



Office for Democratic Institutions and Human Rights

KYRGYZ REPUBLIC

EARLY PRESIDENTIAL ELECTION AND REFERENDUM

10 January 2021

ODIHR Limited Election Observation Mission
Final Report



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I. EXECUTIVE SUMMARY

Following an invitation from the authorities of the Kyrgyz Republic, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed a Limited Election Observation Mission (LEOM) for the 10 January 2021 early presidential election. In response to a subsequent invitation, an observation of the referendum was also carried out by the ODIHR LEOM to the extent made possible by its format and available resources. For the short-term election observation, an International Election Observation Mission (IEOM) was formed as a common endeavour of the ODIHR LEOM and a delegation of the OSCE Parliamentary Assembly. The ODIHR LEOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections as well as national legislation.

The Statement of Preliminary Findings and Conclusions issued by the IEOM on 11 January concluded that the election and referendum “were held against the backdrop of a political crisis that unfolded following the annulment of the October 2020 parliamentary elections. The legal framework allows for a competitive election, and fundamental freedoms were generally respected. The campaign, however, was dominated by one candidate who benefited from disproportionate financial means and misuse of administrative resources, resulting in an uneven playing field. Both electoral processes and debate were weakened by the linkage of presidential election and the referendum, and specifically to one candidate. Allocation of free airtime by public broadcasters provided a campaign platform to contestants; yet, an overall lack of critical media reporting, partially due to a restrictive legal media framework, limited the voter’s ability to make an informed choice. Election day was orderly and overall well administered, although COVID-related health regulations were not well implemented”.

Under the Constitution, the president is elected for a single six-year term. The parliament extended its own term and subsequently called a referendum related to the institution facing the election on the same day. The parliament passed the law appointing the referendum in a hasty manner, departing from the law-making procedures. The citizens were asked to choose between either a presidential or parliamentary form of governance of the country, with an additional choice of voting against the other two options.

The legal framework provides a sound basis for holding democratic elections. The election legislation was amended several times after previous presidential election, mostly in line with ODIHR recommendations. Yet, some longstanding recommendations remain unaddressed, such as concerning limitations on suffrage rights and the accreditation of media outlets. Simultaneous application of laws on elections and referenda revealed gaps and ambiguities that would merit additional regulation.

The election as well as the referendum were generally well organized by the three-level election administration. The Central Commission for Elections and Referenda (CEC) held its activities in an overall transparent manner and regulated various aspects of the electoral process. The CEC ensured comprehensive voter information on procedural aspects of the election and referendum and continued efforts to facilitate the participation of voters with disabilities in the process. Most ODIHR LEOM interlocutors assessed the performance of the lower-level election commissions positively; however, it

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

remains of concern that the CEC exhibited bias while handling electoral disputes. Women are well represented in election commissions.

Approximately 3.5 million voters were included in voter lists, while some 450,000 voters who had not undergone biometric registration remain disenfranchised. A previous opportunity for voters to temporarily change their place of voting was removed with the aim of preventing vote buying. This created obstacles in exercising the right to vote for those who were not able to get to the polling stations of their registration on election day as well as for around 300,000 voters who had address registration discrepancies. The CEC allowed some categories of citizens working at polling stations but not observers to vote at place of work, irrespective of registration address. The blanket denial of voting rights to those imprisoned and those declared incapable run contrary to international standards.

In an overall inclusive process, the CEC registered 18 presidential candidates, including 1 woman, and 15 campaign groups for the referendum. Several nominees complained about the shortened timeframe for the collection of signatures and lengthy procedural requirements for registration. The verification of signatures was transparent and consistent.

The election campaign was characterized by the broad dominance of Sadyr Japarov in terms of visibility, outreach and geographical scope. The referendum and election campaigns were waged in tandem, with Mr. Japarov being the only candidate aligning himself with the presidential governance option, thus rendering it the most prominent and visible. Other candidates could mostly campaign freely, but lacked the resources to conduct nationwide campaigns. Credible allegations of the misuse of administrative resources, including directed attendance of state employees at rallies and pressure on state officials and voters, as well as concerns about the involvement of organized crime in the election were raised throughout the process. Women were active participants in the campaign and constituted 30 per cent of attendees in observed rallies. Yet, gender equality issues were nearly absent from the campaign.

The laws on elections and referenda provide a level of transparency of campaign finance; however, certain aspects remain unregulated. While reasonable expenditure caps on the election campaign exist, there are no limits on campaign income and expenditures for the referendum. This allowed for use of disproportionate financial means for concurrent campaigns. While campaign funds must be channelled through a special bank account, the ODIHR LEOM was made aware of unaccounted expenses. Positively, the CEC published interim and final information on campaign incomes and expenditures of candidates and referendum groups. The CEC conducts a limited audit of campaign finances.

The vibrant media environment is constrained by a small advertisement market significantly affecting financial sustainability of most media outlets. Lack of thorough investigations of physical and verbal attacks on journalists creates an atmosphere of impunity. An overly broad interpretation of the law prohibiting incitement of racial or religious hostility, vague legal definition of campaigning and a history of excessive compensation claims in civil defamation cases serve as a deterrent for investigative, analytical and critical reporting and lead to self-censorship.

The overwhelming majority of election related news coverage monitored by the ODIHR LEOM was paid for by Mr. Japarov. The general directors of all four national state-funded televisions were replaced after the October protests, and all these broadcasters largely promoted the presidential system of governance during referendum. Public broadcaster *KTRK* exhibited bias against other referendum options and some candidates further depriving voters of the opportunity to make an informed choice. Contrary to legal requirements, the free time was allotted to candidates and referendum groups only in two out of four national state-funded broadcasters. Mr. Japarov was the only candidate who did not participate in the televised national election debates.

There were no ethnic minority representatives among the candidates, and issues related to inter-ethnic relations did not feature prominently in candidates' programmes. Official voter education and campaign materials were published only in the state (Kyrgyz) and official (Russian) languages. Various ethnic minorities remained significantly underrepresented in the election administration. There were no reported incidents of hate speech targeting national minorities in broadcast, print or social media.

The majority of complaints submitted to the CEC alleged violations of campaign rules. Most of these complaints were referred to the law enforcement bodies, and some were dealt with by CEC working groups without formal hearings at open CEC sessions. This diminished the transparency of election dispute resolution and effectiveness of remedies. Resolving complaints on campaign violations by the CEC during its sessions raised concerns over its impartiality due to a selective approach and inconsistent application of the law by the CEC. The courts respected due process and legal deadlines for the consideration of appeals. Nevertheless, several ODIHR LEOM interlocutors raised concerns regarding trust in the impartial resolution of election disputes by the judiciary, including due to concerns over political influence on the courts.

The Election law provides for observation of all stages of elections and referenda by candidates, civil society organizations, referendum campaign groups and international observers. The accreditation of observers and their access to the electoral process were inclusive. Several citizen groups undertook comprehensive long-term and short-term observation of the election and referendum.

The IEOM did not undertake systematic or comprehensive observation of election day proceedings. In the limited number of polling stations visited, the voting process was orderly and overall well administered; however, at times, the secrecy of voting was compromised. Protective measures against the spread of the COVID-19 were not consistently implemented during the election day by the polling staff. Counting was conducted in a transparent manner without delays; however, inconsistent consideration of ballot validity was noted. During tabulation, voting results from eight polling stations for the election and from ten polling stations for referendum were invalidated.

The CEC posted detailed preliminary results on its website shortly after the end of voting, thus ensuring transparency. The voter turnout exceeded 39 per cent, thus meeting the required 30 per cent threshold for validity of the referendum. Official election and referendum results were announced by the CEC on 20 January, but two CEC members voted against the adoption of both results, citing violations leading up to the election and referendum.

This report offers recommendations to support efforts to further align elections in the Kyrgyz Republic with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations focus on holding and appointment of the referendum, transparency of decision-making by the CEC, enfranchising some groups of voters, strengthening the transparency of campaign finance, enhancing media coverage of election and referendum campaigns, ensuring full respect for media freedom and impartial consideration of complaints. ODIHR stands ready to assist the authorities to address the recommendations contained in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the authorities of the Kyrgyz Republic, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed a Limited Election Observation Mission (LEOM) for the 10 January 2021 early presidential election. In response to a subsequent invitation from 15 December 2020, the ODIHR LEOM observed the referendum to the extent made possible by its format and available resources. The Mission, established on 9 December, was led by Tamás Meszerics and consisted of 15 core team members based in Bishkek and 22 long-term observers deployed to all seven

regions and the cities of Bishkek and Osh on 15 December. The ODIHR LEOM was drawn from 19 OSCE participating States and remained in Kyrgyzstan until 23 January.

For the short-term election observation, an International Election Observation Mission (IEOM) was formed as a common endeavour of the ODIHR LEOM and a delegation of the OSCE Parliamentary Assembly (OSCE PA). Peter Juel-Jensen was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and leader of the OSCE short-term observers. Each of the institutions involved in this IEOM has endorsed the 2005 Declaration of Principles for International Election Observation. In total, 84 observers from 23 OSCE participating States were deployed, including 40 observers deployed by ODIHR and 44 observers from the OSCE PA; 30 per cent of members of the IEOM were women.

The ODIHR LEOM assessed compliance of the electoral and referendum process with OSCE commitments, other international obligations and standards for democratic elections as well as national legislation. In line with ODIHR's methodology for the LEOMs, the IEOM did not observe election day proceedings in a systematic and comprehensive manner, but visited a limited number of polling stations throughout the country. This final report follows the Statement of Preliminary Findings and Conclusions, which was released at a press conference in Bishkek on 11 January.²

The ODIHR LEOM wishes to thank the Central Commissions for Elections and Referenda (CEC) for the invitation to observe and for their co-operation throughout the process as well as the Ministry of Foreign Affairs for the assistance. The ODIHR LEOM also expresses its appreciation to representatives of other state and local institutions, election administration, political parties, candidates, civil society media, the OSCE Programme Office in Bishkek and international community for their co-operation and for sharing their views.

III. BACKGROUND AND POLITICAL CONTEXT

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

After the protests grew and turned violent, the CEC voided the voting results on 6 October. This was followed by a period of uncertainty, during which a former member of parliament (MP), Sadyr Japarov, claimed the office of the prime minister and was confirmed in this position on 14 October by the outgoing parliament, which had extended its own mandate.³ The then-President Sooronbay Jeenbekov, who would have served until 2023, resigned on 15 October. Next in line for presidential succession would have been the then-speaker of parliament Kanatbek Isaev, yet he declined to take up the office, stating that he would not be able to stand for presidential election if he were to assume the office.⁴ Thus, the acting presidency, according to the constitution, passed to Prime Minister Japarov, who subsequently filled both offices. On 24 October, the CEC announced the early presidential election.

Mr. Japarov formed an interim government, which included members from a wide range of the political spectrum. During his 28 days as acting president, Mr. Japarov replaced key state security officials as

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

³ Mr. Japarov had been serving an 11-year prison sentence since 2017 at the time, but was freed when his supporters stormed the detention facility on 5 October.

⁴ According to the Constitution, holders of the office of president cannot stand as candidates.

well as a large number of regional officials throughout the country, including all seven governors. In the run-up to the election, 20 politicians and high officials were arrested on corruption charges.

On 14 November, Mr. Japarov resigned from the position of acting president and suspended his position as prime minister in order to stand as a candidate. The newly appointed speaker of parliament Talant Mamytov became an acting president.⁵

During this period, a group of MPs, in line with Mr. Japarov's stated goals, proposed draft of a new constitution with wide-ranging changes that would have vested the president with significantly increased powers. A constitutional referendum was announced for 17 November. The proposition, however, sparked widespread protest from civil society and concerns from the international community.⁶ Eventually, the referendum on the new constitution was replaced with a referendum, in which voters were asked to choose the form of governance - presidential or parliamentary, or vote against all options. Given that candidate Japarov was the initiator and principal advocate for the presidential model, an intrinsic connection between his presidential campaign and the referendum developed.⁷

The authorities should not hold elections and referendums on the same day if the referendum is about the institution facing election.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

Under the Constitution, the president is elected for a single six-year term by direct universal suffrage. A candidate who receives more than one half of the votes cast in the first round is declared elected. If no candidate receives the required majority, a second round takes place between the two front-runners. Addressing a previous ODIHR recommendation, the law provides a timeframe for the run-off, which should take place within 20 days from the announcement of the first-round results. There is no turnout requirement for the validity of either round. The law requires a participation threshold of 30 per cent of registered voters for a referendum to be valid.

The legal framework for elections and referenda is comprised of the 2010 Constitution, the 2011 Constitutional Law on Presidential and Parliamentary Elections (Election law), the 2016 Referendum Law, the 2011 Law on Electoral Commissions for the Conduct of Elections and Referenda (Law on election commissions) and other legislation.⁸ Kyrgyzstan is a party to the main international treaties related to democratic elections.⁹

⁵ Mr. Japarov never relinquished these offices via legal acts, but just announced it in a public speech.

⁶ Concerns were both substantial and procedural: the draft constitution proposed weakening of the parliament in favour of a strengthened presidency and a new type of national assembly - *Kurultay*. Procedurally, introduction of such far-reaching changes by an outgoing parliament, which had extended its own mandate, was seen as problematic by the Constitutional Chamber and by the [Venice Commission's 2020 urgent amicus curiae brief relating to the postponement of elections motivated by constitutional reform](#) (hereinafter Amicus Curiae Brief).

⁷ [The Venice Commission's 2020 Revised Guidelines on the holding of referendums](#) advise against holding elections and referendum on the same day "if the referendum is about the institution facing elections".

⁸ Including the Law on Political Parties, the Law on Peaceful Assemblies, the Criminal Code, the Code on Infractions, and Code on Minor Offences.

⁹ These include the 1966 [International Covenant on Civil and Political Rights](#) (ICCPR), 1965 [Convention on the Elimination of All Forms of Racial Discrimination](#), the 1979 [Convention on the Elimination of All Forms of Discrimination Against Women](#) and its optional protocol, the 2002 CIS [Convention on Standards of Democratic Elections, Electoral Rights and Freedoms](#), the 2003 [UN Convention Against Corruption](#) (UNCAC) and the 2006 [Convention on the Rights of Persons with Disabilities](#) (CRPD).

The electoral legal framework has been amended several times since the last presidential election. Most of the amendments were in line with previous ODIHR recommendations and contributed to an adequate regulation of the election administration, citizen observation, electoral participation of persons with disabilities, participation of volunteers in campaign, rights of observers, election disputes and sanctions for electoral violations.¹⁰ The 2020 amendments excluded the possibility to temporarily change the voting address for voters residing in the country and lowered the threshold for the return of the electoral deposit for presidential candidates. Some longstanding ODIHR recommendations remain unaddressed, including those concerning the suffrage rights and accreditation of media outlets.

The Referendum Law regulates basic aspects for holding referenda; however, it is vague on salient issues, such as the definition of referendum campaign, deadlines for allocation of free airtime to referendum campaign groups, and details on financing of the referendum campaigns. The simultaneous application of laws on elections and referenda revealed gaps and ambiguities that would merit additional regulation (see *Media* and *Campaign Finance*). While the CEC addressed some shortcomings by issuing regulations, its interpretation of the law did not always facilitate the actions of stakeholders.¹¹

On 22 October, the outgoing parliament adopted a law that suspended the holding of repeat parliamentary elections.¹² The suspension was justified, among others, by the explicit goal to conduct constitutional reform.¹³ While the Constitutional Chamber of the Supreme Court (Constitutional Chamber) upheld the law, it criticised the length of the suspension and noted the lack of mandate of the expired parliament with regard to constitutional reform.¹⁴ Despite these conclusions and criticism from the civil society, on 10 December, the parliament appointed a referendum on the form of governance, in violation of the constitutionally prescribed procedures for law making and bypassing public consultations.¹⁵ The appointment of the referendum was challenged in the Constitutional Chamber that rejected the complaint as inadmissible stating that the rights of the applicant were not affected, as the need for public consultations cannot “impede the rapid manifestation of the legislative power”. This reasoning is at odds with the right of citizens to participate in discussion of the legislation.¹⁶

The appointment of referenda, as any legislative activity, must comply with the rule of law requirements, including the timeframes. In particular, it should be adopted at the end of an inclusive and consultative process.

¹⁰ Importantly, legal changes in 2017 and 2019 introduced the definition of misuse of administrative resources and sanctions for such misuse and vote-buying.

¹¹ The CEC issued an instruction providing some groups of voters with the possibility to vote in polling stations where they work (see *Voter Registration*). However, the CEC limited the free-media time, calculating the number of hours from the moment of their distribution, rather than from the appointment of the referendum (see *Media*).

¹² On 24 October the Administrative court annulled the CEC decision from 21 October to hold repeat elections.

¹³ [The Venice Commission's 2020 Amicus Curiae Brief](#) stated: “With respect to the actual aim of the suspension, [...] outgoing parliament *in prorogatio* would in principle lack the democratic legitimacy to carry out constitutional amendment”.

¹⁴ The Constitutional Chamber stated that the suspension of new elections for eight months was “excessive and unjustifiable by objective circumstances”. It also noted that “in the prolongation period, the activity of the parliament must be guided by the principle of reasonable restraint”. The Venice Commission’s Amicus Curiae Brief noted that the outgoing parliament should not “approve extraordinary measures, including constitutional reforms”.

¹⁵ The parliament held first reading of the referendum bill on 9 December, and the second and third readings took place on 10 December, and the law on calling the referendum entered into legal force on 11 December. The parliamentary Rules of Procedure envisage breaks of at least 10 days between the readings of a law, with the MPs receiving draft laws no less than 3 days in advance of parliamentary hearing. Paragraph 5.3 of [the 1990 OSCE Copenhagen Document](#) commits OSCE participating States “to comply with the constitution and act in a manner consistent with the law”. The Venice Commission’s Amicus Curiae Brief urged that “[d]isregarding law and the established procedure for the enactment of laws is itself damaging to the rule of law as it undermines the expectation of transparency and accessibility in the law-making process”.

¹⁶ According to Article 52 of the Constitution, citizens have the right to participate in discussion of legislation.

According to the Referendum law, the decision taken in a referendum is binding.¹⁷ However, the nature of the referendum question was such that it could not lead to an automatic constitutional change, which left the constitutional consequences of this referendum unclear.¹⁸ While the referendum asked voters to choose between the presidential and parliamentary systems of governance, a council appointed by the acting President Mamytov for drafting a new constitution informed the ODIHR LEOM that it had already developed a draft constitution, which would provide for a presidential system.

The Referendum law should clearly define the kinds of proposals which may be put to a referendum and the corresponding effect of decisions taken on referenda, in order to provide for an informed choice by voters and legal certainty about referendum results. Proposals put to a binding vote should be capable of unambiguous implementation.

V. ELECTION ADMINISTRATION

The election and referendum were administered by the CEC, 54 Territorial Election Commissions (TECs) and 2,474 Precinct Election Commissions (PECs), including 48 PECs established abroad. All election commission members are appointed for five-year terms. According to the ODIHR LEOM interlocutors, holding of concurrent election and referendum in a shortened timeframe posed additional challenges for the preparation of the electoral processes in COVID-19 pandemic conditions.¹⁹ In the election administration, women represented around half of the TEC members, but only four CEC members, including the CEC chairperson, are women.

The CEC is a permanent and collegial body responsible for the organization of elections and referenda. Its members are appointed by the parliament upon nominations from the president, the parliamentary majority and the opposition, who nominate four members each. Whereas most of the current members were appointed in June 2016, two were recently replaced.²⁰

The CEC held regular open sessions, which were attended by media, observers and candidate representatives and live-streamed online.²¹ Sessions were often announced on the CEC website shortly before their start, not providing sufficient time for all to attend. Most of the CEC decisions were published on its website within 24 hours, as prescribed by law; however, some decisions on complaints were published with significant delay.²² The ODIHR LEOM observed that while decisions on technical matters were mostly passed unanimously, the CEC was often exhibited bias in favour of certain candidates when dealing with complaints and other alleged violations of the electoral legislation.²³

¹⁷ The law states that such decisions do not need an additional approval.

¹⁸ Paragraph I.3.1.c of the Venice Commission [2007 Code of Good Practice on Referendums](#) states that “electors must be informed of the impact of their votes, and thus of the effects of the referendum”.

¹⁹ According to Article 48.2 of the Election law, the timeframe for an early election is shortened by a quarter.

²⁰ One CEC member resigned in September due to his candidacy in the 2020 parliamentary elections, while another member resigned in October after strongly criticizing the CEC for not responding to alleged violations and fraud.

²¹ Notably, livestream was not available for any of the three events of drawing lots that the CEC held: on 14 December, when the free airtime and print space was distributed among candidates; on 19 December, when the order of candidates on the ballot was established; and on 28 December, when the free airtime was allocated among referendum campaign groups.

²² For example, at least seven complaints were resolved by the CEC on 4 December; however, relevant decisions were published on the website only ten days after their adoption.

²³ According to Article 12.3 of the Election law, election commissions must act impartially.

Several ODIHR LEOM interlocutors also questioned the impartiality of the CEC, citing lack of its independence from the authorities.²⁴

The activities of the working groups created by the CEC to perform preliminary reviews of received communications and to address different aspects of the process contributed to inclusivity and facilitated the work of the CEC. While decisions of these groups have an advisory nature, they at times disposed cases of campaign violations and campaign finance issues without their further review by the CEC (see *Complaints and Appeals*). Such practice raises concerns over transparency and collegiality of the CEC.

Decisions affecting the rights and duties of electoral stakeholders, including interpretation of the law and resolution of complaints, should be made by the CEC in open sessions. As previously recommended, all CEC decisions should be published in a timely manner.

The TECs are responsible for formation of the PECs and tabulation of election results in their respective territories while the PECs organise voting and establish voting results at precinct level. The TECs are formed by the CEC with no less than 11 members, and the PECs are formed by relevant TECs with a minimum number of members, depending on the size of the precinct electorate. One half of the members of each commission are nominated by political parties, and the other half by local councils. The ODIHR LEOM observed that the TECs and a limited number of the PECs visited throughout the country received adequate logistical support from the local authorities. In addition to training sessions, the TEC and PEC members were provided with video tutorials covering all stages of their work. Overall, the work of the lower-level commissions was positively assessed by the ODIHR LEOM.

The CEC also conducted a series of training sessions for law enforcement bodies on how to respond and investigate campaign violations, in particular vote-buying and misuse of administrative resources. The CEC also trained candidate representatives on campaign regulations and financial reporting.

The CEC was commended by ODIHR LEOM interlocutors for its continuous efforts to facilitate the participation of voters with disabilities in the electoral process. The PECs in cooperation with local authorities developed a roadmap to strengthen accessibility of the polling process, including providing for ramps, transportation, volunteers, magnifying glasses and Braille ballot guides. According to the CEC, the number of polling stations with access ramps increased to 83 per cent. Persons with disabilities were engaged as phone operators at the CEC voter information hotline.

The CEC prepared voter information spots in Kyrgyz and Russian languages, which were aired on public television (TV). The spots focused on the importance of participation in the election and the referendum, voter registration, information on candidates, participation of youth and voters abroad, as well as election day procedures. Positively, some of these TV spots were supported by sign language.

Apart from these, there was no comprehensive voter information campaign explaining the meaning of the choices on the referendum ballot. The voters had little to no neutral information in this regard.²⁵ The Referendum law does not obligate the authorities to provide meaningful and neutral information on the referendum proposals.²⁶

²⁴ Paragraph 20 of the 1996 UN HRC [CCPR General Comment No.25](#) states that “An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws” Section II.3.1.b of the [Venice Commission’s 2002 Code of Good Practice in Electoral Matters](#) stipulates that independent and impartial electoral commissions must be set up at all levels.

²⁵ Paragraph 11 of the 1996 UN HRC CCPR General Comment No.25 states that “Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community”.

²⁶ Article 2.2 of the ICCPR requires each State party “to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant”.

Consideration should be given to including in the Referendum law an explicit obligation of the authorities to provide meaningful and balanced information about the proposals put to referendum.

VI. VOTER REGISTRATION

Voting rights are extended to Kyrgyz citizens who turned 18 by election day, except for those declared incapable by a court decision and those serving a prison sentence, irrespective of the gravity of the crime committed, both contrary to international standards and commitments.²⁷

Disproportionate restrictions to voting rights of people serving a prison sentence and limitations based on disabilities should be abolished.

Voter registration is passive. To be included in voter lists, eligible citizens must undergo mandatory biometric registration. According to the State Registration Service (SRS), around 450,000 citizens have no biometric registration and thus remain disenfranchised.²⁸ Two identical voter lists were extracted from the Unified Population Register for the election and referendum. These were further administered and updated by the CEC. The final voter lists included 3,563,574 voters, of which 52 per cent were women and 49,479 voters were registered for voting abroad.²⁹

Authorities should continue comprehensive efforts to encourage and facilitate biometric registration of all eligible voters, especially those residing abroad.

Voters are assigned to polling stations based on their permanent addresses. Following 2020 amendments to the Election law, voters residing in Kyrgyzstan could no longer temporarily change their voting address to vote at their current place of stay. While many ODIHR LEOM interlocutors highlighted that the removal of this opportunity may have contributed to a reduction of vote-buying schemes, widely alleged during 2020 parliamentary elections, it ultimately created obstacles for the voters staying outside of the permanent residence, including observers, to exercise their right to vote.

According to the SRS, there is a discrepancy between the databases of national IDs and the registry of permanent and temporary addresses, stemming from a lack of data synchronization and affecting around 300,000 voters.³⁰ Related intricacies may have prevented some voters from voting on election day. In order to be included in the voter lists according to their registration address, voters were allowed to

²⁷ Paragraph 48 of [General Comment No. 1 to Article 12 of the CRPD](#) states that “a person’s decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising [...] the right to vote [and] the right to stand for election”. See also Article 29 of the [CRPD](#). Paragraph 7.3 of the 1990 OSCE Copenhagen Document provides that participating States will “guarantee universal and equal suffrage to adult citizens”, while Paragraph 24 provides that restrictions on rights and freedoms must be “strictly proportionate to the aim of the law”. Paragraph 14 of the 1996 UN HRC CCPR General Comment No.25 states that grounds for the deprivation of voting rights should be “objective and reasonable”.

²⁸ Biometric data (digital fingerprints, photo and signature) is used for voter authentication on election day.

²⁹ The total number of voters represents an increase of more than 1 per cent since 2020 parliamentary elections and approximately 18 per cent since 2017 presidential election. The CEC attributed such increase to natural population growth and continuous work on improving the voter lists.

³⁰ Of these, some 270,000 voters, holding older (2004) IDs remained assigned to polling stations according to the address indicated in their IDs, regardless of their current permanent place of residence. Similarly, some 30,000 voters holding newer 2017 IDs also remained assigned to old addresses unless they requested an update of their biometric IDs, as announced by the CEC chairperson on 23 December.

submit requests for corrections until 29 December. As observed by the ODIHR LEOM, the CEC instructions on handling such requests were not always applied in a consistent manner by the PECs.³¹

To avoid discrepancies, the State Registration Service should harmonise respective registration databases. Broad awareness raising activities could be considered to encourage citizens to timely exchange their old national IDs to the new ones.

Following amendments in the CEC regulation, members of election commissions, police officers on duty on election day, biometric voter identification equipment operators, medical workers and other people assigned to polling stations were included in respective voter lists, based on the orders of heads of their organizations, and could cast their vote irrespective of their registration address.³² Overall, ODIHR LEOM interlocutors expressed trust in the current voter registration system.

On 20 January, the CEC published lists of all citizens who voted in the election on its website and displayed them at all polling stations. The lists posted at polling stations exhibited the birth dates of voters, which raises questions about personal data protection.³³ Albeit the practice introduced by 2017 amendments to the Election law is intended to ensure credibility of the electoral process, it is not compliant with international good practice.³⁴

Consideration should be given to providing all voters with a right to request a temporary change of voting address under the conditions of a valid justification and a limited number of requests submitted by one voter within an election period. Publication of list of voters who voted should be avoided.

VII. CANDIDATE REGISTRATION

Candidates must be eligible voters between the age of 35 and 70, who have resided in the country for more than 15 years in total and have command of the state language. Those with an un-expunged criminal record are not eligible to run,³⁵ regardless of the gravity of the committed crime, which is at odds with Paragraph 24 of the 1990 OSCE Copenhagen Document.³⁶ Citizens in possession of another nationality are also ineligible. ODIHR and the Venice Commission previously recommended to reconsider this restriction.³⁷

Candidates may stand independently or be nominated by political parties. Initially, 65 individuals submitted nomination documents to the CEC that confirmed the compliance of 50 candidates with the

³¹ For example, instead of accepting the request for correction, a PEC in Bishkek advised a voter to update the old ID in the SRS. Another voter received a similar advice at the CEC hotline. Also, a PEC in Bishkek did not accept a voter's request for corrections due to the address database being temporarily down, while a different PEC accepted such request in the absence of access to the database.

³² The exceptions did not cover observers.

³³ The Election law stipulates that published preliminary and final voter lists should not contain birth dates and addresses of voters. However, it does not specify which sensitive information may be included in the lists of citizens who voted.

³⁴ [Interpretative Declaration 840/2016](#) of the Venice Commission 2002 Code of Good Practice in Electoral Matters recommends that "The publication of the lists of voters having participated in elections should be avoided". See Article 3 of the 1990 UN General Assembly [Guidelines for the Regulation of Computerized Personal Data Files](#).

³⁵ In October 2020, the Supreme Court cancelled prior guilty verdicts against Kursan Asanov, Mr. Japarov and Ravshan Jeenbekov.

³⁶ Paragraph 15 of the 1996 UNCHR General Comment No. 25 states that "any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements".

³⁷ The [2020 ODIHR and the Venice Commission's Joint Opinion](#) on the Amendments to Some Legislative Acts Related to Sanctions for Violation of Electoral Legislation recommended "to give due consideration to minimizing and eventually abolishing limitations on holding public offices for citizens with dual nationalities".

legal requirements.³⁸ In order to register, nominees had to further provide support signatures of at least 30,000 voters,³⁹ establish an electoral fund and pay an electoral deposit of KGS one million (approximately EUR 10,000).⁴⁰ In line with a previous ODIHR recommendation, the support signatures are now verified up to the point when the required number of valid signatures is established.

The registration of candidates was overall inclusive. By the legal deadline, 20 nominees submitted registration documents, including the requisite number of signatures and a proof of payment of electoral deposit.⁴¹ Following the signature verification, the CEC denied the registration of two candidates due to an insufficient number of valid signatures.⁴² The CEC registered 18 candidates, including 1 woman. During the registration of candidate Japarov, two CEC members dissented stating lack of documents proving his resignation from the position of acting president.⁴³ The verification process was open to candidate representatives, citizen observers and media, contributing to transparency.

Nevertheless, the compressed timeframe of early election and procedural requirements proved to be burdensome for several candidates. Seven nominees appealed to the CEC, expressing their concerns regarding the shortened timeframe for the collection of signatures.⁴⁴ Prospective candidates could only start the collection of signatures after opening an electoral fund and the payment of the production of the signature sheets. The CEC issued eligibility certificates to candidates within four to nine days after submission of required documents, which further shortened the signature collection period.

Citizens have the right to form campaign groups in support of or against the referendum question put forward on the ballot, with no specific deadline defined in the law. The CEC registered 15 referendum campaign groups.⁴⁵ No ODIHR LEOM interlocutors raised any issues regarding inclusiveness of the registration.

VIII. ELECTION AND REFERENDUM CAMPAIGNS

The referendum campaign period started on 11 December, and election campaign started on 15 December, while both ended on 9 January, 24 hours before the opening of the polls. The campaigns were calm, low-key and dominated by one candidate. The focus was on general messages promoting the personality, the profile and the personal history of the candidates, as well as their broad intentions, such as to fight corruption and poverty. During campaign appearances, candidates, in messages tailored to the respective audience, often promised to address a variety of local issues, such as the renovation of specific local buildings or infrastructure. Women were active in the campaign and constituted around 30 per cent of attendees in all observed rallies.⁴⁶ At the same time, gender equality issues were almost absent as campaign topics.

³⁸ Three rejected applicants were found to have un-expunged criminal records and nine failed to submit a language certificate, while three withdrew. Of the 65 applicants, only 8 were women and only 1 candidate was nominated by a political party.

³⁹ Candidates are allowed to submit between 30,000 and 60,000 support signatures from eligible voters. A voter is allowed to sign in support of more than one candidate.

⁴⁰ The deposit was returned to seven candidates who received at least 1 per cent of the votes cast. EUR 1 equals approximately KGS 100 (Kyrgyz *Som*).

⁴¹ Eighteen nominees withdrew their intention to run and twelve did not submit the required signatures.

⁴² In one case, 902 of the submitted 30,106 signatures were found invalid, while in the second case, all signature sheets were deemed invalid due to the violation of rules for financial reporting on their production. The latter decision of the CEC was unsuccessfully appealed.

⁴³ See [CEC decision No. 463](#) of 12 December 2020.

⁴⁴ The CEC [found](#) no legal grounds for extending the period for collection signatures.

⁴⁵ Eight groups were registered “for” and one group “against” the presidential governance option, three groups “for” and one group “against” the parliamentary governance option and two groups for the “against all” option.

⁴⁶ The ODIHR LEOM observed 36 campaign rallies.

The campaign environment was characterized by the dominance of Mr. Japarov in terms of visibility, reach and geographical scope. Only his posters and billboards were widely seen throughout the country, and only his campaign was supported by a nationwide network of campaign offices. Mr. Japarov's rallies took place in all regions and mostly featured thousands of participants, including large numbers of local dignitaries and state employees. The ODIHR LEOM observed comprehensive door-to-door canvassing only on behalf of Mr. Japarov.

While largely able to campaign freely, other candidates maintained a small number of campaign offices and were hardly visible on posters and billboards, mostly due to a lack of resources. Their events were sporadic, with no nationwide scope, and in most cases attracted from several dozen to several hundred participants. Some candidates did not campaign at all outside of the capital Bishkek.⁴⁷ Later in the campaign, several candidates co-ordinated their messaging to portray Mr. Japarov as an illegitimate candidate questioning the expungement of his criminal convictions and claiming that he had *de facto* never relinquished the powers and resources of the presidency.⁴⁸

The dominance of Mr. Japarov also extended to traditional and social media, which echoed his high visibility. The ODIHR LEOM received credible reports about synchronized social media campaigns in his support and observed coordinated personal attacks against his critics.⁴⁹

Allegations of misuse of administrative resources were raised by many ODIHR LEOM interlocutors throughout the process, largely about unequal access of candidates to the premises, provided by state and local authorities. The interlocutors often considered reasons given by the local authorities to deny access as not credible, but refused to report any other details fearing retribution.⁵⁰ The directed attendance of state employees at campaign rallies of Mr. Japarov was also mentioned by ODIHR LEOM interlocutors.⁵¹ Pressure on local officials, campaign staff of other candidates and on individual voters as well as overall concerns about the influence of organized crime on elections were also raised throughout the process.⁵² Any practice demonstrating unlawful engagement in electoral process and preferential support to any candidate detracts from the principle of neutrality of public officials.⁵³

⁴⁷ Candidate Klara Sooronkulova stated that she did not campaign outside the capital as she felt threatened by supporters of Mr. Japarov, while candidate Jeenbekov was confined to Bishkek by a court order due to ongoing criminal proceedings against him.

⁴⁸ On 29 December, candidates Imanaliev, Isaev, Madumarov and Sooronkulova filed a joint lawsuit with the Bishkek Administrative Court, challenging a CEC decision on registration of Mr. Japarov. They alleged the misuse of the official presidential residence, transport and the presidential security arrangements, as well as the *de-facto* exercising of presidential powers by Mr. Japarov. The lawsuit was dismissed on 2 January as filed beyond the deadline for appeals against registration of candidates.

⁴⁹ [Reportedly](#), Facebook removed several hundred fake accounts manipulating public opinion during elections.

⁵⁰ Section II.B.1.2 of the ODIHR and Venice Commission 2016 [Joint Guidelines on Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) reads: "If public buildings and facilities are permitted for campaign purposes, the legal framework should provide for equal opportunity and a clear procedure for equitably allocating such resources to parties and candidates".

⁵¹ For instance, ODIHR LEOM was informed that in the town of Uzgen (Osh region), the head of the village council ordered teachers to attend a rally of candidate Japarov. In the town of Balykchy (Issyk-Kul region), more than 150 police officers had to attend a rally of Mr. Japarov.

⁵² In Osh, state employees informed the ODIHR LEOM of being afraid of expressing their political preferences and putting up posters in designated spaces for anyone else but Mr. Japarov. According to some state employees in Naryn, they were pressured to allocate for the rally of Mr. Japarov a sports facility, despite it still being under renovation.

⁵³ Section II.A.3 of the ODIHR and Venice Commission 2016 [Joint Guidelines on Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) reads: "The legal framework should provide explicit requirements for civil servants to act impartially during the whole electoral process while performing their official duties. Such regulations should establish the impartiality and professionalism of the civil service".

Authorities should remain neutral and guarantee a level playing field for all contestants throughout the entire electoral process, in line with good practice. In this regard, to encourage impartiality, continued training should be conducted for officials from state and other public institutions involved in elections.

The referendum campaign was waged in tandem with the election campaigns. The 15 referendum campaign groups developed little public visibility outside of the free airtime allocated on TV.⁵⁴ Candidate Japarov aligned himself with the presidential governance option, and this consequently became the most prominent referendum campaign. All other candidates campaigned for the parliamentary governance, the “against all” option or called to boycott the referendum. Similar to their limited election campaigns, their messages regarding the referendum received little public attention.

In general, the campaigns lacked genuine public discussion of specific policy proposals in the election campaign, and did not provide for a genuine debate about the meaning and the consequences of the different options in the referendum. Many ODIHR LEOM interlocutors noted that the three referendum voting options and their consequences were hard to understand for the electorate, and that far-reaching changes to the constitution would require more time for explanations and consultations.⁵⁵

IX. CAMPAIGN FINANCE

The laws on elections and referenda provide a level of transparency of campaign finance; however, certain aspects related to oversight and sanctions remain unregulated. Both laws do not envisage direct public funding. Both the election and referendum campaigns can be financed by donations from citizens and legal entities, including political parties.⁵⁶ Contributions from foreign, state-owned or anonymous sources, religious and charitable organizations are prohibited. Recent amendments to the Election law allow in-kind donations, in particular campaign volunteers may work free of charge, which addresses a previous ODIHR recommendation. At the same time, all in-kind donations are prohibited for referendum campaigns. All campaign contributions and expenditures must be channelled through a special bank account of a dedicated election or referendum fund.⁵⁷

Regulations allow for large individual contributions to the election campaign, while the cap on spending stands at KGS 200 million.⁵⁸ The law does not establish limits on campaign contributions and expenditures for the referendum, contrary to international standards and good practice.⁵⁹

⁵⁴ The *E/ITR* organized debates among the referendum groups.

⁵⁵ Paragraph 3.1. of the Venice Commission 2007 Code of Good Practice on Referendums states that “[t]he authorities must provide objective information. This implies that the text submitted to a referendum and an explanatory report or balanced campaign material from the proposal’s supporters and opponents should be made available to electors sufficiently in advance”.

⁵⁶ Jointly candidates collected a total of KGS 122.7 million of campaign contributions, consisting of candidates’ own funds (50 per cent), donations from citizens (42 per cent) and legal entities (8 per cent). Only candidate Japarov was supported by legal entities. Six candidates financed their campaign only from their own funds.

⁵⁷ All registered candidates and referendum groups opened special accounts.

⁵⁸ Limits for donations by citizens and legal entities stand at KGS 50 million. Candidates may contribute to their campaigns up to KGS 15 million from personal funds. Only candidate Japarov contributed the maximum allowed amount from his own resources. On 20 January, two CEC members issued a dissenting opinion on the election results, alleging, among others, that this money came from unverified sources.

⁵⁹ Paragraph 19 of 1996 UN HRC CCPR General Comment No.25 provides for reasonable limitations on campaign expenditures “where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by disproportionate expenditure on behalf of any candidate or party”. Section 24 of the Explanatory Memorandum to [the 2007 Venice Commission’s Code of Good Practice on Referendums](#) states: “National rules on both public and private funding of political parties and election campaigns must be applicable to referendum campaigns”.

The legal framework should be amended to introduce limits on campaign contributions and expenditures regarding referenda.

In line with the law, all candidates submitted two interim financial reports before election day and the final report by 17 January. Referendum campaign groups are required to submit a final financial report 30 days after the referendum results are announced. The Law on Political Parties does not require political parties to report on contributions or expenditures during the presidential election or referendum campaign or in a non-campaign period, contrary to good practice.⁶⁰ In-kind donations must be evaluated according to their market value, but several ODIHR LEOM interlocutors noted lack of clear guidelines on disclosure of in-kind and cash donations.⁶¹

The disclosure and oversight of campaign finance is vested with the CEC. Positively, the CEC published the information on campaign contributions and expenditures of candidates on a weekly basis.⁶² It also published the final campaign finance reports of all candidates. Similar information was published for the six referendum campaign groups that had raised campaign funds.

According to the CEC, none of the political parties donated to the candidates or referendum groups; however, ODIHR LEOM interlocutors alleged that some political parties had provided financial or non-material support for candidates.⁶³ According to the ODIHR LEOM media monitoring results, candidate Japarov may have spent at least between KGS 32 million to 51 million on airing political advertisements in eight TV broadcasters, which exceeds the officially reported expenditures.⁶⁴ Several ODIHR LEOM interlocutors alleged that some campaign expenditures of different candidates were covered by third parties passing by the special campaign accounts, contrary to the law and diminishing transparency.⁶⁵

Campaign finance regulations, including on expenditure limits and reporting, could be extended to third parties that are involved in the campaign to ensure transparency and accountability.

During the campaign period, the *ad hoc* Control and Audit Group was formed to assist the CEC with the oversight of campaign financing, consisting of CEC members and staff as well as experts from fiscal

⁶⁰ Paragraph 265 of the [2020 ODIHR and Venice Commission Joint Guidelines on Political Party Regulation](#) states: “Political parties should be required to submit disclosure reports to the appropriate regulatory authority at least on an annual basis in the non-campaign period. These reports should involve the disclosure of contributions and an explanation of all expenditures.”

⁶¹ These contributions are only reflected in the final reports. Paragraph 209 of the 2020 ODIHR and Venice Commission Joint Guidelines on Political Party Regulation provides that the receipt of donations should be transparent.

⁶² In total, all candidates spent around KGS 121 million for their campaigns. Out of these, candidate Japarov spent over KGS 65.5 million (some 54 per cent), candidate Babyrjan Tolbaev over KGS 12.5 million (some 10 per cent), while all other candidates spent no more than KGS 5 million each.

⁶³ For example, the ODIHR LEOM observed that *Mekenchil* political party was campaigning on behalf of candidate Japarov in Jalal-Abad region. Mr. Japarov was supported on social media by political parties *Birimdik*, *Mekenim Kyrgyzstan* and *Respublika*. The ODIHR LEOM was informed that Mr. Japarov received financial support from *Kyrgyzstan* and *Zamandash* parties in Naryn region.

⁶⁴ The estimates are based on published price lists and measured only prime time (18:00-24:00) political advertisements of candidate Japarov in Channel 5, Channel 7, *EITR*, *KTRK*, *NTS*, *OshTV*, *Piramida* and *TV1.kg*. According to the official financial report of Mr. Japarov, he spent some KGZ 11 million for airing his campaign materials on TV and some KGZ 20 million for production of audio-visual and other campaign materials.

⁶⁵ For example, the ODIHR LEOM was informed that the rent of the conference hall for the joint meeting of candidates Imanaliev, Isaev, Madumarov and Sooronkulova on 29 December was paid directly by a civic activist. In another instance, the rental of the billboard of candidate Japarov in Kara-Balta (Chuy region) was covered by the owner of the billboard. Paragraph 256 of the 2020 ODIHR and Venice Commission Joint Guidelines on Political Party Regulation notes that “it is important that some forms of regulation, with comparable obligations and restrictions as apply to parties and party candidates, be extended to third parties that are involved in the campaign, to ensure transparency and accountability. Third parties should be subjected to similar rules on donations and spending as political parties to avoid situations where third parties can be used to circumvent campaign finance regulations”.

agencies. Neither the laws on elections and the referendum, nor CEC instructions contain any provisions on how the audit should be conducted, which is at odds with good practice. The Control and Audit Group informed the ODIHR LEOM that the audit would be limited in scope and mainly focus on donors' eligibility and compliance with laws regarding campaign contributions and expenditures.⁶⁶

To ensure meaningful oversight, a full audit of financial reports should be conducted. The legal framework should regulate its procedures, timelines and publication.

The law establishes only criminal liability for campaign finance violations together with some general administrative measures, such as warnings or deregistration of a candidate.⁶⁷ Instead of resolving the issues on its own, the CEC referred complaints related to campaign finance to the law enforcement authorities that subsequently dismissed many of those cases due to lack of evidence.⁶⁸

The legal framework should provide for a range of gradual and dissuasive administrative sanctions for campaign finance violations.

X. MEDIA

A. MEDIA ENVIRONMENT

Kyrgyzstan's vibrant media environment is constrained by a small advertising market that became further reduced due to the COVID-19 pandemic. TV is the main source of information, followed closely by online media and social networks.

The general directors of all four national state-funded TVs were replaced after the October protests. The Public Broadcasting Corporation (*KTRK*) is largely funded by the state and also sells commercial advertisements.⁶⁹ The general director of *KTRK* resigned during the post-election protests in October 2020, but later attempted to reverse his decision.⁷⁰ Another state broadcaster, Osh-based *EITR*, is funded directly by the state and may not use their advertisement revenue directly. Their director was dismissed in October by then Prime Minister Japarov. The appointment of a new director prompted a strike of *EITR* employees, leading to the nomination of another director on 30 October. The directors of two

⁶⁶ Paragraph 278 of the [2020 ODIHR and Venice Commission Joint Guidelines on Political Party Regulation](#) states: “[t]he supervisory authority should be given the power to monitor accounts and conduct audits of financial reports submitted by parties and candidates. Financial regulation is an area that is often susceptible to discriminatory or biased treatment by regulatory bodies. To avoid this, legislation should clearly outline the different steps of the audit process”. See also Section 6 of 2015 [ODIHR Handbook for the Observation on Campaign Finance](#).

⁶⁷ The Criminal Code has two articles regarding campaign finance: Article 193 “Violation of regulations on campaign finance” and Article 194 “Illegal use of funds during elections or referendum”. The Code of Minor Offences and Code of Infractions do not contain any direct provisions on campaign finance. Paragraph 281 of the [2020 ODIHR and Venice Commission Joint Guidelines on Political Party Regulation](#) states: “[w]hile criminal sanctions are reserved for serious violations that undermine public integrity or may threaten national security (e.g. in the case of foreign funding), there should be a range of administrative sanctions available not only for the improper acquisition or use of funds by parties ... but also for individual wrongdoing.”

⁶⁸ For example, according to the CEC, the complaint of NGO Common Cause from 5 January regarding free of charge transportation of voters to a meeting with candidate Japarov in Tokmok (Chuy region) was dismissed by the police due to the lack of evidence.

⁶⁹ The *KTRK* has the biggest coverage and viewership. According to the [2019 yearly report](#) of the *KTRK*, some 82 per cent of its funding came from the state budget, while some 15 per cent - from commercial advertisements.

⁷⁰ At the time of the presidential election, the former director was currently suing *KTRK* in order to regain his position.

other national state controlled TV stations, *Piramida* and *Channel 5*, were replaced before and shortly after the election, respectively.⁷¹

Most private media outlets the ODIHR LEOM met with noted difficulties in obtaining information from public institutions, alleging preferential treatment of state affiliated media.⁷² All interlocutors from private media reported to operate at a loss. Thus, private media outlets often rely on the support of international donors or financial infusions of their owners, the latter, in the absence of full transparency of the ownership, are often perceived as politically engaged.⁷³

While online media outlets are seen as less politically affiliated, they often become subject of intimidation and pressure. The recent physical and verbal attacks on journalists, at times directly instigated by the prime minister, contribute to self-censorship.⁷⁴ Some ODIHR LEOM interlocutors also raised concerns regarding the recently increased number of physical and verbal attacks against journalists, including by police and political protestors, as well as a lack of thorough investigation of the attacks by relevant authorities, which contributes to an atmosphere of impunity.

B. LEGAL FRAMEWORK

The 2010 Constitution guarantees freedom of expression, speech, the press and access to information. While defamation was decriminalized in 2011, the Civil Code does not establish limits for administrative damages for defamation, thus allowing for excessive fines in such cases. This has a chilling effect on impartial, analytical and investigative reporting and may potentially lead to the closure of a concerned media outlet.⁷⁵ According to some ODIHR LEOM interlocutors, the broad interpretation of the articles of the Criminal Code that prohibit “incitement of racial, religious or interregional enmity”, resulted in the blocking of a number of websites, including *change.org*, and the detention of bloggers within the past years.⁷⁶

⁷¹ On 12 January, the spokesperson for State Security Service was appointed as a new general director of *Channel 5*. In a Facebook [post](#) on 16 January, the former director of *Channel 5* noted regular interference of the presidential administration in the editorial policy of the broadcaster.

⁷² In particular, in February 2020, the Ministry of Justice issued an internal regulation limiting the release of information on founders and owners of private companies and their nominative capital to the media. The Ministry opined that such information could be misused for blackmailing. Following a complaint by *Kloop.kg*, the Bishkek City Court, on 18 January 2021, confirmed the regulation illegal. Paragraph 19 of the 2011 UN HRC [CCPR General Comment No. 34](#) reads “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information”.

⁷³ For example, according to the public registry, the owner of Channel 7 and *Nur TV* is Kazybek Tashiev, a brother of Kamchibek Tashiev, the head of the State Security Service. The owner of *Next TV* is Salkyn Alimbaeva, the wife of candidate Jeenbekov. While Daniyar Myrzaev is officially reported to be the owner of TV *NTS*, it is widely known that the actual owner is Omurbek Babanov, the former prime-minister and former leader of the *Respublika* party.

⁷⁴ During a [press conference](#) on 10 October, Mr. Japarov explained that *Azattyk* was threatened by his supporters as the media outlet was “slightly distorting information”. On 10 November, Mr. Japarov [noted](#) that *Azattyk* journalists strongly criticized him due to “orders from abroad”. On 20 December, Mr. Japarov called journalists from *Azattyk* “enemies of the people” in a (later edited) Facebook [post](#).

⁷⁵ Following the publication of an investigatory report on corruption in November 2019, defamation court cases were initiated against a local branch of Radio Free Europe/Radio Liberty (*Azattyk*), *Kloop.kg* and the journalist that led the investigation. The charges claimed amounted to KGS 22.5 million, KGS 12.5 million and KGS 10 million, respectively. The case was pending during the election at the Sverdlovsk District Court in Bishkek. Paragraph 47 of the 2011 UN HRC CCPR General Comment No. 34 reads “Care should be taken by States parties to avoid excessively punitive measures and penalties. Where relevant, States parties should place reasonable limits on the requirement for a defendant to reimburse the expenses of the successful party”.

⁷⁶ Article 20.2 of the ICCPR prohibits “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”. Paragraph 25 of the 2011 UN HRC CCPR General Comment No. 34 requires the laws to “provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not”.

The Criminal Code should be amended in order to provide clear definition of what constitutes “incitement of national, racial, religious or interregional enmity”, limiting prosecution only to cases that incite discrimination, hostility or violence, as defined in Article 20.2 of the ICCPR. Limits for damages asserted in defamation and libel cases should be introduced, taking into consideration only actual harm proven by the plaintiff.

The Election law requires information disseminated by the media to be unbiased and true and provide for equal treatment of candidates. It also gives a broad definition of campaigning in the media, requiring it to be a paid advertisement, thus limiting the allowed scope of analytical and editorial coverage.⁷⁷ Furthermore, the 2019 amendments to the Election law prohibit negative campaigning.⁷⁸ Although not clearly specified in the law, any media outlet interested in selling advertisements needed to receive accreditation from the CEC, which could later be revoked.⁷⁹ While no issues with revoking accreditation was raised during this election, a number of broadcasters met by the ODIHR LEOM explained the limited editorial coverage of the election campaign with their fear of losing accreditation and thus advertisement revenues.

The legal definition of electoral campaigning should be amended, so that it does not prevent media from editorial coverage of the campaign. The system of accreditation of media outlets, as a pre-condition for selling political advertisement, should be cancelled.

Similarly, the Referendum law does not contain clear provisions that delineate campaigning and informing on referendum options in the media, but only refers to election legislation. The lack of clarity regarding the rights and obligations of media outlets during two overlapping campaigns, in the absence of official clarification from the CEC, created further confusion among the media, especially in the regions.⁸⁰ A large number of national and local media outlets informed the ODIHR LEOM about their decision to limit the scope of the editorial coverage in order to avoid sanctions.

The electoral legislation requires state affiliated or state funded broadcasters to allocate free airtime - a total of “at least one hour per working day” - to all contestants and campaign groups in support or against referendum questions. The *KTRK* and *EITR* allotted required free time, which for many candidates and referendum campaign groups served as the only effective opportunity to appeal to voters. However, *Channel 5* and *Piramida* did not do so, despite both being managed and funded by the state.

Free airtime for the election campaign was allotted shortly before the official start of the campaign. The Referendum law prescribes neither deadline for registration of referendum groups nor clear mechanism when and how the time should be allocated between the campaign groups. The CEC distributed the free

⁷⁷ The Election law *inter alia* treats as campaigning any expression of preference for certain candidates, description of possible consequences of election or non-election of candidates and coverage of the activities of the candidates that is not related to their professional activity or performance of their official duties.

⁷⁸ Article 28.6 of the Election law prohibits calls to vote against a specific candidate, description of negative consequences in case of the election of such candidate, dissemination of information regarding a candidate together with negative comments as well as dissemination of information that could create a negative attitude of the voters towards a candidate.

⁷⁹ The CEC required all media interested in selling time or space to submit a number of documents, including the pricelists for political advertisements, in order to receive accreditation.

⁸⁰ Due to overall prohibition for the media to campaign, some ODIHR LEOM interlocutors were not sure whether they could publish only official information on the referendum, or compare different governance systems, or invite experts and MPs to talk about the differences. Many media outlets were not aware whether the candidates could use their paid airtime to support a referendum option, or could referendum groups mention any candidate in their campaign.

airtime only on 28 December between the 13 referendum campaign groups registered by that time.⁸¹ This further limited the opportunity for voters to make an informed choice.

The Referendum law should be amended in order to provide for clear referendum campaign regulations and mechanism for allocation of free airtime for referendum groups. Any gaps and inconsistencies in the legislation should be regulated by the CEC to facilitate informed choice of voters.



C. MEDIA MONITORING FINDINGS

[Click Here to Read Media Monitoring Results](#)

The news coverage of the election campaign in the broadcast media was overshadowed by extensive paid political advertisements.⁸² In all monitored broadcasters, between 62 and 94 per cent of the news coverage of the candidates was paid for.⁸³ In the absence of clear legal requirements, such coverage was not clearly or consistently identified as paid, potentially misleading voters regarding its nature⁸⁴. As 99 per cent of all paid content in the newscasts of the monitored media was promoting candidate Japarov, the limited editorial coverage of the campaign significantly reduced the spectrum of information available to voters and thus hindered their opportunity of making an informed choice.

To exclude potential confusion regarding the nature of the content, paid political advertisements in the media should be clearly marked, indicating the name of those who ordered the advertisement. Airing paid political advertisements within the news and current affairs programmes should be prohibited.

Four state-affiliated broadcasters *Channel 5*, *EITR*, *KTRK* and *Piramida* as well as private *Channel 7* were mainly promoting, in their newscasts and current affairs programmes, the presidential system of governance as the only viable solution for Kyrgyzstan, while criticizing the parliamentary system as “irresponsible”.⁸⁵ Another private broadcaster, *NTS*, largely refrained from coverage of the referendum options in their newscasts, and focused on the official statements of the CEC. No formal political advertisements paid by the referendum groups were aired during the campaign. Meanwhile, according to ODIHR LEOM media monitoring results, some political advertisement within news, paid by Mr. Japarov, were promoting the presidential system of governance, while other candidates advocated for the parliamentary system within their free airtime.⁸⁶

The *KTRK* organized six election debates.⁸⁷ Candidate Japarov was the only candidate who chose not to participate in the debates stating that he did not want “to waste time on gossip”. The format of the

⁸¹ The CEC registered two more referendum campaign groups after 28 December. However, these groups were not included in the formal allocation of free airtime.

⁸² Between 15 December and 8 January, the ODIHR LEOM monitored six TV channels (*Channel 5*, *Channel 7*, *EITR*, *KTRK*, *NTS* and *Piramida*) and four online media (Russian editions of *24.kg*, *kaktus.media* and *Kloop.kg* and the Kyrgyz edition of *Radio Azattyk*).

⁸³ Only *EITR* and *Channel 7* devoted a noticeable amount of the editorial news coverage to the contestants; however, such coverage was largely in favour of Mr. Japarov on both broadcasters. *Channel 7* also devoted extensive negative coverage to candidates Imanaliev, Isaev, Kalmamatov, Kasenov, Madumarov, Segizbaev and Sooronkulova.

⁸⁴ The ODIHR LEOM observed that the information on paid content was provided at times in hardly visible fonts or displayed for less than one second. The 2007 Council of Europe’s Committee of Ministers Recommendation [CM/Rec\(2007\)15](#) recommends that “If the media accept paid political advertising, regulatory or self-regulatory frameworks should ensure that such advertising is readily recognisable as such. Where media is owned by political parties or politicians, member states should ensure that this is made transparent to the public”.

⁸⁵ Section I.2.2.c of the Venice Commissions’ 2007 Code of Good Practice on Referendums states that “balanced coverage must be guaranteed to the proposal’s supporters and opponents in other public mass media broadcasts, especially news broadcasts”.

⁸⁶ Candidate Kalmamatov also registered a referendum campaign group against the presidential system, receiving as a result additional free airtime on behalf of the referendum group.

⁸⁷ The legal framework requires broadcasters to devote at least half of the allotted free time to election and referendum debates. Neither subtitles nor sign language was provided for televised debates.

debates provided a limited interaction among the candidates who could ask each other only one question. During the election debates, the hosts at times displayed clear support towards the presidential system.⁸⁸ The value of the debates further diminished after the *KTRK* prohibited any statements regarding the candidates that could be perceived as negative. Private broadcasters did not organize any debates referring to an official position of the CEC during the 2020 parliamentary elections.⁸⁹

Considerations could be given to allot free time and organize debates on all state-funded broadcasters, as required by the law. The format of the debates should facilitate actual interaction between contestants, as required by the CEC regulation. The candidates should not be legally prevented from criticizing their opponents during the campaign.

Although the *KTRK* allocated free airtime and organized debates, it failed to maintain strict impartiality, contrary to their legal obligations and public mandate.⁹⁰ The CEC received complaints regarding biased coverage in favour of the presidential governance system in the news and current affairs programmes of the *EITR*, *KTRK* and *Piramida*.⁹¹ While on 29 December the CEC satisfied these complaints and called on these broadcasters to provide balanced coverage of all referendum options, the ODIHR LEOM did not identify any change in the monitored programmes. The *KTRK*, at times, disfavoured certain referendum groups.⁹² It also temporarily restricted access to the records of presidential debates aired on 30 December on their official YouTube channel and deleted those from its official Facebook page.⁹³

In line with good practice, the public and state-affiliated media should guarantee impartial and balanced editorial coverage of the campaign activities and referendum options.

The ODIHR LEOM observed in media cases of negative campaigning against Abdil Segizbaev, Adahan Madumarov and Mr. Isaev, as well as campaigning in favour of Mr. Japarov on *Piramida* and *Channel 7* during the silence period. The CEC did not conduct media monitoring or any other active supervision of the media coverage during the campaign, but was mainly reacting to complaints, many of which were not resolved in a timely manner (see *Complaints and Appeals*).

The CEC should ensure respect for the media-related provisions of the Election law during the campaign. Systematic media monitoring would be beneficial for the CEC during an election campaign period in order to actively identify and verify violations of the campaign coverage and to be able to provide swift restoration of infringed rights.

⁸⁸ For example, during the debate on 6 January, the host stated “According to many experts, the parliamentary system did not work out. Exactly during the parliamentary system, the irresponsibility, corruption, misappropriation grew. Why did the parliamentary system not work?”. The US National Democratic Institute, which was co-producing the debates, ceased cooperation with the *KTRK* on 7 January, citing a displayed lack of impartiality.

⁸⁹ On 22 September, the CEC Working Group on Campaign Issues recommended *Next TV* to abstain from organizing debates on the grounds that equal treatment would not be served, if at least one contestant would refuse to participate.

⁹⁰ The Law on Public Broadcasting Corporation *inter alia* obliges the *KTRK* to disseminate truthful, objective and balanced information about local and international events. Section II.2. of the 2007 Council of Europe’s Committee of Ministers Recommendation [CM/Rec\(2007\)15](#) recommends to adopt measures “whereby public service media and private broadcasters, during the election period, should in particular be fair, balanced and impartial in their news and current affairs programmes, including discussion programmes, such as interviews or debates”.

⁹¹ The *KTRK* claimed that they were not able to find speakers to support the parliamentary system.

⁹² While considering a complaint, the CEC confirmed that the *KTRK* had edited a TV spot of a referendum group campaigning against all options and instead of 10 allotted minutes provided only 8 minutes of free airtime. The *KTRK* referred to a technical failure.

⁹³ Shortly after the live debates, the recording properties of that programme were set to private, thus disabling the public online access. Following a complaint of three candidates to the CEC, the *KTRK* restored the access on 4 January, and the CEC fined the director of the *KTRK* for KGS 5,500. The *KTRK* referred to technical issues.

Compared with broadcast media, the monitored online media provided more coverage to the activities of all candidates; however, Mr Japarov received most of the coverage mainly in a negative context. While all four monitored websites questioned the legitimacy of the referendum and its results in their editorial coverage, the referendum options received limited coverage: *Radio Azattyk* clearly favoured the parliamentary system, while *Kloop.kg* was visibly critical of the presidential system.

XI. PARTICIPATION OF NATIONAL MINORITIES

The Kyrgyz Republic has an ethnically diverse society, where national minorities comprise about 27 per cent of the total population. Ethnic Uzbeks are the largest ethnic minority, residing in southern Kyrgyzstan, where they make up to 28 per cent of the local population.⁹⁴

There were no ethnic minority representatives among the registered candidates, and issues related to inter-ethnic relations did not feature prominently in candidates' programmes. Official voter education and campaign materials were published only in the state (Kyrgyz) and official (Russian) languages. Various ethnic minorities remained significantly underrepresented in the TECs, even in areas where they constitute a significant part of the population. There were no reported incidents of hate speech targeting national minorities in broadcast, print or social media.

XII. COMPLAINTS AND APPEALS

Complaints can be filed by voters, political parties and candidates, their proxies, civil society organizations and observers. Decisions, actions and inaction of election commissions can be appealed to higher-level election commissions, and those of the CEC to the Administrative Court of Bishkek, whose rulings may be appealed to the Supreme Court for a final decision.⁹⁵

The CEC maintained an online registry of complaints and other communications received. This tool increased the overall transparency and public awareness of election disputes. Before election day, the CEC received more than 80 complaints and communications alleging violations.⁹⁶ In total, the CEC considered 18 complaints during its sessions before election day, most of them on violation of campaign rules. A number of these complaints related to unequal treatment of candidates as well as the referendum groups supporting the parliamentary system vis-à-vis those supporting the presidential model.

While the CEC established violations, it was, in some cases, reluctant to take effective measures to ensure a level playing field.⁹⁷ The lack of timely reaction to alleged violations by the CEC diminished the effectiveness of legal remedies against electoral violations.⁹⁸ In order to respond to violations of electoral legislation, the CEC created a Rapid Reaction Group that included representatives of law

⁹⁴ Minority groups include ethnic Uzbeks (14.7 per cent), Russians (5.3 per cent), Dungans (1.2 per cent), Uighurs (1 per cent), as well as smaller groups of Tajiks, Kazakhs, Tatars, Ukrainians, Koreans, and Meskhetian Turks.

⁹⁵ Complaints and appeals lodged with election commissions and courts, including on election results, should be submitted within three days and resolved within three days or, in case an additional investigation is required, within five days. Appeals to the Supreme Court have to be decided within five days.

⁹⁶ More than a half of these complaints alleged violations of election rules by candidate Japarov. Some 30 of these complaints were dismissed by law enforcement agencies and only 4 were reviewed by the CEC during its sessions.

⁹⁷ For example, during the CEC session on 5 January, it was not evident whether the CEC obligated the allocation of the equal amount of the airtime on the *KTRK* to a referendum group supporting the parliamentary model. The applicant informed the ODIHR LEOM that his group was not provided with this time. According to Article 6 of the law on election commissions, the CEC should ensure equal legal conditions for campaign participants.

⁹⁸ Article 2.3 of the ICCPR requires each State to ensure that "any person whose rights or freedoms ... are violated shall have an effective remedy" and that "the competent authorities shall enforce such remedies when granted".

enforcement bodies. However, this group primarily referred complaints to law enforcement agencies, and most communications the group dealt with were not addressed by the CEC.⁹⁹ The CEC could have promptly applied election related sanctions as the investigations by law enforcement agencies may continue after the end of electoral process.¹⁰⁰ Some complaints regarding campaign and campaign finance violations were dealt with by other CEC working groups, at times in an informal manner.¹⁰¹

The CEC should consider cases of alleged violations of the Election law in open sessions and provide timely and effective remedies. In this regard, all auxiliary groups should assist the CEC in making informed decisions on complaints, rather than relieve responsibility from the CEC.

The CEC was not consistent in its decision-making on complaints. It fined two candidates for early campaigning, but in a similar case related to Mr. Japarov, a fine was imposed on an involved citizen.¹⁰² In another case, the CEC fined a manager of Mr. Madumarov's campaign for the involvement of a minor in a campaign event, while a complaint on a similar violation by candidate Japarov was not considered at the CEC session at all. In yet another case, the CEC fined an authorized representative for violation of campaign rules during Mr. Japarov's meeting with voters, but the proposal to sanction the candidate did not get enough votes of the CEC members.¹⁰³ This demonstrates the CEC's biased decision making, challenging Paragraph 7.6 of the 1990 OSCE Copenhagen Document.¹⁰⁴ Many ODIHR LEOM interlocutors opined that the election administration and the law enforcement bodies thoroughly considered election violations only when they did not concern the leading candidate.¹⁰⁵

The principle of equality in the electoral process should be respected. The CEC should ensure impartial consideration of complaints and equal treatment of candidates.

Three CEC decisions were appealed to courts, all unsuccessfully.¹⁰⁶ The legal deadlines for consideration of appeals and due process were respected by the courts, and the decisions were timely published. Generally, the level of trust in impartial resolution of election disputes by the judiciary remains low, and many ODIHR LEOM interlocutors expressed concerns over political influence on the courts. On 25 December, the Council of Judges issued an open letter to draw public attention to "an overt pressure on the judicial system by law enforcement agencies".¹⁰⁷

The CEC and TECs received over 100 complaints and communications on alleged violations during and after election day. These mainly related to non-compliance with election day procedures in polling

⁹⁹ According to Article 7 of the law on election commissions, the CEC oversees compliance with electoral legislation and can apply administrative sanctions.

¹⁰⁰ There are no deadlines for pre-trial investigation in the current legislation.

¹⁰¹ Some complainants received letters from the working groups but no CEC decisions.

¹⁰² Candidate Imamidin Tashov was fined for early campaigning and candidate Kalmamatov for the use of negative rhetoric in early campaigning.

¹⁰³ The law prescribes that candidates are responsible for actions of their authorized representatives.

¹⁰⁴ Paragraph 7.6 of the 1990 OSCE Copenhagen Document commits OSCE participating States to "provide political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities".

¹⁰⁵ During his acting presidency, Mr. Japarov replaced the heads of law-enforcement bodies, including the Minister of Internal Affairs, the head of State Security Service and the Prosecutor General.

¹⁰⁶ One challenge against the CEC decision to schedule the presidential election was denied by the Administrative Court, whose decision was further upheld by the Supreme Court. The Supreme Court also upheld in the final instance the CEC decision to declare a candidate's support signatures invalid because the production of signature sheets was not paid from the electoral fund. An appeal challenging the CEC decision on the registration of Mr. Japarov was denied by the Administrative Court, whose ruling was further upheld by the Supreme Court.

¹⁰⁷ Within the electoral period, the State Security Service launched criminal cases against three judges of the Supreme Court, including the chairperson. See the [letter](#) of the Council of Judges.

stations and malfunctioning of ballot scanners.¹⁰⁸ One NGO requested the annulment of voting results in more than 200 polling stations on the grounds of procedural issues, such as temporary malfunctioning of ballot scanners or presence of the PECs members in the vicinity of ballot scanners potentially compromising the secrecy of the vote. Most of these requests were examined by TECs and the CEC on the merits and denied, as the alleged violations did not influence the voting results.

XIII. ELECTION OBSERVATION

Legislation provides for observation of the elections and referenda by candidates, civil society organizations, campaign groups and international observers.¹⁰⁹ According to the law, government and law enforcement officials, MPs, election commissioners, judges and prosecutors are prohibited to act as observers. Candidates and non-partisan citizen observer groups could register up to two and three observers per election commission, respectively.¹¹⁰

Several ODIHR LEOM civil society interlocutors positively assessed the co-operation with the CEC, mentioning inclusive consultations with regard to different aspects of the electoral processes and overall unimpeded access to observation. Several NGOs undertook comprehensive long-term and short-term observation and issued public statements on various aspects of electoral process.

XIV. ELECTION DAY

The IEOM did not undertake systematic or comprehensive observation of election day proceedings, but visited a limited number of polling stations in all regions as well as in Bishkek and Osh cities.

Election day proceeded orderly, and transparency of the process was ensured. Overall, polling stations visited opened on time. In most visited PECs the polling was well organised and the commissioners were knowledgeable of procedures, although technical problems with voter identification equipment and ballot scanners caused delays and interruptions of the process in few observed polling stations. The secrecy of voting was, at times, compromised when the ballots were being inserted into the scanners, with no proper reaction from the PECs. Overall, IEOM interlocutors expressed confidence in the accuracy of the voter identification technology.

The legal provisions for the secrecy of voting should be ensured in practice and enforced by the precinct election commissions. The importance of ballot secrecy should be emphasized during the training of election commissions and in voter education materials.

In light of the COVID-19 pandemic, the CEC, in co-operation with the Ministry of Health, developed specific guidelines against the spread of the virus, including social distancing on voting premises and the provision of election officials and voters with personal protective equipment. Nevertheless, prevention measures, such as wearing masks and checking voters' temperature, were not consistently implemented. Social distancing was not always respected inside and outside polling stations.

Most of the polling stations visited were equipped with ramps, Braille ballot guides and magnifying glasses to facilitate voting by persons with disabilities. Yet, some polling stations were located on the second floor, and the quality of provided ramps did not always meet accessibility requirements.

¹⁰⁸ One case of alleged vote-buying was referred to the prosecutor's office and further dismissed due to lack of evidence.

¹⁰⁹ The CEC accredited 333 international observers from 35 embassies and organisations. A total of 13 citizen observer groups notified the CEC on their intention to observe the election, 5 of them also did so to observe referendum.

¹¹⁰ The law does not specify a number of observers from referendum groups per election commission.

The CEC should continue efforts to improve the accessibility of voters with disabilities to the electoral process, including barrier-free access to voting, in consultation with civil society organisations.

Polling stations observed by the IEOM closed on time, and counting was conducted in a transparent manner without delays. Preliminary results were generated from the ballot scanners, followed by a manual count. However, several cases of inconsistent consideration of ballot validity were observed.

Proxies and citizen observers were present in most polling stations visited, with representatives of candidate Japarov encountered in almost all those polling stations. The IEOM noted unauthorized people in a few polling stations, including local officials and so-called “volunteers”, directing voters.

In total, 1,395,513 citizens (or 39.16 per cent) voted in the election.¹¹¹ The turnout for the referendum was 39.12 per cent, thus exceeding the required 30 per cent threshold for its validity. Contributing to transparency, the CEC posted the scanned protocols of preliminary results on its website shortly after the end of voting and continued to publish manual vote count results.

Based on the verification, the TECs invalidated voting results from eight polling stations for the election and from ten polling stations for referendum due to discrepancies between the number of identified voters and the number of ballots cast. On 20 January, the CEC announced the final election results, according to which Mr. Japarov became elected president. Two CEC members voted against the results of the election and referendum, adding their dissenting opinions.¹¹²

XV. RECOMMENDATIONS

These recommendations as contained throughout the text are offered with the aim to further enhance the conduct of elections in the Kyrgyz Republic and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections.¹¹³ These recommendations should be read in conjunction with past ODIHR recommendations that have not yet been addressed. ODIHR stands ready to assist the authorities of Kyrgyz Republic to further improve the electoral process and address the recommendations contained in this and previous reports.

¹¹¹ According to the CEC, on 9 January, 18,605 voters used the opportunity for mobile voting. This was provided to those who could not visit polling station on election day due to health reasons or disability, staying in hospitals and detention facilities, temporarily living in hard to reach areas or carrying out police and military duties.

¹¹² In a joint statement, two CEC members questioned the eligibility of Mr. Japarov and cited campaign finance rules violations, unequal campaign conditions and misuse of administrative resources. The dissenting opinion on the referendum results referred to violations of calling the referendum, unclear question, insufficient time for voter information and unequal campaign conditions.

¹¹³ In Paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. The follow-up of prior recommendations is assessed by the ODIHR LEOM as follows: recommendations 14, 19, 21, 24 and 29 from the [ODIHR final report on the 2015 parliamentary elections](#) (2015 Final Report), 8, 15, 18 and 22 from the [ODIHR final report on the 2017 presidential election](#) (2017 Final Report) and 18 from the [ODIHR final report on the 2020 parliamentary elections](#) (2020 Final Report) are fully implemented. The recommendations 2, 4, 6, 11, 17, 25, 27 and 28 from the 2015 Final Report, 1, 3, 9, 10, 11 and 14 from the 2017 Final Report and 10, 12 and 19 from the 2020 Final Report are mostly implemented. The recommendations 1,3, 7, 9, 18 and 26 from the 2015 Final Report, 2, 4, 5, 7, 12, 13, 14, 17, 17, 23, 24 and 25 from the 2017 Final Report as well as 4, 7, 23 and 25 from the 2020 Final Report are partially implemented. See also the ODIHR [electoral recommendations database](#).

A. PRIORITY RECOMMENDATIONS

1. The authorities should not hold elections and referendums on the same day if the referendum is about the institution facing election.
2. The appointment of referenda, as any legislative activity, must comply with the rule of law requirements, including the timeframes. In particular, it should be adopted at the end of an inclusive and consultative process.
3. Decisions affecting the rights and duties of electoral stakeholders, including interpretation of the law and resolution of complaints, should be made by the CEC in open sessions. As previously recommended, all CEC decisions should be published in a timely manner.
4. Disproportionate restrictions to voting rights of people serving a prison sentence and limitations based on disabilities should be abolished.
5. To ensure meaningful oversight, a full audit of financial reports should be conducted. The legal framework should regulate its procedures, timelines and publication.
6. The Criminal Code should be amended in order to provide clear definition of what constitutes “incitement of national, racial, religious or interregional enmity”, limiting prosecution only to cases that incite discrimination, hostility or violence, as defined in the ICCPR. Limits for damages asserted in defamation and libel cases should be introduced, taking into consideration only actual harm proven by the plaintiff.
7. The legal definition of electoral campaigning should be amended, so that it does not prevent media from editorial coverage of the campaign. The system of accreditation of media outlets, as a precondition for selling political advertisement, should be cancelled.
8. The principle of equality in the electoral process should be respected. The CEC should ensure impartial consideration of complaints and equal treatment of candidates.

B. OTHER RECOMMENDATIONS

Electoral System and Legal Framework

9. The Referendum law should clearly define the kinds of proposals which may be put to a referendum and the corresponding effect of decisions taken on referenda, in order to provide for an informed choice by voters and legal certainty about referendum results. Proposals put to a binding vote should be capable of unambiguous implementation.

Election Administration

10. Consideration should be given to including in the Referendum law an explicit obligation of the authorities to provide meaningful and balanced information about the proposals put to referendum.

Voter Registration

11. Authorities should continue comprehensive efforts to encourage and facilitate biometric registration of all eligible voters, especially those residing abroad.
12. To avoid discrepancies, the State Registration Service should harmonise respective registration databases. Broad awareness raising activities could be considered to encourage citizens to timely exchange their old national IDs to the new ones.
13. Consideration should be given to providing all voters with a right to request a temporary change of voting address under the conditions of a valid justification and a limited number of requests submitted by one voter within an election period. Publication of list of voters who voted should be avoided.

Election and Referendum Campaign

14. Authorities should remain neutral and guarantee a level playing field for all contestants throughout the entire electoral process, in line with good practice. In this regard, to encourage impartiality, continued training should be conducted for officials from state and other public institutions involved in elections.

Campaign Finance

15. The legal framework should be amended to introduce limits on campaign contributions and expenditures regarding referenda.
16. Campaign finance regulations, including on expenditure limits and reporting, could be extended to third parties that are involved in the campaign to ensure transparency and accountability.
17. The legal framework should provide for a range of gradual and dissuasive administrative sanctions for campaign finance violations.

Media

18. The Referendum law should be amended in order to provide for clear referendum campaign regulations and mechanism for allocation of free airtime for referendum groups. Any gaps and inconsistencies in the legislation should be regulated by the CEC to facilitate informed choice of voters.
19. To exclude potential confusion regarding the nature of the content, paid political advertisements in the media should be clearly marked, indicating the name of those who ordered the advertisement. Airing paid political advertisements within the news and current affairs programmes should be prohibited.
20. Considerations could be given to allot free time and organize debates on all state-funded broadcasters, as required by the law. The format of the debates should facilitate actual interaction between contestants, as required by the CEC regulation. The candidates should not be legally prevented from criticizing their opponents during the campaign.
21. In line with good practice, the public and state-affiliated media should guarantee impartial and balanced editorial coverage of the campaign activities and referendum options.

22. The CEC should ensure respect for the media-related provisions of the Election law during the campaign. Systematic media monitoring would be beneficial for the CEC during an election campaign period in order to actively identify and verify violations of the campaign coverage and to be able to provide swift restoration of infringed rights.

Complaints and Appeals

23. The CEC should consider cases of alleged violations of the Election law in open sessions and provide timely and effective remedies. In this regard, all auxiliary groups should assist the CEC in making informed decisions on complaints, rather than relieve responsibility from the CEC.

Election Day

24. The legal provisions for the secrecy of voting should be ensured in practice and enforced by the precinct election commissions. The importance of ballot secrecy should be emphasized during the training of election commissions and in voter education materials.

25. The CEC should continue efforts to improve the accessibility of voters with disabilities to the electoral process, including barrier-free access to voting, in consultation with civil society organisations.

ANNEX I: FINAL ELECTION AND REFERENDUM RESULTS¹¹⁴

	Election	Percentage	Referendum	Percentage
Total number of voters	3,563,574		3,563,574	
Number of voters who voted	1,395,513	39.16	1,394,218	39.12
Number of valid votes	1,384,466	99.21	1,347,561	96.65
Number of invalid ballots	10,851	0.78	46,453	3.33

	Candidate (according to the ballot)	Number of votes	Percentage
1	Sadyr Japarov	1,105,248	79.20
2	Kanatbek Isaev	8,038	0.58
3	Myktybek Arstanbek	23,583	1.69
4	Klara Sooronkulova	14,005	1.00
5	Imamidin Tashov	16,383	1.17
6	Abdil Segizbaev	20,335	1.46
7	Adahan Madumarov	94,741	6.79
8	Aimen Kasenov	12,684	0.91
9	Ulukbek Kochkorov	9,397	0.67
10	Jenishbek Baiguttiev	1,327	0.10
11	Eldar Abakirov	6,996	0.50
12	Kursan Asanov	6,885	0.49
13	Arstanbek Abdyldaev	1,157	0.08
14	Ravshan Jeenbekov	2,652	0.19
15	Baktybek Kalmamatov	6,893	0.49
16	Babyrjan Tolbaev	32,979	2.36
17	Kanybek Imanaliev	2,490	0.18
	Against all candidates	18,673	1.34

Referendum Option	Number of votes	Percentage
For presidential republic	1,133,485	81.30
For parliamentary republic	151,931	10.90
Against all options	62,145	4.46

¹¹⁴ Source: CEC web pages for [election](#) and [referendum](#).

ANNEX II: LIST OF OBSERVERS IN THE INTERNATIONAL ELECTION OBSERVATION MISSION

OSCE Parliamentary Assembly

Peter Juel-Jensen	MP Special Co-ordinator	Denmark
Reinhold Lopatka	MP Head of Delegation	Austria
Josef Hajek	MP	Czech Republic
Jan Hornik	MP	Czech Republic
Karla Marikova	MP	Czech Republic
Zdenek Ondracek	MP	Czech Republic
Pavel Plzak	MP	Czech Republic
Marie Krarup	MP	Denmark
Lars Aslan Rasmussen	MP	Denmark
Inka Hopsu	MP	Finland
Vilhelm Junnila	MP	Finland
Tom Packalén	MP	Finland
Francois Jolivet	MP	France
Didier Paris	MP	France
Frédéric Petit	MP	France
Aude Vandorme	MP	France
Zsolt Csenger-Zalán	MP	Hungary
Luigi Augussori	MP	Italy
Mauro Del Barba	MP	Italy
Paolo Grimoldi	MP	Italy
Francesco Mollame	MP	Italy
Vito Vattuone	MP	Italy
Aleksei Kornienko	MP	Russian Federation
Gennadii Onishchenko	MP	Russian Federation
Johan Büser	MP	Sweden
Margareta Cederfelt	MP	Sweden
Carina Ödebrink	MP	Sweden
Jasenko Omanovic	MP	Sweden
Selami Altinok	MP	Turkey
Lukas Mussi	Staff of Delegation	Austria
Silvia Andrisova	Staff of Delegation	Czech Republic
Radek Merkl	Staff of Delegation	Czech Republic
Andreas Baker	Staff of Delegation	Denmark
Eva Esmarch	Staff of Delegation	Denmark
Stephanie Koltchanov	Staff of Delegation	France
Freyja Koci	Staff of Delegation	Germany
Sergey Karseka	Staff of Delegation	Russian Federation
Gustavo Pallares	Staff of Delegation	Spain
Simona Di Ciutiis	Staff of Delegation	Sweden
Fredrik Svensson	Staff of Delegation	Sweden
Manuchekhr Salokhudinov	Staff of Delegation	Tajikistan

Ecem Danik Gökce	Staff of Delegation	Turkey
Cemil Korkmaz	Staff of Delegation	Turkey
Janice Helwig	Staff of Delegation	United States

ODIHR LEOM Core Team

Tamás Meszerics	Head Of Mission	Hungary
Wolfgang Sporrer		Austria
Andrei Krasnyansky		Belarus
Miso Imamovic		Bosnia and Herzegovina
Anton Petrenko Thomsen		Denmark
Mikheil Golijashvili		Georgia
Silke Tittel		Germany
Carlo Pappalardo Fischer		Italy
Rokas Stabingis		Lithuania
Svetlana Chetaikina		Russian Federation
Valentina Kremleva		Russian Federation
Ivana Stanojev		Serbia
Peter Novotný		Slovakia
Farrukh Juraqulov		Tajikistan
Egor Tilpunov		Ukraine

ODIHR LEOM Long-term Observers

Jan Udržal	Czech Republic
Tomas Vlach	Czech Republic
Mari Paaajanen	Finland
Susanne Neymeyer	Germany
Christoph Wiedemann	Germany
Filippo Ristoldo	Italy
Rocco Giovanni Dibiasi	Italy
Elena Balandina	Russian Federation
Alexander Bedritskiy	Russian Federation
Aleksandr Mamin	Russian Federation
Lev Tarskikh	Russian Federation
Nicolas Heyum	Sweden
Ewa Jacobsson	Sweden
Björn Tedeman	Sweden
Nadiya Pashkova	Ukraine
Patricia Cavanagh	United Kingdom
Nirmala Gopal	United Kingdom
Mark Waller	United Kingdom
Michel Njang	United States
Andrew Offenbacher	United States
Mary Stegmaier	United States

ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 150 staff.

ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights and fundamental freedoms** consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas, including human rights in the fight against terrorism, enhancing the human rights protection of trafficked people, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance and non-discrimination**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).