ELECTION OBSERVATION MISSION
Republic of Uzbekistan – Early Presidential Election, 4 December 2016

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The 4 December presidential election underscored the need of comprehensive reform to address long-standing systemic shortcomings. The legal framework is not conducive to holding democratic elections. The election administration undertook measures to enhance the transparency of its work and prepared efficiently for the election. The dominant position of state actors and limits on fundamental freedoms undermine political pluralism and led to a campaign devoid of genuine competition. Media covered the election in a highly restrictive and controlled environment, and the dissemination of a state-defined narrative did not allow voters to receive an alternative viewpoint. Significant irregularities were noted on election day, including indications of ballot box stuffing and widespread proxy voting, despite a concerted campaign to address the latter. Election commissions faced difficulties in completing the results protocols.

The presidential election is regulated by a multitude of laws and Central Election Commission (CEC) resolutions. Recent legal amendments addressed some previous OSCE/ODIHR recommendations, mainly of a technical nature. Most other long-standing key recommendations have not yet been addressed. Overall, the electoral legal framework places undue limitations on fundamental freedoms of expression, association and assembly, and is restrictively implemented.

Election commissions, led by the CEC, efficiently administered operational aspects during the pre-election period, and met all legal deadlines. The CEC held open sessions and promptly published its decisions, thus contributing to the transparency of the electoral process. Important procedures related to election day and the tabulation of results were left unregulated. The CEC conducted a comprehensive voter awareness campaign on state and private media, including against proxy voting.

Four party-nominated candidates, including the prime minister who serves as the acting president, contested the election. The law does not provide for self-nominated candidates. Some candidate eligibility requirements are contrary to international obligations, including those related to residency, language proficiency and criminal convictions. In a positive step, the number of supporting signatures required for candidate registration was lowered from five to one per cent of voters nationwide, thus reducing an obstacle on the right to stand.

Although four candidates stood in the election, they refrained from challenging each other's platforms and government policies. The campaign lacked competitiveness and voters were not presented with a genuine choice of political alternatives. It took place in a highly regulated environment and was characterized by an apparent homogeneity of materials and events of the four candidates. Campaign activities of the Liberal Democratic Party of Uzbekistan candidate blurred the line between party and State in contravention of paragraph 5.4 of the 1990 OSCE Copenhagen Document.

The absence of a centralized voter register and the possibility of registration on election day makes it difficult to ensure that voters were included in only one voter list and voted only once. The lack of

safeguards against multiple registration and voting potentially undermines the integrity of the electoral process. Around 20.5 million voters were registered to vote, including some 12,000 abroad.

The legislation stringently defines campaign coverage, while granting each candidate ample free airtime and space within national and regional state media, which markedly exceeded editorial output. Uniform and repetitive reports on candidates' activities consistently featured in a predominantly positive tone, while the airing of their direct speech was confined to pre-recorded campaign messages. Access to national and international analytical and critical websites continued to be blocked. Consequently, the public was shielded from a genuine exchange of political ideas, which effectively compromised voters' ability to make an informed choice.

During an election year, parties receive an equal amount of public funding for campaign-related expenses. Campaign finance transparency is limited by a lack of requirements for public disclosure of expenditures and pre-election reporting by contestants. Private funding to parties or candidates for campaigning is prohibited, which is an undue limitation on citizens' ability to financially support their preferred contestant.

The election dispute resolution process is regulated by several laws and CEC resolutions, which results in a lack of coherence. The law does not provide for requests for recounts or the invalidation of results, thus limiting effective remedy on key aspects of the electoral process. The OSCE/ODIHR EOM has not been made aware of any formal complaints filed to election commissions or the courts.

National minorities enjoy full political rights under the Constitution. Campaign materials were available in three minority languages. The CEC produced most election-related material, including ballots, in Uzbek, Russian and Karakalpak languages. State-owned newspapers with a nationwide reach provided candidates with free print space for campaign messages in Uzbek, Russian, Tajik and Kazakh. Language or identity issues did not feature in the campaign.

Despite constitutional guarantees of equality, women remain under-represented in elected and executive office. They comprised some 36 and 47 per cent of the DEC and PEC members, respectively. Of the sixteen CEC members, two are women.

Non-partisan citizen observation is not provided for in the law, contrary to paragraph 8 of the 1990 OSCE Copenhagen Document. Authorities accredited 548 international and over 37,000 party observers.

Election day was assessed negatively by OSCE/ODIHR EOM observers. Voting was assessed negatively in 12 per cent of observations, with observers noting serious irregularities inconsistent with national legislation and OSCE commitments, including proxy voting and indications of ballot box stuffing. Observers assessed counting negatively in 46 of 77 cases. Reconciliation procedures were not followed in more than half of polling stations observed. PECs faced serious challenges in completing and reconciling the results protocols that often had to be amended during tabulation.

PRELIMINARY FINDINGS

Background

On 9 September, a week after Islam Karimov, Uzbekistan's first president, passed away in office, the Central Election Commission (CEC) announced the 4 December early presidential election. Stressing the need for stability and public security, on 8 September, the *Oliy Majlis* (parliament) appointed Prime Minister Shavkat Mirziyoyev as acting president during a joint session of its two

chambers, after the Senate Chairperson decided to forego assuming the interim position as envisaged by the Constitution.

The election marked an important transition for Uzbekistan after 25 years of independence under one head of state.[1] The political system concentrates most decision-making and executive powers in the office of the president, who shares legislative power with the parliament, thus raising concerns about the effective separation of powers.[2] All directly elected seats in parliament are held by members of the four registered parties, which all supported the late president's policy line and claim to target distinct social-economic segments of the electorate.[3] No new party has been registered since 2003, thus potentially challenging paragraph 7.6 of the 1990 OSCE Copenhagen Document.[4] Political opposition, independent journalists and human rights defenders continue to operate in an environment characterized by restrictions of fundamental freedoms and may face prosecution.[5]

This was the seventh election observed by the OSCE/ODIHR, and the first full-scale election observation mission with systematic observation of election day proceedings.[6]

Electoral System and Legal Framework

The president is directly elected by popular vote for a five-year term. If no candidate receives more than 50 per cent of the valid votes cast, a second round between the two leading candidates takes place within one month. There is a voter turnout requirement of 33 per cent for the first round, but no such requirement for a potential second round. There is a constitutional limit of two consecutive presidential terms.

The presidential election is primarily regulated by the Constitution, the Law on Election of the President (PEL), the Law on the Central Election Commission (Law on the CEC), the Law on

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1 President Karimov was first elected president in 1991 and the Constitution came into force in 1992. A 1995 referendum extended his first term until 2000 when he won his second term and another referendum extended the presidential term from five to seven years – a step reversed by parliament in 2011. He was re-elected in 2007 (under the terms of the revised constitution that preserved a limit of two consecutive presidential terms) and most recently in 2015.

2 The president has the right to issue binding decrees and initiate and veto draft laws or provisions thereof. Furthermore, the president nominates the prime minister (on a proposal by the political party that holds the highest number of seats in parliament) and the chairpersons of the Senate and the Board of the Central Bank, as well as the chairpersons and the judges of the country's top three courts (Constitutional, Supreme and Higher Economic Court); approves the Cabinet of Ministers; appoints and dismisses (with the *Oliy Majlis'* approval) the prosecutor general, the chairperson of the National Security Service, accounting chamber and judges of other courts as well as provincial *Khokims* (nominated by the prime minister).

3 The remaining 15 of the 150 seats are elected by delegates of the Ecological Movement of Uzbekistan.

4 Paragraph 7.6 of the 1990 OSCE Copenhagen Document refers to "the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such 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." See also Paragraph 27 of the 1996 United Nations Human Rights Committee General Comment (General Comment) No. 25 to the 1966 International Covenant on Civil and Political Rights (ICCPR).

5 The United Nations Special Rapporteur's January 2016 Report on the Situation of Human Rights Defenders expressed "concern at the numerous human rights activists, independent journalists and dissidents who remain in prison on politically motivated charges". In its concluding remarks, the UNHRC examination of Uzbekistan's fourth periodic report in July 2015 expressed concern about "consistent reports of harassment, surveillance, arbitrary arrests and detentions, torture and ill-treatment by security forces and prosecutions on trumped-up charges of independent journalists, government critics, human rights defenders and other activists, in retaliation for their work".

6 See all previous OSCE/ODIHR reports on Uzbekistan.

Guarantees of Suffrage to Citizens (Law on Suffrage) and a multitude of other legal acts.[7] Provisions on several aspects of the electoral process are dispersed throughout various laws and CEC resolutions impairing the coherence of the legislation.[8] Moreover, several key issues are regulated by CEC resolutions rather than primary laws, which does not ensure legal certainty.[9] In December 2015, following the last presidential election, amendments were introduced to the PEL, the Law on the CEC and other election-related laws.[10] Namely, in line with previous OSCE/ODIHR recommendations, the number of supporting signatures required for candidate registration was lowered from five to one per cent of voters nationwide and an obligation was introduced for the CEC to publish its resolutions on its website. In addition, legal provisions on campaigning and early voting were elaborated.[11] However, most long-standing OSCE/ODIHR recommendations, including those pertaining to fundamental freedoms, remain unaddressed, underscoring the need for substantial legal reform.

The legal framework includes undue limitations on fundamental freedoms that can be applied in an overly restrictive and arbitrary manner.[12] Limitations on the freedom of assembly include a one-month advance authorization requirement for holding public assemblies as well as possible sanctions for violations, including fines and imprisonment of up to three years.[13] Freedom of association is limited by cumbersome requirements for registering political parties and non-governmental organisations (NGOs), wide discretionary powers for denial of registration and deregistration, and legal and administrative impediments to their work. In 2016, the already burdensome procedure for foreign funding of NGOs was further complicated.[14] Freedom of expression is limited by numerous criminal and administrative offence provisions. Overall, the electoral legal framework is not conducive to holding genuine democratic elections and falls short of international commitments.

Election Administration

The election was administered by the CEC, 14 District Election Commissions (DECs) and 9,383 Precinct Election Commissions (PECs).[15] The CEC is a permanent body, while DECs and PECs are

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7 Applicable legislation also includes the laws on Political Parties, on Financing of Political Parties and on Applications of Citizens as well as relevant provisions of the Criminal Code and the Code of Administrative Responsibility.

8 For instance, provisions on suffrage rights are repeated in the Law on Suffrage and the PEL; on early voting in the PEL, the Law on Suffrage and CEC Resolutions 739 and 750; campaign regulations in the PEL, the Law on Suffrage and CEC Resolution 743.

9 For instance, campaign finance is regulated by CEC Resolution 733, while the PEL contains a general provision on the subject.

10 Amendments introduced to the Law on Political Parties and the Law on Financing of Political Parties are not applicable to the presidential election.

11 Furthermore, the establishment of polling stations in pre-trial detention centres, introduced by a CEC resolution in 2014, was included in the PEL.

12 UNHRC Concluding Observations on the fourth Periodic Report of Uzbekistan, August 2015.

13 There is no law on public assemblies. Public assemblies are regulated by the Cabinet of Ministers Resolution 205 "On measures for further improvement of the order of organizing and holding mass events" and by the Criminal Code.

14 Foreign funding of NGOs as well as notification on the NGOs' representatives' trips abroad require approval by the Ministry of Foreign Affairs, the Ministry of Justice and the Banking Commission. These requirements were introduced by amendments to the Law on Non-Governmental, Non-Commercial Organizations (NNOs) as of 25 April 2016 and the adoption of Ministry of Justice Order No. 2802 on foreign funding of NNOs as of 15 June 2016.

15 Including 44 out-of-country polling stations established in diplomatic missions in 36 countries; 226 in military compounds and 11 in pre-trial detention centres. The number of DECs corresponds to the number of electoral districts established in the 12 regions, the Republic of Karakalpakstan and the city of Tashkent. There are three exclaves, two in the Kyrgyz Republic covered by Ferghana DEC and one in the Republic of Tajikistan covered by Namangan DEC.

formed for each election. Election commissions were well-resourced and overall prepared efficiently technical aspects of the election, meeting all legal deadlines.

Sixteen members of the CEC, including two women, were appointed for an indefinite term by the parliament, based on regional council proposals. The CEC held four sessions during the OSCE/ODIHR EOM observation, which were open to and attended by international and party observers and the media. To enhance the transparency of communication within the election administration, the CEC conducted three sessions as live videoconferences with all 14 DECs.

Following the call for the early presidential election, the CEC adopted and posted on its website 60 decisions, covering various aspects of the electoral process. Instructions on some technical aspects were elaborated in detail, but other key aspects related to election day procedures and the tabulation of results were left unregulated.[16]

In a welcome step, the CEC passed a regulation addressing the needs of persons with disabilities to facilitate their independent participation.[17] In addition, as a first time initiative, the CEC printed some ballots in Braille. Although commendable, the distinguishing feature of these ballots raises concerns regarding the secrecy of the vote. Similarly, ballots for early voters were identified as such leaving another possibility for compromised vote secrecy.[18]

The CEC formed DECs from nominees recommended and selected by the deputies of the city and regional *kengashes* (councils). DECs formed PECs based on the recommendations of the councils that receive nominations from *mahallas*.[19] Women comprised 36.8 per cent of DEC members and 47 per cent of PEC members.[20] By law, members of political parties, candidates and their proxies cannot serve on election commissions; the only criterion for membership in lower-level commissions provided for in the law is reputation. PEC members often simultaneously work in *mahalla* committees or are employees of institutions co-located with polling stations. In some instances, PEC chairpersons are also the heads of institutions where the polling station is located, and some PEC members are also their subordinates, which potentially challenges their ability to make independent decisions.[21]

The CEC launched its training programme for all PEC members on 1 November. A second set of training sessions, with a focus on election day procedures, was organised between 20-30 November. The CEC, jointly with media and several state-supported public associations, conducted a comprehensive voter awareness campaign, including against proxy voting. Some televised spots were in sign language.

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16 For instance, verification of PEC protocols by DECs, criteria for assessing whether protocols are invalid or incorrect, procedures on DEC tabulation and on recounts.

17 According to CEC Resolution 773, all PS are to be equipped with ramps to facilitate access of voters with wheelchairs and separate accessible voting booths. According to the CEC, there are over 39,000 blind or visually impaired voters.

18 Voters who were away from their polling station on election day could vote early between 24 November to 2 December. They had to apply in writing indicating the reason for their absence without providing any supporting documentation.

19 *Mahallas* are traditional Uzbek community structures that regulate the everyday life of a settlement and serve to link the state and the community. Among other things, they are a primary source of social services for community residents. Their role was formalized in the 1993 Law on the Institutions of Self-Government of the Citizens (*Mahalla* Law). Violations of *mahalla* committee decisions are legally punishable. According to some scholars, *mahallas* have both formal and informal governance roles.

20 No DEC was chaired by a woman, although approximately half of the deputy positions were held by women.

21 Such instances were observed by the OSCE/ODIHR EOM in Ferghana, Namangan, Qashkardaryo, Samarkand, Tashkent and Urgench.

Voter Registration

The right to vote is granted to citizens of Uzbekistan, who have reached 18 years of age. Voters declared mentally incompetent or serving a prison sentence, irrespective of the severity of the crime, are ineligible to vote, while those in pre-trial detention centres are eligible. Blanket suffrage restrictions based on mental disability or convictions are at odds with OSCE commitments and other international standards.[22]

Voter registration is passive and is managed locally. There is no centralized voter register.[23] Voters are registered based on their permanent or temporary place of residence. By law, a voter may be included only in one voter list (VL). According to the law, PECs compile VLs based on data provided by the local executive authorities (*khokimyats*). However, the OSCE/ODIHR EOM observed that the DECs, PECs, *mahallas* and *khokimyats* used a variety of other ways to compile initial lists.

VLs in regular polling stations were printed and posted for public scrutiny by 19 November, and by 2 December in special polling stations.[24] Voters could verify their records and request amendments from their PECs, including on election day.[25] In addition, the authorities conducted a door-to-door voter verification campaign and subsequently reported a final number of 20,428,891 in-country voters and some 12,000 out-of-country voters.[26]

Despite a previous OSCE/ODIHR recommendation, the law provides for voter registration on election day.[27] This, combined with the absence of a centralized voter register and inconsistent ways of compiling VLs, does not adequately safeguard against multiple entries and multiple voting.

Candidate Registration

Uzbek citizens who are at least 35 years old, have resided in the country for at least 10 years prior to election day and have full command of the Uzbek language, are eligible to stand. Individuals convicted of intentional crimes, those under criminal prosecution and professional clergy of religious organizations are ineligible. Self-nominated candidates are not permitted.[28] Criteria

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22 Article 29 of the 2006 Convention on the Rights of Persons with Disabilities (CRPD) requires states to "guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others". Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens," whereas paragraph 24 provides that "[a]ny restriction on rights and freedoms must … be strictly proportionate to the aim of that law". See also Paragraph 14 of General Comment No. 25 to the ICCPR and Section I.1.1.1.d.iii of the 2002 Council of Europe's Venice Commission Code of Good Practice in Electoral Matters (Code of Good Practice).

23 The OSCE/ODIHR EOM was informed of ongoing reform aimed at introducing a centralized digital voter register by 2018.

24 VLs for military bases, healthcare institutions, pre-trial detention centres and diplomatic missions are based on the data provided by heads of these institutions. Service personnel and members of their families residing outside of military units are included into VLs at their respective PECs.

25 PEC decisions and appeals against those decisions at the corresponding district court have to be made within 24 hours, while complaints filed a day prior to or on election day must be reviewed immediately.

26 Prior to verification, the CEC noted the preliminary number of in-country voters at 21,435,009 based on data provided by the State Statistics Committee.

27 Voters can be added to an annex to the main VL based on their identification and proof of residence. CEC Resolution 739 states that a PEC which has registered a voter on election day has an obligation to notify the PEC of the voter's permanent residence so as to avoid multiple entries. See Section I.1.2.iv of the Code of Good Practice, which states that "the registration should not take place at the polling station on election day."

28 Paragraphs 7.3 and 7.5 of the 1990 OSCE Copenhagen Document provides that participating States will guarantee equal suffrage and the right of citizens to seek political or public office individually or as representatives of political parties, without discrimination. Article 25 (b) of the ICCPR states that "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without

regarding the length of residency and language proficiency, as well as a blanket restriction for anyone convicted of a crime, are not in line with international obligations and standards.[29] Moreover, excluding individuals who are still to stand before a court is contrary to the principle of presumption of innocence.[30]

The CEC registered all four prospective presidential candidates, each nominated by one of the four registered political parties.[31] Candidates had to collect a requisite number of signatures. Despite a previous OSCE/ODIHR recommendation, voters could support only one prospective candidate, which affects political pluralism and does not follow international good practice.[32]

Campaign

The official election campaign started on 30 October and ended at midnight on 2 December. It took place in a highly regulated environment and in a context of restrictions on fundamental freedoms of association, expression and assembly, which significantly narrowed the public space for the conduct of democratic elections.[33]

The campaign was moderately visible and characterized by an apparent homogeneity of materials and events of the four candidates. The election administration allocated 642 billboards to each candidate and displayed uniform sets of candidate information posters countrywide.[34] Although there is no requirement, all four parties produced a similar array of smaller campaign materials.

The four candidates held a comparable number of meetings with voters across the country, which were organized with the help of the election administration.[35] These meetings were often attended by local dignitaries invited by regional party branches, and for the first time, were tele-beamed to other locations within each province in order to reach a higher number of voters.[36] OSCE/ODIHR

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unreasonable restrictions: (b) To vote and to be elected." Article 3.4 of the 2002 Commonwealth of Independent States (CIS) Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms (2002 CIS Convention) states that "every citizen should have equal legal possibilities to propose him/herself as a candidate in elections".

29 Paragraphs 15 of the 1996 General Comment No.25 to the ICCPR states that "any restrictions on the right to stand for election ... 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 such as education, residence…" See also paragraph I.1.1.1.d.iii. of the Code of Good Practice, which states that the proportionality principle must be observed when depriving an individual of the right to be elected. Article 2.b of the 2002 CIS Convention states that "The right of a citizen to elect and be elected ... shall be given effect without any limitations of discriminatory nature on the basis of gender, language, religion or faith, political or other beliefs…" See also paragraph 24 of the 1990 OSCE Copenhagen Document, which provides that any restrictions on rights must be "strictly proportionate to the aim of the law".

30 Paragraph 5.19 of the 1990 OSCE Copenhagen Document states that "everyone will be presumed innocent until proved guilty according to law".

31 The CEC registered four presidential candidates representing four political parties: Shavkat Mirziyoyev, Liberal Democratic Party of Uzbekistan (LDPU), Xatamjon Ketmonov, People's Democratic Party of Uzbekistan (PDPU), Narimon Umarov, Social Democratic Party of Uzbekistan (SDPU) *Adolat*, and Sarvar Otamuratov, Democratic Party of Uzbekistan (DPU) *Milliy Tiklanish*.

32 Paragraph 77 of the 2010 OSCE/ODIHR and Council of Europe Venice Commission Guidelines on Political Party Regulation states that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party".

33 Paragraph 12 of General Comment No.25 to the ICCPR states that "freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected…".

34 Contestants also enjoyed equal access to 36 electronic screens countrywide to broadcast their messages. Tashkent city authorities decided to allocate an additional 25 billboards to each candidate's campaign.

35 Many more, mostly smaller-scale meetings were held by candidates' proxies: each candidate was entitled to up to fifteen proxies to aid in campaigning, with most choosing fourteen, or one per province.

36 Observed by the OSCE/ODIHR EOM in Jizzakh, Karakalpakstan, Navoi, and Samarkand provinces.

EOM observers noted an orchestrated nature of many of these lacklustre events, during which candidates generally presented the platforms of their respective political parties.[37] Candidates stopped holding events in the week leading up to the election.

Despite the introduction in 2015 of provisions for candidate debates, the four contestants chose not to deliberate in public and as a rule did not engage with each other's programmes or challenge the records of their respective achievements. No candidate spoke critically about the government's policies. Although four candidates stood in the election, the campaign lacked competitiveness and voters were not presented with a genuine choice of political alternatives.

One candidate used his official government website to invite the public to forward complaints through different channels, including local LDPU branch offices; other parties also operated reception centres for public complaints. The LDPU attracted wide attention with a *Facebook* page that showcased some of the issues resolved by state institutions. This blurred the line between party and State in contravention of paragraph 5.4 of the 1990 OSCE Copenhagen Document.[38] Moreover, the prevalent campaign discourse stressed continuity and stability during the unprecedented transition of power, thus benefiting the campaign of the acting president and LDPU candidate.

Similarly to local *mahalla* representatives, several state-supported public associations, including the *Kamolot* youth movement and the Women's Committee of Uzbekistan, actively encouraged voter turnout.[39] Several contestants reached out to women voters in their speeches and women were generally well-represented in the audience at the 31 campaign events observed by the OSCE/ODIHR EOM.

Campaign Finance

Campaign financing is regulated by the PEL and a CEC resolution. During an election year, parties receive public funding for campaign-related expenses. For this election, each party received approximately UZS 1 billion (some EUR 294,000) as well as cost-free use of meeting premises and media coverage.[40] Private funding specifically to parties or candidates for campaigning is prohibited, which is an undue limitation on citizens' ability to financially support their preferred contestant.[41] Instead, private funds may be donated to the CEC, which distributes them equally to contestants.

Political parties are required to submit campaign finance reports on their expenditures to the CEC and the Chamber of Accounts within 20 days after the publication of election results. In addition, they are required to publish their income records in party newspapers and the official party websites one month after the publication of election results. The Chamber of Accounts and the Ministry of Finance are mandated with monitoring compliance with party and campaign finance regulations. Parties do not publish their expenditures, and the CEC and Chamber of Accounts do not publish their conclusions, as this is not legally required, which undermines the transparency of campaign finance.

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37 Only the LDPU candidate held more vivid campaign events, which featured eminent guests and generated more audience engagement, as observed in Tashkent city, Karakalpakstan and in the regions of Ferghana, Qarshi, Tashkent, and Termiz.

38 Paragraph 5.4 of the 1990 OSCE Copenhagen Document mandates "a clear separation between the State and political parties; in particular, political parties will not be merged with the State".

39 Observed by the OSCE/ODIHR EOM in Jizzakh, Namangan and Tashkent.

40 According to the official rate, 1 EUR equals approximately 3,400 Uzbekistani Som (UZS).

41 Article 1 of the Council of Europe's Committee of Ministers Recommendation Rec(2003)4 to member states on common rules against corruption in the funding of political parties and electoral campaigns states that"The state and its citizens are both entitled to support political parties".

Media

The right to access information and freedom of expression, although constitutionally protected, are unduly restricted by primary legislation, which contains broad definitions of criminal offenses, including slander, defamation and libel, and extends to online content. Media are held liable for the "trustworthiness" of disseminated information, which may prevent them from fully and genuinely covering the campaign.

Furthermore, primary legislation on licensing rules both online and offline media is opaque. State actors are instrumental in retribution against critical publications, including online.[42] The legal framework and its implementation induce an environment of self-censorship and fall short of international standards for freedom of expression, most notably Article 19 of the ICCPR.[43]

The state-owned National Television and Radio Company (NTRC) reproduces output from government-controlled news agencies and is the primary source for political news.[44] Private national and regional media rely on the same agencies for their content thereby resulting in a state-defined and self-referential media narrative.[45] Some online outlets have sought to challenge the traditional media's selective approach to covering domestic events, including with reference to the election. However, access to numerous international and national websites containing analytical and/or critical reports on Uzbekistan remains blocked.[46] Thus, despite the fact that more than 1,400 outlets are operational in Uzbekistan, voters remain isolated from alternative viewpoints.

The PEL and CEC regulations stringently define the form and content of campaign coverage, binding both state and private media to allocate equal coverage to all presidential candidates within editorial materials. Defamation of a candidate's dignity is a criminal offence punishable by up to three years of imprisonment. A CEC regulation grants each candidate ample free airtime and space within national and regional state media.[47] Contestants could purchase airtime or space on an equal basis.

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42 Several government-controlled entities monitor and control the media sector. The Press and Information Agency (PIA), whose head is appointed by the president, can initiate media suspension on broadly worded grounds; the Ministry for Development of Information Technologies and Communications (MDITC) is mandated to consolidate the state's oversight of online media and information technologies. There is a Monitoring Centre and an Expert Commission on Information and Mass Communication – both institutions are opaquely composed and governed and analyze online and offline content. OSCE/ODIHR EOM interlocutors were not able to clarify which institution can request the blocking and removal of content, nor the procedure for such requests. On 20 May, the Tashkent Economic Court revoked the license of Uzbekistan's oldest newspaper, *Noviy Vek*, widely perceived for balanced reporting. The PIA stated that the newspaper has consistently violated four different laws. A local journalist in Jizzakh was sentenced to two months in prison for giving an interview to the BBC in November 2015.

43 Paragraph 13 of General Comment No.34 states that "a free, uncensored and unhindered … media is essential in any society to ensure freedom of opinion and expression and enjoyment of other Convent rights." See also paragraph 43: "Any restrictions on the operation of websites, blogs or any other internet-based information dissemination system … are only permissible to the extent that they are compatible with paragraph 3".

44 The NTRC's head is appointed by the president; it has offices in regional capitals; includes a total of 26 TV and radio stations, each with a defined target-audience and a distinct thematic focus.

45 All OSCE/ODIHR EOM long-term observers reported that the local media scene was dominated by state outlets, exclusively relying on information provided by state institutions and state-supported public associations.

46 For example, website are not accessible for the BBC Uzbek service, Radio Free Europa Uzbek service, and Eurasianet. OSCE/ODIHR EOM interlocutors representing regulatory bodies were not able to clarify the procedure and criterions that are applied to block a website. The total number of blocked/filtered websites and cases of content removal are not made public.

47 CEC Regulation 764 establishes the order of the candidates and allocation of free airtime/space within the state media's programming. Each candidate was granted approximately 1 hour of free airtime on 2 national state TV channels daily, and a total of approximately 8 hours per candidate on 13 regional broadcasters; the daily free print advertisement space was uniformly distributed in 5 national and in 30 regional newspapers.

The OSCE/ODIHR EOM monitored a sample of media with a national and regional reach.[48] Monitored commercial outlets sold exactly the same amount of airtime/space to each of the four political parties – 37 minutes to each party on the UzReport TV and exactly four pages to the DPU, LDPU and SDPU in *Darakchi*.[49] The equality principle was also characterized in the distribution of free airtime with each candidate receiving 5 hours and 15 minutes on *O'zbekistan* and *Yoshlar* during the monitoring period, exactly as prescribed by a CEC regulation. Time allotted to free and paid campaign ads markedly exceeded editorial content on all monitored broadcast media.[50]

The absence of pluralism was even more pronounced in editorial programmes, especially the news, which aired in blocks uniform and repetitive reports on candidates' campaign activities.[51] Each candidate was allotted from 18 to 22 per cent of the total time dedicated to political actors in news segments across all monitored broadcasters. Each candidate's direct speech was strictly confined to his campaign address, constituting between 18 and 25 per cent of the total time allocated to political actors' direct speech within the news programmes. The tone of news reports on all four candidates was exclusively positive. There were no analytical productions or issue-oriented interviews subjecting contestants' platforms to critical views during the monitoring period. Similarly worded reports on all candidates' campaign platforms were featured in national and regional print media.[52]

An overlap between parties and the State was apparent in the media's reporting on candidates' records in office, which a CEC regulation does not define as campaigning. Such reports constituted between 19 and 75 per cent of the time allotted to political communication in news slots, and were devoid of critical assessment of the accomplishments of the candidates.

Overall, the public was shielded from a genuine political debate, which effectively compromised the voters' ability to make an informed choice.[53]

National Minorities

The last official population census was conducted in 1989. Uzbekistan has an ethnically diverse population with ethnic Tajiks, Kazakhs, Russians and Karakalpaks constituting the largest national minority communities. The latter group predominantly resides in the Republic of Karakalpakstan, which also includes areas with a high concentration of ethnic Uzbeks, Turkmens and Kazakhs.[54]

The Constitution provides for equal rights and freedoms without discrimination by sex, race, nationality, language, religion, social origin, convictions, individual and social status and mandates

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48 The OSCE/ODIHR EOM monitored media daily during primetime hours on the state-owned TV *O'zbekiston, Yoshlar, Toshkent* and private UzReportTV; state-owned radio *O'zbekiston*; state-owned newspapers *Narodnoe Slovo*, *Pravda Vostoka*, *Halak Suizi* and the commercial publication *Darakachi.*

49 The PDPU purchased one page.

50 On *O'zbekistan* free airtime constituted 44 per cent, news 23 per cent; on *Yoshlar* 60 per cent versus 24 per cent; on *Toshkent* 51 per cent versus 6 per cent; on state radio *O'zbekistan* 78 per cent versus 18 per cent; on private UzReport TV 20 per cent was allotted to paid airtime and 18 per cent to the news.

51 State media and leading private outlets signed binding contracts with the CEC, thus reinforcing the uniform campaign coverage in editorial programming and print materials.

52 Observed by the OSCE/ODIHR EOM in Andijan, Bukhara, Ferghana, Namangan, Jizzakh, Syrdarya, and Tashkent.

53 Paragraph 25 of General Comment No.25 states: "In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint." Paragraph 13 of General Comment No. 34 states: "The public also has a corresponding right to receive media output."

54 According to the State Statistics Committee: ethnic Uzbeks constitute 82.5 per cent of the total population, Tajiks (4.7 per cent), Kazakhs (2.5 per cent), Russians (2.4 per cent) and Karakalpaks (2.0 per cent). In Karakalpakstan, Uzbeks make up 39 per cent, Karakalpaks (36.8 per cent), Kazakhs (16.8 per cent) and Turkmens (5.3 per cent).

respectful attitude toward languages, customs and traditions of other nationalities. The Constitution also provides for representation of officials from Karakalpakstan in the *Oliy Majlis*, Cabinet of Ministers and the Constitutional Court.

Positively, the CEC produced most election-related information and polling material, including ballots, in Uzbek, Russian and Karakalpak languages.[55] Conversely, neither voter information nor ballots were printed in other minority languages, which are broadly used in certain electoral districts.[56] While it did not cause serious discontent among community members, this practice does not correspond to OSCE commitments and international standards.[57] State-owned newspapers with a nationwide reach provided candidates with free print space for campaign messages in Uzbek, Russian, Tajik and Kazakh.[58]

Notwithstanding the multinational composition of the society, issues related to inter-ethnic relations, integration and participation of national minorities across the country or in the Republic of Karakalpakstan did not feature in the candidates' platforms and were not addressed by any candidate. No specific cases of discrimination on ethnic grounds related to the electoral process were reported to or observed by the OSCE/ODIHR EOM.

Complaints and Appeals

The election dispute resolution system is regulated by several laws and CEC resolutions and contains several gaps, ambiguities and inconsistencies.[59] Overall, there is a hierarchical structure as complaints against decisions, actions and inactions of election commissions may be filed with higher-level commissions. Appeals of PEC and DEC decisions are filed with the district courts, whereas CEC decisions may be challenged at the Supreme Court.

The law states that every citizen may file a complaint at the court and that the CEC hears reports from election commissions, political parties, state and local authorities and NGOs. It is unclear who can file complaints to DECs and PECs and on which issues. This is not in line with international good practice, which prescribes that every voter should have the right to file a complaint to election commissions and the courts on every aspect of the electoral process.[60] In addition, the CEC and the Ombudsperson operated hotlines for receiving election-related complaints.

The law does not prescribe deadlines for filing complaints and appeals. As a rule, election commissions and courts must decide on complaints within three days.[61] Complaints filed during the last six days prior to election day must be reviewed immediately. In contrast to complaints filed with

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55 Russian language does not have an official status in Uzbekistan.

56 The PEL stipulates that ballots can be printed in the languages that are broadly used in in certain electoral districts. Tajik is broadly used in Bukhara and Samarkand provinces.

57 Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that "persons belonging to national minorities have the right to […] to disseminate, have access to and exchange information in their mother tongue". Paragraph 12 of General Comment No. 25 to Article 25 of the ICCPR states that "information and materials about voting should be available in minority languages.

58 State owned national newspapers *Narodnoe slovo*, *Ovozi Tojik* and *Nurli Jol*.

59 Including the PEL and laws on: Suffrage; the CEC; Applications of Citizens; as well as the Code of Administrative Responsibility, Criminal Code and CEC Resolutions 681, 739, 744 and 751..

60 Paragraph II.3.3.d. and f. of the Code of Good Practice states that, "The appeal body must have authority in particular over such matters as the right to vote – including electoral registers – and eligibility, the validity of candidatures, proper observance of election campaign rules and the outcome of the elections" and "All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections".

61 Positively, for this election a CEC resolution reduced from five to three days the length of time required for PECs to adjudicate on complaints.

courts, those submitted to election commissions do not require a public hearing with the presence of the parties concerned.[62] The CEC may invalidate an election, totally or partially. A CEC decision invalidating the election may only be appealed by candidates and should be filed to the Supreme Court within ten days following the publication of election results. The law does not provide for requests for recounts or for invalidation of results and therefore does not provide effective remedy on key aspects of the electoral process.[63]

The OSCE/ODIHR EOM has not been made aware of any formal complaints filed with election commissions and the courts. The CEC informed the OSCE/ODIHR EOM that it received 129 written and 347 telephone inquiries, of which 60 and 102, respectively, were unrelated to the election.[64] The CEC maintains a handwritten register of complaints and inquiries addressed to it, but does not collect information on complaints filed to DECs, PECs and the courts. The Ombudsperson informed the OSCE/ODIHR EOM that they received 304 telephone inquiries related to the election.[65]

Overall, existing mechanisms to manage election complaints and appeals do not provide for a transparent and accountable system of dispute resolution.

Citizen and International Observers

Citizen observation is not provided for in the law despite previous OSCE/ODIHR recommendations.[66] Political party and international observers may observe all stages of the electoral process and may receive copies of results protocols. Each political party is entitled to one observer per polling station. Only international observers are entitled to conduct press conferences and give interviews. According to the CEC, DECs accredited 37,352 party agents, including 9,339 each from the LDPU and DPU *Milli Tiklanish*, and 9,337 each from the SDPU *Adolat*, and the PDPU. Some 548 international observers were accredited for the election.

Election Day

On election day serious procedural violations were observed during voting, counting and tabulation. The CEC reported voter turnout at 87.8 per cent shortly after closing the polls.

Most polling stations opened on time and were well-equipped with all necessary materials. Opening was assessed positively in 77 of 84 observations, although in around half of polling stations observed, PECs did not announce the number of ballots received.

Voting proceeded in a festive manner, but was assessed negatively in 12 per cent of observations, which indicates significant violations. The most widespread irregularity was PECs not following safeguards to prevent multiple and proxy voting despite a concerted CEC campaign to address this

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62 Paragraph II.3.3.h. of the Code of Good Practice notes that: 'The applicant's right to a hearing involving both parties must be protected.

63 Paragraph II.3.3.e of the Code of Good Practice states that: The appeal body must have authority to annul elections where irregularities may have affected the outcome. It must be possible to annul the entire election or merely the results for one constituency or one polling station. In the event of annulment, a new election must be called in the area concerned.

64 Written inquiries included 20 on supporting and meeting candidates, 2 on out-of country voting, 1 on voting with a temporary residence permit, 1 on early voting and 44 on other election-related issues.

65 Of those, 61 on campaigning, 53 on early voting, 49 on voter lists, 43 on mobile voting, 31 on documentation required for voting, 18 on family voting.

66 Nonetheless, the Independent Institute for Monitoring the Formation of Civil Society informed the OSCE/ODIHR EOM of its election observation activities.

malpractice. OSCE/ODIHR EOM observers witnessed proxy voting in 6 per cent of polling stations observed, while multiple or group voting was observed in 3 per cent of polling stations.

Proxy voting was also often reflected by series of seemingly identical signatures on voter lists, which was reported in 33 per cent of observations. In 8 per cent of polling stations observed, voter identification was not consistently checked and in 5 per cent of observations, voters were allowed to vote without identification.[67] Furthermore, observers reported that ballot boxes were not properly sealed in 5 per cent of polling stations, and indications of ballot box stuffing were noted in 18 cases, which is considerable. These violations raise serious questions on the integrity of the process and challenge equality of the vote required by paragraph 7.3 of the 1990 OSCE Copenhagen Document.

Unauthorized persons were present in 27 per cent of polling stations observed often performing the duties of PEC members, and in 6 per cent of observations interfering with or directing PEC work. At some polling stations, *mahalla* activists kept a record of voters and reported to the OSCE/ODIHR EOM that they would contact those who had not voted. This could indicate that voters were compelled to vote.

The count was assessed negatively by observers in 46 of 77 observations. Significant violations indicated that an honest count, as required by paragraph 7.4 of the 1990 OSCE Copenhagen Document, was not ensured. Serious procedural errors were noted in slightly more than half of observations. The sequence for ballot reconciliation was not followed, namely PEC members did not count or cancel unused ballots in 21 and 36 cases, respectively. In 46 counts observed, PECs did not establish the number of ballots issued based on signatures in the voter lists, and did not cross-check control equations prior to opening the boxes in around three quarters of polling stations observed.

Following the opening of boxes, OSCE/ODIHR EOM observers reported that in over one third of cases, the number of signatures on voter lists did not match the number of ballots in the ballot box. In 19 polling stations, OSCE/ODIHR EOM observers noted indications of ballot box stuffing. These shortcomings raise questions over the integrity of the election day process.

In half of polling stations observed, PECs had difficulties to complete results protocols. In 13 cases, OSCE/ODIHR EOM observers concluded that PECs deliberately falsified voter list entries, results or protocols. While OSCE/ODIHR EOM observers were provided copies of protocols in almost all cases, they were not publicly displayed in over half of the observations, limiting transparency.

The OSCE/ODIHR EOM followed the handover and tabulation of PEC results protocols in all 14 DECs. The process was assessed negatively in 8 of 14 cases. Importantly, a lack of transparency was often reported due to observers' limited view of procedures, restricted observation, and a lack of co-operation of some DECs. In approximately one quarter of observations, PECs completed their protocols at DEC premises or changed results protocols without a formal decision of the DEC. In one out of five observations, protocols did not reconcile. The OSCE/ODIHR EOM continues to observe the tabulation process.

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

MISSION INFORMATION & ACKNOWLEDGEMENTS

Following an invitation from the Central Election Commission of the Republic of Uzbekistan, based on the recommendations of a Needs Assessment Mission conducted from 11 to 13 October 2016 and

[67] In several instances, OSCE/ODIHR EOM observers witnessed voters only providing invitation cards.

in accordance with its mandate, the OSCE/ODIHR deployed an Election Observation Mission to observe the 4 December 2016. The OSCE/ODIHR EOM, opened in Tashkent on 2 November, includes 15 experts in the capital and 20 long-term observers deployed throughout the country.

On election day, the OSCE/ODIHR deployed 193 observers from 32 countries. Opening was observed in 84 polling stations and voting was observed in 833 polling stations across the country. Counting was observed in 81 polling stations. The tabulation was observed in all DECs.

The assessment was made to determine whether the election complied with OSCE commitments and other international obligations and standards for democratic elections and with national legislation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process.

The observers wish to thank the authorities for their invitation to observe the election and the Central Election Commission and the Ministry of Foreign Affairs for their assistance. They also express their appreciation to other state institutions, political parties and the international community for their co-operation.

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