



Office for Democratic Institutions and Human Rights

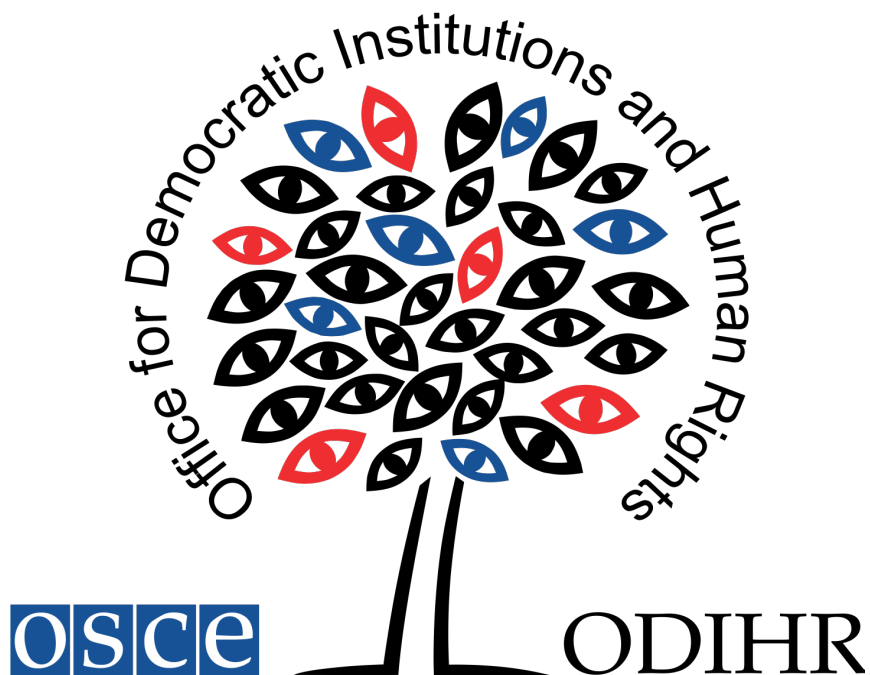
REPUBLIC OF KAZAKHSTAN

EARLY PRESIDENTIAL ELECTION

20 November 2022

ODIHR Election Observation Mission

Final Report



Warsaw
14 July 2023

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REPUBLIC OF KAZAKHSTAN
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20 November 2022

ODIHR Election Observation Mission Final Report¹

I. EXECUTIVE SUMMARY

Following an invitation from the authorities of the Republic of Kazakhstan to observe the 20 November 2022 early presidential election and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 18 October. The ODIHR EOM, led by Ambassador Urszula Gacek, consisted of an 11-member core team based in Astana and 30 long-term observers deployed on 26 October throughout the country.

The Statement of Preliminary Findings and Conclusions issued by the ODIHR EOM on 21 November concluded that “the 20 November early presidential election took place in a political environment lacking competitiveness, and while efficiently prepared, the election underlined the need for further reforms to bring related legislation and its implementation in line with OSCE commitments to ensure genuine pluralism. The incumbent stood as the joint candidate of all parliamentary parties and, in effect, was not meaningfully challenged in a low-key campaign. The ability of citizens to participate in political life remains significantly constrained, with limitations on fundamental freedoms which narrow the space for critical voices. The election administration provided extensive voter information in the media, but scarce campaign coverage by the media and the virtual absence of analytical reporting, including online, limited voters’ ability to make an informed choice. While election day was calm and voting procedures were largely followed, important safeguards were disregarded, and substantial procedural errors and omissions were observed during counting and tabulation, undermining transparency”.

The election followed a constitutional referendum held on 5 June 2022 and took place against the backdrop of constitutional and related legislative reforms announced by President Tokayev since his coming to power in 2019, and discussions on the country’s economic and political transformation and the associated restructuring of the public administration.

The Constitution, the Election Law and other election-related legislation have been revised several times in recent years. Nevertheless, the legal framework for presidential elections does not yet provide sufficient guarantees for the effective exercise of electoral rights, as a number of provisions essential for holding democratic elections are not in line with OSCE commitments and international standards. Positive steps were taken related to the electoral participation of persons with disabilities, the procedural basis for dispute resolution by the election administration, and the introduction of administrative courts. Most previous ODIHR recommendations remain unaddressed, most notably with respect to candidate nomination and registration requirements, as well as restrictions related to fundamental freedoms of association, peaceful assembly, expression and access to information. Measures that limit presidential powers have been introduced but the legislation still grants the head of state significant control over the electoral process.

The Central Election Commission (CEC) managed the electoral preparations efficiently in line with the legal deadlines. Some ODIHR EOM interlocutors noted that the composition of the election administration is not politically diverse and questioned its independence, particularly given the lack of genuine political differentiation between the nominating political parties. The CEC held open live-

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

streamed sessions and published its resolution on the day of their adoption. The ODIHR EOM positively assessed the attended training sessions organized for lower-level commissions; commissions were experienced and well-equipped. The CEC conducted a nationwide comprehensive and inclusive voter awareness campaign in Kazakh and Russian languages. The CEC undertook several initiatives to enhance access and participation of persons with disabilities in the electoral process.

Some 11.9 million voters were registered. Restrictions on voting rights for those with intellectual and psychosocial disabilities and all prisoners remain contrary to OSCE commitments, international standards and prior ODIHR recommendations. Overall, ODIHR EOM interlocutors raised no major concerns with the accuracy of the voter lists. Positively, for the first time, with the aim to prevent multiple voting, the registration status of voters added to the supplementary voter list on election day had to be verified through the e-Government portal in some 40 per cent of polling stations.

The eligibility requirements for presidential candidates are overly restrictive, unreasonably limiting the constitutionally guaranteed right of citizens to stand for elections. Amongst others, requirements concerning citizenship by birth, education, residency, and experience in the civil service or elected government office, are at odds with OSCE commitments and international standards. Candidates are not allowed to stand for election individually, contrary to OSCE commitments. Out of 12 nominees, the CEC registered six candidates, including two women. Four nominees did not meet the eligibility requirements, and two prospective candidates failed to collect the required number of signatures.

The online and in-person campaign was low-key, generated limited public engagement and lacked a genuine competitive nature. None of the contestants convincingly challenged the incumbent's policies, limiting the choice for voters. Messages related to 'Fair Kazakhstan' dominated the campaign discourse; on social networks, topics were more diverse. The law reserves the right of *akimats* (local administrations) to permit or refuse an outdoor event on a broad list of grounds, contrary to international standards. The legislation provides for specially designated places for outdoor campaigns; nevertheless, the number and capacity of those places were limited. No registered candidate raised concerns regarding freedom of assembly, but civil society and some opposition representatives noted a lack of opportunities to engage in peaceful assemblies of political nature.

Women remain under-represented in public and political life, but specific measures to promote women's participation are limited. As of election day, women held 28 out of 107 seats (26 per cent) in the lower chamber of the parliament, 10 out of 51 seats in the Senate (20 per cent), 2 out of 22 ministerial positions and none out of 20 posts of regional governors. At the same time, women are well-represented in the judiciary, district and regional courts, and the lower-level election administration. Two out of six candidates were women. Issues related to gender equality did not prominently feature in the campaign.

The Election Law provides for public and private funding of election campaigns. Election commissions allocated public funds to contestants. In a positive step, the CEC published aggregated information on candidates' campaign incomes and expenditures, including before election day, but it did not disclose the amount of individual contributions and sources of funds. Expenditures from public funds are not disclosed at all but, according to the CEC, may be provided upon citizens' request. Sanctions for breaches of campaign finance rules, such as deregistration of candidates and invalidation of election results, are not proportionate, and legislation allows for wide discretion in their application. According to the CEC, candidates submitted reports on their campaign finances within five days after the announcement of the election results.

The restrictive legal framework and its selective implementation still limit the freedom of speech and access to information guaranteed by the Constitution and contribute to self-censorship. Cases of intimidation and attacks against journalists remain of serious concern. The Election Law obliges media to ensure objective coverage of candidates and provide for equal access to paid airtime and space. All

TV stations monitored by the ODIHR EOM largely respected legal provisions for equal coverage in the news but refrained from covering the campaign in analytical programmes. Apart from one televised debate organized by the CEC and free-of-charge spots, candidates' campaigns in media were exclusively conducted via political paid advertising. The scarce coverage of the campaign by the news programmes, combined with a lack of critical analysis of the candidates and their platforms by the media, limited voters' ability to make an informed choice.

The legislation establishes reasonable deadlines for resolving election-related disputes by the election administration and courts. Recent digitalization initiatives in the justice sector facilitated the procedure of complaint submission and increased state bodies' responsiveness rate. While the CEC keeps a database of complaints, this information is not publicly available, and complaints are not discussed in public sessions, reducing transparency. In addition to the prime minister, speakers of both houses and one-fifth of the total number of members of the parliament, the incumbent president, but no other candidates, has the right to challenge the results of the presidential election before the Constitutional Council.

The Election Law provides for both citizen and international observers. While the CEC accredits international observers, there is no formal accreditation procedure for citizen observers. Citizen observers are entitled to observe the voting and counting in polling stations but not the tabulation process. A number of ODIHR EOM interlocutors raised concerns that the space for independent observers was shrinking. During election day, a number of independent citizen observer groups reported pressure and restrictions on their observers, among others in Almaty, Astana and Oskemen.

Overall, election day was calm. Small-scale protests were dispersed, and the police detained some participants. Voting was organized efficiently, and procedures were generally followed. Nonetheless, the ODIHR EOM observed significant irregularities, including a series of seemingly identical signatures and group voting, as well as individuals outside the polling stations systematically recording or tracking voters who turned out to vote. The ODIHR EOM assessed counting procedures negatively in more than half of the observations, as substantial procedural safeguards were often omitted, and counting procedures were inconsistently followed, raising questions about whether ballots were counted and reported honestly in line with Paragraph 7.4 of the 1990 OSCE Copenhagen Document. Meaningful observation was often not provided for, as both international and citizen observers were not able to observe the counting and tabulation procedures without restrictions, undermining transparency. Tabulation was assessed negatively in one-third of the Territorial Election Commissions observed, mainly due to a lack of transparency.

On 22 November, the CEC declared President Tokayev as the winner but did not publish election results disaggregated by polling stations and regions, detracting from important transparency safeguard and negatively affecting public confidence. The inauguration of the President-elect took place on 26 November, before the expiration of deadlines for challenging the election results at the Constitutional Council.

This report offers recommendations to support efforts to bring elections in Kazakhstan closer to OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations relate to the existing legal framework and practices, in particular with regards to the ability of citizens to exercise their fundamental political rights, the independence and impartiality of election commissions, candidacy requirements, freedom of the media to work both online and offline, unrestricted access of observers to the entire electoral process, transparency and integrity of the counting and tabulation process and publication of election results. ODIHR stands ready to assist the authorities in improving the electoral process and addressing the recommendations in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the authorities of the Republic of Kazakhstan to observe the 20 November 2022 early presidential election and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 18 October. The ODIHR EOM, led by Ambassador Urszula Gacek, consisted of an 11-member core team based in Astana and 30 long-term observers, who were deployed on 26 October throughout the country.

On election day, 299 observers from 35 countries were deployed; 43 per cent of observers were women. Opening procedures were observed in 127 and voting in 1,131 polling stations across the country. Counting was observed in 110 polling stations, and the tabulation in 96 Territorial Election Commissions. The ODIHR EOM remained in Kazakhstan until 30 November to follow post-election developments.

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. This final report follows a Statement of Preliminary Findings and Conclusions which was released at a press conference in Astana on 21 November.²

The ODIHR EOM wishes to thank the authorities of the Republic of Kazakhstan for the invitation to observe the election, as well as the Central Election Commission and the Ministry of Foreign Affairs for their co-operation and assistance. It also expresses its appreciation to representatives of other national and local state institutions, candidates, representatives of political parties, civil society, media, the international community, and other interlocutors for their co-operation and for sharing their views.

III. BACKGROUND AND POLITICAL CONTEXT

On 21 September, President Kassym-Jomart Tokayev called the early presidential election to be held on 20 November.³ The election took place against the backdrop of constitutional and related legislative reforms announced by the President since his coming to power in 2019, as well as discussions on the country's economic and political transformation and the associated restructuring of the public administration.⁴

The election followed a constitutional referendum held on 5 June 2022 and political turmoil and deadly violence at the 'January events' earlier in the year.⁵ The constitutional changes approved at the referendum had, according to the President, the aim to rebalance the division of state powers and to create "a new state model, a new format of interaction between the state and the

² See [all previous ODIHR election related reports on Kazakhstan](#).

³ The holding of the early presidential election in the fall of 2022 and early parliamentary elections in the first half of 2023 was initially announced by the President on 1 September.

⁴ See, among others, the state of the nation addresses of President Tokayev on [16 March](#) and [1 September](#) 2022. The president retains vast executive powers, issues binding decrees, determines domestic and foreign policy and appoints and dismisses ministers and all regional *akims* (governors).

⁵ The official reports referred to 238 deaths, including of 19 law enforcement officers. According to official sources, 5,300 criminal cases have been initiated, including 46 cases of terrorism. The prosecutor's offices received 329 complaints of torture and other violations during the police interrogations and started an investigation into 34 cases. Out of 1,205 convicted people, 160 were deprived of their liberty.

society”.⁶ Following the January unrest, leading political and security officials, including the Prime Minister and half of his cabinet as well as the first president who served as head of the National Security Council, were removed from their positions. On 27 October, the Senate adopted the Law on Amnesty for those involved in the January demonstrations; including for actions of protesters and law-enforcement officials.

Following the last parliamentary elections in January 2021, three parties entered the *Majilis*: the ruling party, *Nur-Otan* (76 seats), the Democratic Party *Ak Zhol* (12 seats) and the People’s Party of Kazakhstan (10 seats). On 1 March 2022, *Nur-Otan* changed its name to *Amanat*, and on 26 April, in line with the announced reforms, President Tokayev renounced his party leadership and left the party.⁷

The incumbent stood as a joint candidate of all three parliamentary parties signalling a lack of genuine political differentiation between the parties represented in the *Majilis*.⁸ Combined with restrictive registration requirements for candidates and political parties, this challenged the pluralistic nature of the election.⁹ In a welcome development, for the first time since 2013, shortly after the election, the Ministry of Justice (MoJ) registered two new political parties *Baytaq* and *Respublica*.¹⁰

Authorities should consider further efforts to enable a fully genuine pluralistic and competitive political environment in conformity with Paragraphs 3 and 7.6 of the 1990 OSCE Copenhagen Document.

While the President proclaimed that the successful implementation of the reforms aimed at building a ‘Fair Kazakhstan’ requires a new mandate of trust from the people, several ODIHR EOM interlocutors questioned the necessity of holding the early election. On 5 September, the Coalition of Democratic Forces, which includes opposition politicians and civil activists, called against holding the early election.¹¹ The unregistered party *Alga Kazakhstan* announced peaceful assemblies in various cities

⁶ The constitutional changes included provisions to require the president (and some other senior officials) resign from his or her political party during their term of office, reduced from 15 to 10 the number of senators appointed by the president, and removed the presidency’s powers to repeal acts of regional governors. The amendments also replaced the Constitutional Council with a Constitutional Court, formalized the status of the Human Rights Commissioner, and removed the death penalty and references to the first president from the Constitution. The *Majilis* (lower chamber of the parliament) became a fully directly elected chamber, and the fully proportional party list electoral system would move to a mixed electoral system. The introduction of a fully elected chamber in parliament is a change in line with OSCE commitments addressing previous ODIHR recommendations.

⁷ Yerlan Koshanov, the speaker of the *Majilis*, became the new chairperson of *Amanat*.

⁸ The remaining candidates were nominated by non-parliamentary parties or public associations. Besides the three parliamentary parties, there were three other registered political parties prior to the election: *Auyl*, the Nationwide Social Democratic Party and *Adal*, the latter in 2022 merged with *Amanat*, but retains official registration.

⁹ The MoJ informed the ODIHR EOM that 19 applications for political party registration were submitted since 2019. Out of those, following initial verification, the MoJ granted 10 permissions to continue the party creation process, out of which 6 did not proceed further. The other applications are pending. The aspiring party *Alga Kazakhstan* informed the ODIHR EOM that only in 2022 the MoJ returned their registration documents six times: on 4 May, 22 September, 12, 26 and 27 October, and 9 November, thus suspending further registration proceedings. After the election, the media also reported failed attempts to register groups *Alash Orda*, *Alga Kazakhstan* and *Bizdin Tandau*. The MoJ returned the registration documents citing alleged non-compliance with the Law on Political Parties regarding membership criteria. See also *Election Dispute Resolution*.

¹⁰ In Paragraph 3 of the [1990 OSCE Copenhagen Document](#), the OSCE participating States recognized “the importance of pluralism with regard to political organizations”. Paragraph 7.6 refers to “the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations”. See also Paragraphs 4 and 27 of the 1996 United Nations Human Rights Committee General Comment No. 25 to the 1966 International Covenant on Civil and Political Rights (CCPR General Comment No.25). See also *Candidate Registration*.

¹¹ The coalition, among others, [opposed](#) the holding of the early election until the reforms were implemented, including making amendments to the Election Law.

both prior to and on election day to protest against the early election, which resulted in the preventive detention of several activists.¹²

While the Constitution prohibits gender-based discrimination, specific measures to promote women's political participation are limited, and women remain under-represented in public and political life.¹³ At the time of the election, women held 28 out of 107 seats in the *Majilis* (26 per cent), 2 out of 22 ministerial positions and none out of 20 posts of regional *akims*. At the same time, women are well-represented in the district and regional courts, and the lower-level election administration.

According to the 2021 census, 70.4 per cent of the population are Kazakhs. Russians, the largest minority, account for 15.5 per cent of the population.¹⁴ The Constitution prohibits discrimination on national and religious grounds and guarantees the right to enjoy one's native language and culture. According to the Constitution, the Russian language can be officially used on equal grounds with the Kazakh language in state institutions and local administration bodies. The five members of the Senate are appointed by the recommendation of the president from among the members of the Assembly of People of Kazakhstan.¹⁵

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

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

The legal framework for presidential elections is comprised of the Constitution, the Constitutional Law on Elections (Election Law, last amended on 5 November 2022) and relevant provisions of other laws, including legislation related to the media, Law on Peaceful Assemblies, Law on Political Parties, Law on Public Associations, Law on State Service, the Administrative Procedural Code, the Criminal Code, the Code of Administrative Offenses, and normative legal resolutions of the CEC. Kazakhstan is a party to major international and regional instruments related to democratic elections.¹⁶

In 2022, the Constitution underwent two rounds of amendments through a referendum and a vote in the parliament held on 5 June and 17 September, respectively. The September amendments altered the electoral system for presidential elections by increasing the term of office from five to seven years and

¹² On 25 October, several civil activists were reportedly detained by the police in Aktau, Almaty, Astana and Pavlodar; they were later released with no charges pressed against them. See also *Election Campaign* and *Election day*.

¹³ In its [2019 Concluding observations on the fifth periodic report of Kazakhstan](#) (Paragraphs 24, 29-30), the UN Committee on the Elimination of Discrimination against Women expressed concerns about the low representation of women in decision-making positions and discriminatory gender stereotypes hindering the participation of women in political and public life.

¹⁴ Other large [minorities](#) include Uzbeks (3.2 per cent), Ukrainians (2 per cent), Uyghurs (1.5 per cent), Germans (1.2 per cent), Tatars (1.1 per cent).

¹⁵ The Assembly of the People of Kazakhstan is a consultative body headed by the president and composed of representatives of minority groups and the Kazakh majority. The main aim of the Assembly is to facilitate interethnic peace and assist in drafting and implementing relevant state policies.

¹⁶ Including the 1966 International Covenant on Civil and Political Rights (ICCPR), 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1979 Convention for the Elimination of All Forms of Discrimination against Women, 2003 Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities (CRPD), and 2002 CIS Convention on Standards of Democratic Elections, Electoral Rights and Freedoms. Kazakhstan is a member of the Council of Europe's Commission for Democracy through the Law (Venice Commission) and the Group of States against Corruption (GRECO).

limiting the number of terms to one. The September amendments were adopted by the parliament after the announcement of the early election and were not preceded by any public consultation.¹⁷

Since the last 2019 presidential election, the Election Law and the election-related provisions in other legislation were amended on several occasions. In 2020, the requirements for registration of political parties were eased, partially addressing a prior ODIHR recommendation, and in 2021, in line with a prior ODIHR recommendation, the legal threshold for entering the *Maĵilis* was reduced from 7 to 5 per cent. Notable positive steps were also taken related to the electoral participation of people with disabilities and the procedural basis for election dispute resolution by the election administration and administrative courts.

Nevertheless, the reforms have not yet addressed most ODIHR electoral recommendations, including those related to candidacy requirements, fundamental freedoms of peaceful assembly, expression and association, independence of the election administration, the media, and publication of election results.¹⁸ In addition, broad formulation of other legal provisions gives the authorities wide discretionary powers in the implementation of the law, challenging legal certainty and uniform application of the law.¹⁹

On 5 November, the President signed a number of laws, including amendments to the Election Law. While a number of amendments, such as further reducing the numerical threshold for party membership, were positive, electoral stakeholders could not benefit from these changes for this election, as these entered into force a few days before election day. Of all new election-related provisions, only the one regulating the presidential term limits applied to this election reflecting the newly amended Constitution. Consequently, the legal framework for presidential elections does not yet provide sufficient guarantees for the effective exercise of electoral rights. Neither ODIHR nor the Venice Commission have been invited to comment on recent amendments to the Election Law.²⁰

The electoral legal framework as well as legislation on the freedom of political and civic association, peaceful assembly and expression should be further reviewed to address outstanding ODIHR

¹⁷ The draft became available to the public a few days before vote in parliament after the Constitutional Council confirmed the constitutionality of the planned amendments. Paragraph 5.8 of the 1990 OSCE Copenhagen Document provides that legislation is “adopted at the end of a public procedure”, and Paragraph 18.1 of the [1991 Moscow Document](#) states that “legislation will be formulated and adopted as the result of an open process”.

¹⁸ In particular, contrary to international standards, the Law on Peaceful Assemblies reserves the right of executive bodies to permit or refuse a public event after receiving notification about holding the latter on a wide list of grounds or offer another place/time for holding such an event. The procedures for registering political parties and public associations have been progressively eased in recent years, nevertheless they still give the authorities broad discretionary powers. While the Law on Political Parties provides for a notification procedure prior to the establishment of a political party, the ODIHR EOM reviewed multiple refusals of such notifications on the grounds that some members of such initiative groups did not meet legal requirements. Meanwhile, authorities do not disclose the names of individuals in question citing personal data protection rules, effectively eliminating any opportunity for rectifying the application. The Law on Access to Information allows for broad discretion of state bodies to limit the access to information of public interest. Information on complaints and requests handled by the election administration is not public, and access to court decisions is limited. See also Paragraphs 49-54 of the [2016 Concluding observations on the second periodic report of Kazakhstan](#) by the UN Human Rights Committee (CCPR).

¹⁹ See *Election Campaign, Campaign Finance, Media and Election Dispute Resolution*.

²⁰ According to Paragraph 27.1 of the 1991 OSCE Moscow Document, the participating States “express their intention to co-operate in the field of constitutional, administrative [...] laws and their relevant areas in order to develop [...] legal systems based on respect for human rights, the rule of law and democracy”; Paragraph 31 states that “the participating States acknowledge the extensive experience and expertise of the Council of Europe in the field of human rights. They welcome its contribution to strengthening democracy in Europe, including its readiness to make its experience available to the CSCE”.

recommendations. The legal reform should be preceded by an open and inclusive consultation process well in advance of the next elections.

The reforms have begun to reduce “super-presidential” powers, but the legislation provides the head of state with significant control over the electoral process. The Constitution grants an unconditional prerogative to the president to call an early presidential election, not in line with international standards and a previous ODIHR recommendation.²¹ Decrees of the president are exempt from judicial review, resulting in all legal challenges of a presidential decree on calling an early election being inadmissible.²² In addition to the prime minister, speakers of both houses and one-fifth of the total number of members of the parliament, the incumbent president, but no other candidates, has the right to challenge the results of the presidential election before the Constitutional Council (see *Election Dispute Resolution*).

Provisions granting the institution of the president significant control over the electoral process, including unconditional prerogative to call early elections, should be reconsidered. In line with the principles of separation of powers, presidential decrees should be subject to judicial review.

V. ELECTION ADMINISTRATION

A three-level structure of election commissions administered the presidential election: the CEC, 239 Territorial Election Commissions (TECs) and 10,101 Precinct Election Commissions (PECs).²³ The CEC and TECs are permanent bodies composed of seven members appointed for a five-year term.²⁴ PEC membership varies depending on the number of registered voters assigned to the respective polling station, between 5 and 11 members.²⁵

The president appoints the CEC chairperson and two members, while the Senate and the *Majilis* appoint two members each.²⁶ The TEC and PEC members were elected by local councils (*maslikhats*) in 2019, based on nominations from registered political parties, with a maximum of one representative per election commission. Nominated individuals do not have to be members of the proposing organization, and *maslikhats* may accept or reject any nominations through a vote. In case of insufficient proposals, applications from public associations and, if still insufficient, from higher-level commissions are considered.²⁷ Although there are no legal provisions for gender-balanced representation within the

²¹ Since the Constitution was amended to grant discretionary power to the president to call an early election in 2011, all presidential elections held in Kazakhstan have been called early by incumbent presidents. [The Venice Commission, in one of its opinions](#), stated that granting a president the exclusive and discretionary power to call an extraordinary election is “incompatible with democratic standards” as it “may turn elections into plebiscites on the leadership of the country and provide legitimacy to authoritarian tendencies”. Paragraph 9 of the CCPR General Comment No.25 to the ICCPR states that “genuine periodic elections are essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them”.

²² In 1999, the Constitutional Council issued a resolution stating that “actions of the president cannot be subject of consideration in courts”.

²³ There were 17 regional (*oblast*) TECs, one TEC for the cities of Almaty, Astana and Shymkent, and 219 TECs at the district level. PECs included 9,556 regular PECs, 477 PECs for voting with special arrangements, and 68 PECs established in 53 embassies and consulates for out-of-country voting. In total, some 70,946 election commissioners were involved in administering the electoral process.

²⁴ In TECs, only two members work permanently, in most cases, the chairpersons and secretaries.

²⁵ PEC members work only during the time of elections.

²⁶ A new CEC Chairperson was appointed in January 2022.

²⁷ Nationwide, according to the CEC, only some 2.7 per cent of lower-level commission members were nominated by higher-level commissions. The CEC informed the ODIHR EOM that for TECs, political parties nominated 59 per cent and public associations 36 per cent of members.

election administration, women were well represented at the lower-level commissions.²⁸ Two out of seven members of the CEC are women.

Given the predominance of the ruling party in the parliament and the fact that the incumbent President stood as a joint candidate of all three parliamentary parties, signalling a lack of genuine political differentiation between the parties represented in the *Majilis*, the composition of the election administration is not politically diverse and balanced. A number of ODIHR EOM interlocutors raised concerns with respect to the mechanism of appointment and composition of the election administration and the ability of commissioners to exercise their duties independently and impartially, particularly on election day.²⁹

The mechanism for the appointment of election commissioners at all levels should be revised to ensure the independence and impartiality of the commissions and build public confidence in their work. The commissions should work in a manner excluding any perceptions of political affiliation or bias.

The CEC has regulatory authority within its powers given by the legislation. The CEC managed the electoral preparations efficiently and within the legal deadlines. The CEC held regular public live-streamed sessions attended by international and citizen observers, media representatives, and party proxies, followed by press briefings. The CEC members adopted resolutions unanimously, with no discussion in most public sessions observed by the ODIHR EOM, decreasing the transparency of decision-making. Positively, the resolutions were posted online on the day of their adoption.³⁰ On 11 November, the CEC held its first Expert Council meeting, a platform specifically created to review and implement prior ODIHR recommendations.

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

In line with the principle of transparency, the election administration at lower levels should consider opening their sessions to the public, political parties and the media and publishing the draft agendas in advance of relevant sessions.

A nationwide cascade training on election day procedures took place online and offline from late October to November. The ODIHR EOM assessed the training sessions as informative, comprehensive and innovative, supplemented with videos and interactive role-play sessions.³¹ The CEC also produced a user-friendly booklet on counting procedures, addressing a previous ODIHR recommendation.

²⁸ According to the CEC, 67.7 per cent of TECs and PECs were women. Among all TEC chairpersons, deputy chairpersons and secretaries, there were 34.3, 41.3 and 72.8 per cent of women, respectively.

²⁹ Paragraph 20 of the CCPR General Comment No. 25 to the ICCPR requires that “an independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant”.

³⁰ The CEC used its *Telegram* social media channel to inform stakeholders before the sessions. The main resolutions detailed, among others, the establishment of the lower-level commissions, the process of candidate registration, the rules for the media, the measures to enhance participation of people with disabilities, the design of the ballot paper, and the accreditation of international observers.

³¹ In 2020, the CEC set up an Electoral Training Centre within the Academy of Public Service with the aim of establishing a pool of professional national trainers.

The CEC undertook several initiatives to enhance access and participation of persons with disabilities in the electoral process in cooperation with representatives of regional non-profit organizations.³² Live-streamed CEC meetings and voter information videos were aired with sign language interpretation. The CEC conducted dedicated sessions and workshops for lower-level commissions and produced detailed guidelines for PEC members on effectively assisting persons with disabilities on election day. Unimpeded access for voters with reduced mobility to polling stations and the provision of Braille sleeves for visually impaired voters were also envisaged.³³

The CEC maintained a comprehensive website and conducted an extensive voter information programme in Kazakh and Russian languages. From the beginning of the campaign, a series of voter information videos, among others informing voters of the date of the election and encouraging participation, was aired by various media outlets or disseminated through messages, mainly on the CEC *Telegram* channel.³⁴ Many PECs informed the ODIHR EOM of their door-to-door visits to provide voters with printed invitations with the date of voting and their polling station number.

VI. VOTER REGISTRATION

Citizens over the age of 18 years have the right to vote, except those declared incompetent by a court decision on the basis of intellectual or psychosocial disabilities and those serving a prison sentence, irrespective of the gravity of the crime. As reported previously by ODIHR, these restrictions are at odds with international obligations.³⁵

The blanket deprivation of suffrage rights of citizens serving a prison sentence and the restrictions on the basis of legal capacity should be reviewed in line with international obligations.

Voter registration is passive and based on permanent residency. Overall, ODIHR EOM interlocutors raised no concerns with the accuracy of the voter lists. Voter lists are compiled by the *akimats* (local executive bodies) from state civil registry data. The *akimats* submit the updated voter lists to respective TECs twice a year, and the TECs review the lists against data maintained by the CEC. As of 1 July, the CEC reported 11,827,277 registered voters.³⁶ Up to 30 days before election day, voters who wished to vote outside of their place of permanent residence could request inclusion in the relevant voter list with obligatory removal from the list at their place of residence.³⁷ Following the latest updates from the civil registry, on 31 October, the CEC reported 11,950,485 registered voters.

³² The CEC resolution No. 61/532 of 9 September 2022 revised terms of reference and composition of the CEC working group on enhancing the participation of people with disabilities.

³³ In co-operation with lower-level commissions, the CEC established a regional monitoring tool to identify specific needs related to different types of disabilities. The CEC ensured that the [information portal](#) for the social protection of people with disabilities, as established in 2022 by the Ministry of Labour and Social Security, provided accurate information regarding the accessibility of buildings that serve as polling stations.

³⁴ On occasions, CEC messages were also spread on LED screens, ATMs and on domestic flights. Voters received SMS about their polling station location. Also, this information could be obtained through the e-Government portal.

³⁵ According to Article 29 of the CRPD, “State parties shall [...] ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected”. Paragraph 48 of the CRPD Committee’s 2014 General Comment No. 1 to Article 12 of the CRPD states that “a person’s decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising their political rights, including the right to vote [and] the right to stand for election”.

³⁶ This figure also includes 12,527 registered voters for voting abroad.

³⁷ According to the CEC, some 80,000 such applications were submitted.

Additionally, by 5 November, voters could apply for an Absentee Voting Certificate (AVC) which allowed them to vote in any polling station.³⁸ Special arrangements for voting were also in place.³⁹ From 5 November, voter lists were displayed for public scrutiny. During this phase, voters could verify their records and request clarifications either in person at polling stations, through call centres or online.⁴⁰ The list of polling locations was published by respective TECs in a timely manner.

Positively, the CEC introduced measures to prevent multiple voting. Six days prior to the voting day, the CEC, in co-ordination with the Ministry of Internal Affairs, and the Ministry of Digitalisation and Aerospace Industries Development, communicated that supplementary registration on election day would be possible only in some 42 per cent of polling stations countrywide, and PECs had to verify the registration status of all voters added to the voter list on election day through the e-Government portal.⁴¹ The CEC reported that the final number of registered voters as of election day was 11,953,465.⁴²

VII. CANDIDATE REGISTRATION

By Constitution, in addition to having the right to vote and being a minimum of 40 years of age, prospective candidates must be fluent in the Kazakh language, be citizens by birth, have a higher education and be officially resident in the country for the last 15 years. The four latter requirements, as well as the provision in the Election Law, which grants the right to stand only to individuals with at least five years of experience as civil servants or elected officials, run contrary to international standards.⁴³ At odds with OSCE commitments, it is not allowed to stand individually, and the Election Law further disenfranchises people serving criminal sentences (including probation), those with an unexpunged criminal record, and those with a prior conviction for a crime or administrative offence involving corruption.⁴⁴ Overall, the eligibility requirements for presidential candidates are excessively restrictive, unreasonably limiting the constitutionally guaranteed right of citizens to stand for elections.

³⁸ The CEC announced that by 19 November, 22,578 AVCs had been issued.

³⁹ Special polling stations were set up in rest homes, hospitals, or other medical centres, remote locations, pre-trial detention facilities, consular offices and state agencies abroad, military units and ships at sea. Mobile voting was possible based on a written application to the designated PEC 15 days before election day due to a health condition, the responsibility of looking after a sick family member or being in a remote and hard-to-reach location.

⁴⁰ According to the CEC, the 200 call centres nationwide received some 195,000 calls.

⁴¹ Voter registration on election day was allowed in 4,053 polling stations for citizens who did not find themselves on the voter list if they could present proof of their residence within the precinct and in 181 polling stations (5 per each region and between 20 to 50 in the 3 cities of republican significance) for citizens which due to certain circumstances were not registered at all.

⁴² According to the CEC, 2,267 voters were registered on election day based on figures provided by the Ministry of Digitalisation and Aerospace Industries Development.

⁴³ Paragraph 15 of the CCPR General Comment No. 25 to the ICCPR confirms that the “persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation”. Paragraph 25 further underlines that “no distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. Paragraphs 7.3 and 24 of the 1990 OSCE Copenhagen Document guarantee equal and universal suffrage and require that any restrictions be proportionate to the aim of the law. Article 2 of the 2002 CIS Convention states that “the citizen’s right to elect and to be elected to the bodies of state power [...] does not depend on and is exercised without any limitations of a discriminatory nature in terms of sex, language, religion or denomination, political or other convictions, national or social origin, membership of a national minority or ethnic group, property status or other circumstances”.

⁴⁴ Candidates can be nominated only by political parties or registered national public associations with registered offices in more than half of the regions. Paragraph 7.5 of the 1990 OSCE Copenhagen Document requires that citizens be permitted “to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”. Paragraph 24 of the 1990 OSCE Copenhagen Document states that “any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law”.

Restrictions on candidacy based on residency, citizenship by birth, language proficiency, professional experience, criminal records, disabilities and affiliation to a political party and other organizations should be reviewed in line with OSCE commitments, international standards and good practice.

Twelve nominees submitted candidacy applications to the CEC within the legal deadline. Four did not meet the eligibility requirements, and their applications were refused.⁴⁵ Among those, the CEC denied the nomination of Nurzhan Altayev, also based on the decision of the Astana district civil court deeming relevant nomination protocol invalid. While the case was pending in court, the registration process of this nominee was suspended by the CEC, preventing the nominee from collecting signatures.⁴⁶

The remaining seven prospective candidates, with the exception of the incumbent, had to undergo a Kazakh language fluency test consisting of writing an essay, reading a text with appropriate diction, and public speaking for 15 minutes.⁴⁷ Although all prospective candidates passed the language test, the language fluency verification process raises questions due to a lack of clear criteria for the assessment and, therefore, a lack of safeguards against arbitrariness.

After submitting an initial set of documents regarding eligibility to stand, all prospective candidates had between three to eight days to collect at least 118,273 signatures (1 per cent of the number of registered voters), equally representing at least 14 regions. The authenticity of collected signatures within each region was subsequently verified by the Committee of Migration Service of the Ministry of Internal Affairs within five days. In the next step, relevant TECs submitted the verification protocols to the CEC. Two prospective candidates who fulfilled all eligibility requirements failed to collect the required number of signatures. Several ODIHR EOM interlocutors opined that both the signature collection and verification processes were too short and lacked transparency.⁴⁸

The legal framework should be amended to provide sufficient time to collect signatures for candidate registration and to ensure a clear, objective and transparent signature verification process.

For this election, the CEC registered six candidates, including two women.⁴⁹ Prior to their registration, the six had to pay an election deposit of some KZT 3 million (some EUR 6,500), pass medical tests and submit their individual and spouse's tax declarations.⁵⁰

⁴⁵ Three nominees did not possess sufficiently long working experience in civil service or an elected public position; in addition, one of the three was not a Kazakhstani citizen by birth. On 13 October, during its session, the CEC explained the reasons for rejecting these nominees; nevertheless, the respective CEC resolutions did not specify which eligibility criteria were not met or the justification for refusal.

⁴⁶ The law does not provide for any suspension, but the CEC did not issue the nominee the signature collection sheets necessary for further registration. The CEC stated in the court that it had exercised its discretion in this case.

⁴⁷ On 7 October, the CEC established a six-member Linguistic Commission, composed of academicians, in charge of conducting the language test. By law, the incumbent is exempt from the evaluation of 'language fluency'.

⁴⁸ The CEC, in its resolution, established rules for invalidating signatures, including checking if a person signed on behalf of several voters or if a voter signed more than once for one candidate. The resolution also gave TECs the competence to invalidate signatures on any other grounds in violation of the law. Section I.1.3.iii of the 2002 Venice Commission's Code of Good Practice in Electoral Matters recommends that "checking of signatures must be governed by clear rules".

⁴⁹ The registered candidates were Karakat Abden nominated by the National Alliance of Professional Social Workers; Nurlan Auesbayev nominated by the National Social Democratic Party; Zhiguli Dayrabayev nominated by the *Auyl* party, Meyram Kazhyken from the Federation of Trade Unions *Amanat*, Kassym-Jomart Tokayev nominated jointly by the three parliamentary parties, the *Amanat* party, *Ak Zhol* party and Peoples' Party, as well as several public associations, and Saltanat Tursynbekova, nominated by *Kazakh Analary-Dasturje Zhol* public association.

⁵⁰ The deposit is calculated as 50 minimum wages (60,000 KZT) and is returned to candidates obtaining no less than 5 per cent of votes. EUR 1 is equal to some KZT 465 (Kazakhstani *Tenge*). The [2019 joint resolution](#) of the CEC and the Ministry of Health Care established 107 mental conditions preventing candidate registration.

VIII. ELECTION CAMPAIGN

The official campaign lasted from 21 October until midnight before the voting day. Outdoor campaign events are regulated by the Law on Peaceful Assemblies, and it does not distinguish between assemblies held during the election campaign period and those outside of it. The Law on Peaceful Assemblies does not regulate indoor campaign events, and *akimats* allocated designated stands for campaign materials and premises for holding indoor campaign events. By law, state bodies and *akimats* should make their premises, equipment, and other assets available for election campaigns and provide equal conditions for their use to all campaigners.

While peaceful assemblies in the form of picketing, gatherings and rallies require notification, permission is still required for demonstrations and processions. Contestants should notify local authorities at least five days before a public event is planned. The law reserves the right of *akimats* to permit or refuse any such event on a broad list of grounds, contrary to international standards.⁵¹ While legislation provides for specially designated places for outdoor campaign events, the number and capacity of those places are limited in practice.⁵² No registered candidate raised concerns regarding freedom of peaceful assembly. Nevertheless, ODIHR EOM interlocutors representing some opposition groups and civil society noted that the possibilities of individuals and groups to engage in peaceful assemblies of a political nature before, during and after elections were limited.⁵³ The non-registered opposition group *Alga Kazakhstan* announced peaceful demonstrations in various cities on 20 November against the holding of the early election. *Akimats* denied demonstrations in several cities, and preventive detentions, administrative arrests, and fines were applied to organizers and potential participants, which is at odds with international standards.⁵⁴

To comply fully with international standards, the Law on Peaceful Assemblies should be revised and implemented in a manner which ensures a meaningful exercise of the right to peaceful assemblies, including those of a political nature and during elections. Legal requirements for the notification of holding public events should be further revised to facilitate holding of peaceful assemblies.

The authorities should ensure that political and electoral stakeholders are able to exercise their constitutionally guaranteed civil and political rights without unnecessary and disproportionate limitations, such as preventive detention and arbitrary administrative arrests and fines.

⁵¹ The *akimat* of Almaty informed the ODIHR EOM that out of 351 notifications received in 2022, approval was granted to 44. Some 101 notifications were denied as they did not comply with the law. For 156 notifications, alternative venues were proposed due to the occupancy of the requested site, construction works or other activities. Twenty-two applicants withdrew their requests. Paragraph 73 of UN HRC 2020 [General Comment No. 37 on the right of peaceful assembly](#) states that “notification regimes, for their part, must not in practice function as authorization systems”.

⁵² The three biggest cities (Almaty, Astana and Shymkent) and most regional capitals have only three designated places each, with allowed occupancy between 100 and 1,000 people.

⁵³ Article 5 of the [2013 Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and association](#) stipulates that “[t]he right to freedom of peaceful assembly and association are pertinent to the democratic process, both during the election period and between elections”.

⁵⁴ In the run-up to the election, *akimats* of Almaty, Astana, Kostanay, Petropavlovsk, Shymkent and Taraz refused to allow for peaceful protests in response to notifications from civil activists and members of *Alga Kazakhstan*. Between 11 and 20 November, a number of activists were detained or received administrative arrests and fines in Almaty, Astana, East Kazakhstan, Kokshetau, Oskemen, Stepnogorsk, Shymkent and Zhanaozen. On 11 November, the court of Astana sentenced five members of *Alga Kazakhstan* to 15 days administrative arrest for “violating the rules of organizing peaceful assemblies” for the party’s rally held on 21 August 2022. Paragraph 36 of UN HRC 2020 [General Comment No. 37 on the right of peaceful assembly](#) states that “the imposition of any restrictions should be guided by the objective of facilitating the right, rather than seeking unnecessary and disproportionate limitations on it. Restrictions must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect”. Paragraph 82 states that “preventive detention of targeted individuals to keep them from participating in assemblies may constitute arbitrary deprivation of liberty, which is incompatible with the right of peaceful assembly”.

Overall, the campaign was low-key and lacked genuine competitiveness. All three parliamentary parties jointly nominated and supported the incumbent, *de facto* contributing to the non-pluralistic campaign environment. Two parliamentary parties informed the ODIHR EOM that running with their own candidate against the incumbent in such volatile times could jeopardize the country's unity and stability. Many ODIHR EOM interlocutors noted that all candidates, except for Mr. Tokayev, were largely unknown to the public. In general, the incumbent did not face significant opposition from the other candidates, and no contestant meaningfully challenged or spoke critically about the President's policies, limiting the choice for voters. Even though all candidates toured the regions, the campaign generated limited public engagement. Some contestants informed the ODIHR EOM that their primary aim was to increase their personal and their party's visibility ahead of the early parliamentary elections announced for 2023.

Campaign outreach methods included billboards, posters, and advertisements on television (TV) and social networks in Kazakh and Russian languages. Most campaign events were small-scale, indoor gatherings often conducted at places of work, including in industrial enterprises, hospitals, libraries, and cultural centres. More than half of the campaign venues observed by the ODIHR EOM were accessible to people with physical disabilities.

The tone of the campaign, both online and in-person, was positive or neutral. No discriminatory rhetoric against national minorities during the campaign was reported or observed by the ODIHR EOM. The campaign focused on political modernization and reform of public administration and judiciary, a competitive economy and support for business and agriculture, social protection and healthcare. The topics of security, stability and sovereignty were also prominent in the discourse.

The incumbent's campaign was predominant and conducted mainly by the candidate's authorized representatives. By law, candidates in state positions are prohibited from using their official position to their advantage in the campaign.⁵⁵ Mr. Tokayev undertook a number of regional visits in his official capacity as president, announcing development projects and inaugurating companies.⁵⁶

The lacklustre nature of the campaign was mirrored in social networks. The ODIHR EOM observed candidates' campaigns on three social network platforms: *Instagram*, *Facebook* and *YouTube*. The posts by the incumbent generated more public engagement compared with the posts by other candidates. The incumbent president's campaign slogan "For a fair Kazakhstan" was widely used on social networks, including by senior state officials. During the last week of the campaign, the *Amanat* party actively used promotional videos that covered the campaign events of Mr. Tokayev.

⁵⁵ Sections B.1.1. and B.1.3. of the 2016 ODIHR and Venice Commission Joint [Guidelines for Preventing and Responding to Misuse of Administrative Resources in Electoral Processes](#) state that "the legal framework should provide effective mechanisms for prohibiting public authorities from taking unfair advantage of their positions by holding official public events for electoral campaigning purposes, including charitable events, or events that favour or disfavour any political party or candidate. [...] In order to prevent the misuse of administrative resources to imbalance the level playing field during electoral competitions, the legal framework should state that no major announcements linked to or aimed at creating a favourable perception towards a given party or candidate should occur during campaigns".

⁵⁶ During a meeting held with the public on 7 November in the Mangistau region, Mr. Tokayev [stated](#) that "for 2023-2026, it is planned to implement 29 projects worth more than KZT 1 trillion, which will create more than 3,000 permanent jobs". In Atyrau, on 8 November, the President, during a meeting with the public, [announced](#) plans to turn the Atyrau region into the country's leading economic centre for deep processing of oil and gas and launched a gas chemical complex. On 15 November, the President [launched](#) the construction of an automobile plant in Almaty. Prior to the official start of the campaign, between 27 September and 20 October, the President visited the regions of Abay, Almaty, Jetisu, Pavlodar, Karagandy, Shymkent and Turkistan. All events were also featured on the President's official 'Akorda' website.

Unlike the official electoral contestants, some prominent influencers and opposition political figures openly criticized the political establishment, and some generated higher engagement using negative tone and critical content. The posts included a more comprehensive range of topics and focused, among others, on high-level corruption, the January events and their aftermath, the use of the Kazakh language, inflation and poverty, and current geopolitical developments in the region. The social networks were also used by some opposition politicians to call for protests.⁵⁷

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

IX. CAMPAIGN FINANCE

The Election Law provides for public and private funding of election campaigns. Presidential candidates are entitled to public funding from the state budget to cover expenses specified in an exhaustive list, which includes media appearances, printed materials and holding rallies.⁵⁸ Candidates did not receive public funds directly but had to apply by submitting contracts with the service providers and invoices; all candidates, except for the incumbent, used this opportunity. The funds were administered and the submitted documents were checked by the Astana TEC. The election law does not provide for the publication of candidate expenditures from public funding. According to the CEC, no such requests were received from citizens.

Private campaign funds may total up to KZT 1.62 billion and consist of the candidates' own funds, contributions from the nominating political parties or associations, and donations from individuals and legal entities.⁵⁹ Contributions from state-funded organizations, charities, religious communities, and foreign, in-kind and anonymous sources are prohibited. Positively, addressing a prior ODIHR recommendation, the 5 November amendments to the Election Law introduced limits for individual contributions for citizens and legal entities.⁶⁰ Following their registration, candidates opened dedicated accounts in a bank chosen by the CEC, the main campaign finance oversight body, and the bank reported to the CEC on all incomes and expenditures on a weekly basis.

In a positive step, the CEC made public aggregated information on candidates' campaign incomes and expenditures twice prior to election day. Nevertheless, these data did not disclose the amounts of individual contributions and sources of funds, limiting the information available to voters.⁶¹ According

⁵⁷ Mukhtar Ablyazov, the leader of unregistered and banned party Democratic Choice of Kazakhstan, repeatedly called in social networks to protest.

⁵⁸ According to a CEC resolution, each candidate was entitled to some KZT 9 million for TV and radio appearances, KZT 800,000 for public events and printed materials, and KZT 500,000 for transportation expenses.

⁵⁹ Cumulative funds of a candidate and his/her nominating bodies are limited to KZT 720 million, with no individual limitations. Cumulative donations from citizens and legal entities to a candidate's fund are limited to KZT 900 million, similarly with no individual limitations. Parliamentary political parties are entitled to annual public funding proportionally to the votes received in the last parliamentary elections.

⁶⁰ The amendments did not apply to this election campaign.

⁶¹ According to Article 12.4 of the 2002 [CIS Convention](#), the signatory states "shall provide for an open and transparent nature of all money donations to candidates, political parties (coalitions), participating in elections, in order to avoid any prohibited donations". Article 7.3 of [the 2003 UNCAC](#) recommends states "take appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office". Paragraph 247 of the 2020 ODIHR and Venice Commission [Guidelines on Political Party Regulation](#) states that "voters must have relevant information as to the financial support given to political parties, as this influences decision making and is a means of holding parties accountable".

to the preliminary data made available by the CEC, the campaign of Mr. Tokayev received more funds than the campaigns of all other contestants combined.⁶² According to the CEC, all registered candidates submitted reports on their campaign finances to the CEC within the legal deadline of five days after the announcement of the election results. There are no legal provisions on audit in the election-related legislation.⁶³ The CEC did not conduct an audit, but merely cross-checked the data from the reports with the data submitted by the bank, reducing the effectiveness of the campaign finance oversight.

The Central Election Commission should be granted a legal mandate and resources to effectively monitor and investigate campaign finance operations. Campaign finance and audit reports should be published in a timely and detailed manner.

Most of the representatives of regional campaign offices were reluctant to discuss with the ODIHR EOM the sources of their campaign financing as well as the campaign expenses. None of the presidential candidates raised issues with regards to the legal framework for campaign finance. The Administrative Offences Code defines sanctions for breaches of campaign finance rules, including fines for failure to report campaign expenditures and for funding the campaigns bypassing the designated bank account. Additionally, the Election Law provides for the deregistration of candidates and the invalidation of election results if campaign finance violations are revealed after the vote. The law does not set any specific criteria for applying these sanctions and allows for broad discretion and potentially disproportionate application for minor violations.⁶⁴

To increase the transparency of campaign finance and accountability for financial violations, the regulatory framework should prescribe proportionate and dissuasive sanctions for violations.

X. MEDIA

A. MEDIA ENVIRONMENT AND LEGAL FRAMEWORK

Despite a large number of media outlets, there is a lack of plurality of information available in the traditional media. The information on ownership of private media outlets is protected as a commercial secret.⁶⁵ TV remains an important source of political information, although the popularity of online media and social networks is increasing. Many ODIHR EOM interlocutors noted that the fact that most media are either state-owned or state-subsidized results in interference in the media's editorial policies, thus significantly limiting the possibility of voters to receive objective information. The Ministry of

⁶² According to the [CEC data](#), Mr. Tokayev's campaign fund reached the maximum allowed KZT 1.62 billion, while other candidates collected between KZT 134.4 million and KZT 475.2 million each. Mr. Tokayev's expenditures reached some KZT 1.2 billion as compared with KZT 1.05 billion for the other five candidates combined.

⁶³ According to Paragraph 268 of the ODIHR and Venice Commission 2020 [Guidelines on Political Party Regulation](#), "legislation shall include guidelines on how the violation of key legislation may be brought to the attention of the relevant supervisory bodies, what powers of investigation are granted to such bodies, and the range of applicable sanctions. Without such investigative powers, agencies are unlikely to have the ability to effectively implement their mandate. Adequate financing and resources are also necessary to ensure the proper functioning and operation of the oversight body".

⁶⁴ Paragraph 273 of the ODIHR and Venice Commission 2020 Joint Guidelines on Political Party Regulation states that "sanctions must bear a relationship to the violation and respect the principle of proportionality".

⁶⁵ See, for example, Paragraph 4.1 of the CoE [Recommendation](#) CM/Rec (2018)1 of the Committee of Minister's Guidelines on media pluralism and transparency of media ownership, which recommends to "promote a regime of transparency of media ownership that ensures the public availability and accessibility of accurate, up-to-date data concerning direct and beneficial ownership of the media".

Information and Social Development (MISD) informed the ODIHR EOM of their plans to address the issue of transparency of state funds allocation in the new media law currently in preparation.⁶⁶

Information on ownership and sources of funding of media outlets should be publicly disclosed. To support a diverse media landscape and to enhance editorial independence, the allocation of government subsidies and advertising should be transparent.

Freedom of speech and access to information are guaranteed by the Constitution. Nevertheless, the effective exercise of these rights is undermined by the restrictive media legal framework and its selective implementation. In 2020 “slander” was decriminalized, but some provisions related to defamation, including “insult” and “distribution of knowingly false information”, the latter punishable with up to seven years of imprisonment, are still broadly formulated, contrary to international commitments.⁶⁷ This, combined with cases of threats and attacks against journalists has a chilling effect on the freedom of expression resulting in self-censorship.⁶⁸

The media legal framework should be reviewed to guarantee and support freedom of expression, offline and online, in line with international standards. The criminal prosecution for libel and dissemination of knowingly false information should be fully repealed.

The practical implementation of legislation on access to information is still insufficient, and many ODIHR EOM interlocutors, including in regions, noted long-standing difficulties in obtaining information on topics of public interest.⁶⁹

To effectively respond to the right of access to information and facilitate voters’ informed choice, authorities should proactively publish institutional information of public interest in the public domain.

⁶⁶ The state media budget is comparable to the entire country’s advertising market. In 2021, the state [budget](#) for conducting state information policy amounted to KZT 56.9 billion, while according to the [Central Asian Advertising Association](#), the entire advertising budget in the media and Internet amounted to KZT 67.1 billion.

⁶⁷ According to [data](#) by the International Foundation for the Protection of Freedom of Speech *Adil Soz*, 19 criminal charges, including one related to Article 131 of the Criminal Code regulating insult and seven related to Article 274 regulating the dissemination of false information, were filed in connection with the exercise of the right to freedom of expression in 2022. On 31 October, the Prosecutor General [stated](#) that in the first nine months of 2022, 100 criminal cases were initiated for the dissemination of knowingly false information. Paragraph 47 of the [General Comment No.34 to the ICCPR](#) notes that “States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty”.

⁶⁸ In the first nine months of this year, *Adil Soz* [recorded](#) 27 attacks against journalists, bloggers and media offices, 26 cases of threats, and 17 detentions of journalists. On 12 October, journalist Duman Mukhametkarim was arrested for violating the procedure for organizing and holding peaceful assemblies. A number of ODIHR EOM interlocutors reported being the subject of [smear campaigns](#) on social networks and online portals. Media [reported](#) that after the election, the President instructed to investigate the repeated attacks on ElMedia offices and on 25 November police arrested suspects.

⁶⁹ Paragraph 295 of the [GRECO Evaluation Report on Kazakhstan](#) from June 2022 states that “while public access to information on legislation is in place to some extent, the practical implementation is not working properly, as no adequate mechanism is currently in place to effectively deal with and sanction unlawful restriction of access to information”. According to many journalists, government agencies repeatedly classify information as ‘for official use’. According to the [Legal Media Centre](#), journalists face particular difficulties in getting access *inter alia* to financial information regarding the disbursement of funds and tenders, but also information from *maslikhats*. On 12 January 2022, OSCE RFoM [stated](#) that “unrestricted access to information, offline and online, represents important elements of public security and should always be respected”. Paragraph 19 of [General Comment No.34 to the ICCPR](#) states: “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information”.

Access to such information should be provided in an easy, prompt, effective and practical manner, facilitating a wide range of inquiries.

The regulation and oversight of the media, including online content, is vested with the MISD. The Ministry, among other state bodies, is entitled to restrict content on websites and halt media outlet operations on a broad list of grounds without prior judicial oversight.⁷⁰

To ensure the effective exercise of freedom of expression, any restrictions on the operation of websites, blogs and other Internet-based resources should be based on objective and transparent criteria, clearly defined in law, subject to judicial oversight and conform to the strict tests of necessity and proportionality. Possible limitations should be content-specific, while general bans of whole websites should be avoided.

The Election Law obliges public and private media to ensure objective coverage of candidates and provide equal access to paid airtime and space. In the news and analytical programmes, the media must cover the activities of candidates in equal shares. Some regional broadcasters informed the ODIHR EOM that they had difficulties complying with this rule and thus decided not to cover the campaign at all. While some media outlets were of the opinion that strict equality of coverage should be applied to each news release or relevant programme, the MISD confirmed to the ODIHR EOM that the equal airtime allocation is to be applied to the entire period of the campaign.

Considerations should be given to apply the principle of equitable coverage instead of the rule on equal coverage in news and analytical programmes. The campaign should be covered in impartial and balanced manner to provide more diverse and analytical information to voters.

Additionally, candidates were provided with an equal share of airtime and print space in the media of their choice, covered by the state budget.⁷¹ The CEC oversaw the provision of paid airtime and space based on schedules provided by the media outlets. The MISD conducted monitoring during the campaign; however, the methodology was not made public. On 18 November, the MISD concluded that the 578 monitored media outlets complied with the principle of equal media coverage.

⁷⁰ In 2022, the MISD [imposed](#) a limit on the distribution of 101 websites for dissemination of knowingly false information. Internet Freedom Kazakhstan keeps [statistics](#) on the amount of content and Internet resources restricted by the MISD. See also [the Qazaqstan shutdown report](#). On 17 November, several international and national NGOs, in an [open letter](#), urged for free, open and secure Internet access in Kazakhstan before, during and after the presidential election. Paragraph 43 of the [General Comment No.34 to the ICCPR](#) notes that any restrictions of any internet websites should not violate freedom of expression, and that “permissible restrictions generally should be content-specific” while “generic bans on the operation of certain sites and systems” are not compatible with the principle of freedom of expression. Paragraph 1.a.iii.1 of the 2020 Joint Declaration on Freedom of Expression and Elections in the Digital Age by the UN SRFO, OSCE RfM and OAS SRFE reads that “there should be no prior censorship of the media, including through means such as the administrative blocking of media websites or Internet shutdowns”. Paragraph 70 of the 2011 report of the UN SRFO calls upon States that block websites “to provide lists of blocked websites and full details regarding the necessity and justification for blocking each individual website. An explanation should also be provided on the affected websites as to why they have been blocked. Any determination on what content should be blocked must be undertaken by a competent judicial authority or a body which is independent of any political, commercial, or other unwarranted influences”.

⁷¹ This translated into 15 minutes on TV, 10 minutes on the radio and 2 articles in print media or online portals. According to ODIHR EOM media monitoring, all candidates, apart from candidates Auesbayev and Tokayev, used this airtime.



B. MEDIA MONITORING FINDINGS [Click Here to Read Media Monitoring Results](#)

ODIHR EOM media monitoring results revealed that the overall amount of coverage devoted to the election campaign on TV and online media outlets was limited.⁷² In less than one-fifth of this inconsiderable time, women appeared as candidates or other speakers. The monitored TV stations generally followed their obligation to devote equal coverage to contestants in their news programmes. State-owned *Khabar TV*, *Qazaqstan TV* and First Eurasian Channel devoted, on average, some 9, 8 and 7 per cent of coverage to each candidate in the news, respectively. However, the incumbent was additionally covered in his institutional capacity as president with 21 per cent on *Khabar TV*, 23 per cent on *Qazaqstan TV* and 17 per cent on the First Eurasian Channel. The private 7 Channel followed a similar trend dedicating on average some 3 per cent of coverage to each candidate while the incumbent was covered with 13 per cent. The private KTK and 31 Channel each devoted some 9 per cent of coverage to each candidate and 13 and 6 per cent to the incumbent, respectively. Official institutions and authorities, including the incumbent president, government, local governments and the CEC, also received substantial coverage on both broadcast and online monitored media. While all candidates, including the incumbent, were almost exclusively covered in a neutral and positive tone, authorities, notably the government and the local governments, received some negative coverage. The lack of critical analysis of candidates and their platforms by the media limited voters' ability to make an informed choice. Most monitored TV channels had sign language interpretation for news.

On 11 November, the CEC organized a televised debate which was broadcast on *Khabar TV*.⁷³ Apart from that, candidates' campaigns in media were conducted exclusively via political paid advertising.⁷⁴ The CEC's extensive voter information on TV was more visible than the candidates' advertising.⁷⁵

The coverage of candidates' campaigns in online media was limited and primarily neutral or positive in tone. *Zakon.kz*, *orda.kz* and *tengrinews.kz* had some coverage of the candidates, as well as paid online advertising. *Vlast.kz* and *kaztag.kz* hardly dedicated any coverage to the candidates. However, while nearly not covering any other candidates, *azattyq.org* was reporting critically about Mr. Tokayev, both as a candidate and in his official capacity.

XI. ELECTION DISPUTE RESOLUTION

The electoral legal framework provides for the resolution of disputes by the election administration and courts. In case a complaint is submitted to both an election commission and a court, court proceedings take precedence. Overall, the Election Law and the Administrative Procedural Code establish reasonable deadlines for resolving election-related disputes.⁷⁶ However, in the case of early elections, the deadlines for dispute resolution on candidate registration extend far into the campaign period,

⁷² The ODIHR EOM monitored the primetime (from 18:00 to 24:00) of six TV stations: First Eurasian Channel, *Khabar TV*, KTK, *Qazaqstan TV*, 7 Channel and 31 Channel, and six online media outlets: *azattyq.org*, *kaztag.kz*, *orda.kz*, *tengrinews.kz*, *vlast.kz* and *zakon.kz*, from 21 October until 20 November.

⁷³ All candidates debated in person, apart from the incumbent, who was represented by his authorized representative.

⁷⁴ While Mr. Tokayev had 11 different types of paid political advertisements in Kazakh and Russian languages, the other candidates had between 1 and 4 each.

⁷⁵ For example, on *Khabar TV*, the CEC voter information time exceeded the total time of all candidates' advertising.

⁷⁶ Electoral stakeholders may file complaints with election commissions or courts within 10 days after making a decision or action in question. Election commissions have five days to consider complaints and three days to review appeals against decisions of lower-level commissions.

significantly limiting campaign opportunities in the event the court grants the candidate's registration.⁷⁷

In recent years, substantial digitalization initiatives have been introduced in the justice sector, including creating an online portal for submitting election-related complaints to the election administration, law-enforcement bodies and courts. Most ODIHR EOM interlocutors underlined that this significantly facilitated the procedure of complaint submission and increased state bodies' responsiveness rate.⁷⁸ At the same time, some answers, including from the CEC, were formalistic and merely reiterated the legal provisions without reasoning about how they apply to the issues in question.

While the CEC keeps a database of complaints and other communications it receives, this information is not publicly available. Upon request, the ODIHR EOM received an extract from the CEC's database containing some 220 applications, primarily related to changes in voters' addresses, candidate eligibility issues, clarification of electoral legislation, including on provision of airtime and other media-related issues. Some 90 such applications were sent to TECs. The CEC did not discuss complaints in public sessions, reducing the transparency of election dispute resolution.

The Central Election Commission should consider complaints in public sessions and issue reasoned decisions. Consideration should be given to increasing transparency of election dispute resolution by making complaints and relevant responses public in a timely manner.

The 2020 Administrative Procedural Code introduced significant changes concerning dispute resolution by courts. Disputes related to public administration, including election-related cases, were transferred from civil courts to specialized administrative courts. Many ODIHR EOM interlocutors positively assessed these changes. However, the positive potential of administrative justice for election-related disputes was weakened by narrow rules on legal standing, the exemption of presidential decrees from judicial review, and insufficient clarity with respect to the competencies of different types of courts over election-related disputes.⁷⁹ During the observation period, the Supreme Court received 13 complaints, including cases related to candidate registration, and upheld all CEC decisions. A number of complaints were dismissed either for lack of legal standing or lack of jurisdiction of the Court with respect to the constitutionality of eligibility requirements.⁸⁰

Most election-related decisions of the Supreme Court and administrative courts were published. Nevertheless, many decisions of other courts, especially on the cases related to administrative detentions and other sanctions on election day, were neither accessible nor provided to the ODIHR EOM upon request, making legal grounds and proportionality of applied detentions non-transparent.

⁷⁷ Complaints and appeals related to candidate registration, including rejections, must be filed to the Supreme Court within 10 days of the CEC decision, while the former has 10 days to issue a final decision. In one case observed by the ODIHR EOM, the final decision of the Supreme Court was issued on 5 November, while the election campaign started on 21 October and lasted until 19 November.

⁷⁸ Once a complaint is submitted, the e-platform automatically designates deadlines to upload a decision or a response in accordance with relevant legislation.

⁷⁹ The law narrowly defines legal standing on candidate registration, allowing only candidates and nominating associations to challenge registration decisions in their own cases. A civil court assumed jurisdiction in the case of non-registered candidate Altayev. However, Article 162 of the Administrative Procedural Code stipulates that election-related complaints against organizations and their officials are under administrative jurisdiction. Paragraph 5.10 of the 1990 OSCE Copenhagen Document commits participating States to provide everyone with "effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity".

⁸⁰ In line with the June 2022 constitutional changes, the Constitutional Court will be in place from 1 January 2023.

Administrative courts are vested with the jurisdiction to review appeals related to political party registration. Referring to the protection of personal data, the MoJ refused to disclose to the aspiring parties the names of individuals who allegedly did not meet the legal requirements for membership in political parties.⁸¹ The alleged lack of eligibility of those individuals was used as a ground for denying registration of several political parties. Nevertheless, refusals to share these data with the aspiring parties were not remedied by the courts. This seriously compromised the effectiveness of judicial remedy and led to repeated denial of registration to political parties, without providing a real opportunity to correct mistakes or rectify the applications.

Contrary to a prior recommendation of the Venice Commission, the Administrative Procedural Code continues to provide for the presence of public prosecutors in all election-related hearings, with the power to issue written opinions. Given that the prosecutor's office is subordinate and directly accountable to the president, the presence and active role of prosecutors during election-related administrative hearings could potentially jeopardize judicial independence.⁸²

Consideration should be given to limiting the participation of public prosecutors in court hearings of election disputes only to criminal cases.

Final election results may be appealed to the Constitutional Council within 10 days of their announcement. By law, only the president, speakers of both houses of parliament, at least one-fifth of the members of parliament and the prime minister have the legal standing to challenge the results of the presidential election before the Constitutional Council. Neither the Election Law nor the Administrative Procedural Code explicitly provide for appeals against election results to the election commissions and the administrative courts.⁸³ The lack of clear provisions results in divergent interpretations of legal rules related to challenges of this type of the election administration's decisions. While the Supreme Court explained to the ODIHR EOM that the appeals concerning the legality of the CEC final results protocol would fall under its jurisdiction as it is the first instance court for challenges against all CEC decisions and actions, other ODIHR EOM interlocutors, in particular members of the Constitutional Council and the CEC, stated that there is no possibility for citizens or electoral contestants, except for the incumbent president, to challenge the electoral results.

The Election Law should be amended to explicitly provide for the right of electoral stakeholders to file complaints against election results at all levels. It should also clearly specify jurisdiction over such complaints and set objective criteria for a potential invalidation of election results.

XII. ELECTION OBSERVATION

The Election Law provides for citizen and international election observation. Public associations and non-profit organizations may nominate citizen observers. Candidates and registered political parties are also entitled to deploy their representatives (proxies) and observers. While international observers are

⁸¹ According to Paragraph 87 of the ODIHR and Venice Commission 2020 [Guidelines on Political Party Regulation](#), "Grounds for denying party registration must be clearly stated in law and based on objective criteria. Where parties can be denied registration for administrative reasons [...], such administrative requirements must be reasonable and well known to parties. Moreover, in case of technical omissions or minor infringements of registration requirements, the political party should be given reasonable time in which to rectify the failure".

⁸² See the [2018 Venice Commission opinion on Administrative Procedure and Justice Code of Kazakhstan](#), which states that "[i]t has to be noted that in the modern European administrative procedure legislation and practice, a prosecutor as part of administrative proceedings is largely unknown". Venice Commission recommends "to further reconsider whether prosecutors should play such a significant role on the side of citizens in administrative proceedings" (Paragraphs 27 and 28).

⁸³ Only provisions on recounts are explicitly mentioned in the Election Law.

accredited by the CEC, there is no formal accreditation procedure for domestic observers. Citizen observers are authorized to observe the voting and counting in polling stations upon presentation of their ID card and a letter from their nominating organization.⁸⁴ Nevertheless, citizen observers are not authorized to observe the tabulation process at TECs, decreasing transparency.⁸⁵

Some observer groups informed the ODIHR EOM that a long-term observation approach and their preparatory work, including fundraising, was negatively impacted by the calling of the early election and insufficient resources; independent citizen observers worked almost exclusively on a volunteer basis. A number of ODIHR EOM interlocutors raised concerns that the space for independent citizen observers was shrinking and government-affiliated organizations were becoming more prominent. The independent citizen observer organization Wings of Liberty informed the ODIHR EOM that while selecting their observers, they had to follow rigorous screening procedures to ensure observers' independence.⁸⁶

In total, the CEC accredited 641 international observers. Some 45,000 national observers were reported to have been deployed countrywide.

XIII. ELECTION DAY

Overall, election day was calm. Throughout election day, the CEC shared updates about the polling, including voting process and voter turnout. The vast majority of PEC members in the polling stations observed were women, including chairpersons (63 per cent). A number of independent citizen observer groups reported pressure and restrictions against their observers, among others in Almaty, Astana and Oskemen.⁸⁷ Small-scale protests, held by the non-registered Democratic Party of Kazakhstan and the civil movement *Oyan, Qazaqstan* in Almaty, were dispersed, and the police detained participants.⁸⁸ Polling measures against COVID-19 were in place based on the recommendations of the Ministry of Healthcare.⁸⁹ These measures had no restrictive impact on the voters or the overall process.

The ODIHR EOM observed the opening in 127 polling stations which all opened on time. The ODIHR EOM assessed the opening positively in all but three polling stations observed. Procedures were, by and large, followed. However, in 30 cases, the ballots were not counted, and their number was not announced prior to the start of the polls. In a few cases, the security of the ballot was not ensured as legally prescribed, and the ballot boxes were not shown to be empty and securely sealed.⁹⁰

The ODIHR EOM assessed the voting process positively in 95 per cent of the 1,131 observations. Voting procedures were mainly followed. Nevertheless, the ODIHR EOM observed significant irregularities, including a series of seemingly identical signatures (in 8 per cent of observed polling

⁸⁴ Provisions for accreditation of citizen observers, introduced by the 5 November amendments, will enter into force in January 2023.

⁸⁵ Paragraph 8 of the 1990 OSCE Copenhagen Document provides that “the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”.

⁸⁶ On 7 November, Wings of Liberty published an open letter stating that since mid-September, their databases had been hacked, and the information on their observers was published on social network accounts.

⁸⁷ These included Wings of Liberty, MISK and Independent Observers. MISK, among others, reported refusal of access and expelling of observers from polling stations, restriction of movement inside polling stations and obstruction of view.

⁸⁸ Prior to election day, the Prosecutor General repeatedly called on citizens not to participate in unauthorized rallies on election day.

⁸⁹ On 18 November, the Ministry made it mandatory for polling officials to wear a mask, ensure regular ventilation in polling premises and ensure the availability of hand sanitizers. The requirement to use masks was not systematically respected by election officials in polling stations observed by the ODIHR EOM.

⁹⁰ The ballot boxes' serial numbers were neither recorded in the opening protocols nor in the results protocols.

stations), group voting (in 3 per cent), and indications of ballot stuffing, proxy and multiple voting in a few instances. Individuals outside the polling stations were systematically recording or tracking voters who turned out to vote in 5 per cent of polling stations observed. In a number of polling stations, the ODIHR EOM observed voters taking pictures of their ballots; in some cases, voters informed the ODIHR EOM they were doing so as proof for their employers.

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

Although unauthorized people were present in 6 per cent of the observations, in general, they did not interfere in the work of PECs. Political party and candidate observers were present in over two-thirds of the observed polling stations, predominantly representing the *Amanat* party and the incumbent, while citizen observers were present in 85 per cent of the observed polling stations. Nevertheless, observers did not have a clear view of the voting procedures in 7 per cent, and ODIHR observers were restricted in their activities in 5 per cent of the polling stations observed. Combined, this negatively impacted the transparency of the process.

Notwithstanding the introduced measures to facilitate access of people with different types of disabilities to the polling process, independent access for people with physical disabilities was not ensured in 28 per cent of polling stations observed, the layout was not suitable, and polling stations were not equipped with specific accessories, including a *Braille* sleeve, in 6 per cent of observations.⁹¹

The ODIHR EOM assessed counting negatively in 65 of the 110 polling stations observed due to substantial procedural errors and omissions, raising serious questions about whether ballots were counted and reported honestly, in line with Paragraph 7.4 of the 1990 OSCE Copenhagen Document. The ODIHR observers were restricted in observing counting procedures in more than one-third of polling stations visited, and citizen observers did not have a clear view of counting procedures in 47 cases, undermining the transparency of the counting process.

In more than half of the polling stations observed, the counting procedures were not consistently followed, and the counting was poorly organized in 47 cases. In more than half of observations, PEC members skipped important reconciliation safeguards, failing to announce the voters' choice for each ballot (88 cases), the total number of voters on the voter list (72 cases), and to determine the number of ballots issued based on signatures in the voter list (71 cases).

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

⁹¹ One organisation working with persons with disabilities informed the ODIHR EOM that some *Braille* sleeves had been damaged during transportation.

Tabulation was assessed negatively in 30 out of the 96 TECs observed, without significant geographical variations, mainly due to a lack of transparency. Significant procedural errors and omissions in the work of the observed TECs included PECs completing protocols at the TEC premises (15 cases) and modifying voting protocols without a prior formal decision by the TEC (5 cases).⁹² The conditions were inadequate for reception and tabulation of voting protocols in 18 observed TECs due to poor organization and insufficient space and in 9 TECs due to overcrowding. In one-third of the cases, ODIHR observers could not observe the tabulation procedures unrestricted. In 14 observed TECs ODIHR observers were denied access, and in 5 cases were informed that the tabulation would take place at the regional level TEC or the CEC.⁹³

Effective measures should be taken to increase the transparency and integrity of the counting and tabulation process and instil public confidence in the accuracy of the results. Robust safeguards should be introduced to ensure that members of Precinct and Territorial Election Commissions follow procedures in a clear and consistent manner, on time and uninterrupted.

To provide for the effective implementation of OSCE commitments, measures should be taken to ensure unrestricted access of citizen and international observers to the entire electoral process, including a clear view of all procedures during voting, counting and tabulation.

XIV. POST-ELECTION DAY DEVELOPMENTS

The CEC announced preliminary election results on 21 November. On 22 November, the CEC declared President Tokayev the winner with 81.3 per cent of the vote. The national turnout was 69.4 per cent with an overall higher turnout in rural areas. The lowest turnout was recorded in Almaty at 28.7 per cent and in Astana at 48.7 per cent. As not required by the Election Law, the CEC did not publish disaggregated results by PECs, thus detracting from important transparency safeguard and negatively affecting public confidence.

To enhance transparency and safeguard the integrity of election results, the Central Election Commission should publish voting results on its website, disaggregated by polling station and for each territorial unit.

The inauguration of the President took place on 26 November, before the expiration of deadlines for challenging the election results at the Constitutional Council and the verification of candidates' campaign finance reports, both of which could potentially influence the validity of the election results. Such procedure, combined with a lack of clarity in the jurisdiction with respect to challenging final election results, limits the right to an effective remedy and the possibility to challenge the outcome of elections, contrary to international standards.⁹⁴

⁹² The TECs training manual produced by the CEC for the tabulation process remains very generic, repeating the content of the Election Law rather than offering clear step-by-step guidance.

⁹³ ODIHR observers were denied access to TECs in Almaty, Astana, Karaganda, Kostanay, Kyzylorda, Oskemen, Pavlodar and Shymkent, and were informed that the tabulation would take place at higher-level commissions in Aktau, Oral, Petropavlovsk and Shymkent.

⁹⁴ Paragraph 5.10 of the 1990 OSCE Copenhagen Document states that "everyone will have an effective means of redress against administrative decisions". See also Paragraph 18.2 of the 1991 OSCE Moscow Document. Article 2 of the ICCPR provides that "any person whose rights or freedoms as herein recognized are violated shall have an effective remedy". Section II.3.3.3.f of the 2002 Venice Commission's Code of Good Practice in Electoral Matters recommends direct legal standing in challenging election results by stating that "all candidates and all voters [...] must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections".

The timeline for announcing election results should ensure that all appeals are resolved before the Central Election Commission officially declares the winner.

Following the announcement of the election results, most of the candidates congratulated President-elect Tokayev. On 26 November, President Tokayev approved the Action Plan to implement his election programme “Fair Kazakhstan – For All and Everyone. Now and Forever”.⁹⁵ The Action Plan among others envisages the “creation of favourable conditions for interparty dialogue, for healthy political competition and formation of mature, responsible electoral culture” by March 2023 and establishes the deadline for the conduct of early parliamentary elections by June 2023.

XV. RECOMMENDATIONS

These recommendations as contained throughout the text are offered to further enhance the conduct of elections in Kazakhstan and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that have not yet been addressed.⁹⁶ ODIHR stands ready to assist the authorities of Kazakhstan to further improve the electoral process and to address the recommendations contained in this and previous reports.

A. PRIORITY RECOMMENDATIONS

1. Authorities should consider further efforts to enable a fully genuine pluralistic and competitive political environment in conformity with Paragraphs 3 and 7.6 of the 1990 OSCE Copenhagen Document.
2. The electoral legal framework as well as legislation on the freedom of political and civic association, peaceful assembly and expression should be further reviewed to address outstanding ODIHR recommendations. The legal reform should be preceded by an open and inclusive consultation process well in advance of the next elections.
3. Restrictions on candidacy based on residency, citizenship by birth, language proficiency, professional experience, criminal records, disabilities and affiliation to a political party and other organizations should be reviewed in line with OSCE commitments, international standards and good practice.
4. To comply fully with international standards, the Law on Peaceful Assemblies should be revised and implemented in a manner which ensures a meaningful exercise of the right to peaceful assemblies, including those of a political nature and during elections. Legal requirements for the notification of holding public events should be further revised to facilitate holding of peaceful assemblies.

⁹⁵ See [The Action Plan](#) on the implementation of the electoral programme of the President from 26 November 2022.

⁹⁶ According to Paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. The follow-up of prior recommendations is assessed by the ODIHR EOM as follows: recommendations 7, 8 and 10 from the [final report of the 2021 parliamentary elections](#) (2021 Final Report) are fully implemented. Recommendation 12 from the [final report of the 2019 presidential election](#) (2019 Final Report), recommendations 4, 9, 15 and 23 from the 2021 Final report and recommendation 8 from [the final report of the 2022 Referendum](#) (2022 Final Report) are mostly implemented. Recommendations 1, 4, 6-9, 13-15, 23, 24, 26 and 31 from the 2019 Final report, recommendations 2,3, 12, 13 and 25 from the 2021 Final report and recommendation 11 from the 2022 Final Report are partially implemented. See also the ODIHR [Electoral Recommendations Database](#).

5. The authorities should ensure that political and electoral stakeholders are able to exercise their constitutionally guaranteed civil and political rights without unnecessary and disproportionate limitations, such as preventive detention and arbitrary administrative arrests and fines.
6. The mechanism for the appointment of election commissioners at all levels should be revised to ensure the independence and impartiality of the commissions and build public confidence in their work. The commissions should work in a manner excluding any perceptions of political affiliation or bias.
7. Effective measures should be taken to increase the transparency and integrity of the counting and tabulation process and instil public confidence in the accuracy of the results. Robust safeguards should be introduced to ensure that members of Precinct and Territorial Election Commissions follow procedures in a clear and consistent manner, on time and uninterrupted.
8. To provide for the effective implementation of OSCE commitments, measures should be taken to ensure unrestricted access of citizen and international observers to the entire electoral process, including a clear view of all procedures during voting, counting and tabulation.
9. To ensure the effective exercise of freedom of expression, any restrictions on the operation of websites, blogs and other Internet-based resources should be based on objective and transparent criteria, clearly defined in law, subject to judicial oversight and conform to the strict tests of necessity and proportionality. Possible limitations should be content-specific, while general bans of whole websites should be avoided.
10. To enhance transparency and safeguard the integrity of election results, the Central Election Commission should publish voting results on its website, disaggregated by polling station and for each territorial unit.

B. OTHER RECOMMENDATIONS

Legal Framework

11. Provisions granting the institution of the president significant control over the electoral process, including unconditional prerogative to call early elections, should be reconsidered. In line with the principles of separation of powers, presidential decrees should be subject to judicial review.

Election Administration

12. In line with the principle of transparency, the election administration at lower levels should consider opening their sessions to the public, political parties and the media and publishing the draft agendas in advance of relevant sessions.

Voter Registration

13. The blanket deprivation of suffrage rights of citizens serving a prison sentence and the restrictions on the basis of legal capacity should be reviewed in line with international obligations.

Candidate Registration

14. The legal framework should be amended to provide sufficient time to collect signatures for candidate registration and to ensure a clear, objective and transparent signature verification process.

Campaign Finance

15. The Central Election Commission should be granted a legal mandate and resources to effectively monitor and investigate campaign finance operations. Campaign finance and audit reports should be published in a timely and detailed manner.
16. To increase the transparency of campaign finance and accountability for financial violations, the regulatory framework should prescribe proportionate and dissuasive sanctions for violations.

Media

17. The media legal framework should be reviewed to guarantee and support freedom of expression, offline and online, in line with international standards. The criminal prosecution for libel and dissemination of knowingly false information should be fully repealed.
18. Information on ownership and sources of funding of media outlets should be publicly disclosed. To support a diverse media landscape and to enhance editorial independence, the allocation of government subsidies and advertising should be transparent.
19. To effectively respond to the right of access to information and facilitate voters' informed choice, authorities should proactively publish institutional information of public interest in the public domain. Access to such information should be provided in an easy, prompt, effective and practical manner, facilitating a wide range of inquiries.
20. Considerations should be given to applying the principle of equitable coverage instead of the rule on equal coverage in news and analytical programmes. The campaign should be covered in an impartial and balanced manner to provide more diverse and analytical information to voters.

Election Dispute Resolution

21. The Central Election Commission should consider complaints in public sessions and issue reasoned decisions. Consideration should be given to increasing transparency of election dispute resolution by making complaints and relevant responses public in a timely manner.
22. Consideration should be given to limiting the participation of public prosecutors in court hearings of election disputes only to criminal cases.
23. The Election Law should be amended to explicitly provide for the right of electoral stakeholders to file complaints against election results at all levels. It should also clearly specify jurisdiction over such complaints and set objective criteria for a potential invalidation of election results.
24. The timeline for announcing election results should ensure that all appeals are resolved before the Central Election Commission officially declares the winner.

ANNEX I: FINAL ELECTION RESULTS⁹⁷

2022 Early Presidential Election Results

Registered voters	11,953,465
Voters (who received ballots)	8,300,046
Valid votes	7,940,477
Voting with an AVC	13,282
Mobile voting	112,969
Turnout	69.44%

Candidates	Votes	Percentage
Karakat Abden	206,206	2.60
Nurlan Auesbayev	176,116	2.22
Zhiguli Dayrabayev	271,641	3.42
Meiram Kazhyken	200,907	2.53
Kassym-Jomart Tokayev	6,456,392	81.31
Saltanat Tursynbekova	168,731	2.12
Against all	460,484	5.80
Total	7,940,477	100.00

⁹⁷ Data according to the final election results published by the CEC.

ANNEX II: LIST OF OBSERVERS IN THE ELECTION OBSERVATION MISSION

ODIHR EOM Short-Term Observers

Hermine Harutyunyan	Armenia
Tamara Hovnanyan	Armenia
Gertrude Brindlmayer	Austria
Clemens Droessler	Austria
Martina Gajdos	Austria
Gunther Neumann	Austria
Markus Pollak	Austria
MagdaStumvoll	Austria
Guillaume Choquet	Belgium
Geoffroy Kensier	Belgium
Ann-Sophie Vermeersch	Belgium
Saeid Aeinechi	Canada
Shane Barter	Canada
Omid Aeineh Chi	Canada
Patrick John Gardiner	Canada
Suzanne Greening	Canada
Miranda Huron	Canada
Sheridyn Isaac	Canada
Runa Malawarair	Canada
Habib Massoud	Canada
Christopher Millar	Canada
Kelly Murdock	Canada
Eduard Nuhu	Canada
Delshani Peiris	Canada
Daniel Rodrigue	Canada
Kateryna Whittaker	Canada
Martin Jakúbek	Czech Republic
Karel Kovanda	Czech Republic
Petr Stary	Czech Republic
Zuzana Šubrtová	Czech Republic
Zuzana Tomankova	Czech Republic
Karin Bergquist	Denmark
Thomas Frank	Denmark
Soren Jensen	Denmark
Torsten Juul	Denmark
Kirsten Lind	Denmark
Jytte Vagner Petersen	Denmark
Lise Thorsen	Denmark
Merete Laubjerg	Denmark
Erik Nielsen	Denmark
Siim Krispin	Estonia
Riitta Känkänen	Finland
Ari Kettunen	Finland
Jouni Sulin	Finland
Riikkamari Muhonen	Finland
Benoit Bouyssou	France
Leila Broncard	France
Laurent Campigotto	France

Benedicte Contamin	France
Zoé De Nadai	France
Pascal Delumeau	France
Melissa Diagne	France
Diane Jeremic	France
Alexiei Ozeretzkovsky	France
Rémi Pellerin	France
Maxence Peniguet	France
Mathilde Perrin	France
Brune Louise Julia Richard	France
Sabine Alck	Germany
Yvonne Bach	Germany
Michael Bollmann	Germany
Petra Bornhoeft	Germany
Tina Debenham	Germany
André Fabian	Germany
Viktor Fleisch	Germany
Christoph Hubert Alexander Freiherr von Feilitzsch	Germany
Mirco Grimm	Germany
Jochen Hayungs	Germany
Thomas Hofmann	Germany
Rainer Kleffel	Germany
Christine Krüger	Germany
Lisa Martin	Germany
Lukas Meyer	Germany
Christa Mueller	Germany
Olivia Nikel	Germany
Martin Hermann Nölle	Germany
Cornelia Röhricht	Germany
Janina Rühl	Germany
Rudolf Sackenheim	Germany
Claudia Schulze	Germany
Ursula Schulze-Aboubacar	Germany
Heidrun Smers	Germany
Anca Stan	Germany
Elmar Stracke	Germany
Rita Taphorn	Germany
Thomas Van Kampen	Germany
Erik Baktai	Hungary
Anna Fülöp	Hungary
Krisztina Katona	Hungary
Szilvia Petó	Hungary
Nikolett Posta	Hungary
Chris Andrews	Ireland
Elaine Byrne	Ireland
Ciaran Doherty	Ireland
Mary Dowling	Ireland
Sean Hynes	Ireland
Sharron Kelliher	Ireland
Raymond Murphy	Ireland
Edward Naessens	Ireland
Thomas Noonan	Ireland

Brendan Walsh	Ireland
Serena Bonato	Italy
Debora Capalbo	Italy
Paolo Carlotto	Italy
Giulio Savina	Italy
Ieva Lapina	Latvia
Ieva Baubinaite	Lithuania
Laima Birštunaitė	Lithuania
Nida Dalmantaitė	Lithuania
Jurgita Laurinenaite	Lithuania
Jonas Mensonas	Lithuania
Paulius Narvydas	Lithuania
Helena Saelman	Netherlands
Wilma Theuws	Netherlands
Laurens Teule	Netherlands
Maarten Verkerk	Netherlands
Jan Hugo Holtan	Norway
Børge Røssaak Nilsen	Norway
Elisabeth Salvesen	Norway
Camilla Wedul	Norway
Jakub Benedyczak	Poland
Przemysław Dałek	Poland
Maciej Daszuta	Poland
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ABOUT 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 co-ordinates 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).