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Observation de l'élection présidentielle en République du Kirghizstan (30 octobre 2011)

Election observation report

Bureau of the Assembly

Rapporteur: Ms Nursuna MEMECAN, Turkey, Alliance of Liberals and Democrats for Europe

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1. Introduction

1. Following an invitation of 28 July 2011 from the Ministry of Foreign Affairs of the Kyrgyz Republic, at its meeting on 3 October 2011, the Bureau of the Parliamentary Assembly decided to set up an ad hoc committee of 5 members to observe the presidential election in the Kyrgyz Republic on 30 October 2011, the first election to be observed in the Kyrgyz Republic by the Parliamentary Assembly. Ms Nursuna Memecan was appointed Chairperson and rapporteur of the ad hoc committee.

2. In early October 2011, the Kyrgyz Republic expressed its intention to submit an application to obtain the status of partner for democracy with the Parliamentary Assembly of the Council of Europe in order to cooperate more actively and receive advice in the building of a parliamentary system of governance.

3. On 4 October 2004, the Parliamentary Assembly and the European Commission for Democracy through Law (Venice Commission) signed a co-operation agreement. Article 15 of the agreement states that "when the Bureau of the Assembly decides to observe an election in a country in which electoral legislation has previously been examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly's election observation mission as legal adviser". The Bureau of the Assembly thus invited a member of the Venice Commission to join the ad hoc committee as legal adviser.

4. On the proposal of the Assembly's political groups, the ad hoc committee was composed as follows:

- Nursuna MEMECAN, Head of the delegation, Turkey, Alliance of Liberals and Democrats for Europe
- Nikolaos DENDIAS, Greece, Group of the European People's Party



- Lord Donald ANDERSON, United Kingdom, Socialist Group
- Zmago JELINČIČ PLEMENITI, Slovenia, European Democrat Group
- Andrej HUNKO, Germany, Group of the Unified European Left

Venice Commission

- Aivars ENDZINS, member of the Venice Commission

Secretariat of the Parliamentary Assembly

- Ivi-Triin ODRATS
- Elodie FISCHER

5. The ad hoc committee formed part of the international election observation mission, which also included election observers from the Parliamentary Assembly of the OSCE, the European Parliament and the election observation mission of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

6. The ad hoc committee met in Bishkek from 28 to 31 October 2011. In the context of the joint briefing programme, it met representatives of the main candidates standing for election, the Central Electoral Commission, the Head of the OSCE mission, the Head of the OSCE/ODIHR election observation mission and her team, representatives of civil society, international organisations and the media. It also held bilateral meetings with the incumbent President, the Speaker of the Parliament, human rights defenders and the Mission of the Office of the United Nations High Commissioner for Human Rights in Osh. The programme of the ad hoc committee's meetings is reproduced in Appendix 1.

7. On election day, the ad hoc committee was divided into four teams deployed in Bishkek and the surrounding Chui region (three teams), Osh and Uzgen (one team).

8. The international election observation mission concluded that the presidential election in the Kyrgyz Republic was conducted in a peaceful manner, but shortcomings underscored that the integrity of the electoral process should be improved to consolidate democratic practice in line with international commitments. The joint international election observation mission press release published after the election is reproduced in Appendix 2.

9. The ad hoc committee wishes to thank the OSCE/ODIHR election observation mission in Bishkek for its co-operation.

2. Political and legal context

10. The early presidential election held in the Kyrgyz Republic on 30 October 2011 was the first one since the ousting of former President Bakiyev in April 2010, when a provisional government led by the parliamentary leader of the Social Democratic Party Roza Otunbayeva took power. A new constitution enhancing the role of the parliament was drafted and the provisional government called a referendum on the draft constitution on 27 June 2010. The new constitution, which limits the powers of the president and boosts those of parliament and the prime minister, was largely supported.

11. President Roza Otunbayeva was not a candidate for these elections and remains in office until the end of 2011. This presidential election was a key election for stability in the Kyrgyz Republic, where ethnic tensions escalated after April 2010. The major outbreak of violence between ethnic Kyrgyz and Uzbeks began on 10 June 2010 in Osh, the second largest city in the country and home to a substantial Uzbek minority, and reached Jalal-Abad on 13 June. This resulted in mass killings, looting, arson and a massive displacement of civilians. Tensions between the ethnic Kyrgyz and Uzbek communities have remained significant in Osh and Jalal-Abad throughout 2011. They have been exacerbated by the nationalistic rhetoric of politicians and local media. Other major human rights concerns to date have been allegations of ill treatment and torture in detention, the lack of due process and arbitrary detentions.

12. Parliamentary elections were organised on 10 October 2010 without any major disturbances. Three political parties in Kyrgyzstan agreed to form a governing coalition. The Respublika party joined the Social Democratic Party and the Ata-Jurt Party. The head of the Ata-Jurt party, Akhmatbek Keldibekov, was chosen as Speaker of the Parliament. Almazbek Atambaev, Chairperson of the Social Democratic Party, became Prime Minister.

13. Under the new Constitution adopted in 2010, the Kyrgyz President is elected for six years and is not allowed to run for another term. The President's role is to provide a balance in the creation of new legislation, appoint certain members of government (Minister of the Interior, Head of the National Security Council), declare war and act as Commander-in-Chief and represent the country internationally.

14. The presidential election of 30 October 2011 took place under a new legal framework completed as late as four months ahead of the election. This framework included the 2010 Constitution, the newly adopted Constitutional Law on Presidential and Parliamentary Elections and the Law on Election Commissions to Conduct Elections and Referenda, Central Election Commission instructions and decisions and related legislation governing the activities of media, non-governmental organisations and political parties.

15. In March 2011, the authorities of the Kyrgyz Republic requested the Venice Commission and the OSCE/ODIHR to provide an opinion on the draft Law on Presidential and Parliamentary Elections, the draft Law on Elections to Local Government and the draft Law on Election Commissions. In their opinion, the Venice Commission and OSCE/ODIHR expressed a number of concerns, including significant limitations to certain civil and political rights, short application deadlines of the new rules, and the uncompleted process of nomination of judges of the new Constitutional Chamber of the Supreme Court, which prohibited citizens from challenging the constitutionality of key provisions and which was seen in general as a potential source for undermining confidence in the fairness of the electoral process.

3. Electoral administration

16. On 30 June 2011, the Parliament of the Kyrgyz Republic scheduled the presidential election for 30 October 2011. As the new legislation on elections was adopted only in June 2011, this created conditions for the electoral administration, candidates and voters in general not to be fully aware of the rules applicable to this election.

17. The 2011 presidential election was administered by a three-level election administration system, as provided for by the law on election commissions: the Central Election Commission (CEC), 58 Territorial Election Commissions (TECs) and 2 318 Precinct Election Commissions (PECs). According to the law, TECs and PECs are formed for two years, and composed half by representatives of political parties and half by representatives elected by local *keneshes*. The ethnic composition of the TECs corresponds to the ethnic composition of the total population. In some areas with a large Uzbek population, members of the Uzbek minority appeared to be under-represented.

18. The CEC is elected by the parliament for five years and has 12 members. The parliamentary majority, the parliamentary opposition and the president each nominate four members. Four members are women. There is only one CEC member from a national minority (Kazakh).

19. According to the law, the CEC sessions are to be open to the media, candidate representatives and observers, and decisions are to be made public through the media and the CEC website. However, some international observers indicated that the CEC applied a practice whereby, in addition to short public sessions at which decisions were taken without discussion, the CEC held closed meetings without the presence of candidate representatives, observers or journalists. In addition, the CEC did not allow the observation of the printing of the ballot papers and did not disclose ballot security measures. According to the OSCE/ODIHR, the work of the Central Election Commission (CEC) lacked transparency.

20. The CEC accredited 792 international observers and 3 000 domestic observers were deployed by local organisations. International observers were only accredited 30 days before the election day, which restricted the period of observation.

4. Registration of candidates and electors

21. The deadline for registering candidates was 27 September 2011. Eligible candidates for the presidential election had to be no younger than 35 and no older than 70, demonstrate their knowledge of the Kyrgyz language (language test) and reside in the country for no less than 15 years. Candidates had to register with the CEC in order to be listed on the ballot papers. A nominee had to collect at least 30 000 signatures of eligible voters to register as a presidential candidate and pay an election deposit of 100 000 soms (€1565).

22. A total of 23 candidates qualified to run the elections (83 were initially declared to run), of whom 10 were nominated by political parties and 13 were self-nominated. By the 27 October registration deadline, seven candidates withdrew, thus leaving 16 candidates in the running. This short registration deadline, which

ran up to three days prior to the election day, led to the additional burden of each PEC having to manually cross out the names of the withdrawn candidates on each printed ballot paper. None of the candidates were female or representatives of a national minority.

23. The CEC was responsible for managing voter lists, according to a new unified system of voter registration. A total of 3 034 046 voters were registered in the country, of which 38 056 registered to vote abroad. Out-of-country voting took place in 29 polling stations in 23 countries.

24. The new system introduced two fundamental changes to voter registration procedures. First, the new electoral law established the concept of an “electoral address” that would allow voters to vote at their actual place of residence, regardless of their permanent registration. Secondly, the possibility to be added to the voter lists on election day was abolished; voters had to verify at least 10 days prior to election day that they were on the voter list. The latter could be done in PECs as well as through the CEC website.

25. The International Election Observation Mission (IEOM) noted that, whereas the decision to create a unified voter registration system under the auspices of the CEC was a considerable improvement, the overall quality and accuracy of voter lists remained a significant concern throughout the electoral procedure. On the one hand, the CEC was limited in its ability to cross-check data and remedy errors (a merged database had to be abandoned because of irreconcilable duplications), and, on the other, the inconsistent voter registration procedures led to the exclusion of a considerable number of voters. Mobile door-to-door verification was used but the efficiency varied from district to district because of an inconsistent understanding of mobile verification procedures.

5. Pre-electoral period: campaign environment, media situation and participation of national minorities

26. Due to the large number of candidates and in the absence of a clear front-runner, it was expected that the campaign period would be highly competitive and possibly result in a second round. The campaign remained however low-key, driven by personality rather than issues, and was conducted in a relatively calm atmosphere, despite underlying tensions – notably in the South of the country. Only six candidates had high visibility in printed campaign materials.

27. According to the OSCE/ODIHR long-term observation, all presidential candidates were able to campaign freely and without impediment. Freedom of assembly and speech were respected throughout the country during the campaign. Ten of the 16 presidential candidates signed a Code of Honour for parties, candidates and supporters.

28. Members of the ad hoc committee were informed of allegations of misuse of institutional authority and administrative resources. Cases were reported in Bishkek of university students and staff being pressured to submit applications to vote by their “electoral address”, and, in a few of these cases, they were reportedly directed to vote for one particular candidate. However, this remained unverifiable.

29. Freedom of expression has been viewed as one of the most significant achievements after the events of April 2010, which has resulted in the establishment of a public broadcaster and decriminalisation of libel.¹ Some concern still remains regarding self-censorship and level of professionalism of journalists.

30. All in all, the OSCE/ODIHR election observation mission, monitoring media, assessed positively the wide range of information available to voters, with minor downsides such as lack of independent editorial coverage, broadcast media refraining from covering the campaign outside the official campaign spots or lack of analysis in the broadcast media, which was mainly attached to the cautious interpretation of unclear legal provisions. Public and state-funded media generally adhered to their obligation to provide free media space for registered candidates, of various format. Political debates enabled candidates to convey their views and platforms. Print media offered readers a wide range of information; however, many outlets were reported to have displayed an unbalanced portrayal of the contestants.

31. The ad hoc committee noted that certain local cable operators restricted access to some international news channels. This was prompted by the interpretation of Article 22 of the electoral law that prohibits campaigning via foreign media, but was arbitrarily applied to BBC, CNN and Euronews which were taken off the air whereas the Russian first channel was aired with a delay and other Russian channels, such as RTR, RTR24 or TV Center, and Deutsche Welle continued to be aired live. The ad hoc committee wishes to underline that such restrictions have no legitimate basis and are not in line with OSCE commitments or Council of Europe principles.

1. The Kyrgyz Republic is the first of the Central Asian countries to decriminalise libel.

32. In the aftermath of the ethnic tensions of 2010, the OSCE/ODIHR long-term observers noted the absence of inter-ethnic relations among predominant issues of the election campaign, even if some candidates called for the nation's unity without specifically addressing matters pertaining to integration or participation of national minorities. They attached this to the lack of adequate integration policies and slow progress in the security situation in areas populated by national minorities, which, in turn, had created a general sense of apprehension and isolation among these communities.

6. Election Day

33. On election day, voting in the majority of the country's 27 000 polling stations was reported to have taken place in a calm and well-organised atmosphere, an opinion shared by the four teams observing on behalf of the Assembly. The relatively high voter turnout (61.28%) indicates that this election was perceived as being relevant for the country's future.

34. Although frequent references had been made during the pre-electoral period to the use of administrative resources, members of the ad hoc committee did not perceive or hear any allegation of intimidation or forced participation in the voting process. Nevertheless, the IEOM reported the presence of unauthorised people in 26% of the PECs visited, although in 93% of cases they did not interfere with the work of the commissions.

35. The ad hoc committee welcomed the large number of domestic political party and NGO observers who were present in the vast majority of the polling stations observed. It also commends the active participation of women in the electoral process – as members of the PECs, observers and voters. For example, 56% of the Chairs of the PECs observed by the IEOM observers were women. The ad hoc committee encourages the further engagement of women in the democratic process through seeking a higher level representation.

36. The ad hoc committee nevertheless observed a number of irregularities in implementing electoral procedures, which cast doubt on the election living up to international democratic standards. The teams observing in Bishkek and its surroundings encountered difficulties with the already mentioned accuracy of voter lists, which prevented many citizens from carrying out their electoral duty, and the absence of systematic application of the inking procedure. The number of voters per PEC sometimes amounted to 3 000 persons, which led to overcrowding in these stations at peak hours. The team observing in Osh and Uzgen noted numerous cases of family voting, problems with inking and certain culturally sensitive forms of intimidation of ethnic minority voters, for instance, by playing loud Kyrgyz music in predominantly Uzbek neighbourhood PECs.

37. The IEOM observers remarked the poor quality of voter lists across the entire country. Voters who had checked themselves on voter lists, had previously been on or applied for inclusion were not found on election day. In at least a few regions, PECs allowed voters to vote even though they were not on the voter lists. This was done contrary to the election law and CEC instructions, yet reportedly with TEC approval. In some cases, the TEC reportedly issued an instruction stating that voters should be allowed to vote in cases where they were included in previous versions of lists used during the initial display period.

38. The members of the ad hoc committee assessed positively the transparency and efficiency of the vote count in the PECs observed; however, they were informed that this was not the case everywhere in the country and that the situation deteriorated during tabulation in a number of TECs, where the access of international observers was restricted and procedures with protocols were not respected.

39. As a result of this election, Mr Atambayev obtained 63.24% of the votes, leaving other contestants far behind (Mr Madumarov – United Kyrgyzstan – 14.72%; Mr Tashiev – Ata Jurt – 14.32%; Mr Asanbekov – 0.9%, etc.).

7. Conclusions and recommendations

40. The presidential election in the Kyrgyz Republic held on 30 October 2011 constituted an important step in the completion of the transitional period after the 2010 events. The citizens of the Kyrgyz Republic had the opportunity to choose from among a plurality of candidates and make informed choices as a result of free broadcast and print media. The outcome reflects the overall will of the electorate and the aspiration of the population towards enhanced stability and consolidation of the democratisation process in the country.

41. The ad hoc committee welcomes the political will of the Kyrgyz authorities to organise democratic elections. It welcomes the overall professionalism and dedication of electoral administrators but calls on the authorities to urgently address the shortcomings mentioned in this report, in particular as regards bringing election legislation into line with international standards and improving voters' registration and the accuracy of voter lists.

42. The ad hoc committee urges the Kyrgyz authorities to commit themselves to further reform and building up a truly pluralist democratic society along the ground lines of the 2010 constitutional reform, respect for human rights and the rule of law, and the establishment of functioning democratic institutions. Following this presidential election, all political actors should do their utmost to consolidate the achievements so far attained and make the protection of human rights, the fight against corruption, the implementation of the rule of law and reconciliation between communities their top priorities.

43. The ad hoc committee invites the Assembly and other relevant bodies of the Council of Europe to reinforce their co-operation with the Kyrgyz Republic, within the context of the partnership for democracy programme as well as in legal co-operation. The Council of Europe should provide its expertise in the functioning of parliamentary democracy, the promotion and protection of human rights, the protection of the rights of national minorities and the standards set forward in the international legally binding instruments of the Council of Europe. On the other hand, the Organisation should remain vigilant as regards the implementation of the progressive laws adopted in 2010 and 2011 and further steps taken in reforming the judiciary and the police as well as in curbing corruption.

Appendix 1 – Programme

Friday, 28 October 2011

10:00 -10-45	Ad hoc Committee meeting Recent developments in the field of election legislation, Mr Endzins, Member of the Venice Commission Practical and logistical arrangements, Secretariat
11:00 – 12:00	Meeting with Ms Roza Otunbayeva, President of the Kyrgyz Republic*
12:00 – 12:15	Opening by the Heads of Parliamentary Delegations Ms Walburga Habsburg Douglas, Head of the OSCE Parliamentary Assembly Delegation and Special Co-ordinator to lead the short-term OSCE observer mission Ms Inese Vaidere, Head of the European Parliament delegation Ms Nursuna Memecan, Head of the delegation of the Parliamentary Assembly of the Council of Europe
12:15 – 12:35	Political Context Ambassador Andrew Tesoriere, Head of the OSCE Centre in Bishkek Ambassador Chantal Hebberecht, Head of the Delegation of the European Union to the Kyrgyz Republic
12:35 – 14:00	Briefing by the OSCE/ODIHR Election Observation Mission Introduction Ms Corien Jonker, Head of the OSCE/ODIHR Election Observation Mission Political overview, campaign activities and media landscape Mr Jarek Domanski, Political Analyst Mr Ivan Godarsky, Media Analyst Elections framework, polling procedures and observation forms Ms Meaghan Fitzgerald, Legal Analyst Ms Simeon Apostolov, Election Analyst and Mr Steven Martin, Election Analyst Mr Oskar Lehner, Deputy Head of the OSCE/ODIHR Election Observation Mission and Mr Anders Eriksson, Statistics Expert Security Mr Robin Seaward, Security Expert Questions and answers
14:00 – 14:45	Meetings with NGOs Ms Ainura Usupbekova, Executive Director, “Taza Shailoo” Mr Abdy Kerim Ashyrov, “Citizens against Corruption” Human Rights Center Ms Dinara Oshurahunova, “Coalition for Democracy and Civil Society”
14:45 – 15:30	Panel discussion with media representatives Mr Sultan Jamagulov, Director, Radio Azattyk Mr Meerim Oroobekova, Head of Secretariat, National Television and Radio Broadcasting Corporation Mr Alexander Tuzov, Deputy Editor-in-Chief, Vecherniy Bishkek Mr Vitalij Shestakov, Lawyer, Channel 5
16:00 – 18:30	Meeting with human rights defenders* Ms Aziza Abdirasulova, NGO Kylym Shamy Mr Dmitry Kabak, Open position public fund Mr Nurbek Toktokunov, Lawyer and Director of the NGO “Precedent” Meeting with Ms Chiara Pallanch, Human rights officer, Mission of the Office of the High Commissioner for Human Rights in Osh
19:00	Reception organised by the Turkish Embassy, in presence of ambassadors of all Council of Europe member states represented in Bishkek and of the Ambassador of the European Union*

Saturday, 29 October 2011

10:00 – 11:00	Electoral Administration Ms Gulnar Djurabaeva, Deputy Head of the Central Election Commission Mr Nurmamat Ashimov, member of the Central Election Commission Mr Kanatbek Abdukadyrov, member of the Central Election Commission
11:00 – 13:00	Meetings with Presidential Candidates (or proxies) Mr Farid Niyazov, representative of Mr Almazbek Atambaev, candidate Mr Kubatbek Baibolov, candidate Mr Bekibaj Mamytov, representative of Mr Adakhan Madumarov, candidate Mr Omurbek Suvanaliev, candidate Mr Samat Borubaev, representative of Mr Kamchybek Tashiev, candidate
13:00 – 13:45	Area specific briefing with long term observers Meeting and briefing with interpreters and drivers
15:00 – 16:00	Meeting with Mr Keldibekov, Speaker of the Supreme Council*
	Deployment
16:00 – 17:30	Meeting of Heads of Missions (1+1) in the OSCE/ODIHR office

* bilateral meetings organised by the Secretariat of the ad hoc committee

Sunday, 30 October 2011

All day	Observation of opening, voting and vote count
17:00 – 18:30	Debriefing meeting of Heads of Missions (1+1) in the OSCE/ODIHR office
22:00 – 23:00	Debriefing meeting of the ad hoc committee

Monday, 31 October 2011

08:00 – 08:45	Joint debriefing for Delegations
09:00 – 12:00	Meeting of Heads of Missions (1+1) in the OSCE/ODIHR office
14:00 – 15:00	Press conference
15:00 – 17:00	Parliamentary Round Table “The election through the eyes of observers” organised by the Kyrgyz delegation to the OSCE Parliamentary Assembly

Appendix 2 – Kyrgyzstan’s presidential election was peaceful, but shortcomings underscore need to improve integrity of process

PACE, OSCE PA, EP and OSCE ODIHR today made the following joint statement:

Strasbourg, 31.10.2011 – The presidential election in Kyrgyzstan was conducted in a peaceful manner, but shortcomings underscored that the integrity of the electoral process should be improved to consolidate democratic practice in line with international commitments, international observers concluded in a statement issued today.

The observers noted that candidate registration was inclusive, giving voters a wide choice, and the campaign was open and respected fundamental freedoms. This was overshadowed by significant irregularities on election day, especially during the counting and tabulation of votes. Measures should be taken to improve voter lists, to amend electoral legislation and strengthen the polling process.

“Despite flaws with the voters lists and tabulation processes, we are cautiously optimistic about the future of democracy in Kyrgyzstan. Significant work is still needed at all levels for this country to live up to its commitments to hold democratic elections,” said Walburga Habsburg Douglas, the Special Co-ordinator to lead the short-term OSCE observer mission and Head of the OSCE Parliamentary Assembly delegation.

“We believe that this election is crucial for the future of the country and its further co-operation with the European Union. Overall, our delegation positively assessed the voting procedures on election day but we would like to underline the necessity to improve the voter registration system to further increase public confidence in the electoral system,” said Inese Vaidere, the Head of the European Parliament delegation.

“It was important that the people of the Kyrgyz Republic had the opportunity to express their choice in a peaceful and orderly manner. I hope this election will be a step towards breaking the vicious cycle of corruption, lack of implementation of the rule of law and ethnic tensions. We call on all political actors to continue doing their utmost for the stability of the country by protecting the human rights of all its citizens and respecting democratic standards,” said Nursuna Memecan (Turkey, ALDE), the Head of the Council of Europe’s Parliamentary Assembly delegation.

“The election made clear that serious action is needed to ensure the integrity of voting, counting and tabulation. This is crucial for consolidating democratic practice. Full transparency of the Central Election Commission’s work would significantly improve confidence in elections,” said Corien Jonker, Head of the Election Observation Mission of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

Election day proceeded in a calm atmosphere without violence and observers overall assessed the voting positively. A considerable number of voters were not on the voter lists and a number of cases of ballot box stuffing, multiple and family voting, vote buying, and bussing of voters were noted. The situation deteriorated during counting and tabulation, with a significant number of polling stations assessed negatively. In a number of cases, protocols were altered or completed by higher-level commissions. Many observers were restricted from following the counts and tabulations.

Campaign advertisements provided voters a wide range of information, but most broadcast media refrained from independent editorial campaign coverage, limiting voters’ ability to make an informed choice.

The Central Election Commission’s work was adequate but lacked transparency as it held closed-door sessions, at times restricted information, refused to disclose ballot security measures and forbade the observation of ballot printing on security grounds.

The lack of adequate integration policies and slow progress in improving the security situation in national minority areas created a general sense of apprehension and isolation among these communities and limited their involvement in the campaign.