REPORT OF KAZAKHSTAN:
PARLIAMENTARY ELECTIONS
SEPTEMBER 2004

Report
by
Ragnhild Hollekim

NORDEM Report 14/2004
NORDEM, the Norwegian Resource Bank for Democracy and Human Rights, is a programme of the Norwegian Centre for Human Rights (NCHR), and has as its main objective to actively promote international human rights. NORDEM is jointly administered by NCHR and the Norwegian Refugee Council. NORDEM works mainly in relation to multilateral institutions. The operative mandate of the programme is realised primarily through the recruitment and deployment of qualified Norwegian personnel to international assignments which promote democratisation and respect for human rights. The programme is responsible for the training of personnel before deployment, reporting on completed assignments, and plays a role in research related to areas of active involvement. The vast majority of assignments are channelled through the Norwegian Ministry of Foreign Affairs.

NORDEM Report is a series of reports documenting NORDEM activities and is published jointly by NORDEM and the Norwegian Centre for Human Rights.

Series editor: Siri Skåre

Series consultants: Hege Mørk, Gry Kval, Christian Boe Astrup

The opinions expressed in this report are those of the author(s) and do not necessarily reflect those of the publisher(s).

ISSN: 1503–1330

NORDEM Report is available online at:
http://www.humanrights.uio.no/forskning/publ/publikasjonsliste.html
Preface

In response to an invitation from the Central Election Commission of the Republic of Kazakhstan, the Organization for Security and Cooperation in Europe’s (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Observation Mission (EOM) for the 19 September 2004 parliamentary election. A Needs Assessment Mission (NAM) had been undertaken in late June, recommending that an EOM be established to observe the forthcoming parliamentary election in Kazakhstan from early August on. The mission included a core staff of 15 election experts based in Astana and Almaty and 16 long term observers deployed to 8 different regions in the Republic of Kazakhstan. The OSCE ODIHR EOM was headed by Ambassador Robert L. Barry of the United States.

Before Election Day, the ODIHR deployed some 305 short term observers, all seconded from OSCE participating states. Included in this number were 33 observers from OSCE Parliamentary Assembly and 10 observers from the Parliamentary Assembly of Council of Europe. Some 1,364 polling stations (PS) were visited on polling day out of a total of 9,480 PSs stations countrywide.

The most important domestic observer group were Republican Network of Independent Monitors (RNIM). In addition, International Association for Election and Democracy (Commonwealth of Independent States) had presence in all regions. Both groups also conducted monitoring prior to Election Day.

Ragnhild Hollekim was recruited to the mission as long term observer (LTO) by NORDEM. Her area of responsibility was South Kazakhstan region and later also part of Zhambyl region (Taraz). Additionally, NORDEM recruited one short term observer (STO), Berit Lindeman, who was deployed to Aktyubinskaya region.

The information in this report is based on different reports released by the EOM in connection with the 19 September 2004 parliamentary election to Kazakhstan and on the observations of the Norwegian observers. All the opinions in the report is the author’s responsibility and do not necessarily reflect the view of the Norwegian Centre for Human Rights.

Overall, the findings of the Norwegian observers correspond with the main findings of the OSCE/ODIHR EOM.

NORDEM/Norwegian Centre for Human Rights

University of Oslo

September 2004
Contents
Preface

Contents
Introduction ............................................................................................................................1
Political background .............................................................................................................2
   Political Parties/Blocs and Single Mandate Candidates ..............................................4
The Legislative Framework.................................................................................................6
The Electoral Administration ..............................................................................................7
   Regional Election Commissions (REC) ......................................................................8
   Constituency Election Commissions (ConEC) ...........................................................8
   Polling Station Election Commissions (PSEC): ..........................................................8
   Electronic voting ..........................................................................................................9
Voter and Civic Education ...............................................................................................11
Voter Registration ............................................................................................................11
Candidate Registration .................................................................................................12
The Election Campaign .................................................................................................14
The Media .......................................................................................................................15
Observation on Polling Day ............................................................................................17
   Election Day Procedures ............................................................................................17
   Election Day Observation Report from LTO Ragnhild Hollekim .............................19
   Election Day Observation Report from STO Berit Lindeman ..................................22
The Review of the Complaint Process ...........................................................................24
   Second Round of Elections .......................................................................................25
Conclusions .......................................................................................................................25
Comments on The Election Observer Mission ............................................................27
Appendices .......................................................................................................................27
Introduction

Kazakhstan is the 9th largest country in the world, and the second largest of the former Soviet Republics. It covers an area of 2.7 million square kilometers, which is equivalent to the total area of Western Europe. The population is estimated to 14.95 million (2004 official statistics). There are over a hundred different ethnic groups in Kazakhstan, broken down into the following categories: Kasakhs: 57 %, Russians: 27 %, Ukranian: 3.2 %, Uzbek: 2.7 %, German: 1.6 %, Tatar: 1.6 %, Uigur: 1.5 and other groups: 7 % (such as Belarusian, Koreans, Azeri, Turkish, Polish, Duncan, Kurdish). South Kazakhstan Region, located towards the border to Uzbekistan, is for the most populated by Kazakhs (over 90 % in a number of constituencies) with large Uzbek groups in certain areas.

Kazakhstan has vast mineral resources and considerable economic potential. In an otherwise politically unstable area, Kazakhstan has remained a peaceful and to a large extent open society with few critical ethnic conflicts or open ethnic rivalry. Orthodoxy and Islam seem to be coexisting peacefully. The country is experiencing more challenges due to more instability (politically and economically) in bordering states to the South, like Uzbekistan. People are at present migrating in relatively larger numbers from Uzbekistan to South Kazakhstan. In the heavily populated Mahtaaral region, which geographically more or less is an island within Uzbekistan, the region officially has received approximately 8000 migrants within this last year, a situation that is creating pressure on the labour market in the area. At the same time the border to Uzbekistan, who used to be more or less open to local merchants moving back and forth with their merchandize is now more difficult to cross for the Kazakh population. While Uzbeks “are emptying our bazaars”, Kazakhs now experience more problems crossing the border to Uzbekistan. In the South, one can also sense a higher alert regarding signs of radicalization of Islam and possible negative consequences of such a development.

Politically, President Nursultan Abish-uly Nazarbayev has concentrated extensive powers in his hands. He has led Kazakhstan since 1989, two years before it gained independence following the break-up of Soviet Union. On several occasions he has sought to prolong his tenure, and succeeded in this both in 1995 (by virtue of a referendum) and then in the 1999 presidential election, from which a major opposition contender, Akezhan Kazhegeldin, was barred. The incumbent President seems to enjoy high popular support, and is by many credited for securing economic growth and managing to preserve inter-ethnic accord and stability during harsh and challenging reform years.

The EOM for the 19 September 2004 Majilis (Lower house of Parliament) elections in the Republic of Kazakhstan says in its Statement of Preliminary Findings and Conclusions that a number of improvements have taken place over this last parliamentary election. An extensive dialogue with OSCE/ODIHR since the year 2000 has resulted in noted improvements to the election law. 12 registered parties secured a diversity of choice for the voters and 7 TV debates have given parties more opportunities to address the electorate. Domestic observers have been given more legal rights. Voter
education efforts were carried out professionally and effectively (especially with regard to electronic voting) and transparent ballot boxes were introduced as a confidence-building measure. Finally, the Central Election Commission (CEC) reduced the number of polling stations intended to use electronic voting, recognizing the need to introduce this technology cautiously.

On the other hand, a number of shortcomings, inconsistent with national legislation and other relevant international standards for democratic elections are outlined in the preliminary report. Two prominent opposition leaders, Galymshan Zhakianov and Bulat Abilov, were not permitted to run for office due to convictions widely viewed as politically motivated. CEC functioned in an arbitrary, selective and non-transparent manner and the composition of election commissions lacked political balance. Monitoring the electronic media, EOM found a strong bias in the news coverage in favour of pro-presidential parties. Further, pressure on voters by government officials and supervisors in the work place were observed. Ineffective and non-transparent system for handling complaints and appeals and finally, the manner in which the electronic voting system was introduced for these elections eroded confidence in the election process.

This report focuses, in addition to general findings by the EOM on the 19 September 2004 parliamentary elections, also more specifically on findings by Norwegian LTO and STO in three regions, South Kazakhstan, Zhambyl and Aktyubinskaya.

Political background

According to the Constitution, adopted by referendum on August 30 1995, Kazakhstan is a presidential republic. The country is divided into 16 administrative regions (included two cities, Astana and Almaty). The president is elected by popular vote for a seven-year term in office. The Parliament has two chambers. The lower chamber, the Majilis, consist of 77 representatives elected by popular vote for a 5 year term; 67 representatives are elected from single seats constituencies via a two round majoritarian system and 10 representatives are elected via party lists in a single national constituency. The 10 mandates for party lists are distributed among parties which have passed the 7% threshold on proportional basis.

The higher chamber, the Senate, is comprised of 39 representatives; of these 32 are elected for a six year term by the members of the 14 regional councils and the councils of the cities of Almaty and Astana, while the remaining seven are appointed by the President. The 19 September 2004 elections are the first to take place for the 77-seat Majilis since the 1999 election. These elections come two years before the next scheduled presidential election.

The President was, under the 1995 Constitution and later amendments, given extensive powers, which implies determining major directions in both home and foreign policy. The President determines the Government structure, appoints Prime Minister, the General prosecutor, Chairman of the National Bank, National Security Committee, and so on. He assigns the Government to submit draft laws to Parliament, rescinds or
suspends government resolutions, approves national programs and forms a unified financial system. He is further commander-in-chief for the armed forces, he has the right to impose a lift of state of emergency, and carry out mobilization of the population. In addition, he may issue orders and instructions, laws and decrees having the force of law. Nobody has the right to encroach on his honour and dignity and he may not be prosecuted.

Under the 1995 Constitution, amended in 1998, Parliament, on the other hand, has relatively few powers. The powers of the Majilis are listed in Art. 56 of the Constitution of the Republic of Kazakhstan and include legislative work, preparation of suggestions to objections of the President to laws adopted by Parliament, election (from nomination by the President) of members of the Central Election Commission, announcement of election of the president, delegation of two deputies to a qualification board of justice, and accusation of the President in defecting the state.

The President also appoints, according to the Constitution, administrative leaders (akims) of regions and cities of major importance. Akims of other administrative-territorial units shall be appointed or elected to office in the order determined by the President. Even if an opening is foreseen regarding the possibility for pilot elections for some akims in rural areas of the country through an indirect system of electors, akims are for the most still appointed by the President. There has been criticism, during these as well as earlier elections, that election commissions were subjected to undue influence from local authorities (akimats) on different levels.

The OSCE/ODIHR was, following invitations from the authorities, involved in observation of the last presidential and parliamentary elections in the Republic of Kazakhstan, held in January and October 1999, respectively. Because a Needs Assessment Mission had questioned the possibility of ensuring the integrity of the process regarding the presidential elections, OSCE/ODIHR decided to send a limited assessment mission to follow and report on the process only. This mission found that “these elections fell far short of the standards to which the Republic of Kazakhstan had committed itself as an OSCE participating State”. Concerns raised were the legislative framework, composition of election commissions, infringements of rights of candidates, obstacles to freedom of association and assembly, campaign atmosphere, access to media and voting procedures.

Since the authorities, in the aftermath of the 1999 presidential elections, took active steps to address some of the problems observed, OSCE/ODIHR decided to send an EOM to observe the parliamentary election later the same year. The conclusion from this mission was that “while the parliamentary elections marked a tentative step in the country’s transition to democracy, and represented an improvement from previous elections, they nevertheless continued to fall short of OSCE Commitments”.

The need for a mechanism to address the OSCE/ODIHR recommendations following the presidential and parliamentary elections in 1999, resulted in the year 2000 in a joint initiative, a “Round Table on Elections”. This brought together representatives of the authorities, parties and civil society for a series of meetings addressing specific aspects of the electoral process. The process resulted in a number of proposals, all of which were transferred to the Majilis for further consideration. On completion of this “Round Table” process in 2002, the Kazakh authorities invited OSCE/ODIHR to an extensive dialogue related to amendments of the election law. As a result of this dialogue, OSCE/ODIHR
has published two documents; Preliminary Comments on the Amended Law and Assessment of the Constitutional Law on Elections. OSCE/ODIHR recognizes in their assessment that a number of amendments represent considerable progress, but further improvements will be necessary in order that the election law fully meets OSCE commitments for democratic elections, as presented in the 1990 Copenhagen Document.

Political Parties/Blocs and Single Mandate Candidates

For the 19 September 2004 parliamentary elections there were 12 registered parties, organized as 10 blocs and parties, competing 10 seats elected via party lists. This was an increase of 5 since the 2003 local government (Maslikhats) elections. The main pro-presidential parties are Republican Political Party (Otan), Republican Party (Asar) and Bloc AIST, a combination of Agrarian Party of Kazakhstan and Civic Party of Kazakhstan.

Members of Otan had already before the 19 September election a dominant position in parliament, counting 25 members in the Majilis. It is the leading party in support of the President’s policies and the President also appears in paid televised political ads in support of the party. After the local government elections in 2003, the compositions of Maslikhats have also changed in clear favour of Otan and other pro-presidential parties. According to the Needs Assessment Mission report, this was perceived as having a strong impact on the implementation of the provisions related to formation of the election commissions. According to the amended election law, the Maslikhats are to elect election commission members. Otan seems further to have had extensive financial resources and government back-up to mount an active and visible campaign.

Party Asar, a relative newcomer, is run by Dariga Nazarbayeva, the eldest daughter of the President. She is one of the most powerful and influential business people in the nation, in control of a number of important media outlets in Kazakhstan. Speculations have been raised regarding the possibility of a dynastic succession of power after the President leaves office. Asar has had a high and visible profile during the campaign period.

Bloc AIST, also well represented in the current Majilis, is a combination of industrialists and agri-business people. The bloc seems fairly well financed and has been quite visible during the campaign period, both on TV and through posters/billboards in the streets. Even if the bloc at times criticizes the two major pro-presidential parties, it appears for the most closely tied to the President’s program.

Three parties describe themselves as opposition parties: Democratic Party of Kazakhstan (Ak Zhol), Communist Party of Kazakhstan (CPK) and People’s Party “Democratic Choice of Kazakhstan” (DCK).

Ak Zhol is described as centrist, it’s leaders include current and former top members of the President’s administration. The party is said to have pursued a more moderate course of opposition, refraining from direct criticism of the President. Ak Zhol shares many of the same aims and is cooperating actively with CPK and DCK. One of their prominent party leaders Bulat Abilov, received a suspended sentence of 1.5 years of imprisonment for damaging the honour and dignity of a Majilis member and was thus not permitted to run for office for the 19 September election. Together with CPK and DCK, Ak Zhol threatened to boycott the election for several reasons, among them if the use of electronic
voting became too extensive, because of lack of political diversity in the composition of the election commissions, imbalance in the media and pressure on voters.

In South Kazakhstan region, the LTOs found branch of Ak Zhol fairly well organized, campaigning quite actively and with visibility in urban areas of the region, though always expressing little faith in the formal complaint and appeal system and the impartiality of the media. In Zhambyl region, branch of Ak Zhol claimed to face all kinds of obstacles regarding “a level playing field” in their attempts to be fairly represented on election commissions, in their attempts to address the electorate etc.

CPK and DCK ran as a bloc for this election. CPK is considered to be the old-line Communist Party. Its leader, Abdildin, has been the President’s main opponent after former prime minister Kazegeldin was forced out of the 1999 presidential race and into exile. DCK is a recently registered party, following a three-year legal battle. The founding members have held high positions in government and business and it is said that party members have had to pay a heavy price for their opposition to President Nazarbayev. Their party leader, Galmyzhan Zhakianov, has been jailed for the last three years on charges that is widely regarded as politically motivated. To distinguish themselves from two small parties with similar-sounding names, Communist People’s Party of Kazakhstan (CPPK) and Democratic Party of Kazakhstan (DPK), CPK and DCK tried to register their bloc under the name Opposition People’s Union of Communists and DCK. This was, to their dissatisfaction, refused both by CEC and Supreme Court.

The LTOs found branch of Bloc CPK/DCK in South Kazakhstan region poorly organized and with little resources, seemingly unprepared for the upcoming elections. The bloc was almost invisible in the street picture and the LTOs were unable to access any plan for campaign activities taking place in the pre-election period.

5 other parties were registered for the 19 September parliamentary election, all considered to be pro-presidential, but not expected to have much of an impact. The two parties mentioned earlier, Communist People’s Party of Kazakhstan (CPPK) and Democratic Party of Kazakhstan (DPK) represented serious concerns to the so called “real” opposition parties CPK and DCK because of similar-sounding names, which most likely would lead to a spread of votes. The three other minor parties were: Social Democratic Party (Aul), Party of Patriots of Kazakhstan (PPK) and Public Association Party (Rukhniyat).

All together 106 candidates from the 10 different parties/blocs were approved and registered for the proportional list, contesting 10 seats in the Majlis.

On deadline for registration August 18, there were all together 623 candidates registered for the single mandate race in the 67 constituencies in Kazakhstan. Party Otan had with a few exceptions nominees in almost all constituencies (63), while Asar, Ak Zhol and Bloc CPK/DCK had single mandate candidates running in 42, 39 and 36 constituencies respectively. Bloc AIST had nominees in 28 constituencies. The five remaining parties were characterized by having few running candidates, between 5 and 16.

255 single mandate candidates were nominated by political parties while altogether 368 were self nominated or nominated by public associations. A significant number of these candidates were also closely connected to or members of different political parties and thereby often not politically independent as such.
The Legislative Framework

In the Statement of Preliminary Findings and Conclusions, OSCE/ODIHR says that further improvements are necessary in order that the election lawfully meet OSCE commitments. Some of the remaining shortcomings in the election law, reflected in the 19 September parliamentary elections are limitation on the right to be elected, disproportional sanctions leading to de-registration, the lack of sufficient guarantees for inclusive, pluralistic representation on election commissions and the lack of a transparent and effective process for resolution of complaints.

Amendments to the election law were adopted by the Majilis on 16 March 2004, approved by the Constitutional Council on 9 April, 2004 and signed by President Nazarbayev on 15 April, 2004.

The main legal framework regarding elections in the Republic of Kazakhstan includes:

- The Constitution of the Republic of Kazakhstan
- Subordinate acts (specifically CEC regulations)
- Law on Mass Media
- Law on Political Parties
- Code on Administrative Violations
- Criminal Code

In the Needs Assessment Mission Report (NAM), OSCE/ODIHR acknowledges that a number of amendments on the Constitutional Law of the Republic of Kazakhstan on the Election represent considerable progress. Examples of this are more elaborate mechanisms for pluralistic election commissions, prohibition of undue influence from authorities and presence of unauthorized persons in polling stations. Observers have now been given access to the entire election process and the receipt of relevant election documents. Posting of election results protocols for public scrutiny at polling station (PSEC) level and district (DEC) level and procedures for compilation and verification of the accuracy of voters list have been provided for. In general, there has also been an expansion of the list of prohibited activities that could interfere with the election process.

The NAM Report also states that outstanding political and civil rights issues remain to be addressed. Concerns raised here coincide to a large extent with preliminary findings of the EOM for the 19 September 2004 parliamentary elections. The NAM report mentions limitations on or lack of sufficient guarantees of the right to be elected, disproportional sanctions, such as refusal of registration, de-registration and premature termination of mandates, which may be imposed for minor criminal law offences. There is a lack of sufficient guarantees for inclusive, pluralistic, political party representation on election commissions and provisions that allow voters and election contestants to challenge and seek invalidation of the election results. In addition, limitations on the right to free speech and association and lack of satisfactory guarantees for a clear, efficient, and expeditious process for election dispute resolution are also raised as concerns in the NAM report.
The Electoral Administration

In the Statement of Preliminary Findings and Conclusions, the EOM states that CEC in general functioned in a non-transparent manner, taking arbitrary and selective decisions. The function of lower level ECs was more varied, here some election commissions operated in an open and transparent manner, also facilitating the LTOs in their work, while others did not. The composition of election commissions raised concerns at all levels. Introducing electronic voting, in addition to being a controversial issue, created uncertainty and a heavy burden on both higher level and lower level election administrators/election commissions in the upcoming weeks before and over the election day.

Election commissions of the Republic of Kazakhstan operate at four levels. The members of the Central Election Commission (CEC) are appointed by the Majilis upon the recommendation of the President. CEC acts as a permanent body. 16 Regional (Oblastnie) Election Commissions (REC), all together 14 regions and the cities of Almaty and Astana, comprise the second level of election administration.

Third level for the majoritarian elections comprises 67 Constituency (Okruzhnie) Election Commissions (ConEC). The third level for the proportional election comprises 159 District (Rayonnie) Election Commissions (DEC) and 37 Town (Gorodskie) Election Commissions (TEC). This system means that there was a different line of reporting for the results from the single mandate race and the party list race. The fourth level of the election administration for both elections comprised of 9,480 Polling Station Election Commissions (PSEC). The members of REC, ConEC, DEC, TEC and PSEC are all elected by corresponding Maslikhats (local government body) on the basis of proposals of political parties. Members are appointed for an electoral period of 5 years.

Election commissions on all levels consist of 7 members.

Central Election Commission (CEC):

Main responsibilities are:

- to exercise oversight concerning uniform implementation of the Law of Election by lower level commissions
- to organize preparations and holdings of elections
- to register presidential contenders of the Republic and parties/blocs for participation in election of deputies for the Majilis who are elected under the party list
- to form election districts
- to estimate expenditure/distribute funds for conducting election campaign/oversee their use
- to hear complaints from lower level commissions, cancel and suspend their decisions
- to design ballots and other election documents, set standards for technical equipment etc.
- to establish and publish the result of the election.

At holding of elections using the electronic electoral system CEC is responsible for conducting a uniform electronic voter register, conduct trainings for members of
corresponding election commissions and organize training for the population on how to use the electronic electoral system.

**Regional Election Commissions (REC)**

Main responsibilities are:

- to ensure control over execution of the Law on Elections for the assigned administrative/territorial area
- to ensure preparation and holding of elections in Area of Responsibility (AoR)
- to supervise the activities of lower level election commissions
- to execute decisions of CEC within the AoR
- to allocate funds, control creation of required materials/technical equipment
- to consider applications and petitions related to decisions and actions of lower level commissions
- to establish polling stations for voting and a uniform numbering system
- to ensure production of ballots and provide for manufacturing of other necessary equipment.

**Constituency Election Commissions (ConEC)**

Main responsibilities are:

- to control the execution of the Law on Elections in the respective electoral district
- to organize holding of elections of deputies to the Majilis and to Maslikhats
- to coordinate activities of the local election commissions, cancel or suspend their decisions
- to register proposed candidates
- to control timeliness and correctness of making the electoral register
- to receive and determine election result for area of responsibility and ensure publication of results.

**Polling Station Election Commissions (PSEC):**

Main responsibilities are:

- to conduct election actions in the polling stations
- to notify voters on the day, time and place of voting
- to update and familiarize citizens with electoral register
- to arrange premises and equipment for voting
- to organize voting, count and define results
- to consider application and petitions in respect to issues regarding preparation and organization of voting
- to make decisions within AoR.

The LTOs enjoyed easy access to all levels of the election body in South Kazakhstan region. Representative(s) of CEC to South Kazakhstan region and Chair of REC received the LTOs on very short or no notice many times during the 6 weeks of our work in the region. With few exceptions they facilitated our work. Examples of problems the LTOs experienced were trying to access documents in connection with last minute de-registration of a party Ak Zhol and Uzbek single mandate candidate in Sayram (63). REC also refused to give the LTOs a copy of aggregated results on regional (oblast)
KAZAKHSTAN: PARLIAMENTARY ELECTIONS - 2004

level, referring EOM Head Quarters in Almaty to address CEC Astana for these numbers.

In Zhambyl region, on the other hand, the LTOs experienced some difficulties accessing necessary information and assistance in our work from REC. Our mandate was also at one point seriously questioned.

Election commissions on all levels were found to be fairly diverse, representing different parties, including members of opposition parties like Ak Zhol. A branch of the party Ak Zhol confirmed to the LTOs that they to their satisfaction had members in most ECs in the region. Also CPC/DCK had presence, but to a lesser extent. It is reason to seriously question the broad representation of smaller pro-presidential parties on election commissions, taken into consideration that many of these parties were close to invisible elsewhere in the region. As a rule, with very few exceptions, all chairs of ConECs were from party Otan. In Zhambyl region, strangely enough, LTOs found that REC had no representatives from opposition parties, neither from Ak Zhol nor CPK/DCK. In addition there were in Zhambyl region numerous allegations that Ak Zhol members felt forced or “threatened” to withdraw from ECs in large numbers. The LTOs observations correspond with the conclusions in the EOM Interrim Statement saying that representation on most commissions strongly favoured pro-presidential parties.

The LTOs found a number of cases at PSEC level where at least 3-4 members were employed by the same organization or institution. The Law on Elections only states that all EC members can not be from the same institution. Up to 6 members of a PSEC from the same institution are therefore not considered as strictly illegal according to the law.

When meeting with ConECs, a number of times we found most of the commission members present. While in urban areas we found members of the election commissions quite outspoken, expressing different views on political matters, in most rural areas the commission members often seemed to speak with “one voice”. When we after one of our meetings asked a commission member from Ak Zhol why he did not openly support widely known political views expressed by his party HQ, he said “I don’t need any more enemies than I already have”.

In many cases, akims took an active and helpful role towards The LTOs. An example of this is the Town Akim of Shymkent, providing the LTOs with the most elaborate, artistic, hand drawn, specially made map, 1.5 times 1.5 meters, of all three Shymkent constituencies featuring the location of all polling stations. This was a real treasure where good maps are rare or non-existent. This greatly facilitated the LTOs and STOs work in an otherwise colourful city with a somewhat unclear street picture.

Interlocutors often claimed that election commissions were heavily influenced by the local akimats, especially in rural areas. In one of our constituencies, Head of Administration sat in on the LTOs 1 ½ hour meeting with ConEC.

Electronic voting

Statement of Preliminary Findings and Conclusions says that “the manner in which the electronic system was introduced for these elections, including the lack of independent certification, the absence of manual audit capacity, as well as the potential for compromises to the secrecy of the vote, eroded confidence in the election process”.

The introduction of an electronic voting system was a last minute introduction to the law of election (LoE Section 9-1). The system has been developed in Kazakhstan, and the decision to introduce wide scale electronic voting for the 19 September election has been subject to considerable debate. According to CEC statements, the system was at one point planned for as much as 30% of the voters. Some opposition leaders threatened to boycott the election if e voting was introduced in a significant number of constituencies. In South Kazakhstan region, branch of Bloc CPK/DCK and Ak Zhol both informed the LTOs that a boycott of the elections would take place if electronic voting was introduced for more than 0.3% of the voters. The opposition parties decided in the end not to follow through with their threats of boycotting the elections. According to CEC, e voting took place in about 10% of the polling stations.

OSCE/ODIHR Discussion Paper on Election Principles and existing OSCE Commitments for Democratic Elections underlines several key issues regarding e voting. Examples of this are effective remedies to redress violation of suffrage rights, manual audit capacity, production of a permanent paper record to enable paper ballot recounts and the possibility for the voter to change vote cast for a wrong candidate. Provisions like this were not provided for in the electronic system used for the 19 September election. To secure the system legally, operationally and technically, and ensure full transparency in order to build confidence among election stakeholders, OSCE/ODIHR, already in the Needs Assessment Mission report, recommended only limited pilot projects for e voting on the 19 September election.

In South Kazakhstan region, the decision to introduce e voting meant serious challenges regarding preparation such as securing comprehensive and updated electronic voters lists and the need for bar codes for every registered voter. The need for extra technical equipment, two telephone lines in every polling station, extensive training of polling staff and later also training for voters lay a heavy burden on REC, ConECs, relevant PSECs and corresponding akimats. Confusion regarding to what extent e voting finally would take place and last minute decisions/changes of plans from CEC Astana added to the uncertainty, also in an electorate already varying in degrees of public acceptance for the e voting system.

The extent to which e voting would take place was not clarified before 17 September. In South Kazakhstan region, REC and ConECs prepared for e voting in all three Shymkent constituency and in all town/rayonne centres in the region. Electronic equipment for e voting had been received and training for polling staff had been taking place. The final decision meant e voting only in oblast centres and in a limited number of polling stations even here. In the city of Shymkent this meant in 75 out of 132 polling stations.

Another aspect that created confusion and uncertainty was the question whether a bar code affixed to the identification card would be a necessity to be able to vote electronically on polling day. Even though local akims in charge of updating the electoral register took great effort in distributing bar codes to the electorate, it was for the LTOs obvious that many voters, in spite of the akimats’ efforts, would not have a bar code on polling day. Many interlocutors and voters raised concerns regarding this to the LTOs. The information that anybody could vote electronically even without a bar code was confirmed by CEC only two days before the day of election.

Finally, last moment introduction of parallel voting by paper ballots in all polling stations assigned for e voting solved some problems but created new challenges for
polling staff, who on short notice had to administer two parallel voting systems. In South Kazakhstan region, the LTOs were more than one week before election day informed that there most likely would be parallel voting by paper ballots in all polling stations assigned for electronic voting. The election body on different levels were already preparing for this option (also observed by LTOs). This information was vehemently rejected by CEC Astana when our Mission HQ in Astana/Almaty wanted to have the information given to LTOs confirmed. On the evening of September 17, Chair of CEC, Mrs. Balieva, finally announced that the decision had been made to allow parallel voting by paper ballots in all polling stations designated for e voting.

In the city of Shymkent, the voter turn out was very low compared to the rural areas in the region. The voter turn out in the three Shymkent constituencies were 32%, 38.5% and 50.1% respectively, an average of 40.2%. Average voter turn out in the 7 remaining constituencies in the region was 63.3%. In Shymkent and in Taraz, where e voting took place, STOs observed that a fairly large percentage of the voters preferred to vote by paper ballots (stipulated to be around 40%). These facts may indicate low confidence in the e voting system among large parts of the electorate.

Voter and Civic Education

The Statement of Preliminary Findings says that there was an extensive voter information and education program around the country. Special efforts were made to inform the electorate about the e voting technology. CEC produced a very comprehensive information booklet which was distributed to voters countrywide, as well as several television spots. In South Kazakhstan region, in the week before election day, several polling stations in the three Shymkent constituencies assigned for e voting offered training to voters.

The 7 TV debates gave the electorate an opportunity to familiarize themselves with the parties’ programs and differences of views between parties.

There is a concern that media regulations (and criminalization of defamation and libel) have prevented an open and critical political debate of value for voter education.

Even though CEC took great effort in urging people to vote on polling day, the LTOs also sensed voter apathy among parts of the electorate.

Voter Registration

In the Statement of Preliminary Findings, EOM says that the problems in the accuracy of voter registration were evident. One example was significant discrepancies between paper and electronic voters lists.
The number of eligible voters for electoral registers are compiled at Presidential elections or elections for deputies to the Majilis of the Parliament and Maslikhats. The last update before this election was in 2003, for the election for Maslikhats. For the 19 September election this was a very challenging exercise also due to distribution of bar codes. In South Kazakhstan region, updating voters register and distribution of bar codes often took place by door to door visits, a time consuming and demanding exercise also resource wise.

Voters lists were located in an electronic database and on paper, by decision of CEC. The basis for being included into the voters register for a specific polling station is his/her residence registration on the territory of that polling station. The corresponding local executive bodies (the akimats) compile the electoral register. 20 days prior to polling day, the electoral registers of the polling stations are to be submitted to the corresponding election commissions for voters to be able to inspect and familiarize themselves with the register. Updates can take place until 20.00 hours of the day preceding the day of election. It is the LTOs impression that voters did not make much use of this possibility.

Students are included in the electoral register according to the location of their hostels. Electoral registers formed in military units, hospitals and sanatoriums, temporary detention centres, citizens located in remote out-of-reach places and the like are compiled and submitted by commander in chief, heads of institutions or the corresponding akimats.

There were no provisions for early voting. Voters unable to reach the polling station where they originally are registered may, no later than 30 days prior to election day, upon an written application to the local executive body, be included in the electoral register in the place where the voter was staying on election day.

Mobile voting is organized, upon a written request no later than 12 hours before polling day, for voters who due to ill health cannot come to the polling station for voting.

The LTOs and STOs found serious problems with incomplete voters lists, especially in the three Shymkent constituencies and in other more urban areas. Significant discrepancies between paper and electronic voter lists were also observed in both Shymkent and Taraz. There were no provisions for additional voters list for this election. In spite of this, procedures to a large extent varied as to whether voters not finding their name on the voters list actually were turned away on election day, whether they were added to the voters list and in that case, what kind of documentation or procedures polling station staff required before adding someone to the list. Chair of REC said that inaccuracy of voters lists were one of the main concerns he would report back to CEC on evaluation of the election process for the 19 September election 2004.

Candidate Registration

According to the Statement of Preliminary Findings, two prominent opposition leaders, Galyzmhan Zhakianov from DCK and Bulat Abilov from Ak Zhol, were not permitted to run for office, most likely due to politically motivated convictions. EOM also raised
serious concerns regarding a number of questionable de-registrations, some very close to
election day when no remedial action could be taken.

CEC registers party lists while ConECs are responsible for registration of single mandate
candidates. While single mandate candidates can be self nominated or nominated by
party/bloc (must then be a member of the respective party), party lists include only
members of political parties/blocs. Registration ends 30 days prior to election day, in this
case August 18. To become a candidate, a deposit of 15 times minimum salary is
required. Deposits are returned if thresholds of 5% and 7% are passed for single mandate
candidates and parties respectively.

Candidates may be denied registration or be deregistered for reasons indicated in LoE
Art. 89.6 and 89.9. Examples of reasons for denying registration or de-register
candidates are: infringements by the candidate of rules of nomination (f. ex. non-
submission of necessary documents), non-eligibility of the candidate (according to the
present Constitutional Law), use of job position for the purpose of the election campaign,
conducting pre-election campaigning before set date for campaign start, discredit
“honour and dignity” of other candidates and finally de-registration in case of revealing
non-authenticity of the data on incomes and assets declared by the candidate.

De–registration or re–registration of a candidate is impermissible during the two last
days before election day.

In South Kazakhstan region, three single mandate candidates were de-registered in the
weeks preceding the election. Examples of reasons given for these de-registration were
early campaigning, offering bribes to voters, abuse of work position/using administrative
resources for campaign purposes and allegedly raising ethnic tension. One candidate was
re-registered by the Court while the Court upheld the decision to de-register two
candidates, one on procedural grounds.

In addition, there were a number of last moment de-registrations of single mandate
candidates both in South Kazakhstan and Zhambyl regions (Constituency nr. 58, 63, 66,
67 and 30). As mentioned above, because of the timing of these de-registrations, no
remedial action could then be taken. Financial reporting errors were the reasons for
many of the last moment de-registrations of single mandate candidates. A common
picture in these last moment cases was that the candidates in questions were poorly, late
or not informed at all about the decision to de-register them. In most of the cases the
complaints were forwarded by main competitors, often candidates from party Otan. In
Sayram (63) the second and last Uzbek candidate (from AK Zhol) was de-registered on
September 17 at 23.00 hours. In Sayram, Uzbeks count nearly 70% of the population.

The LTOs found part of the de-registration process non-transparent and the reasons for
some of these de-registration cases somewhat questionable. The LTOs believe that
several last moment de-registrations were initiated with the intent to remove a strong
rival from the contest, and thereby politically motivated. It proved to be decisive to the end result, or most likely for sure prevented a second round in at least two
constituencies. In South Kazakhstan region, there were second rounds in 8 out of 10
constituencies, which means all constituencies in the region apart from Sayram (63) and
Shardara (67) were two questionable last minute de-registrations took place.

Another problem observed in both South Kazakhstan and Zhambyl regions was “double
candidates”, or “shadow candidates”, unknown candidates with no profiles or programs
seemingly (or allegedly) running to spread votes or receive votes meant for “real”
candidates. The LTOs observed examples of such cases in Taraz (30) and in Ordabassy (65). In Taraz, a believed strong, well known and highly visible single mandate candidate from Ak Zhol, Sadykov Sabit Sultanovich, had a self-nominated “shadow” candidate with nearly the same name, Sadykov Sultan. If the motivation to run for candidacy was to spread votes, it most likely proved effective in Taraz. STOs in Taraz reported that in the polling station where they observed the counting, the “shadow” candidate got more votes.

The Election Campaign

The Preliminary Report describes campaign as relatively calm with few large demonstrations or rallies. While the two major pro-presidential parties Otan and Asar have sponsored concerts and meetings and dominated billboard and other public advertising space, Ak Zhol and CPK/DCK have faced a pattern of interference in their efforts to convey their message to the electorate. In addition, there has been numerous allegations of bias in the decisions of local authorities, favouring the main pro-presidential parties in regard to space for meetings/rallies and unfair allocation of public space for advertising.

According to the Law on Elections, campaign period begins from the day of registration of candidates while media campaign starts on the day of the deadline for registration. All campaigning stops at 00.00 hours the day before polling day.

In South Kazakhstan region large open-air rallies were few in numbers, and did not seem to gather large numbers of people. An exception may have been an Ak Zhol open air rally in Turkestan (66), attended by the LTOs, which gathered between 2000 - 3000 people. Campaign took place in the form of billboards and posters in the streets, public meetings, advertising/publishing different kind of election related material and information in local newspapers, buying air time on TV outlets and finally also some door-to-door campaigning.

The preferred way of campaigning both for parties and single mandate candidates though, seemed to be touring towns and villages, meeting voters face to face. By August 16, party Otan informed the LTOs that they had already visited 200 villages in the region.

In all rural constituencies, ConECs together with rayonne/town akimats arranged meetings in all the towns/rayonnes between candidates running for a seat in the Majilis and the electorate, according to a fixed schedule. Each candidate (or his/her proxy) was expected to attend all these meetings and present his/her program. Some of the candidates from the opposition parties told the LTOs that they felt more or less obliged to attend these meetings, which they did not always find meaningful.

The city of Taraz (Zhambyl region) was literally “plastered” with huge billboards from Otan and Asar. While the large pro-presidential parties (Otan and Asar) also dominated the street picture in Shymkent, the picture was here to a certain extent diverse, with visible presence also from party Ak Zhol. Ak Zhol had also some visibility in other urban areas, like Turkestan (66) and Sayram (63). CPK/DCK seemed more or less
invisible altogether in the South Kazakhstan region. In rural constituencies, only large billboards from Otan were on display in the streets.

Several single mandate candidates from DCK/CPK complained about delay in reimbursement for candidate expenses, to be paid by CEC via the towns/rayonnes. This information was confirmed by Chair of REC, who was taking steps to correct the problem. As of August 31, the delay was 10 days. This may have been an obstacle in financing the campaign for a number of single mandate candidates.

Parties/candidates from the opposition parties claimed continuing difficulties in accessing centrally located space for meetings and rallies. They claimed akims were biased towards pro-presidential parties, and deliberately hindered their efforts to reach the electorate in fair and efficient manner. In Zhambyl region, the LTOs happened to observe CPK in the process of escorting a fairly large audience from one location (that had been booked and paid well in advance) to another near by location. According to information given to the LTOs, local authorities had intervened the night before the scheduled meeting and allegedly put pressure on the owner to give the premises to someone else. When CPK arrived the next morning, the premises were already occupied by a large children’s event.

In Taraz (30), the LTOs attended a large social gathering in connection with the return of an Olympic champion. This social gathering, arranged by Zhambyl Oblast Akimat and attracting thousands of people, was turned into what can only be described as a massive party Otan rally.

The LTOs also received a number of allegations regarding pressure on voters from akimats, employers and heads of institutions. Cases like this are always difficult to prove since stepping forward may have serious consequences for the respective persons involved. In several cases, the LTOs received credible and, as the LTOs saw it, well documented information about voters having lost their jobs or being threatened to lose their jobs if they did not stop supporting opposition parties.

The Media

EOM monitored 4 television stations for 19 September elections for the Majilis:

- Kazakhstan 1
- Khabar
- Channel 31
- KTK (prime time news since August 25)

They found Kazakhstan 1 Television and Khabar strongly biased in favour of the parties Otan and Asar. Opposition parties like Ak Zhol and Bloc CPK/DCK received little coverage, in which case often negative. No remedial action was taken in spite of a number of complaints from opposition parties. Some private TV stations were more balanced, in the case of Channel 31 also favouring Ak Zhol. KTK strongly favoured
party Asar. The print media offered in general a more diverse picture, even though most publications displayed a partisan editorial policy.

The media in Kazakhstan can be defined as predominantly within the private sector. The control of central television broadcasters is heavily concentrated in the hands of government and the President’s family. The President’s daughter, Dariga Nazarbayeva, a candidate and the leader of party Asar, heads the largest state television channel, Khabar. Media monopolization and concentration has led to a significant lack of political pluralism in reporting.

In early 2003, a new media law was proposed by the authorities. The draft caused much concern among domestic and international media organizations. OSCE Representative on Freedom of the Media noted, after an expert analysis of parts of the draft, significant departures from accepted international standards in the area of freedom of media and expression. Examples of this were wide-ranging powers, including the power to grant or refuse registration on the part of licensing authorities and continued criminalization of defamation and libel.

The draft law was, after passing Parliament, rejected by the President in April 2004. The country therefore continues to operate under the 1999 legislation, supplemented by elements of the criminal and administrative code. Criminal defamation and libel remain issues of particular concern for the media community and was highlighted by the sentencing of one of the Ak Zhol party leaders Bulat Abilov for criminal libel. Strict defamation laws may put excessive curbs on free speech and encourage self-censorship, preventing an open, diverse and critical political debate.

According to the Law on Elections, all parties and candidates must be granted equal access to mass media to express their views and political platforms. Each candidate must be given state funded 15 minutes on TV, 10 minutes on radio and two articles in media. CEC shall organize debates for political parties. Media must provide space and air on equal basis and prices and conditions must be published no later than 10 days after appointing the elections.

The LTOs found local akimat (state) newspapers featuring party Otan emblems, articles with positive references to the activities of Otan or Otan advertising “social receptions” on the front page of virtually every edition during the 6 weeks before election day. This was observed in Shymkent (58, 59, 60), Kazygurt (61), Sayragash (62) and in Sayram (63). In addition, on the first page of a special issue of Puls Sayrama from Aug. 7 (printing the entire voters list as of this date), LTOs found a quote from the President on the top front page, credited as a speech at a party Otan congress. The respective akims, when confronted with these observations, vehemently denied having given the local state press in the region any instructions similar to what happened in Petropavlovsk region, where the authorities had sent a letter to the editors of regional state newspapers suggesting contents and formats of election coverage designed to favour the ruling party.

In Zhambyl region, Taraz (30), LTOs observed two examples of newspapers (one from the local akimat) publishing black PR about the single mandate candidate from party Ak Zhol.
Observation on Polling Day

According to EOM, election day was marred by the late decision to add paper balloting as an option in the proposed e voting polling stations, creating uncertainty and challenges for lower level commissions. While many voters had difficulties with e voting procedures, PSEC members were in general comfortable with these procedures and did their best to cope with last minute changes, unclear regulations and the need to assist voters having difficulties with e voting. The need for assistance operating the e voting system, and relatively wide-spread group- and family voting compromised the secrecy of vote. Other concerns reported were heavy presence of unauthorized personnel in the polling stations and incomplete voters lists.

Election Day Procedures

Voting is conducted from 07.00 – 20.00, unless DEC or TEC have established something else (but no later than 22.00). PSEC shall start to open the polling stations one hour prior to the beginning of the voting.

Before election day

Each PSEC should receive its election materials, whether for e voting and for paper voting, before E-day.

Opening procedures before opening of polling stations

Half an hour prior to the beginning of voting, the ballot boxes and the integrity of the seals must be checked and then sealed. One member of PSEC is made responsible for issuing ballots to voters before the opening protocol is signed.

Persons authorized to be present in a polling station

- Voters
- Members of PSEC and higher level commissions
- Candidates and party representatives (proxies)
- Journalists
- Domestic and international observers

Police officers can be present for the purpose of voting or on the request by the PSEC Chairman to enter to restore order.

Acceptable identification documents

A valid Kazakh ID card

Voting procedures

Paper balloting

- Voter presents his/her ID document to a PSEC member who confirms the identification
- Voter signs the voters list in order to be given a ballot
The PSEC member signs the ballot papers and issues them to the voter

The voter fills the ballots in the polling booth, puts the ballots in an envelope and cast it in the ballot box

**E-voting**

- The voter presents identity card (with bar code) to be registered
- The bar code is scanned, data appearing on the computer display is checked and compared with data on identity card, photo on ID card is compared with face of voter
- If everything is correct, the voter is registered and a signal about positive registration is sent from the computer to the connected base of handheld scanner.
- The voter takes handheld scanner to the polling booth to vote
- To vote, the voter brings handheld scanner towards barcode of preferred candidate/party and presses the assigned button (3)
- Voter accepts candidate/party by pressing button nr. 1, or chooses to repeat choice by pressing button nr. 2
- To check if the vote has been counted correctly, the voter can within 10 seconds generate and note a four digit number (a pin code) by pressing button 1 and 2 simultaneously
- By putting handheld scanner back onto base, information is transmitted from scanner to connected computer, a beep will verify that process is finished and handheld scanner switches off.

A voter has the right to be assisted by a person of his/her choice. This cannot be a member of the election committee, an official of the local representative or executive body, a representative (proxy) of the candidate or journalists, representatives of mass media or observers.

At closing of polling station, only people located within the polling station can still vote. As for e-voting polling stations, at 20.00, the polling computer will not accept any more registration of voters.

Before opening the ballot boxes, the general number of voters in the district, the number of voters who received ballots and the number of ballots distributed by members of the commission are recorded. Unused ballots are counted and cancelled and invalid ballots are kept separately and accounted for.

**Sorting and counting procedures**

**Paper balloting**

Completion of counting the votes shall not exceed twelve hours from the beginning of the counting, and all persons present are entitled to have an unobstructed view of the process.

- Mobile box is opened, and ballots are sorted according to different contests. Quantity of ballots must equal the number of written requests, if exceeding the corresponding amount of written appeals, all ballots in the box are nullified
- Stationary ballot box is opened and mixed with valid ballots from the mobile box and counting takes place
Invalid ballots are excluded from the number of ballots of voters confirmed to have participated in voting. Disagreement regarding validity of ballots are solved by a vote of the election commission.

On a request from candidates (proxies) or party representatives, PSEC may conduct a recount of votes. The recount is conducted only once, and must take place within the 12 hours allowed for counting.

Results are included in the protocol and signed by the chair and the other members of PSEC. A member has the right to attach “a dissenting opinion” and sign it.

The protocol of single mandate results is immediately delivered to the corresponding ConEC.

The protocol on the results of the party list is immediately delivered to the corresponding DEC/TEC.

Both protocols are immediately to be displayed in the polling station and must be kept on the premises for a period of two days.

Both protocols are delivered to CEC.

E-voting

The voting program is shut down by the chair of PSEC entering a password into the computer.

The respective protocols (for candidates and political parties) are generated and signed by the members of the PSEC.

Both protocols are immediately to be displayed in the polling station and must be kept on the premises for a period of two days.

The list of candidates with PIN-codes is printed and displayed in the polling station.

An electronic version of the protocol is transmitted to the CEC.

The CEC must publish the election results within 7 days after the election day.

Election Day Observation Report from LTO Ragnhild Hollekim

General information

LTO team 5, Ragnhild Hollekim and Stefan Szwed, US, was based in Shymkent, covering South Kazakhstan region and part of neighbouring Zhambyl region (Taraz). The population of the regions are approximately 2.5 million and 900,000, and the administrative centres of the regions are Shymkent and Taraz, respectively. South Kazakhstan region is further divided into 10 electoral districts or constituencies (from nr. 58 to 67) while Zhambyl region is divided into 4 electoral districts or constituencies (from nr. 30 to 34).

South Kazakhstan region is located along the border to Uzbekistan, in the South a fertile agrarian area with businesses mainly related to agricultural industry (like agricultural products, cotton, mineral water). Further North there is the much dryer step landscape. Shymkent is (in August anyway) a hot, lively, “colourful chaotic” city with a population of approximately half a million. South Kazakhstan is less developed than many other regions in Kazakhstan and has to a lesser extent benefited from the country’s large oil and gas industry. Large parts of the population still struggle for a decent daily income. The population is ethnically diverse. Mostly Kazakhs, a fair percentage of Uzbek population, fewer Russians than the average for the country as a whole and a large
number of smaller ethnic groups. Guests (observers included) are met with a warm and hospitable attitude in South Kazakhstan.

Zhambyl region borders Kyrgyzstan and is both an agrarian and an industrial area (oil and gas). Taraz was one of the biggest cities on the ancient Silk Road. In Soviet times, Taraz used to be the centre for chemical industry.

13 STO teams (and altogether 25 observers) were deployed to South Kazakhstan and Zhambyl region. In South Kazakhstan region they were further deployed to 9 out of 10 constituencies. Shardara (67) was visited by LTOs, but was not covered by STOs for logistical reasons. In Zhambyl region one STO team covered Taraz (30). STOs and LTOs visited altogether some 145 polling stations in the two areas of responsibility.

Observation of opening

Reports from STOs vary, from procedures followed with few exceptions to reports claiming a weaker adherence to formal procedures during opening. Parallel paper balloting in e-voting PSs implied logistical challenges for the polling staff. In the city of Shymkent, there were reports that in at least 3 PSs assigned for e-voting, they had to change to paper ballot voting only in the very last moment because of technical problems with the e-voting equipment.

Observation of polling

STO teams reported that polling staff most often seemed prepared and competent. A majority of STO teams rate the process as fair. This against a background of a number of teams reporting weaker adherence to formal procedures.

3 STO teams report being denied access to closed PSs (military compounds). In Mahtaraal (64), to secure access for STOs, extensive efforts were made by a number of interlocutors including Chair of ConEC, Chair of REC and finally the Akim of Zhetsai. When the Military Commander finally gave access, at 14.00 hours on election day, voting was already over and the PS had closed.

STOs report meeting party proxies from pro-presidential and opposition parties in all PSs, with the exception of the team deployed to Turkestan (66). In a number of PSs visited here on election day, no proxies from opposition parties were observed being present. Only very few teams report meeting independent observers in the polling stations.

Presence of unauthorized personnel in the polling stations was often observed. Examples of this were police presence (sometimes in numbers of three or more) at the polling premises over long periods of time, private security presence, representatives from local authorities (akimats), school employees (PSs are often located in schools) and “volunteers” (in e-voting PSs only). Only one case of intimidation was reported. In Sayram (63) a police officer was observed shouting and yelling at an Ak Zhol party proxy who claimed that voters were allowed to vote more than once. In one PS in Sayram, an Otan party proxy was observed greeting all voters on entering the polling premises.

Serious problems with the voters lists were reported from a number of STOs, especially those deployed to the city of Shymkent (58, 59, 60) and urban areas like the town of Turkestan (66) and Sayram (63). In Shymkent (60), one team, while present in a PS,
observed some 30 voters not finding their names on the voter list, and were therefore turned away. Voters with bar codes affixed to their identification cards were also observed being turned away because their name was not on the electronic voters list. Major inconsistencies in dealing with inaccurate voters lists were observed. A number of PSECs solved the problem by making additional voters lists, procedures ranging from random addition to verification through higher electoral bodies. In other PSs voters (sometimes seemingly long-lived residents) were just turned away. Discrepancies between paper voters lists and electronic voters lists were observed in a number of PSs in the three Shymkent constituencies. The differences in the number of registered voters on paper and electronic lists reported by STOs varied between 21 and 370 voters.

In rural areas, polling staff often allowed voters to cast their votes without checking ID cards. Family- and group voting are still very common, in a number of cases, family members were seen entering the polling booth together.

E voting meant a special challenge for polling staff, in the sense that many voters needed extensive help in this exercise. In many cases, the chair person or polling staff were seen entering the polling booths with the voters to further explain e voting procedures. Party proxies were in some cases observed assisting polling staff, in one case party proxies from party Asar and Bloc AIST were seen assisting voters with e voting inside the polling booth (in Taraz, 30).

Observation of counting and aggregation of results

Most STO teams report the counting process to be very slow, for the most open and transparent, though procedurally weak. A few teams report an almost “chaotic” process, while other teams have found the counting process efficient and completed in accordance with prescribed procedures.

In Saryagash (62), one PS reported 5 requests for mobile voting in the morning, but at the count there were 34 ballots in the box. PSEC refused to provide a list of requests for mobile voting. In Mahtaaral (64), the ballots from the mobile box were not accounted for separately, but were added to the rest of the ballots before being counted. In addition several STO teams observed party proxies taking an active role in administering the counting.

STOs in South Kazakhstan and Zhambyl regions were for the most able to access necessary protocols, even though several teams had to be firm, pushy and very persistent to succeed.

At ConEC/DEC/TEC, STOs report few specific problems, but the process is often assessed as non-transparent, mostly due to overcrowded premises. In Ordabassy (65) STOs were, in an atmosphere described as very unpleasant, denied access to TEC premises where aggregation of results from the party list race took place.

In spite of many allegations and contacts made to the LTOs claiming fraud was taking place in a number of PSs across South Kazakhstan and Zhambyl region, there were no specific reports from STOs having observed intentional or suspected fraud on polling day (apart from the questionable observations regarding mobile voting already mentioned). On the day following the election day, the LTOs were given copies of two different protocols from one PS in Shardara (67) suggesting that fraud may have taken
place here. See 10.4 Election Day Observation Report from STO for information about suspected fraud in Aktobe/Aktuybinskaya region.

In South Kazakhstan region, there had to be a second round of election in eight out of ten constituencies (out of altogether 22 second rounds countrywide). The two constituencies that managed to elect deputies to the Majilis in the first round was Sayram (63) and Shardara (67). As mentioned earlier, two questionable last minute de-registrations of expected strong candidates took place in these two constituencies. In Shymkent (58) there was also a last moment de-registration of a candidate. REC/ConEC had to organize a recount here September 20, resulting in a second round of election also in Shymkent (58).

Election Day Observation Report from STO Berit Lindeman

General overview

STO team 07/04, Berit Lindeman and Stephen Paul, UK was deployed to the North-Western city of Aktobe (formerly Aktuybinsk), the administrative centre of the vast Aktyubinskaya oblast. The total of the oblast population is 730 000 consisting of Kazakhs, Russians, Germans, Tatars and others. The region has a mixture of agriculture and industry, and was during Soviet time infamous for its nuclear testing. Currently the region sees an increasing foreign investment linked to the extraction of oil and gas in the areas towards the Caspian Sea in the South.

The team observed the Aktobe city central electoral district, district 11, in addition to a few polling stations outside the city in the villages Novoye, Kurashasay and Sasdy, district 12. The majority of the city districts’ polling stations had been listed for the new electronic voting system. The team visited a total of 22 PECs prior to election day. Overall, the polling stations had been both well equipped and a limited number of the members of the commissions had been trained for the use of electronic voting. In addition there were technical personnel who had the overall responsibility for managing the system. Interestingly, we found that several of the polling stations also had additional personnel claiming they had responsibility for “security” of the electronic voting, even though no instructions were given about such personnel. One of these personnel, in polling station 61, claimed he was employed by and reported to the National Security (formerly KGB). As it turned out, when the final decision from the Central Elections Commission to which extent the electronic voting would be employed was made the day before voting day, a dual system of optional paper ballot voting and electronic voting should be used, but only for a selection of the polling stations in the area. The ballot papers were distributed the same day, although they according to the Election Law article 37 item 3 should have been 7 days before election day. No domestic observers were present during the distribution of ballot papers.

Opening and voting.

On polling day the team visited a total of 12 polling stations. The opening was observed in polling station 52. Upon arrival, it turned out that the opening procedures had finished without the presence of observers, even though the team arrived at 06.10 am, twenty minutes before the opening procedures should have started. However, the opening protocol had been filled in and the ballot boxes were transparent and sealed according to
procedure. The voting procedure was overall well conducted without serious incidents. However, the team witnessed several minor violations ranging from group (“family”) voting, voters being ‘assisted’ as e-voting was explained to them, inconsistent use of envelopes for ballot papers, and varying degrees of attendance by PEC members during the day. Concerning the e-voting in particular, we did note that no polling stations that we visited had a single method for registering voters. The voters could either register for e-voting through the bar-code of the identity card or sign the voters’ list to collect their ballot papers for paper voting, giving scope for double registration. But, the team did not observe this was in fact exploited. In addition, several voters complained that they had not been able to receive the so-called “ID-code” that should enable them to check electronically that their vote had been registered correctly.

Closing and counting.

The team chose to visit polling station 61 in district 11 to observe the count because this was where the team came across an individual who freely admitted he was from ‘National Security’ there to ensure the safety of the e-voting equipment.

When the team arrived at the polling station 40 minutes before closing the independent observers were quite agitated with the PEC Chair, the Head of the School where polling was taking place, and relations between them was fraught. They informed us that according to their observation some 500 voters had arrived during the day to cast their votes. The PEC Chair did not allow neither international nor domestic observers to get anywhere near the table where the count was to take place. When the polling station closed the PEC Chair announced with undue haste that there were 1569 paper votes to count (from a potential total of 2170, less 136 e-voters). This caused uproar among the observers and forced a reluctant PEC to count the signatures on the voters list. The team tried to witness this process but was rudely ordered away. The Chair had a heated telephone conversation with District Election Commission complaining that she was being hassled by observers. According to what the team could observe of signatures in the voters’ register, it did seem that the observers’ assertion that only some 500 voters had cast votes was reasonable. Nevertheless, and after what seemed several counts, a now glum PEC repeated their claim that there were 1569 votes to count.

When the count began the view was obstructed and the UK member of the team moved to a closer position to see the ballot papers being placed in piles. This prompted much shouting from the PEC Chair, more heated telephone calls and a policeman was summoned to move him away. The count was neither transparent nor systematic and at the end all papers were bundled together and tied with wire. The bundle was no thicker than a 500-sheet packet of printer paper, consistent with the observers’ assertion that only some 500 had cast their votes. A voter turnout of 500 out of a possible 2170 was also consistent with what we saw elsewhere.

After the results of the count were announced there was much commotion, so much so that the PEC withdrew to a classroom and placed a policeman on the door to keep everyone away. At this point the Chair disappeared without anyone noticing and was not seen again. After 1 ¼ hrs a member of the PEC was seen scuttling to an upstairs room with a packet that looked exactly the same as one seen earlier holding the ballots. No one was allowed to follow him and no member of the PEC would discuss anything with us. During this time copies of only 3 out of 5 protocols were reluctantly distributed to observers – neither the results of the ballot for parties nor the protocol for the
combined paper and e-ballot voting were produced. Throughout this time the independent observers made their dissatisfaction well known and handed the team a list of their grievances. The distribution of votes cast electronically was markedly different from those ballots counted by the PEC, with the pro-government parties Otan and Asar appearing to have benefited at the expense of the independent candidate.

After 2 hours waiting the team decided to go and see the District Chair to report what had happened. The team was treated courteously and listened to sympathetically. No notes were taken, but the team was assured that the matter “would be looked into once all material had been returned”. The team was unable to follow this up.

Of the 8 STO teams that were deployed to Aktobe it seemed that the 3 that remained in the town witnessed similar problems to us whilst the 5 teams that went out into the rural areas were well satisfied by the diligence they encountered. The behaviour shown at this particular polling station was in marked contrast to the teams’ experience elsewhere during voting procedures. It was the teams’ considered opinion that it witnessed blatant fraud at the count.

The Review of the Complaint Process

EOM says in their preliminary report that there seemed to be reluctance of election commissions at all levels to take decisions on complaints, often cases were referred to other authorities. In addition, the complaint process appeared to be inconsistently applied at lower level. Many complaints were not well documented and involved relatively minor issues.

According to the Law on Election, all acts of electoral commissions are appealable to a superior commission or the Court. Appeals have to be forwarded within 10 days (except appeals related to registration). In Kazakhstan, an important role in the complaints and appeals process is allocated to prosecutors. There are criminal penalties for election violations.

Parties, candidates and many other interlocutors in South Kazakhstan and Zhambyl region constantly expressed low confidence in the complaint and appeal system. Subsequently LTOs observed a general reluctance to forward formal complaints at all, most likely reflecting a general lack of faith in the effectiveness and fairness of the system.

The LTOs did find ECs at different levels handling complaints. Like in the rest of the country, the Prosecutor’s office played a very important role. Most cases or complaints (of any importance) were referred to the Prosecutor’s office for further investigation. Complaints were also filed with the Prosecutor’s office directly. The LTO were between ConECs, REC and the Prosecutor’s Office for the most able to access information and copies of important documents necessary for our observation work. An important exception was the last moment de-registration of a party Ak Zhol single mandate candidate from Sayram (63), the second and last Uzbek candidate in this constituency. In this case, the LTOs were denied access to relevant information and copies of documents both from ConEC and REC.
The LTOs agrees with EOM statement that the active involvement of the Prosecutor on one hand fills a gap, but on the other hand may provide a less transparent and independent method of dealing with complaints and appeals than would be the case with the ECs or the courts.

In South Kazakhstan and Zhambyl region, there were altogether relatively many de-registrations of candidates. As mentioned before (see 7 Party and Candidate Registration), LTOs question some of the chosen procedures, the timing and the grounds (disproportional sanctions?) for some of these de-registrations, especially the last minute de-registrations when no remedial actions could be taken. The LTOs found parts of this process non-transparent.

**Second Round of Elections**

According to the Election Law, second round elections are held in constituencies where none of the candidates have received more than 50% of the cast votes. In the second round, the candidate who received the highest number of votes and the next runner up compete for the seat. The second round is to be held within 2 months after the Election Day.

Majilis members from 45 (out of 67) constituencies were elected on 19 September. A second tour was needed in 22 constituencies, of which 8 were in South Kazakhstan region.

The second round for 19 September parliamentary election took place October 3, but was not observed by the Norwegian LTO.

**Conclusions**

The 19 September election was the first election to be held under the amended Election Law.

EOM states that, though further improvements are needed, the new election law provides a basis for increased transparency of the overall election process. In spite of this, a number of aspects of the improved election legislation were not implemented in an effective and impartial manner. The result was an election process that in many respects fell short of OSCE commitments and other relevant international standards.

The Norwegian observers’ observations correspond with the findings of the EOM. Limitations on the right to be elected and disproportional sanctions leading to de-registration, which may be imposed for minor criminal law violations, should according to EOM be further addressed. In South Kazakhstan and Zhambyl regions, LTOs observed a number of single mandate candidates being de-registered, some for, as LTOs saw it, questionable reasons.

Many concerns were raised regarding the composition of election commissions, which on all levels strongly favoured pro-presidential parties. There is a need for mechanisms
or ways to ensure that institutions responsible for appointing members to ECs at all levels provide for an inclusive pluralistic election administration.

The election administration worked hard under difficult circumstances, especially due to controversy and uncertainty regarding e-voting. EOM states that to build public confidence (a pre-requisite for successful introduction of a new e-voting system) it is necessary for a system to be proved secure, reliable, efficient, technically robust, open to independent verification and easily accessible to voters.

Serious problems with accuracy of the voters lists were found. There is a need for compiling a more comprehensive voters list.

Campaign was generally calm, but according to EOM there has been numerous allegations of bias in the decisions of local authorities, favouring pro-presidential parties. Examples of such biases, and examples of use of administrative resources on behalf of pro-governmental parties and candidates and pressure on voters were also observed by LTOs. Even though the new election law is a big step forward and clearly regulates the role of the authorities in regard to elections, “old habits die hard” according to some interlocutors in South Kazakhstan region.

There is a need for a more transparent and consistent application of the complaint and appeal process.

For the 19 September election, there was a strong bias in the news coverage of central television networks in favour of party Otan and Asar, even if new legislation allow for equal access and fair coverage. Concerns are raised regarding strict defamation laws which may put curbs on free speech and limit an open and pluralistic political debate.

17.6 percent of the single mandate candidates for the 19 September election were women. This is an improvement from the 1999 Majilis election. Few active steps have according to EOM been taken to support women’s participation in politics such as legal or voluntary quotas for female candidates.

Even though minority issues in general have not played a large role in the election campaign, it has been on the agenda in South Kazakhstan region. The LTOs observed the two (and only) Uzbek single mandate candidates being de-registered in Sayram (63) for allegedly inciting ethnic tension during their campaign activities.

Polling took place in a calm atmosphere, members of polling staff doing their best to cope with unclear regulations and last minute changes (in regard to e-voting). As in the rest of the country, a number of procedural weaknesses were reported both during polling and counting, indicating a need for more extensive training of EC staff. Group and family voting are still very common, likewise the problem with unauthorized persons on the polling premises. The fact that STOs in South Kazakhstan region on several occasions were denied access to closed polling stations (military compounds) also needs to be addressed.

Most likely, serious fraud took place at the count in PS 61, Constituency 11 in Aktyubinskaya region.
Comments on The Election Observer Mission

The LTOs received a comprehensive briefing on arrival in Almaty. In addition, core staff had arranged for one mid term briefing and a third briefing for LTOs on arrival of STOs.

In South Kazakhstan region, all the LTOs requests for Mission HQ in Astana/Almaty were processed promptly and efficiently, with quick resolution to LTOs satisfaction.

The LTOs found the preparation and the information flow good, taking into consideration difficult working conditions also for Mission staff in Astana/Almaty in accessing necessary and timely information from CEC.

In regard to regional briefings. It is important to ensure that all LTO teams, in addition to logistical information and support, also provides STOs with more substantial information like a proper assessment of the regional political situation, LTOs main observations in the region so far, level of preparation for election as LTOs sees it, special concerns and focuses etc.

Appendices

(Not published in the web format)

1. OSCE/ODIHR Statement of Preliminary Findings and Conclusions
2. Results: Proportional contest and Single Mandate Candidates race