

INTERIM REPORT No. 1
8 – 21 June 2009

26 June 2009

I. EXECUTIVE SUMMARY

- The Kyrgyz *Jogorku Kenesh* (parliament) set 23 July 2009 as the date for the presidential election. The election will be held under a two-round majoritarian system, with a 50 per cent turnout requirement for the elections to be valid.
- The Electoral Code was most recently amended in January 2009; changes include the removal of the provision for inking citizens who have voted. The amendments also allow voters to be added to an additional voter list up to and on election day without a court order, which was previously required.
- The election will be administered by four levels of election administration: the Central Election Commission (CEC), 7 Oblast and the Bishkek and Osh City Commissions (OECs), 56 Rayon and City Election Commissions (RECs), and 2,333 Precinct Election Commissions (PECs). In addition, 49 electoral precincts have been established in 23 countries abroad to conduct out-of-country voting.
- Of the 22 potential candidates who initially submitted their nominations for candidacy, six were registered by the CEC. Six withdrew from the registration process, two failed the requisite Kyrgyz language exam, three failed to make the required election deposit, one had some 26,000 signatures annulled by the OECs and the CEC, and the remainder submitted an insufficient number of signatures prior to the 2 June registration deadline.
- The process of establishing voter lists is underway. Voter lists should be available for ‘familiarization’ at PECs starting from 27 June. The CEC has told the OSCE/ODIHR EOM that voter lists will not be publicly displayed, but rather available for individual scrutiny.
- The Kyrgyz authorities have promised open and transparent elections, consistent with international standards for democratic elections. Opposition candidates have stated their concerns regarding the misuse of administrative resources and their right to peaceful assembly during the election process to the OSCE/ODIHR EOM.
- The official campaign period commenced on 18 June. The campaign has not been very active thus far, but candidates have started to travel around the country to meet with voters; election advertising is beginning to appear.
- While a large number of media operates in the Kyrgyz Republic, there is a distinct lack of plurality of views, especially in the broadcast media. The OSCE Representative on Freedom of Media has recently voiced his concern over the recent rise in violence towards journalists.
- One complaint was filed by a potential candidate to the district court over the CEC’s rejection of his registration. The court’s ruling was then appealed to the Supreme Court, which upheld the decision.

- The OSCE/ODIHR EOM opened its office in Bishkek on 8 June, with an 11-member core team and 24 long-term observers, who have been deployed to 12 locations throughout the country. They are drawn from 21 OSCE participating States.

II. INTRODUCTION

The Kyrgyz *Jogorku Kenesh* (parliament) set the date for the presidential election for 23 July 2009, following a Constitutional Court decision, which clarified the constitutional provision governing this election. Following a Needs Assessment Mission (NAM)¹ and an invitation from the Kyrgyz authorities, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 8 June. The EOM, led by Ms. Radmila Sekerinska, consists of an 11-member core team based in Bishkek and 24 long-term observers, deployed to 12 locations throughout Kyrgyzstan. The OSCE/ODIHR EOM is drawn from 21 OSCE participating States. The OSCE/ODIHR has requested participating States to second 300 short-term observers to observe voting, counting and tabulation on election day.

III. BACKGROUND

Following the pre-term parliamentary elections in December 2007, the party of the incumbent President, *Ak Jol*, holds 71 of 90 seats in the current parliament. Two other parties are represented; the Social-Democratic Party of Kyrgyzstan (SDPK) with 11 seats and the Party of Communists of Kyrgyzstan (PCK) with 8. The political landscape in Kyrgyzstan remains polarized since the previous elections and political tension between the government and the opposition continues to exist. The OSCE/ODIHR has observed elections in the Kyrgyz Republic since 2000, most recently in 2007. The 2007 elections were assessed as having failed to meet a number of OSCE commitments despite meeting some that underscore pluralism.²

IV. ELECTION SYSTEM AND LEGAL FRAMEWORK

The President of the Kyrgyz Republic is elected for five years and may serve a maximum of two consecutive terms. The Electoral Code requires a 50 per cent turnout of all registered voters for the election to be considered valid. In order to be elected, the successful candidate must receive more than 50 per cent of all votes cast. If no candidate succeeds in winning in the first round, a second round between the two highest-placed candidates is held no earlier than two weeks after the results are determined.³ Both 50 per cent requirements also apply in the second round.

The principal legal instruments that regulate the conduct of presidential elections are the Constitution and the Electoral Code. Both laws were adopted by a national referendum on 21 October 2007. On 23 January 2009, the Electoral Code was amended. The procedure for including voters on additional voter lists was simplified; a court order is no longer required. Citizens must only submit a written application and present a valid ID with current registration showing their permanent or temporary residence in that constituency to be entered onto an additional voter list up to two hours before the close of polls on election day. Additionally, the amendments removed the requirement to ink voters who have already voted, an effective safeguard against multiple voting.

¹ The OSCE/ODIHR Needs Assessment Mission Report is available at:
http://www.osce.org/documents/odihr/2009/05/37561_en.pdf

² OSCE/ODIHR reports on previous elections in the Kyrgyz Republic are available at:
<http://www.osce.org/odihr-elections/14475.html>

³ The Electoral Code does not stipulate a maximum time limit.

Certain aspects of the election process are also regulated by decisions issued by the Central Election Commission (CEC).

Certain articles of the Electoral Code have been challenged before the Constitutional Court. On 29 April 2009, the court ruled that Articles 45.11 and 46.7 as well as paragraph 1 of Article 55.7 were unconstitutional, as they limited the right to legal redress. It remains to be seen what impact this ruling will have during the current election process.

V. CANDIDATE REGISTRATION

The nomination of presidential candidates commenced on 20 March, the day the election was called, and ended on 17 May 2009. According to the CEC, a total of 22 candidates were nominated for registration, either by political parties or by self-nomination.

In order to register, potential candidates had to collect a minimum of 50,000 support signatures from voters, with no less than three per cent gathered in every region (oblast), as well as in the cities of Bishkek and Osh. They also had to pay an election deposit in the amount of 100,000 Som (approximately EUR 1,600) and prove their command of the Kyrgyz language. Candidates had to pass a language test before a special commission, nominated by the CEC and approved by the parliament. The deadline to meet these conditions was 2 June 2009.

From 3 to 17 June, the Oblast Election Commissions (OECs) and then the CEC verified the signatures collected by the nominated candidates.⁴ The OECs submitted protocols to the CEC reflecting their findings on signature verification, rejecting a number of signatures in some cases. The CEC established a special working group for the verification of signatures, which took a minimum three per cent sample of the remaining signatures and extrapolated the errors found onto the whole signature list. As a result, one potential candidate, Mr. Akbaraly Aitikeev, was denied registration.⁵

Following the document and signature verification process, the CEC registered six candidates: Mr. Almazbek Atambaev, an independent candidate, representing the United People's Movement (UPM) and Chairperson of the Social Democratic Party of Kyrgyzstan (SDPK); Mr. Kurmanbek Bakiev, incumbent President and candidate of the *Ak Jol* party; Mr. Nurlan Motuev, an independent candidate, aligned with the *Joomart* movement; Mr. Jenishbek Nazaraliev, independent candidate; Mr. Temir Sariev, nominated by the *Ak Shumkar* party; and Ms. Toktoayim Umetalieva, an independent candidate.

Of the remaining 16 nominees, six withdrew from the registration process and ten were denied registration for different reasons: two failed the Kyrgyz language test, four submitted an insufficient number of signatures prior to the 2 June deadline, three did not make an election deposit, and Mr. Aitikeev was found to have an insufficient number of valid signatures. The CEC registered Mr. Motuev on the last day of the registration period, i.e. on 17 June, although he had not submitted

⁴ The Electoral Code is silent on the CEC additionally verifying signatures, while specifically empowering OECs to verify the signature lists in Article 62.10. However, on 21 March, the CEC adopted a 'clarification on a CEC regulation' in which it assigns itself the task of implementing a control check. According to Article 10.1.3 the CEC can "adopt resolutions, instructions, decisions, and other acts that do not contradict the Electoral Code or other laws".

⁵ The OECs found 8,435 of 74,081 submitted signatures to be invalid; the CEC further verified 5,109 signatures and found 1,405 (27 per cent) invalid⁵ The CEC applied this error rate to the total number of signatures and invalidated 18,025 signatures, thus leaving Mr. Aitikeev with 47,521 valid signatures, 2,479 short of the required 50,000.

proof of his election deposit; the CEC decided not to issue the official candidate certificate until the proof was provided. Mr. Motuev presented it on 18 June.

VI. POLITICAL ENVIRONMENT AND ELECTION CAMPAIGN

The Kyrgyz authorities have promised open and transparent elections, consistent with democratic standards. Three opposition candidates have voiced concerns regarding the election process, specifically the possible use of administrative resources and their freedom to peacefully assemble during the campaign, to the OSCE/ODIHR EOM. The Council of Human Rights Defenders under the Kyrgyz Ombudsman also drew public attention to an incident in May in which the UPM was prevented from conducting meetings in nine different locations in the Issyk-Kul region. According to information presented by the Council at a roundtable discussion on 12 June, local authority representatives and police broke into private homes, apprehended UPM members, and expelled them from the region.

The election campaign officially began on 18 June, following candidate registration. The candidates launched their campaigns in different parts of the country. To date, the campaign has been not very visible and very few billboards or posters are evident in Bishkek or other regions.

The CEC has established a consolidated schedule of joint meetings for all candidates throughout the regions. Candidates can also organize individual campaign meetings with voters in private locations where the owners have given their permission. The “Law on the Right of Citizens to Assemble Peacefully, Without Weapons, Freely Conduct Meetings and Demonstrations”⁶, as amended in August 2008, stipulates that outdoor meetings require advance permission from the local authorities, which must be sought 12 days prior to the event. The respective administration has an additional six-day period within which to respond to the request and must seek court approval to issue a negative response. Initial reports from OSCE/ODIHR long-term observers indicate that this provision appears to be variably implemented in the regions. The CEC has informed the OSCE/ODIHR EOM that this law does not apply during an election campaign.

According to information obtained by OSCE/ODIHR EOM long-term observers, approximately 18 to 23 citizens wearing T-shirts with Atambaev’s picture were detained while trying to enter President Bakiev’s campaign event in Talas. They were held without charge for some 3 to 6 hours, before being released. The police initially told observers that no one was detained. Upon further contact, OSCE/ODIHR EOM observers were informed that only the chief of police is authorized to speak to them regarding the matter but he has been unavailable.

VII. ELECTION ADMINISTRATION

The presidential election is administered by four levels of election administration, headed by the CEC. Below the CEC are seven Oblast and the Bishkek and Osh City Commissions (OECs), 56 Rayon and City Election Commissions (RECs), and 2,333 Precinct Election Commissions (PECs). The CEC has advised that, in addition, 49 electoral precincts have been established in 23 countries abroad to conduct out-of-country voting. The Ministry of Foreign Affairs (MFA) has informed the OSCE/ODIHR that, to date, 129,631 citizens are registered to vote abroad.

The CEC is a permanent body, appointed for a five-year term. The CEC chairperson and six members are appointed by the President. Another six members are appointed by the Parliament. The

⁶ OSCE/ODIHR reviews of this law are available at: <http://www.legislationline.org/topics/country/20/topic/15>

OECs are also permanent bodies appointed by the CEC for a five-year term. RECs were appointed by OECs by 30 March. PECs are to be appointed by RECs by 22 June.

CEC sessions are open to media, observers and candidate representatives. An agenda is available at the start of sessions and some decisions are made public through the media or the CEC's website.

The CEC has been organizing a voter education campaign, with TV and radio spots on citizens' electoral rights, explanation of specific articles of the Electoral Code, and information on the rights and duties of candidates. On 3 June, the CEC also organized a national conference together with a coalition of NGOs "Time of My Choice"⁷ entitled, "The CEC and Civil Society: Mutual Dialogue on the Management of the Upcoming Elections".

VIII. VOTER REGISTRATION

Voter lists (VLs) are to include Kyrgyz citizens who possess an active voting right on election day. Those serving custodial sentences or who have been declared mentally incapable by a court do not enjoy this right.

Local administrations compile preliminary data on registered voters from the state registration into main voter lists. They are to submit one copy each of the VLs to the respective REC and PEC by 27 June. Special VLs are created for voters temporarily staying at various officially designated locations such as, for example, sanatoriums, medical treatment and preventive care establishments, distant locations and hard-to-access regions, pre-trial and temporary detention centres, as well as military units. The respective heads or commanders of such locations are to submit the special VLs to the respective REC and PEC by 12 July. Students living in dormitories are included in the main VLs based on their registration on the day of the announcement of elections (20 March).

Starting 27 June, PECs will facilitate a process of 'familiarization' of voters with voter lists. The CEC has told the OSCE/ODIHR EOM that VLs will not be publicly displayed, but rather available for individual scrutiny. Citizens can ask for changes or additions, including on election day. In case of inaccuracies or omissions, the voter is crossed off the main VL and added correctly to an additional voter list. By law, a voter may be included in only one voter list. The CEC informed the OSCE/ODIHR EOM that it has not considered mechanisms for national cross-checking voter lists.

IX. THE MEDIA

While a large number of media operates in the Kyrgyz Republic, there is a distinct lack of plurality of views, especially in the broadcast media. The last report of the public foundation, "Media Commissioner's Institute", a reputable media NGO which conducts media monitoring, indicated that candidates, other than the President, have been provided with very limited coverage, particularly on television.

Articles 30-33 and 36 of the Electoral Code are the main legal basis for the conduct of election campaigning in the media. On 2 November 2007, the CEC adopted a regulation on "Clarifications on Informational Coverage of Elections", which regulates the coverage of the election campaign by both broadcast and print media. The sanctions for violations of media requirements are contained in the Law on Administrative Penalties and overseen by the CEC's working group on informational

⁷ The coalition unites the Association of Centres Supporting Civil Society, "Taza Shailoo" (Clean Elections), the Human Rights Centre "Citizens Against Corruption", the International Centre "Interbilim", the Public Union "Coalition for Democracy and Civil Society", and the Public Union "Shoola-Kol".

disputes, which was established on 30 April 2009. To date, the group has convened five times. Based on its recommendations, the CEC issued five warnings to four newspapers,⁸ asking them to adhere to various requirements, such as balanced coverage, timing for the publication of opinion polls, the ban on campaigning before the official campaign period, the prohibition to publish false information and to damage the honour and dignity of candidates. The OSCE/ODIHR EOM is awaiting documentation regarding these warnings from the CEC.

According to Article 32 of the Electoral Code, registered candidates are entitled to free airtime on state-funded TV and radio between 20:00 and 00:00 (prime time, as defined by the Code). The daily total amount of free airtime cannot be less than one hour on “working days” (not clearly defined by the Code) and is to be distributed on an equal basis to all candidates. Article 33 of the Electoral Code provides registered candidates with a minimum of one A4 page of free newsprint in state-funded newspapers during the whole election period. The allocation of the free time and space was determined by the CEC through a lottery that determined the order of appearances of candidate advertisements on TV and in one state newspaper (*Kyrgyz Tusuu*). The Electoral Code also allows media to provide paid time or space to candidates on an equal basis. Each media outlet is obliged to publish its prices for paid advertisements and submit them to the CEC within ten days of the election being announced. According to the CEC, 135 media outlets fulfilled these requirements.

Several interlocutors have commented to the OSCE/ODIHR EOM on the increase in assaults on journalists; two such attacks happened in June. On 16 June, the OSCE Representative on Freedom of the Media urged the Kyrgyz authorities “to do everything in their power to halt a wave of attacks against journalists, which is threatening media pluralism ahead of the presidential election” and repeated his request for information on the investigations into the crimes.⁹

On 11 June, the OSCE/ODIHR EOM commenced both quantitative and qualitative media monitoring of six TV channels, two radio stations, and ten newspapers.¹⁰

X. COMPLAINTS AND APPEALS

Provisions regulating election disputes are contained in the Electoral Code and the Civil Procedure Code. The right to appeal decisions, including actions or inactions of election commissions and other actors involved in the electoral process is granted to all electoral subjects and voters. The Electoral Code envisages settlement of election-related disputes through both election commissions and courts. The Supreme Court is the highest instance for such disputes. The Electoral Code stipulates that if a court accepts an electoral complaint, a parallel complaint to an election commission is suspended until the court’s final ruling.

On 15 June, Mr. Aitikeev challenged the CEC decision not to register him as a candidate. Mr. Aitikeev accused the CEC of not communicating the decision in time and demanded de-registration of presidential candidate Mr. Bakiev on the grounds that the CEC’s procedure of verifying signatures was not equally applied to all potential candidates. On 16 June, the district court rejected the appeal and on 17 June, the Supreme Court upheld the decision of the first instance court.

⁸ The newspaper *Achyk Sayasat* received two warnings, once on 7 May and again on 6 June 2009. The newspapers *Delo No.*, *Apta* and *Uchur* received warnings on 7 May 2009.

⁹ OSCE Representative on Freedom of the Media, http://www.osce.org/fom/item_1_38188.html

¹⁰ TV stations: NTRBC, *EITR*, Channel 5, *Pyramida*, NTS and NBT. Radio stations: NTRBC and *Radio Azattyk*. Newspapers: Kyrgyz: *Achyk Sayasat*, *Agym*, *Kyrgyz Tuusu*, *Erkin Too*. Russian: *Slovo Kyrgyzstana*, *Vecherni Bishkek*, *MSN*, *Delo Nomer*, *MK-Kyrgyzstan*, Reporter.

XI. DOMESTIC AND INTERNATIONAL OBSERVERS

For the upcoming presidential election, a number of domestic non-governmental organizations plan long- and short-term observation of the electoral process. A Memorandum of Understanding was signed between the CEC and the “Time of My Choice” NGO coalition on 3 June which commits the CEC to respect voters’ rights, to ensure respect for the Electoral Code and other relevant legal provisions, and to contribute to the efficiency of the complaints procedure. The NGO coalition, in turn, commits to promoting activities related to voting, to informing about any irregularities and to co-operating with the election authorities at all levels to secure the observance of all legal norms during the elections, including voting, counting and tabulation. This development comes in light of a draft law on non-commercial organizations that has been criticized by the domestic and international community for having the potential to limit election-related activities of NGOs.¹¹

The MFA has informed that, to date, 27 international observers from the Commonwealth of Independent States and 4 from the Shanghai Co-operation Organization have been accredited, in addition to the 37 from the OSCE/ODIHR EOM. Up to 2,000 international observers are expected by the Kyrgyz authorities.

XII. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

In conformity with the Constitution, men and women in Kyrgyzstan enjoy equal rights, freedoms and opportunities. Following the 2007 parliamentary elections, 23 women are represented in parliament. There were no female deputies in the previous convocation. Numerous NGOs are headed by women. The OSCE/ODIHR EOM will assess the participation of women in the election process, both in the capital and the regions.

Although predominantly Kyrgyz in ethnic composition (more than 69 per cent), a number of national minorities live in the country. These include Uzbeks (15 per cent, mainly in the south), Russians (9 per cent, mainly in the north), Dungans (1 per cent), Uigurs (1 per cent) and other nationalities (5 per cent).¹² The OSCE/ODIHR EOM will be following the issue of minority participation in the election process.

XIII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM opened its office in Bishkek on 8 June 2009. The Head of the OSCE/ODIHR EOM (HoM) has met the Minister of Foreign Affairs, the CEC, three of the six registered candidates (or campaign managers), as well as one that was denied registration. The HoM has also met with the OSCE Centre in Bishkek, diplomatic representations of OSCE participating States and international organizations active in Kyrgyzstan. The OSCE/ODIHR EOM also established regular contacts with the Ministry of Foreign Affairs, the CEC, candidates’ campaign headquarters, political parties, civil society, and the media. Long-term observers are meeting election stakeholders in the regions.

¹¹ The OSCE/ODIHR has provided an opinion on the proposed draft law:
<http://www.legislationline.org/countries/country/20>

¹² National Statistics Committee of the Kyrgyz Republic, 2008, www.stat.kg