



## **ELECTION OBSERVATION MISSION Republic of Kazakhstan – Early Parliamentary Elections, 19 March 2023**

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### **STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS**

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#### **PRELIMINARY CONCLUSIONS**

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The 2023 early parliamentary elections were held in the context of reforms introduced to bring Kazakhstan closer to holding elections in line with international standards and OSCE commitments. Legal amendments addressed several prior ODIHR recommendations and increased choice for voters, but further changes to the legal framework are needed to provide a sufficient basis for conducting democratic elections. In particular, limits on the exercise of constitutionally guaranteed fundamental freedoms remain and some political groups continue to be prevented from participating as political parties in elections. While the elections brought elements of competitiveness into the political arena, diverse administrative obstacles negatively affected the equality of campaign opportunities for some self-nominated candidates. The practice of deregistration created uncertainty for candidates over their continued participation in the contest. Overall, contestants campaigned actively and freely, though superficial campaign coverage by the media and a lack of critical reporting due to widespread self-censorship reduced the ability of voters to make an informed choice. While the election administration handled preparations efficiently and voting was organized in a smooth manner overall, significant procedural irregularities were observed and important safeguards were often disregarded during counting and tabulation, undermining transparency of the process.

The electoral legal framework has been amended extensively since the last parliamentary elections, addressing several prior ODIHR recommendations, including ensuring that all seats in the *Majilis* are directly elected, allowing self-nominated candidates to contest elections, easing requirements for party registration and reducing the electoral threshold from 7 to 5 per cent. However, priority recommendations related to fundamental freedoms of peaceful assembly, expression, and media are yet to be implemented. The legal framework pertaining to a number of key aspects of the electoral process is still not fully consistent with international standards and OSCE commitments for democratic elections.

The electoral preparations were administered efficiently and within the established deadlines. The Central Election Commission (CEC) held regular live-streamed sessions and published its decisions promptly, in a demonstration of transparency. However, the fact that outcomes were discussed in advance of formal sessions detracted from the transparency of the decision-making process. In general, the training sessions organized for the lower-level commissions attended by the ODIHR Election Observation Mission (EOM) were well-organized and interactive, but counting and tabulation procedures were not always consistently and timely addressed. The CEC conducted an extensive and inclusive voter information campaign in Kazakh and Russian. Several welcome initiatives to facilitate access for persons with disabilities to the electoral process were implemented. A number of ODIHR EOM interlocutors expressed a lack of trust in the impartiality and independence of the work of lower-level election commissions based on the perception of an overall prevalence of members of the largest party, *Amanat*, in their composition.

Some 12 million voters were registered. No ODIHR EOM interlocutor raised major concerns about the accuracy and inclusiveness of the voter lists. Voter lists were available for public scrutiny. Voters not included in the voter list can be added on election day without adequate administrative safeguards or judicial oversight, contrary to international best practice. Restrictions on the right to vote for those

with an intellectual or psychological disability as declared by a court decision, as well as all prisoners, remain, contrary to international standards.

Recent changes, including the possibility for self-nominated candidates to stand in single-mandate districts, as well as revised registration requirements for political parties, increased the range of political options. Still, freedom of association is not yet fully guaranteed; undue administrative hurdles as well as broad discretionary powers during the party registration process and lack of judicial remedy remain of concern and still prevent some political groups from formal participation in elections. The 10-year residency requirement for candidates to stand is contrary to international standards. The election administration registered 7 party lists, with 281 candidates, for the proportional contest; and 435 candidates, including 359 self-nominated ones, in the majoritarian races.

Sanctions for violation of campaign and campaign finance rules are disproportionate, which is contrary to international standards, and include deregistration of candidates. The fact that deadlines for verification of candidate documentation were not aligned with the start of the official campaign resulted in uncertainty for some candidates about their status until the end of the campaign. In total, 54 majoritarian candidates were deregistered for early campaigning or based on discrepancies in their tax declarations.

Overall, contestants campaigned actively, with the largest party *Amanat* being the most prominent; visibility in rural areas was low. Party platforms and messages addressed a wide range of social and economic issues but were generally supportive of the President's reform agenda. The campaign was more dynamic and generated higher engagement in the majoritarian races in the main cities, and online, with some self-nominated candidates offering alternative programmes. In general, candidates avoided holding outdoor rallies; on some occasions, local authorities withheld authorisation for holding such events. No discriminatory rhetoric, including against national minorities, was reported to or observed by the ODIHR EOM.

Women remain underrepresented and measures to promote women's participation in public and political life are limited. There is a 30 per cent combined quota for women, youth and now also persons with disabilities, which applies to the distribution of seats. Women represented 29 per cent of the candidates in the proportional race and 20 per cent in the majoritarian ones. While party attempts to promote prominent women candidates were limited, a number of well-known women stood as self-nominated candidates. Gender issues did not notably feature in the campaign. Women are well-represented in the judiciary and lower-level election administration.

Legislation sets donation and expenditure limits for financing campaigns; introduction of caps for individual donations addressed a prior ODIHR recommendation. Recommendations related to financial disclosure and effective oversight are still not implemented. Several self-nominated candidates reported that diverse administrative obstacles, including the difficulties in opening of dedicated bank accounts and the burdensome and time-consuming mechanism for providing public subsidies for the campaign, negatively affected the equality of their campaign opportunities. Election commissions vested with campaign finance oversight do not conduct any audits and published only aggregate data on income of parties and candidates; as a result, voters did not have insight into the sources of contestants' financial support before election day.

Freedom of expression and media, guaranteed by the Constitution, is undermined by a restrictive legal framework, contrary to international standards. Such a legal framework deters independent critical reporting and contributes to widespread self-censorship. Numerous recent cases of intimidation and harassment of critical online journalists and bloggers remain of concern, even though some investigations by authorities took place. Most television channels monitored by the ODIHR EOM provided equitable, but only superficial coverage of the campaign activities of political parties in one

joint news item. This, combined with the limited news, investigative and analytical coverage did not facilitate voters' ability to make an informed choice. Coverage by most monitored online media largely focused on majoritarian candidates in the Almaty region and, to a lesser extent, on *Amanat*, providing limited coverage of other contestants. Positively, three televised debates, one organized by the CEC and two paid by the political parties, served as a platform for parties to present their views.

The law provides for resolving disputes within reasonable deadlines. Complaints and appeals may be submitted to commissions and courts via an electronic system, while court sessions can be attended online, facilitating access. In a positive development, judicial remedies were provided in several cases on candidate nomination and registration, restoring eligible candidates. However, the process of election dispute resolution both by election administration and the judiciary lacked transparency. Court decisions were not consistently published online on time. While the CEC keeps a database of complaints, decisions on complaints are not publicly available, and complaints are not discussed in public sessions.

The recently amended Election Law introduced for the first time a formal accreditation process for citizen observers, requiring a domestic organization to have election observation among its statutory activities. Overall, the accreditation of observers was inclusive.

Overall, election day was calm and orderly. Voting was efficiently organized and procedures were generally followed. Nevertheless, the International Election Observation Mission (IEOM) assessed counting negatively in 58 of the 128 polling stations observed due to significant procedural errors and omissions and disregard of reconciliation procedures. Meaningful observation by citizen and international observers was not always ensured due to restrictions during counting and tabulation processes. The transparency of the process was further undermined by the fact that no disaggregated election results at a regional or local level were published. IEOM observers consistently noted discrepancies between the number of voters casting their ballots and the officially reported preliminary turnout figures. Overall, the counting process raised questions about whether ballots were counted and reported honestly, in line with paragraph 7.4 of the 1990 OSCE Copenhagen Document.

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## PRELIMINARY FINDINGS

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### Background and Political Context

On 19 January, President Kassym-Jomart Tokayev announced early parliamentary elections for the lower chamber of parliament (*Majilis*) to be held on 19 March simultaneously with local elections for all levels of local councils (*Maslikhats*).<sup>1</sup> The elections followed the political turmoil and deadly violence of January 2022, the Constitutional referendum of 5 June 2022 and the early presidential election of 20 November 2022.<sup>2</sup> After the January events, the President, envisioning a new state model "New and Fair Kazakhstan", introduced a reform agenda for the "reset and renewal of all major political institutions: the President, the Parliament, and the Government" to be completed by mid-2023. The intended goal is to increase the number of political parties, strengthen political competition, and renew the composition of the *Majilis*.<sup>3</sup> The reform agenda takes place amidst increasing challenges for the country in relation to ongoing international political and economic concerns.

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<sup>1</sup> Kazakhstan has a bi-cameral parliament consisting of *Majilis* and an indirectly elected 50-member Senate. ODIHR EOM observed the *Maslikhat* elections only to the extent to which they impacted the parliamentary elections.

<sup>2</sup> In January 2022, demonstrations, initially caused by rising fuel prices, turned into nationwide demands for economic and political reforms. Official reports following the 'January events' referred to 238 deaths, including of 19 law enforcement officers. In the 2022 early presidential election, President Tokayev received 81.31 per cent of the vote.

<sup>3</sup> See the President's state of the nation [address](#) from 1 September 2022.

The opportunities for self-nominated candidates to stand in the single-mandate districts as well as the recent registration of two new political parties prompted broader public engagement and increased the range of political options in these elections. However, the ability of citizens to participate in political life in conformity with OSCE commitments and international standards, in particular regarding respect for fundamental freedoms of association, peaceful assembly and expression is yet to be fully guaranteed.<sup>4</sup> All seven registered political parties participated in the elections.<sup>5</sup>

While the Constitution prohibits gender-based discrimination, specific measures to promote women's political participation are limited, and women remain under-represented in public and political life. Women held 28 out of 107 seats in the outgoing *Majilis* and 3 out of 22 ministerial positions. All 20 posts of regional governors (*Akims*) are occupied by men. None of the political parties were headed by a woman. However, women are well-represented in the judiciary, as well as in lower-level election administration.

## Legal Framework and Electoral System

The legal framework for the parliamentary elections comprises the Constitution (last amended on 17 September 2022) and the Constitutional Law on Elections (Election Law, last amended on 5 November 2022).<sup>6</sup> Kazakhstan is a party to major international and regional instruments related to democratic elections. The electoral legal framework was amended extensively since the last parliamentary elections.<sup>7</sup> The vast majority of ODIHR EOM interlocutors welcomed the reforms, which also addressed several prior ODIHR recommendations, including reducing the electoral threshold from 7 to 5 per cent, ensuring that all seats in the *Majilis* are directly elected, allowing self-nominated candidates to contest elections and easing requirements for party registration. The time between the holding of the elections and the adoption of the amendments related to the administration of elections was short, departing from international good practice.<sup>8</sup>

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<sup>4</sup> While the legal requirements for party registration were eased recently, out of 23 political (initiative) groups that applied to be registered as political parties during 2022-23, only 2 parties were registered; 17 were rejected. For those rejected, no detailed reasons were communicated, citing personal data protection. According to 1996 UN HRC CCPR General Comment No.25 to ICCPR ([UN CCPR General Comment No. 25](#)), "citizens also take part in the conduct of public affairs [...] through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association". Paragraph 87 of the ODIHR and Venice Commission 2020 [Guidelines on Political Party Regulation](#) states "Grounds for denying party registration must be clearly stated in law and based on objective criteria. Where parties can be denied registration for administrative reasons [...], such administrative requirements must be reasonable and well known to parties". See also, *Party and Candidate Registration, Campaign and Media* sections.

<sup>5</sup> These are the three outgoing parties in parliament, *Amanat* (formerly *Nur Otan*) - 76 seats, the *Democratic Party Ak Zhol* - 12 seats, and the *People's Party of Kazakhstan* (PPK) - 10 seats. The *National Democratic Patriotic Party Auyyl*, and the *Nationwide Social-Democratic Party* (NSDP) also competed for seats along with the two new parties, *Baytaq* and *Respublika*.

<sup>6</sup> Relevant provisions of other laws include legislation related to media, Law on Peaceful Assemblies, Law on Political Parties, the Administrative Procedural Code and the Criminal Code.

<sup>7</sup> The constitutional amendments that changed the electoral system further impacted candidate registration, altered the structure and work of the election administration, including election day procedures, and modified campaign finance provisions. Other important novelties in the Election Law include the regulation of campaigning in social networks and the introduction of a formal accreditation procedure for citizen observers.

<sup>8</sup> The President set the date for early parliamentary elections less than five months after the key amendments changing the structure of the election administration. Section II.2.b of the Venice Commission Code of Good Practice in Electoral Matters states that "[t]he fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election".

Notwithstanding the recent reforms, the legal framework still retains a number of shortcomings, including disproportionate sanctions for campaign and campaign finance violations, limitations to the right to stand and the suffrage rights of persons with disabilities, as well as shortcomings related to the transparency of campaign finance and publication of disaggregated election results.<sup>9</sup> Previous ODIHR priority recommendations relating to fundamental freedoms of peaceful assembly, expression, and media, remain unaddressed. The legal framework is thus still not fully consistent with international standards and OSCE commitments pertaining to democratic elections.

Following the 2022 constitutional reform, the *Majilis* became a fully directly elected chamber comprising 98 members elected under a newly introduced mixed electoral system. Two-thirds of the chamber (69 seats) are elected in a single nationwide electoral district based on a closed-list proportional system, with a 5 per cent electoral threshold; and, 29 members are elected in single-mandate electoral districts under a one-round majoritarian plurality system (first-past-the-post).

The Central Election Commission (CEC) delineated the 29 single-mandate electoral districts in December 2022. However, the number of voters per electoral district varies significantly, which is at odds with international good practice.<sup>10</sup> The CEC explained the variations by differences in population density as well as historical reasons, such as different sizes of administrative regions.

## Election Administration

A four-level structure of election commissions administered the parliamentary elections: the CEC; 20 regional Territorial Election Commissions (TECs)<sup>11</sup> and 16 District Election Commissions (DECs)<sup>12</sup>; 220 district and city TECs; and, 10,223 Precinct Election Commissions (PECs).<sup>13</sup> The CEC is a permanent body. As of 1 January 2023, all regional TEC members, as well as the chairpersons, deputies and secretaries of district and city TECs work on a permanent professional basis. All election commissions are appointed for a five-year term. Women are well represented within the election administration, and two of the seven CEC commissioners and more than two-thirds of the members of lower-level commissions were women.

The president appoints the CEC chairperson and two members, while the two chambers of the parliament appoint two members each. The respective *Maslikhats* elect the members of TECs, DECs and PECs based on proposals received by registered political parties (one nominee to the respective election commission). In the absence of proposals from political parties within the prescribed deadlines, the *Maslikhats* elect commission members based on proposals from public organizations and higher-level election commissions. Nominated individuals do not have to be members of the proposing bodies, and *Maslikhats* may accept or reject individual nominations of any of the nominating bodies through a vote.

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<sup>9</sup> See, *Party and Candidate Registration, Campaign, Media and Campaign Finance* sections of the report.

<sup>10</sup> On 27 February, the CEC published the number of voters per electoral district. The smallest electoral district is the Ulytau *oblast*, with some 142,000 voters, whereas the largest is the Aktobe *oblast*, with some 562,590 voters. In 11 out of 29 electoral districts, the discrepancy from the average is higher than 15 per cent; in the smallest district, it is 65 per cent. Section 2.2.iv of the Venice Commission 2002 [Code of Good Practice](#) in Electoral Matters recommends that “The permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity)”.

<sup>11</sup> One TEC for each of the 17 regions and the 3 cities of republican significance (Almaty, Astana, and Shymkent).

<sup>12</sup> The 16 DECs were established to administer the elections in the single-mandate electoral districts. In the remaining 13 single-mandate electoral districts where the territory of competence of a DEC coincides with that of a TEC of the same level, the DEC was not established, and the TEC performed its functions.

<sup>13</sup> There were 77 PECs established abroad for out-of-country voting.