

INTERIM REPORT
9 December – 20 December 2020

23 December 2020

I. EXECUTIVE SUMMARY

- On 10 January 2021, Kyrgyzstan will hold an early presidential election and referendum on determining the form of governance. The president is elected for a single six-year term by direct universal suffrage. If no candidate receives more than half of the votes in the first round, a runoff will take place between the two candidates with the most votes within 20 days.
- The election takes place against the backdrop of a political crisis that unfolded following the 4 October parliamentary elections. While the Central Commission for Elections and Referenda voided the voting results in light of large-scale protests and President Sooronbay Jeenbekov resigned, former member of parliament Sadyr Japarov subsequently served as acting Prime Minister and acting President, only to resign shortly afterwards to be able to stand as a candidate in this election. A complaint challenging the holding of the referendum was filed with the Constitutional Chamber of the Supreme Court.
- The electoral legal framework has been amended several times since the last presidential election. The most recent amendments lowered the threshold for the return of the electoral deposit for presidential candidates, permitted engagement of volunteers in the campaign, and eliminated the possibility for voters to change their electoral addresses inside the country. The outgoing parliament adopted a law suspending provisions on the holding of repeat elections, which also eliminated the possibility to conduct a repeat presidential election.
- Election commissions have been formed and are preparing for the upcoming early election in a shortened timeline, which might pose challenges in addition to the difficult working conditions due to the COVID-19 pandemic and the holding of a simultaneous referendum. The CEC has registered 18 presidential candidates, including one woman. In total, the CEC received 65 applications of which 19 were withdrawn by the nominees, and 28 were rejected for not fulfilling all legal requirements.
- Some 3.5 million eligible voters were included in the updated preliminary voter lists. About 450,000 citizens remain disenfranchised since they have not undergone biometric registration. Voter lists are available for public scrutiny and voters can request corrections. The removal of the possibility for voters to request a temporary change of voting address may negatively affect some groups of voters.
- The presidential campaign started on 15 December. Only limited campaigning, mostly in the form of billboards for candidate Sadyr Japarov, and some rallies for several candidates in larger cities, has been observed so far. During the reporting period, no official referendum support groups were registered by the CEC.
- Candidates have to open a dedicated bank account through which all election-related expenses are channeled. Direct public funding is not foreseen. The oversight of campaign finance is vested with

the CEC, which publishes information on campaign income and expenditure on its website. According to the CEC, Mr. Japarov has received more than KGS 47 million and candidate Babyrjan Tolbayev more than KGS nine million.

- The Constitution guarantees freedom of expression and media, and explicitly prohibits criminal prosecution for defamation. However, there are no limits on civil damages, which might lead to self-censorship. Recent physical and verbal attacks against journalists remain of concern. In order to cover election-related activities, media outlets need to apply for CEC accreditation, which may be revoked in case of violations of the election law. While negative campaign commercials are prohibited, a number of media outlets are offering their editorial content as paid political advertisement.
- As of 20 December, the CEC has received some 20 complaints, most of them on early campaigning and abuse of administrative resources. Decisions on complaints were not posted on the CEC website in a timely manner. Three CEC decisions were unsuccessfully appealed.

II. INTRODUCTION

Following an invitation from the authorities of the Kyrgyz Republic to observe the 10 January early presidential election, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Limited Election Observation Mission (LEOM) on 9 December 2020.¹ The ODIHR LEOM is led by Tamás Meszerics and consists of 13 core team members based in Bishkek as well as 22 long-term observers (LTOs) who were deployed to all seven regions of Kyrgyzstan and the cities of Bishkek and Osh on 15 December. Core team members and LTOs were drawn from a total of 18 OSCE participating States.

III. BACKGROUND

The 10 January 2021 early presidential election will be held against the backdrop of a political crisis that unfolded following the 4 October 2020 parliamentary elections. The publication of preliminary voting results, indicating that the new parliament would be dominated by pro-presidential parties, triggered large-scale protests, claiming that the elections were fraudulent, and demanding their annulment.

After the protests grew and turned violent, the CEC voided the voting results on 6 October. This was followed by a period of uncertainty, during which a former member of parliament (MP), Sadyr Japarov,² claimed the office of the Prime Minister and was then confirmed in this position by the outgoing parliament, which had extended its own mandate.³ President Jeenbekov announced his resignation on 15 October. Next in line for presidential succession would have been the Speaker of Parliament Kanat Isayev, yet he declined to take up the office.⁴ Thus, the acting presidency, according to the constitution, passed to acting Prime Minister Japarov, who subsequently filled both offices.

Mr. Japarov formed an interim government, which included members from a wide range of the Kyrgyz political spectrum, and an early presidential election was set for 10 January 2021. On 14 November,

¹ See previous [ODIHR election observation reports on Kyrgyzstan](#). In line with standard methodology for LEOMs, the mission will not carry out a comprehensive or systematic observation of election-day proceedings.

² Mr. Japarov had been serving a prison sentence at the time, but was freed when his supporters stormed the detention facility on 5 October.

³ See *Electoral System and Legal Framework*.

⁴ Kanat Isayev is a candidate in the upcoming election.

Mr. Japarov resigned from all positions in order to stand as a candidate, and the newly appointed Speaker of Parliament, Talant Mamytov, was appointed as acting President.⁵

Also, during this period, the parliament, with the support of Mr. Japarov, proposed a new draft constitution. It contained wide-ranging changes that would have vested the Kyrgyz president with significantly increased powers. A countrywide constitutional referendum was announced for 17 November. The proposition, however, sparked widespread protest from Kyrgyz civil society and concerns from the international community.⁶ Eventually, the referendum on the draft constitution was replaced with a referendum in which citizens are now asked to determine the form of governance - presidential or parliamentary - or choose a third “against all” option. This referendum will also take place on 10 January 2021.⁷

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

Under the Constitution, 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 second round takes place between the two front runners, within 20 days from the announcement of the first-round results.⁸ There is no turnout requirement for the validity of either round.

The legal framework for presidential election comprises the 2010 Constitution, the 2011 Constitutional Law on Presidential and Parliamentary Elections (hereinafter election law), the 2011 Law on Electoral Commissions for the Conduct of Elections and Referenda (Law on Election Commissions), and other legislation.⁹ The CEC is authorized to issue normative resolutions regulating different aspects of the electoral process within its competence and on the basis of the law. Kyrgyzstan is a party to the main international treaties related to democratic elections.¹⁰

The electoral legal framework has been amended several times since the last presidential election. Importantly, changes in 2017 and 2019 introduced the definition of misuse of administrative resources in electoral legislation and sanctions. Other changes concerned the inclusion of persons with disabilities, campaigning in online media, rights of observers, complaint resolution, and liability for vote-buying.

The most recent changes were adopted in the wake of the October 2020 parliamentary elections and included a law suspending provisions on the holding of repeat elections. This led to the postponement of the repeat parliamentary elections for no later than 1 June and effectively eliminated the possibility for a repeat presidential election. This law was challenged before the Constitutional Chamber of the

⁵ According to the Constitution, holders of the offices of Prime Minister and President cannot stand as candidates.

⁶ Concerns were both substantial and procedural: the draft constitution proposed a considerable weakening of the parliament in favour of a strengthened presidency and a new type of national assembly (“*Kurultay*”). Procedurally, the fact that an outgoing parliament, which had extended its own mandate, was introducing such far-reaching changes was seen as problematic by the Constitutional Chamber of the Supreme Court as well as by the Venice Commission.

⁷ In response to the invitation from the CEC, dated 15 December 2020, an observation of the referendum will be carried out by the ODIHR LEOM to the extent made possible by its format and available resources.

⁸ After election day, the CEC has 20 days to establish the official election results.

⁹ Including the Law on Political Parties, the Law on Peaceful Assemblies, the Criminal Code, the Code on Infractions, and Code on Minor Offences.

¹⁰ These include the [International Covenant on Civil and Political Rights](#), the [Convention on the Elimination of All Forms of Racial Discrimination](#), the [Convention on the Elimination of All Forms of Discrimination Against Women](#) and its optional protocol, and the [Convention on the Rights of Persons with Disabilities](#).

Supreme Court, which found it constitutional.¹¹ In November 2020, further amendments excluded the possibility to change the electoral address for voters residing in the country, lowered the threshold for the return of the electoral deposit for presidential candidates from five per cent to one per cent, and allowed for the engagement of volunteers in the electoral campaign.

On 10 December, the parliament adopted the law appointing the referendum on the form of governance for 10 January in a second and third reading.¹² Several stakeholders, including a number of non-governmental organizations (NGOs) and presidential candidates, announced their discontent, stating that the law-making procedures had not been complied with, including the short timeframe that did not allow for public consultations.¹³ In addition, concerns were raised with regards to the concurrent conduct of the referendum and the early presidential election as well as the lack of legitimacy of the expired parliament to initiate questions of constitutional reform.¹⁴ The NGO "Institute of Constitutional Policy" initiated a complaint with the Constitutional Chamber, challenging the appointment of the referendum.

The conduct of the referendum is regulated by the law on referendum that establishes, *inter alia*, the timeframes for administering a referendum and the rules for referendum campaigns. The law requires a participation threshold of 30 per cent of registered voters for a referendum to be considered valid. The CEC has 35 days to establish the official referendum results.

V. ELECTION ADMINISTRATION

The election is administered by the CEC, 54 Territorial Election Commissions (TECs) and 2,428 Precinct Election Commissions (PECs). All election commission members are appointed for five-year terms.¹⁵

The CEC is a permanent body responsible for the organization of elections and referenda. It consists of 12 members appointed by the parliament. The president, the parliamentary majority and the opposition nominate four members each. In line with a 30 per cent gender quota, the CEC includes four women members, including the chairperson. Whereas most of the current members were appointed in June 2016, two were recently replaced.¹⁶ TECs and PECs were formed in January 2020 and their composition is based on nominations from political parties and local self-government bodies. Almost half of TEC members are women.

The CEC has been holding open sessions on a regular basis, live-streamed online. In light of the COVID-19 pandemic, the CEC procedures were amended to allow members to participate remotely. Sessions are announced on the CEC website shortly before they begin, not always providing sufficient time for all participants to attend.

¹¹ At the same time, the Constitutional Chamber criticized the length of the postponement, stating that eight months is "excessive and unjustifiable by objective circumstances".

¹² The first reading was conducted on 9 December; the law entered into legal force on 11 December.

¹³ The parliamentary Rules of Procedure envisage breaks of at least ten days between the readings, with members of parliament receiving draft laws no less than three days in advance of parliamentary sessions.

¹⁴ [The Venice Commission's urgent amicus curiae brief relating to the postponement of elections motivated by constitutional reform](#) stated: "during the *prorogatio* that takes place after the legal term of the legislature has expired, the Parliament is only allowed to carry out some ordinary functions, whereas it is not allowed to approve extraordinary measures, including constitutional reforms". The Constitutional Chamber also reckoned that in the prolongation period, the activity of the parliament "must be guided by the principle of reasonable restraint."

¹⁵ Out-of-country voting will be conducted at 48 PECs established in embassies and consulates of the Kyrgyz Republic.

¹⁶ One CEC member resigned in September due to his candidacy in the 2020 parliamentary elections, while the second member resigned in October after strongly criticizing the CEC for not responding to alleged violations and fraud.

The upcoming election is held in a shortened timeframe and concurrent with the recently announced referendum which, according to the ODIHR LEOM interlocutors, may pose additional challenges for the preparation and conduct of the electoral process.¹⁷ Recognizing a need to build public and stakeholders' trust in the electoral process, election authorities are conducting training for law enforcement agents on how to investigate campaign violations, in particular vote-buying and misuse of administrative resources. The CEC is also organizing training for candidate representatives on campaign regulations and financial reporting.

According to the CEC, 76 per cent of polling stations have been equipped with ramps for voters with reduced mobility. The CEC will also produce voter education material and assistive tools for voters with hearing or visual impairments, including braille ballot papers.

In light of the COVID-19 pandemic, the CEC, in co-operation with the Ministry of Health, developed specific measures against the spread of the virus, which relate to voting procedures, including social distancing at voting premises and the provision of electoral officials and voters with personal protective equipment. Respective information will be displayed in all polling stations.

VI. VOTER REGISTRATION

Kyrgyz citizens who are at least 18 years of age on election day are eligible to vote. The election law disenfranchises those serving a prison sentence, irrespective of the gravity of the crime committed, and those who have been declared incapable by a court.

Voter registration is passive and voter lists are extracted from the Unified Population Register (UPR), administered by the State Registration Service (SRS). All citizens must undergo mandatory biometric registration in order to be included in the voter list.¹⁸ According to the SRS, some 450,000 citizens, most of them residing abroad, still have not undergone biometric registration and hence remain disenfranchised.

As of 16 December, the preliminary voter lists include 3,552,600 voters, 52 per cent of whom are women. During the public scrutiny period until 29 December, voters can check their data and request corrections at the PECs or through the state web-portal. Following the recent amendments to prevent vote-buying practices, a temporary change of voting address is only allowed for out-of-country voters.¹⁹ The CEC informed the ODIHR LEOM that this may impact the voting possibilities for members of election commissions and police officers on duty on election day, as well as those who are registered in their previous domicile instead of the current place of living.

VII. CANDIDATE REGISTRATION

Candidates must be eligible voters between the age of 35 and 70, who have resided in the country for more than 15 years in total and have command of the state language. Those with an un-expunged or un-expired criminal record are not eligible to run.²⁰ Citizens in possession of another nationality are also ineligible. Candidates may stand independently or be nominated by political parties. In order to

¹⁷ Article 48.2 of the election law shortens the timeframe for an early election by a quarter.

¹⁸ SRS stores records of fingerprints, photograph, signature and personal data.

¹⁹ The change of the voting address through Form 2 was strongly criticised in the 2020 elections as being misused for vote-buying schemes. However, it also provided voters with a possibility to vote at their current place of stay rather than their registered residence.

²⁰ In October, the Supreme Court canceled prior judgments, which issued guilty verdicts against Mr. Japarov.

register, candidates are required to provide signatures of at least 30,000 voters, establish an electoral fund and pay an electoral deposit of KGS one million (approximately EUR 10,000).²¹

A total of 65 individuals had initially filed applications to run for the office.²² Of these, only twenty nominees submitted the required registration documents by the legal deadline, including the deposit and support signatures.²³ Several nominees complained to the CEC about the shortened timeframe for the collection of signatures, which was further compressed by the CEC procedural requirements.

The CEC working group conducted a complete verification of signatures. Consequently, two candidates were denied registration for an insufficient number of valid signatures.²⁴ The verification process was open to candidate representatives and observers. On 12 December, the CEC approved the registration of 18 self-nominated candidates, including one woman. Candidates may withdraw up to two days before election day.

As for the referendum, citizens have the right to form campaign groups in support of or against the question put forward on the ballot. The CEC registers campaign groups within ten days and each registered group must open a dedicated bank account for the campaign fund.

VIII. CAMPAIGN AND CAMPAIGN FINANCE

The election campaign officially started on 15 December and will end on 9 January, 24 hours before election day. Some campaigning has been observed so far, mostly in the form of billboards, many of them for candidate Japarov, and in the form of rallies for several candidates in larger cities. Candidates are free to campaign via traditional and social media as well as in person, although this might be limited due to the COVID-19 pandemic. By law, civil servants, religious figures, members of election commissions and founders and members of charitable organizations are not allowed to be engaged in campaign activities.

State and local administrations are obliged to assist candidates in organizing campaign activities, such as debates or rallies, and to ensure security and the provision of venues on a non-discriminatory basis. Candidates as well as their close relatives are not allowed to engage in charitable activities from the moment of calling the election until the publication of results. TECs control and enforce these regulations.

Candidates have to open a dedicated bank account through which all election-related expenses are to be channeled. The funds may come from the candidate him/herself or from donors, whereas several entities, such as foreign citizens or institutions, state enterprises or religious organizations, are prohibited from making donations. Direct public funding is not foreseen. The oversight of campaign finance is vested with the CEC, which publishes information on campaign income and expenditure on its website. According to this information, by 19 December, candidate Sadyr Japarov had received more than KGS 47 million, (approximately EUR 470,000) and candidate Babyrjan Tolbayev more than

²¹ 1 EUR equals approximately 101 KGZ (Kyrgyz Som).

²² Of the 65 applicants, only eight were women and only one was nominated by a political party.

²³ Three applicants were denied registration due to their criminal records and nine did not submit a language certificate. 19 nominees withdrew their intention to run as candidates, while 13 were denied registration for not submitting support signatures. One candidate submitted signatures, but did not pay the deposit.

²⁴ In one case, all signature sheets were deemed invalid due to the violation of rules for financial reporting during their production, while in another case 902 of submitted 30,106 signatures were deemed invalid.

KGS nine million (approximately EUR 90,000). All other candidates had received between KGS one and five million (EUR 10,000-50,000) each.²⁵

IX. MEDIA

The vibrant media environment is constrained by a small advertising market that further reduced due to the COVID-19 pandemic. Television remains the main source of information, followed closely by online and social media. The Public Broadcasting Corporation (*KTRK*) has the biggest coverage and viewership. The general director of *KTRK* resigned during the post-election protest rallies in October 2020, but later attempted to reverse his decision, and is currently suing *KTRK* in order to regain his position. The director of the Osh-based state owned Television *EITR* was dismissed in mid-October by the then acting Prime Minister Sadyr Japarov. The appointment of a new director prompted a strike of *EITR* employees, leading to the nomination of another director on 30 October.

The Constitution guarantees freedom of expression and media. While defamation was decriminalized in 2011, there are no limits for civil damages in respective cases, which, in the opinion of many ODIHR LEOM interlocutors, may have a chilling effect on investigatory and critical reporting.²⁶ Interlocutors also raised concerns regarding the recently increased number of physical and verbal attacks against journalists by police and political protestors as well as a lack of thorough investigation by relevant authorities.

The election law requires media outlets to provide unbiased coverage and to treat contestants equally. Broadcast, print and online media outlets are required to be accredited with the CEC and submit price lists for political advertisements in order to be allowed to cover election-related activities and campaigns as well as to sell space for political advertisements.²⁷ Such accreditation may be revoked in case of violations of the election law.

The law provides a broad definition of election agitation that needs to be published as political advertisement, thus limiting the allowed scope of the editorial coverage of campaign activities. In light of this regulation, a number of broadcasters are offering editorial content, such as news coverage or participation in talk shows and interviews, as paid political advertisement. The law also prohibits campaigning against any presidential candidate in paid media advertisements. Negative editorial coverage is permitted, but targeted contestants have to be provided with the right to reply upon request. Media interested in selling time to the registered referendum support groups have to submit their prices by 21 December.

The election law provides free time to the presidential candidates, while the law on referendums provides free time to the official referendum support groups. The CEC has allocated the free time for the presidential candidates on 14 December; however, in the absence of registered referendum support groups, the allocation of free time did not take place during the reporting period.

²⁵ The maximum allowed expenditure is KGS 200 million per candidate.

²⁶ Following the publication of the investigatory report on corruption in November 2019, defamation court cases were initiated against RFE/RL's Radio *Azattyk*, *Kloop.kg* and the journalist that led the investigation. The charges amounted to KGS 22.5 million, KGS 12.5 million and KGS 10 million respectively, and were seen as disproportionate by the [OSCE Representative on Freedom of the Media](#). Furthermore, in 2020 two separate defamation cases against Asia News newspaper ended in fines of KGS 300,000 and KGS 50,000.

²⁷ Online media are defined as regularly updated, freely accessible websites that are administrated or owned in Kyrgyzstan and attract either at least 500 unique users per day or at least 1,000 unique users per month. Internet blogs and personal pages in social media are not treated as online media.

On 16 December, the ODIHR LEOM commenced its media monitoring of the prime-time broadcasts of six TV channels and three online media outlets, with a quantitative and qualitative monitoring of their political and election-related coverage.²⁸

X. COMPLAINTS AND APPEALS

Election-related complaints can be filed by voters, political parties and candidates, their proxies, civil society organizations and observers. Decisions, actions and inactions of election commissions can be appealed to higher election commissions, and those of the CEC to the Administrative Court of Bishkek, whose decision can be further appealed before the Supreme Court.²⁹ Complaints can also be filed with the prosecutor's office and the police.

The CEC has created a working group composed of members and staff to review complaints and provide advisory opinions on their resolution. The CEC also maintains an online registry of complaints, according to which, as of 20 December, it has received some 20 complaints.³⁰ While most of the complaints registered before 15 December alleged early campaigning by candidates, the start of the official campaign period brought in complaints on the abuse of administrative resources. The CEC informed the ODIHR LEOM that it has fined two candidates, and several cases were submitted to law-enforcement agencies for further investigation.³¹ Decisions on these complaints were not posted on the CEC website in a timely manner.³² Some complaints were also related to candidate nomination and registration, including one challenging the right of candidate Japarov to stand for presidential election. The complaint was denied by the CEC.³³

Thus far, three CEC decisions have been appealed, all unsuccessfully: one challenge against the CEC decision to schedule the presidential election was denied by the Administrative Court, whose decision was further upheld by the Supreme Court. The Supreme Court also upheld in the final instance the CEC's decision to declare a candidate's signature collection sheets invalid because their production was not paid from the electoral fund. An appeal challenging the CEC decision on the complaint regarding the registration of Mr. Japarov was denied by the Administrative Court.

XI. CITIZEN AND INTERNATIONAL OBSERVERS

The election law provides for election observation at all levels and of all stages of the electoral process. Candidates, NGOs and international organizations may appoint observers. The law prohibits government officials, members of parliament, election commissioners, judges, prosecutors and law-enforcement officials from acting as observers. Each candidate may accredit up to two observers per

²⁸ TV channels (*Channel 5, Channel 7, EITR, KTRK, NTS and Piramida*) and three websites (*24.kg, kaktus.media* and *Kloop.kg*). The ODIHR LEOM also follows election-related content in the online media and on social networks.

²⁹ Complaints and appeals lodged with election commissions and courts, including on election results, should be submitted within three days and resolved within three days or, in case additional investigation is required, within five days; prosecutors and the police have to decide on election-related complaints within two days. Appeals to the Supreme Court have to be heard within five days.

³⁰ The NGO "Coalition for Democracy and Civil Society" claimed that some of its complaints submitted to the CEC never appeared in the registry and were not acknowledged.

³¹ Candidate Tashov was fined for early campaigning and candidate Kalmamatov for the use of negative rhetoric in early campaigning.

³² According to the agenda of the CEC session, at least seven complaints were resolved by the CEC on 4 December; however, as of 14 December most of these decisions did not appear on the website. Some complainants stated that they did not receive copies of the CEC decisions.

³³ The applicants claimed that the Constitution does not foresee the procedure for the resignation of an acting president and questioned Mr. Japarov's eligibility on this ground.

PEC, whereas civil society organizations may nominate up to three observers per PEC. Only one observer from one candidate or NGO is allowed inside a polling station at a time. As of 18 December, observers from six citizen observer groups were accredited by the CEC.

XII. ODIHR LEOM ACTIVITIES

The ODIHR LEOM has opened in Bishkek with a press conference on 9 December. It established working relations with the relevant stakeholders in the election process at central and regional level. The ODIHR LEOM has met with representatives of the Ministry of Foreign Affairs, the CEC, the State Registration Service, and the representatives of the diplomatic community. To date, the ODIHR LEOM has established regular contacts with the CEC, governmental institutions involved in the electoral process, candidates' campaign offices, political parties, civil society, and the media. The OSCE Parliamentary Assembly intends to deploy a delegation for election day observation. The OSCE Chairperson-in-Office has appointed Peter-Juel Jensen as Special Co-ordinator and leader of the short-term OSCE observer mission for this election.

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