and fully participate in political and public life on equal basis with others [...] *inter alia*, by ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use”.

B. VOTE COUNT

The vote count was assessed negatively in more than a third of polling stations observed (46 out of 139), which is a high quantity that is of concern. A number of important procedures were not followed by PECs. Namely, many PECs failed to perform basic reconciliation procedures that are required before the ballot boxes are opened, such as cancelling unused ballots (20 reports), counting the number of signatures on the voter list (43 reports), or producing an act on the number of ballots issued to voters (38 reports). In 34 counts observed, the PEC did not announce the preliminary results provided by the ballot scanner.

IEOM observers reported that many PECs disregarded mandatory procedures during the manual vote count in an arbitrary or selective manner, detracting from transparency. Thus, 36 PECs observed did not separate ballots by contestants, and in two thirds of the counts observed (82 reports), PECs did not count the ballots one by one or announce who they were marked for. In more than two thirds of counts (94 reports), PECs counted ballots from several piles simultaneously, contrary to the law.

IEOM observers also noted that important procedures regarding the completion of results protocols were not respected. Many PECs did not use the control equations to cross-check figures (25 reports). In 28 counts observed, the results protocols were not based on the manual vote count, as required by law, with some PECs simply transferring the results produced by the ballot scanner (in one observed case even before opening the ballot box). In essence, more than one in five PECs observed relied on the results produced by the ballot scanners instead of manually counting the votes, at odds with the law. In 38 cases, protocols had been pre-signed by PEC members. Such procedural omissions and violations led to many protocols being returned by TECs to PECs for corrections, as observed during the tabulation of results. Failure of PEC members to respect mandatory procedures to establish voting results, as well as the quality of the completed protocols, overall indicate a lack of proper training of PEC members.

Consideration should be given to strengthening the training for PEC members, with a special focus on the handling of technical equipment, the vote count, and the completion of results protocols.

In 24 counts observed, not everybody entitled to a protocol copy was issued one upon request, and in 43 cases, the copy was not publicly displayed. Candidate observers were present in all but six counts observed, while citizen observers were present in 85 of the 139 counts observed. Unauthorized people were present during 74 counts observed and interfered in 19 cases.

Positively, the CEC started posting on its website detailed preliminary election results by polling station, based on initial results provided by the ballot scanners, immediately after the closing of polling stations. In addition, it later uploaded scanned PEC results protocols on its website, thereby increasing transparency.

C. TABULATION OF RESULTS

The IEOM observed the tabulation of results in 50 of the 54 TECs and assessed it negatively in nearly one half of them. The process, including reception of election materials, was described as chaotic and poorly organized.⁹⁴ The negative assessment was linked, among others, to inadequate premises for the reception and processing of PEC protocols (25 TECs), overcrowding that negatively affected the

⁹⁴ The CEC did not issue a single binding instruction for the TECs on tabulation procedures but clarified certain aspects in different documents and TEC manual.

process (21 TECs), and lack of transparency as not all observers present had a clear view of the process (25 TECs). However, IEOM observers could generally observe without restrictions.

As required by law, submitted PEC protocols were verified by the respective TECs and, in many cases, returned for corrections. IEOM observers noted that in more than half of TECs, required fields in PEC protocols were not always filled in (30 observations), and the results figures in some PEC protocols did not reconcile. By law, protocols are entered electronically and transferred to the CEC. Problems with the data entry of election results were noted in 32 observations. As a result, almost all TECs announced breaks during the tabulation process, either due to technical problems with data entry, or due to the fact that many PECs had to resubmit corrected protocols at a later stage.

In order to further strengthen the integrity of the vote count, election officials should strictly adhere to the established counting and reconciliation procedures, including the completion of results protocols based on a mandatory manual count, as well as to address procedural mistakes and omissions noted during the reconciliation procedures. Consideration should be given to consolidating clear written instructions for the tabulation of results by TECs.

IEOM observers reported presence of candidate observers from 11 TECs and of citizen observers from 33. While unauthorized people were present in 14 TECs, they were observed interfering in or directing the process only in four instances. In one case, IEOM observers were informed that the TEC chairperson intended to resign due to local authorities being overly intrusive in the TEC's work.

XV. POST-ELECTION DEVELOPMENTS

On 16 October, candidate Babanov held a press conference, during which he avoided to recognize the election result and to congratulate candidate Jeenbekov. He did, however, emphasize the importance of public order and stated that any action from his side would be taken through the courts or other legal instruments. While none of the presidential candidates apart from Mr. Jeenbekov explicitly recognized the election results, few complaints were filed. Candidate Madumarov announced that he did not recognize the election results largely because of disenfranchisement of large part of population living abroad and lack of engagement of law enforcement bodies in countering numerous campaign violations.

The CEC received all TEC protocols between 18 and 23 October. Based on complaints submitted to TECs and its own verification, the CEC invalidated the results from eight polling stations where it found significant discrepancies between the number of voters identified by their biometric records and the number of ballots cast. The PECs in question were dissolved by the CEC, and materials from these polling stations were sent to law enforcement bodies for further examination.

Candidates, their representatives and observers may appeal PEC voting results to TECs, and TEC results to the CEC, within three days from the day the respective results are established. A small number of such appeals were made to TECs.⁹⁵ Under the Electoral Law, the CEC declares the overall election results invalid on the basis of a court decision or only if voting results are invalidated in

⁹⁵ One complaint to TEC Suzak (Jalal-Abad region) challenged results in three PECs. One complaint to TEC Bishkek challenged results in 27 additional PECs on the basis that these PECs had not been created lawfully. One complaint to TEC Alamudun (Chuy region) sought to annul PEC voting results only with respect to candidate Babanov, on the basis of alleged vote-buying on his behalf. The Electoral Law only provides for possible invalidation of voting results of the entire precinct.

precincts encompassing more than one third of all votes cast.⁹⁶ This criterion is arbitrary and is not linked with the impact of irregularities on the outcome of an election, as advised by international good practice.⁹⁷ In the event of a close result between contestants, even a relatively small number of invalidated precincts may affect the outcome.

On 30 October, the CEC announced the final election results, according to which Mr. Jeenbekov received 54.22 per cent of votes cast and had thus been elected president. Three out of eleven running candidates received more than 5 per cent of votes cast and were thus entitled to receive their electoral deposits back.⁹⁸

On 4 November, the Prosecutor General announced that she had opened a criminal case against Mr. Babanov, in relation to his speech in Osh on 28 September. The case was opened for alleged public calling for the forceful change of the constitutional order and incitement of national (inter-ethnic) enmity. Mr. Babanov, being on medical treatment in Moscow, replied that the case was politically motivated and expressed hope that the authorities would realize their mistake. On 16 November, Mr. Babanov stepped down from the leadership of the parliamentary faction of *Respublika-Ata Jurt*.

XVI. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities, political parties, and civil society of Kyrgyz Republic, in further support of their efforts to conduct elections in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with other recommendations offered previously by ODIHR and with recommendations contained in the joint opinions on Kyrgyzstani election legislation of ODIHR and the Venice Commission. ODIHR stands ready to assist the authorities and civil society of Kyrgyz Republic to further improve the electoral process.⁹⁹

A. PRIORITY RECOMMENDATIONS

1. The legal framework should be reviewed to address identified shortcomings through an inclusive and consultative process and in a timely manner. In particular, the law should be amended to include clear prohibitions and effective sanctions against the misuse of public resources. Consideration should be given to making vote-buying a criminal offence that is a matter of public prosecution. Public sector employees should be shielded from pressure and intimidation. Procedures for establishing campaign violations should be clarified and a system of proportionate sanctions developed, with cancellation of a candidate's registration possible only as an extraordinary measure for the most serious violations.
2. The state should guarantee the right to a free and secret ballot. Any form of pressure to disclose how voters intend to vote or how they voted should be prevented. It should not be possible to associate a voter and her/his vote.

⁹⁶ However, since court appeals are only possible in relation to the voting results of specific precincts, a court decision invalidating an entire election is theoretically unlikely.

⁹⁷ Section 101 of the Explanatory report of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that “[appeal bodies] should have the authority to annul elections if irregularities may have influenced the outcome, i.e. affected the distribution of seats”.

⁹⁸ Mr. Jeenbekov, Mr. Babanov, and Mr. Madumarov got their deposits back. Only these three candidates as well as candidate Sariiev received more votes than the number of submitted support signatures.

⁹⁹ 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”.

3. The authorities should undertake efforts to create equal opportunities for all candidates. In particular, the rules for state officials in relation to the election campaign should be clarified, and penalties be increased for misuse of public resources. Furthermore, in line with the legislation, officials should avoid taking actions and making statements in favour of or detrimental to certain candidates.
4. The legal framework on political and campaign finance should be improved to ensure greater transparency. Political parties should be required to submit financial reports on an annual basis. Campaign finance regulations should provide for an obligation to disclose sources of campaign funding before election day, publishing detailed final reports on campaign incomes and expenditures and results of their audit, and envisage a range of dissuasive and proportionate sanctions for violations of campaign finance rules.
5. Article 4 of the Law on Guarantees for Activity of the President should be abolished to ensure that the reputation of the president is protected without undue privileges. The law should prioritize the use of non-pecuniary remedies, and a ceiling should be set for awarding damages that should take into account actual harm proven by the plaintiff as well as any redress already provided through non-pecuniary remedies. The plaintiff should bear the burden of proving the falsity of any statements of fact on matters of public concern.
6. Article 299.1 of the Criminal Code should be revised to define “incitement of national (inter-ethnic), racial, religious or interregional enmity” in line with specific standards set by Article 20.2 of the ICCPR. Furthermore, key terms of the law, such as hatred, discrimination, hostility, and violence, should be clearly defined.
7. The CEC’s handling of complaints about the misuse of public resources and intimidation of voters must utilize all available legal remedies to discontinue, sanction, and prevent such practices, conveying a strong message to the public and to offenders that such practices will not be tolerated. To this end, the authorities could create an inter-institutional task force ahead of the next elections, with the inclusion of the CEC, key ministries, law enforcement, and other relevant agencies.

B. OTHER RECOMMENDATIONS

LEGAL FRAMEWORK

8. Consideration should be given to setting in the law a clear deadline for a possible second round.

ELECTION ADMINISTRATION

9. The law on election commissions should be amended to include impartiality as one of the guiding principles for activities of election commissions, in line with international standards. Consideration could be given to allowing non-political bodies, such as civil society and the judiciary, to appoint CEC members with a view to enhancing the CEC’s impartiality and pluralism.
10. In order to further enhance collegiality in and openness of decision-making processes, the CEC should consider removing the possibility for its members to vote while absent.

11. Consideration should be given to strengthening the training for PEC members, with a special focus on the handling of technical equipment, the vote count, and the completion of results protocols.
12. In order to facilitate participation of persons with disabilities in political life, the CEC, in co-operation with other stakeholders, should guarantee that the voting rights of these persons are respected. In particular, it should be ensured that the accessibility and layout of polling stations are suitable for voters with different types of disabilities.

VOTER REGISTRATION

13. The withdrawal of suffrage rights of prisoners, irrespective of the gravity of the crime committed, as well as the restriction based on mental disabilities should be reconsidered. Consideration should be given to ratifying the CRPD.
14. Authorities should undertake comprehensive efforts, such as having additional data collecting points at main border crossings, to encourage and facilitate biometric registration for all eligible voters, especially those residing abroad.

CANDIDATE REGISTRATION

15. Should the collection of support signatures remain a requirement for candidate registration, consideration should be given to simplifying the signature collection procedure and introducing clear and reasonable signature verification rules. At a minimum, the extrapolation formula used for validation of signatures should be removed.

CAMPAIGN

16. The definition and restrictions related to the campaign should apply to the official campaign period only so that not to preclude regular political activities at other times and provide prospective candidates with a possibility to present their programmes while collecting support signatures.
17. Women's active participation in public and political life should be encouraged by means of comprehensive legal, institutional, and educational initiatives. Consideration should be given to introducing temporary special measures to facilitate participation of women candidates in presidential elections.

CAMPAIGN FINANCE

18. Consideration could be given to setting reasonable limitations on campaign expenditure.

MEDIA

19. In order to implement provisions on "unbiased coverage", the law should contain a clear reference to editorial coverage and define criteria for unbiased coverage in news and current affairs programmes. These provisions should be monitored by an independent supervisory body.
20. Accreditation requirements for media outlets in order to "participate in the election campaign" should be abolished.

PARTICIPATION OF NATIONAL MINORITIES

21. The CEC should adopt measures to ensure that national minorities are adequately represented in election commissions in areas compactly populated by these minorities.

CITIZEN AND INTERNATIONAL OBSERVERS

22. The rights of citizen observers should not be unduly restricted. While the law may limit the number of observers at a polling station, it should allow civil society organizations to accredit enough observers to adequately follow developments at any given election commission. Considerations could be given to lifting restrictions on the number of commissions where an individual can observe.

ADJUDICATION OF ELECTION DISPUTES

23. To provide an effective review of appealed CEC decisions, courts should also examine the legality and procedural propriety of the acts on which these decisions are based. In addition to quashing a decision found unlawful, courts should also be empowered by law to order the performance of a duty by the CEC.

VOTING, COUNTING AND TABULATION

24. PEC members should inform voters about their right and obligation to secrecy, as well as ensure that observers and polling staff do not stand too close to voters while they are casting their ballot. The use of tools to help safeguard the secrecy of the vote, such as ballot secrecy sleeves, could be considered.
25. In order to further strengthen the integrity of the vote count, election officials should strictly adhere to the established counting and reconciliation procedures, including the completion of results protocols based on a mandatory manual count, as well as to address procedural mistakes and omissions noted during the reconciliation procedures. Consideration should be given to consolidating clear written instructions for the tabulation of results by TECs.

ANNEX 1 –ELECTION RESULTS

Electoral Indicator	Value	Percentage
Total number of registered voters	3,014,434	
Total number of voters who voted	1,697,868	56.32
Total number of valid votes	1,687,080	99.36
Number of invalid ballots	10,788	0.64

Candidate	Number of votes received	Percentage
Ernis Zarlykov	1,554	0.09
Toktayim Umetalieva	1,473	0.09
Temir Sariiev	43,311	2.55
Ulukbek Kochkorov	8,498	0.5
Taalatbek Masadykov	10,803	0.64
Omurbek Babanov	568,665	33.49
Arstanbek Abdyldayev	2,015	0.12
Azimbek Beknazarov	2,743	0.16
Sooronbay Jeenbekov	920,620	54.22
Adakhan Madumarov	110,284	6.57
Arslanbek Maliev	1,621	0.1
Against all	12,371	0.73

[Source: [CEC Website](#)]

ANNEX II: LIST OF OBSERVERS IN THE INTERNATIONAL ELECTION OBSERVATION MISSION

OSCE Parliamentary Assembly

Azay Guliyev	Special Co-ordinator	Azerbaijan
Artur Gerasymov	Head of Delegation	Ukraine
Roman Haider	MP	Austria
Iskren Veselinov	MP	Bulgaria
Boris Yachev	MP	Bulgaria
Zuzka Bebarová-Rujbrová	MP	Czech Republic
Jan Horník	MP	Czech Republic
Maja Panduro	MP	Denmark
Solveig Marie-Helene Mauborgne	MP	France
Egon Juttner	MP	Germany
Georgios Varenos	MP	Greece
Muratbay Zholdasbayev	MP	Kazakhstan
Gunter Vogt	MP	Liechtenstein
Baard Andre Hoksrud	MP	Norway
Torstein Tvedt Solberg	MP	Norway
Costel Neculai Dunava	MP	Romania
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ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 150 staff.

ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it coordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights and fundamental freedoms** consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas, including human rights in the fight against terrorism, enhancing the human rights protection of trafficked people, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).