

**REPORT ON
THE PARLIAMENTARY ELECTIONS
IN KAZAKSTAN
OCTOBER 10, 1999**



**A Report Prepared by the Staff of the
Commission on Security and Cooperation in Europe**

WASHINGTON:1999

KAZAKSTAN'S PARLIAMENTARY ELECTIONS

OCTOBER 10, 1999

- On October 10, 1999, Kazakhstan held elections for the 77 seats of parliament's lower chamber (Majlis).(1) For the first time, political parties could submit party lists for 10 of the chamber's 77 seats. The remaining 67 seats were contested by 547 candidates in single-mandate districts. According to official figures, 59.78% of eligible voters cast ballots.
- The Central Election Commission (CEC) announced on October 17 that Otan (Fatherland), the party of President Nursultan Nazarbaev, came in first, winning four seats. The next highest vote-getters were the opposition Communist Party and the pro-presidential Civic Party and the Agrarian Party, all of which won two seats apiece. No other party broke the seven-percent threshold for entry into parliament. In the 67 single-mandate districts, the CEC reported that no candidate had won the required 50 percent of the vote in 47 races, necessitating runoffs on October 24.
- The Commission on Security and Cooperation in Europe conducted a hearing, "The State of Democratization and Human Rights in Kazakhstan", on May 6, 1999. In addition, Commission staff monitored the election on October 10, as part of the OSCE Election Observation Mission.

ASSESSMENT OF THE ELECTIONS

Kazakhstan's parliamentary election did mark some forward movement. The registration of opposition political parties, specifically the Republican People's Party (RPP) and Azamat, along with the already-registered Communist Party, promised to give voters an opposition alternative on October 10 and to institutionalize the involvement of opposition parties in Kazakhstan's political life beyond the election. Other positive steps included the CEC's lowering of the candidates' deposit, the law's provision for domestic observers and the sanctioned experiment with exit polling. The accreditation of over 2,500 non-partisan domestic observers throughout Kazakhstan was also a significant development. Even more important was an October 6 live, televised debate, which allowed voters to familiarize themselves with parties and candidates and gave some opposition figures who had not received free air time, such as Communist Party leader Serokbolsyn Abdildin, their only opportunity to campaign on television.

These positive steps notwithstanding, Kazakhstan's parliamentary election did not meet OSCE standards. In the pre-election period, the main questions are whether all would-be candidates can get on the ballot and whether all candidates, once registered, can campaign on an even playing field. On both counts, Kazakhstan fell short.

As in the January 1999 presidential election, the failure of the CEC to register opposition leader and former Prime Minister Akezhan Kazhegeldin for the October election was extremely controversial. Kazakstani officials, including Foreign Minister Kassymzhomart Tokaev and CEC Chairwoman Zagipa Balieva, came to Washington to argue that Kazhegeldin was not registered for not submitting in time an appeal of a previous conviction for contempt of court. Tokaev said that the authorities really wanted to register Kazhegeldin but he never really intended to run, seeking instead to cause a scandal by being excluded.

Kazhegeldin's case was complicated by the actions of his lawyer in Almaty, Vitaly Voronov, who filed an appeal for him on September 3. Kazakstani officials have not claimed that appeal did not meet all legal requirements. On September 8, however, one day before the registration deadline expired, Voronov demonstratively renounced his association with Kazhegeldin, and withdrew the already-filed appeal. His motives remain unclear; Voronov refused to meet with Helsinki Commission staff in Almaty to discuss the matter. Kazhegeldin's supporters claim Voronov, who had often spoken of official threats and harassment, was pressured into doing so; others contend the authorities bought him off. In any case, Voronov's action left Kazhegeldin one day to file an appeal. Kazhegeldin's Washington attorney, Charles Both, claims he faxed an appeal to Almaty on September 8, before the deadline. In a September 23 address at the Center for Strategic and International Studies in Washington, CEC Chairwoman Balieva said that the CEC and the Supreme Court waited until midnight on September 9 to receive Kazhegeldin's appeal; she denied that Both's document, which she was shown at Helsinki Commission offices later the same day, was ever received. Balieva did not indicate that Both's appeal, had it been received, would have been inadequate.

Only a few days before the election did the Chairman of Kazakhstan's Supreme Court tell OSCE Parliamentary Assembly observers that Both's appeal had indeed arrived in time. He claimed, however, that it did not meet the legal requirements and that Kazhegeldin could not be registered.

The dispute between Kazakstani officials and Akezhan Kazhegeldin over whether his appeal was filed correctly and on time masks a larger, more important issue. His initial conviction, from which all his subsequent legal difficulties flowed, was for addressing an unregistered organization. Once that highly criticized provision was eliminated from the administrative code, no appeals on matters stemming from that conviction should have been necessary to run for office. By setting up an appeals process, officials reserved the right to disqualify would-be candidates on technicalities. If Kazakstani officials really wanted to register Kazhegeldin, as they claim, they could easily have done so. Perhaps most important, his exclusion limited the choice open to voters.

During the pre-election period, candidates did not compete on an equal basis. As the OSCE/ ODIHR October 11 preliminary statement contended, Otan and other pro-government parties and candidates received favored treatment from the media and from local officials in arranging meetings with voters. Opposition parties and candidates, by contrast, encountered obstructionism and were impeded in their efforts to convey their message to the electorate.

As for the vote and vote count, it is reasonable to suppose that other district election officials were not as brave as their colleague in Illi district, who on October 15 publicly exposed an official's order to falsify the vote, and that such cases were not exceptional. In sum, executive authorities, as the OSCE/ ODIHR preliminary statement charged, sought to influence the outcome, placing in doubt the officially announced results and undermining the integrity of the electoral process.

The concentration of media outlets in pro-government hands, the ongoing assault on independent and opposition media, and the circumscription of the media's legally-sanctioned subject matter pose a great danger to the development of democracy in Kazakhstan. Glowing official statistics about how many media outlets have been privatized cover up an alarming tendency towards government monopolization of the country's information field, effectively making it impossible for citizens to receive unbiased information or to hold their government accountable.

Whatever the outcome of the election, perhaps the most alarming trend in Kazakhstan is the ongoing crackdown on independent and opposition media. Though government officials contend that over 70 percent of the country's media are now in private hands, journalists and opposition politicians told the OSCE Parliamentary Assembly observer delegation that most privatized media belong to pro-government groups. Dariga Nazarbaeva, the President's daughter, runs Khabar, the leading state television station. Opposition newspapers like Farengeit 451 or XXIst Century are under constant duress. A spokesman for the newspaper Sol-Dat, whose issues have been confiscated because they addressed matters relating to Kazhegeldin, disclosed that the authorities had quietly promised to resume publication of the paper once the election was over. As for electronic media, only television's Channel 31, which broadcasts in Almaty, still manages to provide a modicum of impartial news, and journalists reported that the station faces continual pressure.

Moreover, even when independent or opposition media can function, the state limits what they can publish. In a timely and graphic illustration, less than a week after the election, the New York Times reported that Swiss investigators had frozen a bank account apparently belonging to President Nazarbaev. The action followed up a request by Kazakstani authorities to investigate accounts allegedly belonging to Akezhan Kazhegeldin, but the Swiss had instead uncovered accounts reportedly linked to Nazarbaev. (Steve LeVine with John Tagliabue, "Swiss Freeze Bank Account That May Be Linked to Kazakhstan President," New York Times, October 16, 1999.) Efforts to report the news inside Kazakhstan, however, were unsuccessful: the authorities literally pulled the plug on the broadcasts, shutting down, among other stations, Russian TV and radio which ran the story for three days.

Even if journalists were able to publicize the story - which Kazakstani officials have denied, asserting that President Nazarbaev has never had any foreign bank accounts -Kazakhstan's law on state secrets forbids the publication or dissemination of information about the "personal life" of the president or his family (Article 14/11). Any reporter daring to write about the Swiss investigation of Kazakhstan's president would risk imprisonment, or worse.

Communist Party leader Serokbolsyn Abdildin came in second in the January 1999 presidential election, receiving (according to official results) about 12 percent, so it was expected that the Communists would do reasonably well in the parliamentary election. In any case, for President Nazarbaev, presenting the election as a contest between his own pro-Western reformers and Communists longing for a return to the USSR is obviously useful in deflecting Western concerns about unfair elections and arrested democratization.

It remains to be seen whether representatives of any other opposition parties will win their races pending the outcome of the October 24 runoff election. Opposition parties saw this election — with no others scheduled for five years — as their "last chance" to influence the political process by electoral means. They were hoping to gain a bloc of representatives in the Majlis, which could provide a forum for their point of view, virtually banned from the media or presented in a distorted light. If enough opposition-oriented candidates become legislators, even though Kazakhstan's constitution gives the parliament relatively little power, the current one-sided relationship between the executive and legislative branches may become more balanced.

Even if the opposition places a group of supporters in parliament, however, there is no guarantee that they will be able to affect the political process or develop more workable relations with President Nazarbaev. Indeed, the election has not smoothed relations between the authorities and the opposition. Having focused on the election for months, the opposition - and government-opposition relations - may now move towards a different playing field. Charging widespread fraud, opposition parties and movements, as well as human rights activists, are reportedly planning to issue a resolution on the election and the general situation in the country, calling for new elections at all levels, starting with the presidency.

BACKGROUND

Kazakstan's parliamentary election followed the deeply flawed presidential election in January 1999, which the OSCE/ODIHR refused to observe, because conditions for a fair election were absent. Among many considerations, ODIHR pointed to the exclusion of former Prime Minister Akezhan Kazhegeldin, a leading opposition figure and Nazarbaev's would-be rival. Kazhegeldin was barred from participating because of an October 1998 conviction for addressing the unregistered organization "For Fair Elections" — an administrative offense — and could therefore not run for office for one year.

The January election, which ODIHR characterized as falling "far short" of OSCE commitments, was a public relations debacle for Kazakstan and President Nazarbaev. Kazakstan's CEC subsequently tried to improve the legislative and regulatory framework for the October parliamentary election in the hope of convincing ODIHR to mount a full observation mission, instead of the small reporting mission ODIHR had sent in January. To this end, the Ministry of Justice registered opposition parties: Kazhegeldin's Republican People's Party (RPP) and Azamat [Citizen] on a countrywide basis, and Orleu [Progress] in the Almaty region. In addition, addressing unregistered organizations was removed from the list of administrative transgressions, the monetary deposit required of candidates was significantly lowered, the CEC organized lotteries so opposition parties could try to win vacant spots on lower level election commissions, and domestic and foreign observers could monitor the vote and vote count.

In August, ODIHR sent a delegation to Kazakstan to determine whether these reforms warranted an observation mission. Various Western human rights organizations opposed the idea: citing the pro-government composition of the CEC, government pressure on the media and entrenched violations of association, assembly and expression, they contended that observing the election would legitimize an unfair process. Taking a different tack, the Helsinki Commission urged ODIHR to leverage Kazakstan's desire for an observation mission to press for more reforms, specifically: bringing opposition representatives into election commissions at all levels, including the CEC; registering all would-be candidates; ending government pressure on the media; and granting equal media access to all opposition candidates.

Ultimately, ODIHR decided that while serious concerns remained, conditions had improved sufficiently to justify a full observation mission. But one week after ODIHR announced its decision, the CEC declared on September 9 that it could not register Akezhan Kazhegeldin, because he allegedly had not submitted before the midnight deadline his appeal for a previous contempt of court conviction. The exclusion of Kazhegeldin marked the second consecutive time that he had been barred from an election. Complicating matters further, on September 10, at Kazakstan's behest, Kazhegeldin was detained in Moscow on corruption allegations. Under pressure from governments and human rights organizations, Moscow

released him after five days. But as the ODIHR election mission, already in Almaty, said in a September 17 press statement, Kazhegeldin's exclusion and detention had "an unfortunate chilling effect" on the election campaign.

Despite the exclusion of Kazhegeldin, the CEC urged RPP leaders to participate in the election. On September 27, the party rejected these entreaties, pointing to numerous difficulties encountered in trying to campaign, and announced plans not to put forward a party list. The boycott was not total, however, as individual members of the RPP planned to run in various single-mandate districts. Apart from those RPP candidates, Azamat, a party led by Pyotr Svoik, Galim Abilsiitov and Marat Aueзов, also offered an opposition alternative to voters, as did Orleu leader Seidakhmet Kuttykadam, in one district of Almaty, and the Communist Party. In all, ten parties were registered to participate.

PRE-ELECTION CAMPAIGN

Before election day, a delegation of OSCE Parliamentary Assembly observers, including Helsinki Commission staff, heard from spokespersons of opposition parties about unfair practices during the campaign. They charged, inter alia, that local authorities had impeded or thwarted their efforts to meet with voters. Opposition candidates reported not having received the stipulated 15 minutes of free air time, or having been broadcast very early in the morning. Furthermore, they said the media either ignored their parties or presented only negative information about them. The one campaign event that gave all participants an equal chance to address the voters was the October 6 televised debate on state television station Khabar, which allowed opposition candidates to propagate their programs and attack their opponents before a large audience.

Representatives of non-state media uniformly told the OSCE Parliamentary Assembly delegation that they were under constant pressure from the authorities, who called to tell the media outlets what subjects were banned. Moreover, they asserted, independent newspapers continue to be purchased by pro-government entities, which retain the paper's name but change the staff and political orientation.

OSCE ASSESSMENT

In its detailed preliminary assessment (October 11), the joint statement of the OSCE/ODIHR and the OSCE Parliamentary Assembly called the election "a tentative step in the country's transition to democracy." The statement noted the improvements in the legal and regulatory framework, "though important concerns remain, in particular, the independence of election commissions." The registration of 10 political parties and almost 550 candidates "contributed to a pluralist political environment," and the October 6 televised debate "broadened campaign coverage."

However, ODIHR's overall appraisal was negative. Undermining the improvements were: illegal interference by executive authorities; unfair campaign practices by parties close to power structures; bias by lower level election commissions for candidates and parties promoted by regional and local officials; and intimidation and obstruction of the campaigns of opposition parties and candidates. "These reports include a significant number of complaints that voters were threatened with job loss for their support of opposition candidates....Moreover, there were reports of intimidation against opposition parties, candidates, their supporters and the media by tax inspectors and officers of the Committee for National Security (KNB)." Illegal interference also dominated the media environment, and self-censorship was a common

response to threats of bureaucratic, administrative, and judicial measures. Though State media provided free air time and space for candidates, “bias in favor of pro-government parties and candidates was significant.” As for the lotteries introduced by the CEC to give opposition parties a chance to win representation in election commissions, “only about 25 percent of the commissions benefitted. In general, the system served to mask the affiliation of many election commission members with Otan....”

The Mission’s conclusion was that “widespread and pervasive implementation failures during the pre-election period and concerns on election day marred chances for the election to meet OSCE standards.” If Kazakhstan is to make further progress in the transition to democracy, “interference by executive authorities in the broader electoral process must be halted, and their resistance to international standards must be overcome.”

POST-ELECTION TRENDS

Though no opposition parties passed the seven-percent threshold, some opposition candidates made it to the second round, including RPP member Gaziz Aldamzharov and Bigeldy Gabdullin. Valentin Makalkin, who is affiliated with the RPP, won in an Almaty district—he defeated Orleu leader Seidakhmet Kuttykadam, widely viewed as the opposition candidate most feared by the authorities. Azamat co-leader Pyotr Svoik made it to a runoff. So did Vladimir Chernishev, who successfully appealed his exclusion from the race because of a previous conviction for organizing an unsanctioned meeting in April.

Nevertheless, virtually all opposition parties have claimed that the vote and vote count were falsified. Communist Party leader Serokbolsyn Abdildin maintained, based on reports from his party’s observers in polling stations and exit polling, that only Otan and the Communist Party actually passed the seven-percent threshold, with friendly officials “pulling” the other two pro-presidential parties into parliament.

The CEC’s release of results one week late obviously raises suspicion of chicanery. Moreover, serious discrepancies have been reported between official results and tallies compiled by local observers and exit polls. Some election protocols have been changed, others have been written in pencil. Almost 400 aggrieved candidates have filed complaints. Lending weight to opposition allegations of fraud, the chief election official in Illi district, near Almaty, resigned from his election commission and local government jobs on October 15, after publicly announcing that the local Akim (executive official) had ordered him to deliver the election for a particular candidate.

ENDNOTE

1. Elections to the upper chamber, or Senate, took place on September 17. According to Kazakhstan’s constitution, the President appoints seven of the Senate’s 39 seats; the rest are not elected by popular vote but by local councils (Maslikhats). The September 17 election was controversial -and considered illegitimate by opposition groups — because the term of the Maslikhats which elected Senators had lapsed in March 1999. The OSCE/ODIHR Election Observation Mission issued a statement on September 17, highlighting “grave concerns” about the election, including the refusal of election officials to allow observers to monitor the process.

