EUROPEAN PARLIAMENT

ELECTION OBSERVATION DELEGATION TO THE PARLIAMENTARY ELECTIONS IN TAJIKISTAN

(28 February 2010)

Report by
Elizabeth Jeggle, Chair of the Delegation

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Introduction

On 4 February 2010, the Conference of Presidents of the European Parliament authorised the sending of an Election Observation Delegation in order to observe the first round of the parliamentary elections in the Republic of Tajikistan, scheduled for 28 February 2010 and aimed at renewing the composition of the Lower House of the Parliament (Majlisi Oli).

The European Parliament Election Observation Delegation was composed of Mr Juan Lopez Aguilar (S&D, Spain), Ms Inese Vaidere (EPP, Latvia), Mr Joachim Zeller, EPP, Germany, Ms Katerina NEVEDALOVA (S&D, Slovakia) and Ms Elizabeth Jeggle (EPP, Germany), who was appointed Chair of the Delegation at its constitutive meeting.

The Delegation conducted its activities in Tajikistan between 26 February and 1 March 2010 and, as usual, was integrated in the International Election Observation Mission (IEOM). It followed OSCE/ODIHR's methodology in the evaluation procedure and assessed the election for its compliance with OSCE commitments for democratic elections. The European Parliament Delegation conducted its election observation mission in accordance with the Declaration of Principles of International Election Observation and Code of Conduct adopted at the United Nations in 2005 and endorsed by the European Parliament in 2007.

Members of the EP Delegation signed the Code of Conduct for Members of the European Parliament Election Observation Delegations, in accordance with the decision of the Conference of Presidents of 10 December 2009.

Programme

Prior to Election Day, the Delegation met in Dushanbe with election authorities, political parties, press, NGOs, diplomatic missions and familiarized itself with legal institutions of Tajikistan and with the local political climate.

In particular, the Delegation availed itself of considerable assistance from the EU Delegation in Tajikistan, headed by Mr Eduard Auer, and in the framework of the International Election Observation Mission cooperated closely with the OSCE/PA Delegation, headed by Ms Pia Christmas Moeller, and the OSCE/ODIHR Election Observation Mission, headed by Mr Artis Pabriks. The EU Member States' and the OSCE Ambassadors in Dushanbe were also very helpful in briefing the Delegation as usual.

Meetings with political parties' representatives included the People's Party, the Communist Party, the Islamic Revival Party, the Democratic Party, the Socialist Party, the Agrarian Party, the Party of Economic Reform, the Social Democratic Party. The Delegation also met Representatives from the Central Commission for Elections and referenda, as well as panels of mass media and NGO representatives.

On Election Day, the Delegation split in three groups, and observed election operations in various polling stations, starting from the opening to the closure of activities and counting of the votes. The polling stations observed were in Dushanbe Center, in the wider Dushanbe area, in the city of Kurgan Tube and the area from there to the Afghan border.

On 1 March 2010, a joint Press Conference was held by the Heads of the EP, OSCE/ODIHR and OSCE PA Delegations. A Statement of Preliminary Findings and Conclusions was released and is attached to this report.

Election Procedures

The Delegation was impressed by the peaceful and consensual atmosphere prevailing both in the campaign and in the election itself. This could be considered as a positive indication, since it testifies to reconciliation and to the continuation of the national consensus; it is also, however, an indication of the absence of genuine political debate. To a wide extent, the perception by the public is that elections are more a formality than a real competition, and there was the widespread expectation that results would widely confirm existing power balances.

It should also be observed that the authorities of Tajikistan have failed to implement reform of electoral legislation and in particular the recommendations formulated by the Election Observation mission following the last elections in 2005: these recommendations concerned the creation of a National register of voters, the reduction of the considerable deposit required from all Parties and independent candidates, the adoption of more precise rules with regard to vote by electors not inscribed in polling station registers, the definition of clear procedures for redress in case of alleged fraud.

On the day of election, while the Delegation witnessed to certain clear irregularities, such as family voting, and infringements of secrecy regulations, it observed no obvious indications of electoral fraud.

The voting irregularities were remarked also by the other international observers, and duly highlighted in the Preliminary Statement released by the Election Observation Mission.

Political Context

It is important to remark that, while the Delegation endorsed the Preliminary statement released by the Election Observation Mission, in the Press conference held the day after the elections, the Delegation had the opportunity for further developing its judgement, stressing in particular some political points:

- it underlined the fact that, in activities on election day, it had not observed any violence or pressure being exerted on voters
- also, it had not remarked, in the electorate, discontent concerning the electoral process and the way it was conducted
- it stressed the importance of stability for Tajikistan: stability should be maintained while at same time further developing democratic Institutions and practices
- it advocated a stronger political debate, involving a stronger participation of young people and women
- it encouraged the newly elected Parliament of Tajikistan to become a more active and relevant democratic forum, where the main policies of the State would be shaped on the basis of peaceful dialogue
- it remarked that the European Parliament, via its standing Delegation for relations with Central Asia, was ready to reinforce its cooperation with the Parliament of Tajikistan, and extended a warm invitation to the new Parliament, in view of holding the first meeting of the EP/Tajikistan Joint Parliamentary Committee, created by the Partnership Agreement entered into force on 1st January 2010.

Election Results

The election results corresponded entirely to expectations: the People's Democratic Party, led by President Rakhmon, won the elections with around 71% of the vote and 55 seats out of 63, while the Islamic Revival Party (Central Asia's only legal Islamic Party) came in second, with 8.2% of the vote and two seats, and the Communist Party (7.0%) the Agrarian Party (5.1%) and the Party of Economic Reforms (5.0%) each will be represented with two seats in the new Parliament. The leaderships of the Islamic Revival Party and of the Social Democratic Party (which is not represented in the new Parliament) have announced they would institute proceedings against the results.

Since, apparently, only one single-seat constituency had not delivered a winner in the first Round of elections, the Delegation decided that there was no point in observing the second round of elections, held on 13 March.

Annex A

EUROPEAN PARLIAMENT

PARLIAMENTARY ELECTIONS
IN TAJIKISTAN

ELECTION OBSERVATION DELEGATION

26 February - 02 March 2010

List of Participants

Members

Mrs Elisabeth JEGGLE, Germany, EPP, *(Chairwoman)*
Mr Joachim ZELLER, Germany, EPP
Mrs Inese VAIDERE, Latvia, EPP
Mrs Katarina NEVEDALOVA, Slovakia, S&D
Mr Juan LÓPEZ AGUILAR, Spain, S&D

Secretariat

Mr Pietro DUCCI, Head of Unit
Mr Carlo CHICCO, Administrator
Mrs Adriana BUCHIU, Assistant

Group Staff

Mr Michael SPEISER, EPP

Interpreters

Mr Alexander BARCHENKOV, Head of the team
Mr Stanislav KULD
Mr Sergey YAKOVLEV

Abbreviations :

EPP	European People's Party/European Democrats	ECR	European Conservatives and Reformists
		GUE/NGL	European United Left/Nordic Green Left
S&D	Progressive Alliance of Socialists and Democrats	EFD	Europe of Freedom and Democracy
ALDE	Alliance of Liberal and Democrats for Europe	NI	Non-attached
Verts/ALE	Greens/European Free Alliance		

Annex B

EUROPEAN PARLIAMENT

ELECTION OBSERVATION DELEGATION

PARLIAMENTARY ELECTIONS IN TAJIKISTAN

26 February - 1 March 2010

PROGRAMME

Members

Mrs Elisabeth JEGGLE, Germany, EPP, *(Chairwoman)*
Mrs Inese VAIDERE, Latvia, EPP
Mr Joachim ZELLER, Germany, EPP
Mr Juan LOPEZ AGUILAR, Spain, S&D
Mrs Katarina NEVEDALOVA, Slovakia, S&D

Secretariat

Mr Pietro DUCCI, Head of Unit
Mr Carlo CHICCO, Administrator
Mrs Adriana BUCHIU, Assistant

Political Groups

Mr Michael SPEISER, EPP

Interpreters

Mr Alexander BARCHENKOV
Mr Stanislav KULD
Mr Sergey YAKOVLEV

Programme

Venue: Hotel Hyatt Regency

Friday, 26 February 2010	
11:30-12:30	Meeting with Mr Eduard Auer, Head of EC Delegation to Tajikistan and EU Heads of Missions *Venue: Hyatt Regency Hotel*
13:30	Registration and distribution of general briefing packs
14:00-14:15	**Opening by the Heads of Parliamentary Delegations** ▪ Ms. Pia Christmas Moeller, Head of the OSCE PA Delegation and Special Co-ordinator to lead the OSCE short-term observers ▪ Chair of the EP delegation
14:15-14:45	**Round table** ▪ OSCE Office in Tajikistan ▪ Delegation of the European Commission to Tajikistan
14:45-16:15	**Briefing by the OSCE/ODIHR Election Observation Mission**
16:15-16:30	*Coffee Break*
16:30-17:30	**Meetings with political party representatives and selected independent candidates** - Social-Democratic Party of Tajikistan - Democratic Party of Tajikistan - Communist Party of Tajikistan - People's Democratic Party of Tajikistan - Islamic Revival Party of Tajikistan - Socialist Party of Tajikistan - Agrarian Party of Tajikistan - Economic Reform Party of Tajikistan Independent candidates: *2-3 representatives/ members of active parties in Tajikistan, relatively well known in the country running in single-mandate constituencies*

Saturday, 27 February 2010

09:00-12:30

Meetings with Political Party Representatives and selected independent candidates (cont.)

Meeting with representatives of the Central Commission for Elections and Referenda,

Mr. Mirzoali Boltuev, Chairperson – TBC

Panel with representatives of mass media and NGOs

- Media: Media Council (newly est.), State TV and Radio, AsiaPlus, NANSMIT, Radio Imruz, SMT TV.
- NGOs: IFES, Association of Political Scientists of Tajikistan (NAPST), NGO - *Rusht*.

Afternoon no official programme

Evening Working dinner offered by EP Head of delegation

Sunday, 28 February 2010 - ELECTION DAY

Observation of Opening, Voting, Vote Count

Monday, 1 March 2010

- Debriefing of PA delegations
- Press conference
- Departures

End of work

INTERNATIONAL ELECTION OBSERVATION MISSION
Republic of Tajikistan, Parliamentary Elections – 28 February 2010

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

Dushanbe, 1 March 2010 – The election took place peacefully, but despite certain small positive steps the 28 February parliamentary elections in Tajikistan failed to meet many key OSCE commitments contained in the OSCE 1990 Copenhagen Document and other international standards for democratic elections. Serious irregularities took place on election day, including high incidence of observed proxy and family voting, despite the stated aim of the authorities of Tajikistan to hold more democratic and transparent elections. In a positive development, the higher-level election commissions were more inclusive than in previous elections.

The elections had a rather low public profile, despite efforts by government and non-governmental organizations to promote public awareness. Overall, the election campaign had low visibility and got off to a late start, partly as the result of the late registration of candidates and partly due to an even later allocation of free airtime to candidates. Some parties and candidates provided voters with political alternatives. However, inconsistent application of provisions for campaigning affected candidates' ability to campaign, particularly opposition parties. There were credible reports regarding several instances of violations of campaign regulations by local authorities and law-enforcement agencies, geared against opposition parties. This hindered the establishment of a level-playing field for all candidates.

The election law has not been substantively amended since 2004 and significant shortcomings remain. These include a lack of guarantees for an inclusive and pluralistic composition of election commissions, insufficient complaints procedures and vague procedures and lack of safeguards for essential aspects of the election process, including on voter registration, campaigning and election day procedures. A number of provisions in the election law and in the criminal code contradict the constitutional guarantee of freedom of expression, essential for election campaign speech and media coverage of elections. Despite the recommendations made in the OSCE/ODIHR Final Report on the parliamentary elections held in Tajikistan in 2005, many issues remain unaddressed.

In practice, there is a limited range of opinions presented in television broadcasts in Tajikistan, which continues to be the main source of information for citizens. By contrast, there is a wide spectrum of viewpoints expressed in print media. However, due to its low circulation outside urban centres and in most cases, publication only once a week, its impact is limited. Journalists informed that the pre-election working environment has become less controlled, but they also reported self-censorship. In the run-up to the elections, state television news coverage of campaign activities of parties and candidates was almost completely absent. All this limited the information available to voters to make informed choices in these elections.

Overall, the process of candidate registration was inclusive. The electoral deposit, however, was perceived as unduly high and prevented a significant number of candidates from registering. Only

the ruling People's Democratic Party of Tajikistan (PDPT) registered candidates in all contests, except for in one of the single mandate constituencies. All other parties were able to register far fewer candidates.

Generally, the Central Commission for Elections and Referenda (CCER) worked within legal deadlines but together with the DECs, it lacked transparency and accountability in carrying out its tasks. The CCER held informal meetings, rather than formal sessions, although the latter is required by law. Over the course of the process, the CCER failed to issue instructions for the work of lower-level election commissions in order to fill existing gaps and ambiguities in the election law, in particular regarding election day procedures. The CCER argued that the present electoral framework is sufficiently clear.

The election law allows political parties to nominate DEC members. In practice, some DECs appointed party members to PECs while others did not. For PECs, there are no such legal provisions, thereby not ensuring a role for political parties in the work of PECs. The prevalence of senior local officials as well as of members of the ruling People's Democratic Party of Tajikistan (PDPT) on DECs raised concerns regarding their independence.

Official complaints were generally considered by election commissions without proper procedural requirements being always followed and were not handled in a collegial and transparent manner, although this is required by law. Instead, commissions attempted to resolve disputes informally. Complaints to the CCER were generally answered by a letter rather than in the form of an official decision, thus potentially undermining complainants' rights to appeal. This did not provide the level of transparency that a proper legal or administrative process would have done.

With a few exceptions, women do not feature prominently in politics in Tajikistan. In these elections, they were neither well represented as candidates, nor in the election administration. On election day, in PECs observers noted that women were chairpersons in 17.8 per cent of cases.

Minority issues did not feature in the campaign. In areas with significant minority populations, ballots were printed in minority languages. No specific cases of discrimination on ethnic grounds related to the election process were observed or reported.

Election day took place peacefully. Official turnout was reported at 85.2 per cent. The voting process was assessed positively in only 74.8 per cent of polling stations visited by observers. However, the process was evaluated as transparent by a high number of observers, in as much as they could evaluate the polling procedures. In general, most PECs did not follow the requisite election procedures. Weak control over the process resulted in serious irregularities. Voter lists contained identical signatures in about half of polling stations observed. Proxy voting (voting for another person) was widespread and constitutes a serious shortcoming.

While the authorities of Tajikistan readily accommodated international observers, they did not meet their commitment under paragraph 8 of the 1990 OSCE Copenhagen Document to invite domestic observers, other than from parties or candidates, who were thus not able to observe

Counting and tabulation were assessed more negatively by observers than voting. Counting was assessed positively in less than half of polling stations. Lack of detailed instructions on counting procedures and training became evident; PECs' understanding of counting procedures was assessed as "bad" or "very bad" in about one third of the polling stations observed.

PRELIMINARY FINDINGS

BACKGROUND

In line with legal requirements, on 14 December 2009 the president announced the next elections to the lower chamber of parliament (*Majlis Namayandagon*) for 28 February 2010. In the outgoing parliament, the People's Democratic Party of Tajikistan (PDPT), headed by President Emomali Rahmon, held 52 of the 63 seats. Two other parties also held seats; namely the Communist Party (CPT) with four seats and the Islamic Revival Party (IRPT) with two seats. The five remaining seats were held by independent candidates.

The CPT has traditionally been a loyal partner of the ruling PDPT, although it has in recent times voiced some criticisms towards government policies. The IRPT wishes to promote a larger role of Islam in public life. The Socialist Party (SPT), the Social Democratic Party (SDPT) and the Democratic Party (DPT) hold no seats in the current parliament. The SPT defines itself as 'constructive opposition', while the SDPT is openly critical of the government. Two new parties were established in 2006, the Party of Economic Reforms (PERT) and the Agrarian Party (APT). Both parties openly support the government, although they contribute to the elaboration of agricultural and economic policies. The 1992-1997 civil war in Tajikistan is still fresh in the memory of the population and continues to influence the political environment with actors avoiding aggressive discourse.

ELECTION SYSTEM AND LEGAL FRAMEWORK

The parliament of Tajikistan (*Majlisi Oli*) is comprised of two chambers. The assembly of representatives (*Majlisi Namayandagon*) is the lower chamber with 63 deputies directly elected for a five-year term. Twenty-two members are elected through a proportional party list system within a single nationwide constituency with a five per cent threshold for seat allocation. Forty-one members are elected in single-mandate constituencies under a majoritarian system. In these contests, if no candidate gets more than 50 per cent of votes cast in the first round, the top two candidates compete in a second round within two weeks. A 50 per cent turnout of registered voters is required.

The parliamentary elections were primarily regulated by the 1994 Constitution and the 1999 Constitutional Law on Elections to the *Majlisi Oli* (election law).[1] The constitution provides for rule of law and fundamental civil and political rights and freedoms, necessary for the conduct of democratic elections. However, the general legal framework including a series of new or amended laws[2] affecting media, civil society and religious organizations have narrowed civil and political freedoms.[3]

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1 Other relevant laws include the Law on Political Parties (1998), Gender Equality Law (2005), Law on Public Meetings (1998), Administrative Offences Code (2008), Criminal Code (1998), Civil Procedures Code (2008), Law on Citizens' Complaints (1996), and media-related laws.

2 Law on Freedom of Conscience and Religious Organizations (2009) and the Law on Public Associations (2007, last amended in 2008). For instance, one candidate was prevented from standing because he was a religious leader. See also the OSCE/ODIHR legal opinion "Comments on the Draft Law of the Republic of Tajikistan about Freedom of Conscience and Religious Unions".

3 For instance the law on Law on Freedom of Conscience and Religious Organizations requires the registration of religious organizations, which could potentially be used to restrict existing and reject new religious groups and ideas.

The election law has not been substantively amended since 2004, prior to the last parliamentary elections. Significant shortcomings exist in the election law, including a lack of guarantees for an inclusive and pluralistic composition of election commissions, unduly restrictive candidate eligibility requirements, undue restrictions on freedom of expression, insufficient complaints procedures and lack of safeguards for essential aspects of the election process, including on voter registration, campaigning and election day procedures.

Throughout 2008, efforts were made to reform the election law. Several working group sessions that included representatives of all registered political parties, the CCER, the parliament, the presidential administration, and the Centre of Strategic Research under the President were held. After a set of proposed amendments was negotiated and agreed to by all stakeholders, the PDPT did not sign the proposals. From the outset, they had been of the opinion that the election law did not require improvement.[4] In February 2009, the CPT formally introduced a majority of the working group's proposals to parliament. The proposals were reviewed by relevant parliamentary committees and rejected by the majority of these committees;[5] thus the proposals did not receive a formal reading. Despite the recommendations made in the OSCE/ODIHR Final Report on the parliamentary elections held in Tajikistan in 2005, many issues remain unaddressed.

A number of provisions in the election law and in the criminal code contradict the constitutional guarantee of freedom of expression, essential for election campaign speech and media coverage of elections.[6] The extent of these restrictions and the application of criminal sanctions are inconsistent with the Constitution and with paragraph 9.1 of the OSCE 1990 Copenhagen Document, which obliges participating States to ensure freedom of expression and allow restrictions only by law, if consistent with international standards.

A lack of harmonization of the election law with the Law on Elections of Local *Majlis* of People Deputies (1999) has led to an inconsistent practice in the formation and reporting structure of PECs.[7] Furthermore, ambiguities and gaps in the election law were not addressed by the CCER, who could have issued detailed instructions in the run-up to the elections to clarify certain crucial procedures, especially with regard to election day.

Election Administration

The parliamentary elections were administered by three levels of election commissions, comprising the Central Commission for Elections and Referenda (CCER), 41 District Election Commissions (DECs), and 3,067 Precinct Election Commissions (PECs), including 35 polling stations in 22

4 Proposed amendments included, *inter alia*, lowering the seat allocation threshold, equal representation of political parties on all election commissions, prohibiting acting government officials from serving on election commissions, provision for domestic observers from civil society, elimination of the electoral deposit, a change from negative to positive ballot marking, the right for observers to receive results protocol copies, the right to receive decisions on complaints in written form within 24 hours of issuance and the extension of free airtime.

5 The Justice Ministry informed the OSCE/ODIHR EOM that it recommended to parliament to reject the proposals.

6 For example, campaign speech should not contradict the Constitution or the election law (Arts. 27 and 37, election law), mass media are prohibited from publishing information discrediting the honour, dignity and business reputation of candidates (Art. 39, election law), the criminal code prohibits slander and libel (Arts. 135-137 and 330, criminal code).

7 For example, both laws require DECs (set up separately for parliamentary and local elections) to establish and oversee polling station commissions. In practice, there is only one polling station for both elections when more than one type of election is conducted on the same day.

countries for citizens residing abroad. While the election administration generally met legal deadlines, the CCER and DECs lacked transparency and accountability in carrying out their tasks.

Only the CCER is a permanent body. Its 15 members were appointed by parliament on proposal of the president for a five-year term. The eight registered political parties were invited to nominate members to the CCER and only the SDPT was not represented. The party claims that the president did not support their nominee.

The work of the CCER lacked transparency because it did not work in open session. The OSCE/ODIHR EOM was informed by the CCER that its last session was held on 19 January and that there was no necessity for further sessions. However, additional CCER informal meetings were held but the OSCE/ODIHR EOM was not informed about them, though the latter enquired on a daily basis about any sessions to be held.

On 26 February, the CCER invited the leaders of all political parties to discuss the work carried out thus far by the CCER in preparation for the elections.

The CCER assigned five of its members as regional co-ordinators based outside Dushanbe, and this further deteriorated the CCER's transparency of work and collegiality. The lack of sessions brought into question how the CCER could adopt decisions in accordance with provisions of the election law, which requires a two-third quorum and that adopted decisions are supported by over half of those present.

Lower-level commissions are appointed for each election. DECs of no less than nine members were established by the CCER by 30 December 2009. The 3,067 PECs were formed by DECs by 14 January 2010 with 5 to 19 members each. The election law provides that proposals from political parties on DEC membership are to be considered. For PECs, there is no such legal provision; at the same time, the law does not prohibit PEC members from being affiliated with a party. In practice, some DECs appointed party members to PECs while others did not.

Prior to the elections, the CCER issued a number of decisions, *inter alia* on the formation of electoral districts, on electoral contestants use of mass media, and on the formula for determining the registration fee. It did not, however, adopt regulations providing further detail for the work of DECs and PECs regarding crucial elements of the electoral process. These include voter registration, early voting, mobile voting, military voting, as well as counting and tabulation. The CCER informed the mission that it viewed the law as sufficiently clear and detailed.

The OSCE/ODIHR EOM observed that senior officials from regional and local government were members of election commissions, especially in DECs.[8] While not contravening the election law,[9] the presence of senior local officials as DEC members in combination with the prevalence of members of the ruling People's Democratic Party of Tajikistan (PDPT) as DEC members and chairpersons, raised concerns regarding the independence of commissions.

Voter Registration

There is no central voter register in Tajikistan. Voter lists are mostly hand-written and compiled locally for each election by PECs. They produce voter lists based on data provided by local

[8] In DECs 5, 6, 10, 16, 20, 21, 25, 26, 29, 30, 31 and 33.
[9] Art. 18(1) of the election law states that "a member of an election commission must be neutral and unbiased."

executives. Citizens who are at least 18 years old on election day and permanently or temporarily residing in a given precinct are entitled to be included in that precinct's voter list.

Voter lists were to be compiled by PECs by 13 January and were subsequently displayed for public scrutiny at polling stations. Some instances of late compilation and display were observed by the OSCE/ODIHR EOM.[10] The CCER informed the mission that 3,459,164 voters had been registered by the deadline for voter list compilation. The lack of a centralized database meant that national crosschecks and elimination of multiple entries was effectively not possible. A number of opposition parties warned that the names in voter lists of migrant workers, who are not in Tajikistan during the elections, may be abused by others, who may cast votes in their names.

Candidate Registration

To stand for office, citizens of Tajikistan must be at least 25 years old, possess voting rights, a higher education and be resident in the country for the past five years. The law prohibits those under investigation or convicted of 'grave crimes' and those with a conviction for any crime that has not been lifted from standing.[11]

Candidates could stand on party lists or could be nominated in single-mandate constituencies by registered political parties or by self-nomination. Self-nominated candidates had to present 500 support signatures.[12] An electoral deposit of 7,000 *Somoni*[13] was also required from each candidate and only elected candidates or parties that surpass the five per cent threshold are refunded.

Candidate registration took place from 14 January to 8 February. On 19 January, 73 candidates were registered on 8 party lists to contest the 22 nationwide constituency seats.[14] Only the PDPT was able to register the legal maximum of 22 candidates. According to the CCER, several parties were not able to pay the electoral deposit for all nominees; some 50 of the 68 rejected were for this reason. Only the ruling People's Democratic Party of Tajikistan (PDPT) registered candidates in all contests, except for in one of the single mandate constituencies. All other parties were able to register far fewer candidates.

The 41 single-mandate constituencies were to the knowledge of the OSCE/ODIHR EOM finally contested by 129 registered candidates: PDPT, 39; IRPT, 20; CPT, 7; PERT, 6; APT, 4; SDPT, 2 plus 51 self-nominated candidates. The DPT and the SPT did not run single-mandate candidates. In nine constituencies, only PDPT fielded candidates, aside from those that were self-nominated. In one constituency, only self-nominated candidates stood. Over the course of the campaign and in particular towards the end of it, 23 candidates withdrew their candidacy. This high number of withdrawals raises questions about what caused them. One was de-registered for alleged vote buying in the form of a donation of furniture to a school and for using non-standard posters.[15]

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10 DECs 3, 5 and 41.

11 According to Tajik legislation, in the case of grave crimes, a separate court decision on lifting a conviction is required, even after a sentence has been served, before individuals can again enjoy their full citizen rights, including their right to run as candidates.

12 According to Art. 35, election law, in case the number of invalid signatures exceeds 3 per cent (15 signatures) a nominated candidate is denied registration.

13 The registration fee increased, from approximately 600 Euro in the previous elections to almost 1,100 Euro in the current elections.

14 Candidates registered on party lists: PDPT, 22; IRPT, 20; CPT, 9; SDPT, 7; APT, 6; ERPT, 4; SPT, 3; DPT, 2.

15 The de-registered candidate was not provided with the DEC decision and he unsuccessfully appealed to the first instance court and subsequently to an appellate court.

CAMPAIGN ENVIRONMENT

Overall, the election campaign had a low public profile, although an increase in activities was observed by the OSCE/ODIHR EOM in the last two weeks prior to election day. Public interest in the elections appeared to be limited, despite efforts by the government and non-governmental organizations to promote public awareness. Certain parties and candidates provided voters with political alternatives, offering them some level of choice.

An inconsistent application of provisions for campaigning affected candidates' ability to campaign, in particular from opposition parties. There were credible reports regarding violations of campaign regulations by local authorities and law-enforcement agencies, some of which were verified by the OSCE/ODIHR EOM. This hindered the establishment of a level-playing field for all candidates.

By law, candidates and political parties can start campaigning as soon as they are registered. This effectively meant that some candidates had more time to campaign than others.[16] In addition, the election administration's interpretation of the law differed. In some electoral districts in the Khatlon and Sughd regions, the election administration interpreted the law as to not allow any campaigning until the registration process was completed, i.e. 8 February.

Campaign events consisted mainly of meetings with voters, either organized by the relevant DECs or by political parties, with a prevalence of the first type. The OSCE/ODIHR EOM observed that, in general, candidates participated in meetings organized by DECs. During the first week of the campaign, some opposition parties complained that they were not informed of upcoming meetings with the electorate or were informed at the last moment. They claimed that this hindered their effective participation. Similarly, when DECs and local authorities did not inform voters or institutions, there was low or no attendance. The interpretation of the DECs' obligations and the rights of candidates and political parties concerning campaign events was not consistently applied throughout the country. In some cases, only meetings organized by DECs were allowed, while in other areas, candidates and parties could organize meetings independently of DECs.

In addition to meetings with voters, campaign activities included door-to-door canvassing, small and informal meetings with voters, distribution of leaflets and display of posters. In general, election posters were much less prominently displayed than other advertising, such as the posters related to the construction of the Roghun dam.[17] Certain incidents of police obstructions were verified by the OSCE/ODIHR EOM; four times in Dushanbe, twice in Kulob and once in Vahdat, police stopped IRPT campaigning. In some cases, this involved short-term detentions. For instance, in Kulob police detained four IRPT activists who were distributing leaflets outside a mosque, claiming that this was prohibited. An IRPT party list candidate was detained while preparing a meeting with voters in a school which also serves as a polling station. The police claimed that it was illegal to distribute campaign materials to minors.

In the Sughd region and in Dushanbe, the OSCE/ODIHR EOM received nine allegations of pressure on government employees and voters to vote for or otherwise facilitate the victory of PDPT candidates. Although the mission was unable to verify these claims, the number of such allegations

16 All party lists were registered on 19 January 2010. Single-mandate candidates were registered on different dates between 14 January and 8 February, largely dependent on the date of payment of the electoral deposit.

17 The Roghun dam and hydro-electric power station is located on the river Vakhsh some 100 km east of Dushanbe. It was designed in the 1970s and never completed due to lack of funds. After foreign investments initiatives failed, the government of Tajikistan launched a public fundraising campaign, calling citizens to buy shares as well as donate to allow for completion of the project.

raises concern. A SDPT candidate in Gorno-Badakhshan informed the OSCE/ODIHR EOM that two of his proxies were threatened with job loss if they did not withdraw their support. One of them decided not to act as a proxy. The remaining proxy later informed the mission that he would not lose his job. The Chairman of the SDPT also alleged that any businessmen supportive of his party would also face such pressure. Also, four instances of pressure on single-mandate candidates to withdraw were reported first hand by the candidates to the OSCE/ODIHR EOM.

Representatives of IRPT, SDPT and DPT informed the OSCE/ODIHR EOM that their campaign posters have been torn down in many locations during the last week of campaign. In a separate development, on 26 February the CCER instructed that all campaign materials throughout the country must be taken down by 00.00 on Saturday 27 February, in accordance with the law.[18]

THE MEDIA

Television is the main source of information in Tajikistan, including for election coverage. Only the four state-owned TV channels broadcast countrywide. A pluralistic print media field exists, but its reach is affected by low circulation outside urban centres. In most cases, publication is once a week. Media representatives reported that the pre-election working environment has become less controlled. However, the lack of diverse viewpoints in broadcast media, the limited impact of newspapers, as well as self-censorship reported by journalists themselves to the OSCE/ODIHR EOM brought into question voters' access to a broad range of information about contestants.

The legal framework for media coverage of the campaign is based on the election law and a CCER decision on the use of mass media.[19] Article 39 of the election law obliges state-funded broadcast media to allocate airtime free of charge throughout the campaign to registered parties and single-mandate candidates (30 and 15 minutes respectively). Based on the CCER decision, each registered party and candidate was also entitled to eight free A4 pages in state-funded newspapers. The OSCE/ODIHR EOM media monitoring showed that state-funded media adhered to these legal requirements. While all parties utilized their free airtime on *Tojikiston* TV, there were only a limited number of single mandate candidates who utilized this opportunity.

In a positive development, on 26 February the broadcaster aired a pre-recorded debate with participation of all registered parties. The debate offered voters a chance to obtain meaningful information on the platforms and views of respective parties. However, it could not substitute the general lack of information about contestants in the pre-election period.

In general, only newspapers[20] and some radio stations[21] provided vigorous coverage of the electoral campaign, including of candidates and election-related topics. The monitored television channels[22] focused on procedural and technical aspects of the electoral process. Aside from free and paid airtime, coverage of campaign activities of parties and candidates was almost completely absent.

Instead, the monitored TV broadcasters dedicated primetime attention to non election-related topics, primarily to the promotion of the fundraising campaign for a hydro-electric power plant in Roghun.

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18 According to the Asia Plus news agency.

19 CCER decision "On use of Mass Media during pre-election agitation by political parties, registered candidates for deputy and their authorized representatives," adopted by the CCER on 28 December 2009 (CCER decision on the use of mass media).

20 *Asia Plus, Farazh, Narodnaya Gazeta, Millat and Vechernіy Dushanbe.*

21 Radio *Tojikiston*, Radio *Vatan, Imruz and* Asia Plus.

22 State-funded TV *Tojikiston*, TV *Safina* and *Jahonnamo* TV.

In general, all three monitored TV channels in their news programmes presented almost identical editorial policies as concerned coverage of the political subjects, and primarily offered information about the president. Fifty-four per cent of political news coverage on *Tojikiston* TV[23] was devoted to activities of the president and 24 per cent to the central and local governments. In addition, almost 21 per cent of the political news coverage was devoted to the CCER and other election commissions.

Furthermore, the diversity of information available to the voters during the campaign was challenged by administrative or legal steps against a number of media outlets. Independent television, *SMT*, could not fully use its new frequency since the same frequency has been used by Russian military; the responsible Ministry of Transport and Communications was not able to resolve the situation. As a result, potential viewers in the Dushanbe area were not able to receive this channel or received it in poor quality. During the pre-election period, several independent newspapers[24] faced lawsuits with complainants representing state bodies or the judiciary claiming hefty moral damage compensations alleging violation of honour and dignity under the Civil Code.[25] Even though the lawsuits were not election-related, journalists told the OSCE/ODIHR EOM that it created an atmosphere of intimidation. On 23 February, the Sino district court judge, noting the upcoming elections, postponed the ongoing hearing.

COMPLAINTS AND APPEALS

The election-related complaints and appeals process, regulated by a number of laws,[26] generally lacks sufficient clarity and guarantees of due process.[27] There is dual jurisdiction for consideration of complaints against decisions[28] of election commissions, whereby such complaints can be submitted to higher election commissions or first instance courts; complaints against CCER decisions are to be directly submitted to the Supreme Court.

To the OSCE/ODIHR EOM's knowledge, fourteen complaints related to the parliamentary elections were filed with the CCER, eight to DECs, and three to first instance courts[29] by political parties, candidates and citizens;[30] the IRPT was the party that most utilized the formal complaint process. To the knowledge of the EOM, almost all formal complaints submitted to election commissions and courts were unsuccessful. One court decision misapplied the election law in upholding the registration of a candidate.[31] Generally, courts did not issue sufficiently reasoned decisions.

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23 *Safina* TV devoted 55 per cent to the president, 30 per cent to central and local governments, and 14 per cent to the CCER and other election commissions. *Jahonnamo* TV devoted 63 per cent to the president, 23 per cent, to the central and local governments and 14 per cent to the CCER and other election commissions.

24 *Asia Plus, Farazh, Ozodagon, Millat.*

25 See also: Press Release issued by the OSCE Representative on Freedom of the Media on 8 February, http://www.osce.org/fom/item_1_42678.html.

26 These include, *inter alia*, the election law, administrative offences code, and civil procedure code.

27 For example, the election law does not: clearly define what constitutes a complaint; provide a right to a fair hearing; provide a right to a written decision with factual and legal reasoning; and provide a timeline for delivery of decisions.

28 The election law is unclear whether actions and inactions of election commissions can also be challenged.

29 A case of a de-registered candidate was further appealed to a second instance court. The Supreme Court received no appeals.

30 Subject matters of complaints related to, *inter alia*, PEC composition, candidate registration, critical campaign speech, hindrance of campaign activities by election officials, local civil servants, and law enforcement officers, and pressure on voters and public servants by the ruling party and government officials.

31 The Penjikent district court held that Article 9 of the election law permits official campaign funds to be used for enticing votes; since the candidate had used private funds, his deregistration was upheld.

Most of the complaints to the CCER alleged violations of the election law, such as campaign hindrance. The Administrative Offences Code of 2008 made election-related offences subject to court-imposed financial penalties,[32] thus reinforcing the legal framework regarding prosecution of electoral offences. The CCER, however, only forwarded one complaint to the prosecutor's office, although a majority of them concerned administrative offences. According to a press statement[33] of the Prosecutor General, his office was not aware of any substantiated electoral offences and warned against the making of intentional false claims.

The CCER dealt with complaints in an *ad hoc* manner[34] and responded to them by letter signed by the CCER Chairperson. None of the complaints were decided on in open session, in contravention to the election law.[35] The lack of formal decisions on complaints potentially undermined the right to appeal to court. The OSCE/ODIHR EOM also observed instances of DECs not considering complaints in a collegial and transparent manner and not issuing official decisions. In addition, often the three-day legal deadline for complaints to be decided was not met by the CCER and at least three complaints were not considered at all.

Some electoral contestants indicated a reluctance to make formal complaints for lack of trust in election commissions and courts to impartially and effectively consider election-related complaints and to avoid repercussions by the authorities; instead they attempted to settle disputes in an informal manner. The OSCE/ODIHR EOM also noted that contestants lacked sufficient skills to prepare formal written complaints.[36] In general, an insufficient legal framework for complaints and appeals and the manner in which complaints were considered in practice undermined the right to an effective means of redress for electoral complaints.

Participation of Women and National Minorities

With a few exceptions, women do not feature prominently in politics in Tajikistan. Women held 17.5 per cent of the seats in the outgoing parliament. Fifteen women out of 73 candidates were registered on political party lists (21 per cent), although mostly in low positions with little or no chance of being elected. In single-mandate constituencies, 16 women competed out of 129 candidates (12 per cent). Although the legal framework of Tajikistan provides for equality between women and men in public and political life, there is a general consensus among women's advocacy organizations that laws rarely go beyond a mere statement of equality and implementation remains insufficient.

Women are also less represented in the higher levels of the election administration. Three of the 15 members on the CCER are women and four out of 41 DECs were headed by women. Overall, women held 16 percent of positions as chairpersons, deputies or secretaries on DECs. Women were better represented as members of PECs. On election day, in PECs observers noted that women were chairpersons in 17.8 per cent of cases.

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32 In 2009, the CCER widely distributed an extract of the Administrative Offences Code, including to political parties.

33 Issued on 20 February 2010.

34 A Complaints Working Group, composed of eight CCER commission members was established by CCER Decision No. 6, dated 16 December 2009; however, there are no procedures detailing the internal process for handling and consideration of complaints.

35 The letters do not address all issues raised in the complaints and do not provide adequate factual and legal reasoning.

36 Many written complaints lacked sufficient factual detail, legal argument, and reference to supporting evidence. Two complaints were not accepted for consideration by the Kulob City Court as they did not meet the formal requirements set out in the Civil Procedure Code.

The main ethnic group in the country is Tajiks, accounting for 79.9 per cent of the population. Other groups include Uzbeks (15.3 per cent), Russians (1.1 per cent), and Kyrgyz (1.1 per cent). Other ethnic groups comprise the remaining 2.6 per cent.[37] In these elections, the number of candidates from minority groups was marginal and minority issues were not raised during the campaign. Political parties, however, distributed campaign materials in minority languages such as Russian, Uzbek, and Kyrgyz; this was observed by the OSCE/ODIHR EOM in the Sughd region and in Dushanbe. In areas with significant minority populations, ballots were printed in minority languages.[38] One member of the CCER is from a minority background. In most minority-populated area DECs observed, up to 50 per cent of members were from minority groups. No specific cases of discrimination on ethnic grounds related to the election process were observed or reported.

Domestic and International Observers

The election law allows political parties and self-nominated candidates to appoint election observers, who have the right to be present at polling stations to observe the work of election commissions and to familiarize themselves with the voting results. Each candidate may have up to five proxies. The law also provides for international observers. Some 500 international observers were accredited by the CCER to observe these parliamentary elections. While the authorities of Tajikistan readily accommodated international observers, they did not meet their commitment under paragraph 8 of the 1990 OSCE Copenhagen Document to invite domestic observers, other than from parties or candidates, who were thus not able to observe.

Election Day

Election day took place peacefully. Official turnout was reported at 85.2 per cent. However, the process was evaluated as transparent by 77 per cent of observers, in as much as they could evaluate the polling procedures. Voting was assessed positively in only 74.8 per cent of polling stations visited by observers. This indicates that election officials were not performing their duties as prescribed by the election law. Procedures were implemented poorly in 21 per cent of polling stations observed, which may indicate a lack of sufficiently detailed instructions on election day procedures and insufficient training.

Ballot paper control and accountability by election officials was inadequate. Voters were allowed to vote without ID documents in 36.6 per cent of the polling stations visited often, an invitation to vote was sufficient to receive a ballot.

The weakened control over the process resulted in serious irregularities. Voter lists contained identical signatures in 50.6 per cent of the polling stations observed. Instances of group voting were observed in 28.8 per cent of the polling stations visited. Proxy voting (voting for another person) was widespread, as observed in 24.5 per cent of polling stations visited and constitutes a serious problem.

Other problems observed included ballot boxes not properly sealed in 16.7 per cent of polling stations visits. The secrecy of the ballot was not respected in 10.4 per cent of polling stations visited with voters showing their marked ballot papers to others. In three polling stations in DEC 12 (Rasht), a self-nominated candidate was crossed out from the ballot, even though he had not withdrawn. In the same DEC, two withdrawn candidates were not removed in a number of polling stations.

[37] These figures are based on the state population census of 2000.
[38] Ballots in five districts of the Sughd region were printed in Uzbek, in one district in Gorno-Badakhshan in Kyrgyz, and in Chkalovsk and the four Dushanbe districts in Tajik, Uzbek and Russian.

Observers reported discrepancy between the high turnout, as announced by the PEC, and the number did not match the number of signatures on voter lists or the number of ballots visible in the box.

Unauthorized people were present in over one-third of polling stations visited (31.4 per cent). Although in only 5.1 per cent of the polling stations observed, they were observed to direct the work of the PECs, the high level of their presence raised concern on the integrity of the voting process.

In a positive development, party or candidate observers were present in most polling stations visited (91.1 per cent), most frequently from the IRPT and the PDPT. They were unhindered in their ability to observe in (93.2 per cent). However, in some cases IRPT observers faced restrictions.

Counting and Tabulation

Counting and tabulation were assessed more negatively by observers than voting. In only 44.3 per cent of the polling stations visited counting was assessed positively. Counting procedures were not properly followed in half of the polling stations observed. Unused ballots were not invalidated as required by law in 28 cases in the polling stations observed. As well, the number of cancelled ballots was not entered into the results protocol in 30 cases. The total number of the ballots in the ballot boxes was not entered into the protocol in 25 cases in the polling stations visited.

Most PECs seemed to have limited knowledge of election procedures. During the sorting of ballots, the voters' choice was visible to observers in half of the polling stations visited. PEC members had difficulties in completing the protocols in more than one third of the observed polling stations and also in one-third, observers did not have a full view of the closing and counting process. Observers were restricted in their observation of the counting process in 15 polling stations visited.

The PECs did not publicly post the protocol, as required by the election law in 28 observed polling stations. The insufficient training provided for PECs and lack of detailed instructions on counting procedures was evident as PECs' understanding of counting procedures was assessed as "bad " and "very bad" in 37.2 per cent of the polling stations observed.

In some cases, PEC members delivered signed protocols completed in pencil or blank to DECs. In half of the PECs observed the protocols were not submitted immediately to the DECs, as required by the election law. Also, changes were introduced in PEC protocols in 22 of the observed DECs.

The English version is the only official document.
However, the statement is also available in Tajik and Russian.

Mission Information & Acknowledgements

Dushanbe, 1 March 2010 – The parliamentary elections were assessed for their compliance with the OSCE commitments for democratic elections, as well as with national legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of their remaining stages, including the tabulation and announcement of results, and the handling of possible post-election complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations, some eight weeks after the completion of the election process.

The OSCE/ODIHR Election Observation Mission (EOM) started its work in Dushanbe on 18 January. The EOM comprised 37 analysts and long-term observers from 25 OSCE participating States, deployed in Dushanbe and in six regional centres. On election day, the International Election Observation Mission (IEOM) deployed over 250 short-term observers from 41 OSCE participating States, including 49 members from the OSCE Parliamentary

Assembly delegation and 12 from the European Parliament. The IEOM observed voting in over 600 polling stations. Counting was observed in some 76 polling stations across many electoral districts. The IEOM also observed the tabulation process in approximately 40 DECs.

Ms. Pia Christmas Møller (Denmark), Vice-President of the OSCE PA and Head of the OSCE Parliamentary Assembly (PA) Delegation was appointed as Special Coordinator by the OSCE Chairperson-in-Office to lead the OSCE short-term observer mission. Mrs. Elisabeth Jeggle (Germany) led the European Parliament delegation and Dr. Artis Pabriks (Latvia) is the Head of the OSCE/ODIHR Election Observation Mission.

The IEOM wishes to thank the Ministry of Foreign Affairs, the CCER, and other state and local authorities for their support and co-operation during the course of the observation. The IEOM also wishes to express its appreciation to the OSCE Office in Tajikistan, the OSCE High Commissioner on National Minorities and other international organizations and embassies accredited in Dushanbe for their co-operation and support.

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