



Office for Democratic Institutions and Human Rights

**PRELIMINARY ASSESSMENT
OF THE DRAFT AMENDED ELECTION LAW
OF THE REPUBLIC OF KAZAKHSTAN**

OSCE/ODIHR REVIEW



**Warsaw
19 September 2003**

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	EXECUTIVE SUMMARY.....	2
III.	DISCUSSION OF THE DRAFT ELECTION LAW	3
A.	CANDIDACY RIGHTS	4
1.	<i>Article 4 Limitation on Candidacy Rights</i>	<i>4</i>
2.	<i>Article 54 Limitations on Candidacy Rights.....</i>	<i>5</i>
3.	<i>Article 58 Limitation on Candidacy Rights of Independent Candidates.....</i>	<i>6</i>
4.	<i>Article 59 Limitations on Candidacy Rights.....</i>	<i>6</i>
5.	<i>Article 96 Limitation on Candidacy in Runoff Elections</i>	<i>7</i>
6.	<i>Article 97-1 Limitations on Candidacy Rights/Abrogation of the Will of Voters</i>	<i>8</i>
7.	<i>Post-Registration Cancellation of Candidacy</i>	<i>8</i>
B.	ELECTION COMMISSIONS.....	10
C.	ELECTION RULES	12
1.	<i>Voters Lists</i>	<i>12</i>
2.	<i>Election Canvassing.....</i>	<i>13</i>
3.	<i>Financing of Elections.....</i>	<i>14</i>
4.	<i>Voting Procedures</i>	<i>15</i>
5.	<i>Determination of Election Results</i>	<i>16</i>
D.	TRANSPARENCY	18
E.	LEGAL PROTECTIONS	19
IV.	CONCLUSION.....	21

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I. INTRODUCTION

This assessment of the draft amended Election Law of the Republic of Kazakhstan¹ is offered by the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR). The assessment is based on a translated text that was transmitted to ODIHR by the Embassy of Kazakhstan in Warsaw. Any legal review conducted on the basis of translated texts may be affected by the quality of the translation.

The OSCE/ODIHR has previously commented on various aspects of laws that affect the conduct of elections in Kazakhstan.² Previous comments and recommendations remain relevant, and this assessment, which comments only on the draft Election Law, should be considered as complementary. The assessment is intended to assist the authorities of Kazakhstan in their stated objective to develop a sound legal framework for democratic elections that meets OSCE commitments and other international standards.

A delegation of the Central Election Commission (CEC) of Kazakhstan visited Warsaw from 25-28 August to hold preliminary discussions on the draft amendments. This meeting permitted an exchange of views on how to further improve the election legislation. Some of the points that ODIHR raised in those discussions are now reflected in the amended draft Election Law. However, there are still some significant issues that remain to be addressed.

ODIHR experts intend to travel to Kazakhstan at the end of September in order to expand the dialogue on the reform of the Draft Election Law to include Members of Parliament, political parties, and civil society. ODIHR will continue its efforts to

¹ For the purpose of this assessment the current law and pending amendments will be referred to collectively as "the Election Law". The law regulates (1) direct elections of the President, deputies of the Majilis of the Parliament and the maslikhats, and members of the bodies of local self-administration, and (2) indirect elections of the deputies of the Senate of the Parliament by the deputies of the maslikhats

² See Conclusions and Recommendations of Needs Assessment Mission, Kazakhstan (21 August 1999); Final Report Republic of Kazakhstan Parliamentary Elections 10 and 24 October 1999 (20 January 2000); Review of the Legal Framework Regulating Election Disputes Resolution Mechanisms, Republic of Kazakhstan (29 February 2000), Review of the Election Legislation for Parliamentary Elections, Republic of Kazakhstan (18 January 2001); Review of the Election Legislation for Election Disputes, Appeals and Penalties, Republic of Kazakhstan (26 April 2001); Review of the Legal Framework for Media Coverage of Elections, Republic of Kazakhstan (15 September 2001); Review of the Presidential Decree for Pilot Local Elections, Republic of Kazakhstan (15 September 2001); Review of the Law on Political Parties Adopted on 15 July, Republic of Kazakhstan (23 July 2002), Comparative Study: Laws and Regulations Restricting the Publication of Electoral Opinion Polls (February 2003).

assist the authorities to bring the draft Election Law more closely in line with OSCE Commitments and other international standards for democratic elections.

It should be noted that on several occasions, the assessment refers to the European Convention for the Protection of Human Rights and Fundamental Freedoms as well as the International Covenant on Civil and Political Rights (ICCPR). The former is of course not binding on Kazakhstan, but serves as a reference point for legally acceptable international standards. As regards the ICCPR, the United Nations Human Rights Committee considers Kazakhstan, as a successor state to the Soviet Union, to be bound by this agreement. However, the Republic of Kazakhstan has not yet ratified the ICCPR.

II. EXECUTIVE SUMMARY

The OSCE/ODIHR would like to reiterate that the text that it has reviewed is a draft law. A final assessment will be made upon the passage of the Draft Election Law by the Parliament. A number of provisions in the draft law remain unclear, and will require further clarification during the upcoming OSCE/ODIHR mission to Kazakhstan.

The OSCE/ODIHR recognizes that a number of OSCE recommendations contained in previous reports have been taken into account in the draft election legislation. However, while some of the amendments represent considerable progress in terms of transparency, formation of more pluralistic election commissions, and creation of more equal conditions for candidates, the draft law does require further improvement to meet OSCE commitments for democratic elections, especially with regard to limitations on certain civil and political rights.

Amendments to the draft Election Law that enhance the overall transparency of the election process in meeting OSCE commitments for democratic elections include:

- Elaboration of a mechanism that provides the basic elements of a framework for political consultation, in order to determine the composition of pluralistic election commissions;
- Expansion of the rights of election commissioners, which permits a meaningful opportunity for all members of election commissions to participate in administering the election;
- The prohibition of undue interference in the work of the election commissions by the authorities;
- Prohibition of the presence of unauthorised persons in polling stations;
- Unconditional access by observers to all stages of the election process and the receipt of relevant election documents;
- Posting of election results protocols in precinct and district election commissions for public scrutiny.

Additional improvements include:

- Efforts to provide equal conditions for election contestants during the election campaign;

- Procedures for compilation and verification of the accuracy of voter lists;
- Expansion of the list of prohibited activities that could interfere with the election process.

However, outstanding political and civil rights issues remain to be addressed. The draft Election Law runs contrary to OSCE commitments for democratic elections in the following areas:

- Limitations on the right to be elected;
- Limitations on the rights to free speech, expression, and association;
- Possibility for premature termination of an elected candidate's mandate;
- Possibility for premature termination of appointed election officials;
- Disproportional sanctions, such as refusal of registration, de-registration and premature termination of mandates, which may be imposed for minor violations without warning;
- Lack of sufficient guarantees for inclusive pluralistic representation on election commissions;
- Failure to oblige the Central Election Commission to publish preliminary detailed results in the form of summary tables with a breakdown per polling stations;
- Lack of provisions that allow voters and election contestants to challenge and seek invalidation of the election results and that permit the Central Election Commission to invalidate election results; and
- Lack of satisfactory guarantees for a clear, efficient, and expeditious process for election dispute resolution.

The recommendations outlined below address the outstanding and problematic issues that remain, and offer some solutions to address the significant shortcomings in the draft Election Law.

III. DISCUSSION OF THE DRAFT ELECTION LAW

The OSCE/ODIHR Review of the draft Election Law is grouped according to five general categories and not in the numerical order in which articles appear in the law. The five categories include: Candidacy Rights, Election Commissions, Election Rules, Transparency, and Legal Protections.³ This thematic approach facilitates evaluation of whether the Draft Election Law reflects OSCE commitments and other international standards.

³ The Candidacy Rights topic discusses provisions of the Election Law that open and close the door for citizens who seek the opportunity to participate in representative government by being a candidate for public office; Election Commissions discusses provisions that govern the election commissions that are responsible for the administration and conduct of election processes; Election Rules discusses all aspects of the campaign, including media, voting, counting of ballots, tallying of results, and declaration of winners; Transparency discusses what mechanisms are in place to ensure that the election processes are open to public scrutiny to ensure that the will of the people is respected and that the election results are not fraudulent; and Legal Protections discusses what mechanisms are in place to ensure that citizens, candidates, and political parties can seek meaningful redress in the event of violation of legal rights.

A. CANDIDACY RIGHTS

It is a universal human rights principle that every citizen has the right, on a non-discriminatory basis and without unreasonable restrictions to: (1) take part in the conduct of public affairs, directly or through freely chosen representatives; (2) vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; and (3) have access, on general terms of equality, to public service in his country.⁴ The draft Election Law does not satisfy this basic principle as it contains several provisions that close the door on a citizen who should have the opportunity to participate in representative government by being a candidate for public office. These impermissible limitations on candidacy rights are considered in the order in which they appear in the draft Election Law.

1. Article 4 Limitation on Candidacy Rights

Article 4 of the draft Election Law sets forth the right of suffrage for citizens of the Republic of Kazakhstan. An amendment to Article 4 deletes sub-clauses (1) and (2) in clause (4) of Article 4. This amendment addresses a concern previously expressed by the OSCE/ODIHR concerning Article 4 and is a positive step for improvement of the legal framework.

Although this is a positive amendment, Article 4 should be further amended by deleting sub-clause (3) of clause (4). Sub-clause (3) abrogates the passive right of suffrage of a citizen who “has conviction which has not been cancelled or annulled by the time of registration in order, stipulated by law” (sic). Under sub-clause (3), the passive right of suffrage is denied based on any conviction, regardless of the nature of the underlying crime. The denial of suffrage, due to a conviction for *any* crime, is a questionable exercise of state power.

Article 33 of the Constitution of Kazakhstan provides guidance on this issue. Article 33 of the Constitution establishes the constitutional right to participate in government and be elected to public office. Article 33 does provide that a person *currently in confinement* on a court’s sentence cannot be a candidate. Article 33 also provides that citizens “shall have the equal right to serve in a public office” and that “the requirements for candidates for public offices shall be conditioned only by the character of the office duties”.

The Constitutional Article 33 limitation, based on *current confinement*, is specifically stated in clause (3) of Article 4 of the Draft Election Law. Sub-clause (3) of clause (4) of Article 4 creates a limitation on the passive right of suffrage that is not expressly recognized by Article 33 of the Constitution. This sub-clause creates a limitation based on *post-confinement* and even *sans-confinement* “conviction” status, and without consideration of the seriousness of the crime. This abrogation of the passive right of suffrage is not consistent with international standards and would appear to be contrary to Article 33 of the Constitution.

⁴ See, e.g., Article 25 of the International Covenant on Civil and Political Rights.

The OSCE/ODIHR recommends that Article 4 be further amended and that the denial of candidacy occur only where a person has been convicted of committing a crime of such a serious nature that forfeiture of political rights is indeed proportionate to the crime committed.⁵ The forfeiture should be for an established period of time, likewise proportionate, and restoration of political rights should occur automatically after the expiration of this period of time.⁶ The legislature should also carefully consider whether Article 33 of the Constitution permits any limitation based on conviction status where the person is not *currently in confinement* on a court's sentence. Legal barriers to candidacy should always be scrutinized as they limit voter choice and may prevent qualified candidates from seeking public office based on disqualifying conditions unrelated to the character of the office.

2. Article 54 Limitations on Candidacy Rights

Clause (1) of Article 54 provides that a citizen who is “a minister of any religious cult” cannot be a candidate for President. This clause violates the principles of freedom of religion, the right to seek employment of one's own choosing, and non-discrimination. Every person has the right of free choice of employment, and such choice cannot be a basis for denying candidacy.⁷ Further, Article 14 of the Constitution of Kazakhstan provides that “No one shall be subject to any discrimination for reasons of ... religion...” The prohibition of the candidacy of a “minister of any religious cult”, as phrased in the English translation, is contrary to OSCE commitments, international standards, and domestic constitutional law. OSCE participating states commit to “take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, and to ensure the effective equality between believers and non-believers.”⁸ **The OSCE/ODIHR recommends** that Article 54 be amended to conform to OSCE commitments, international standards, and domestic law protecting freedom of religion, choice of employment, and the right to non-discrimination in the application of suffrage rights.⁹

⁵ The OSCE/ODIHR previously advised that Article 4 should be applied narrowly, to “only serious criminal offences”. See Review of the Election Legislation for Parliamentary Elections, Republic of Kazakhstan (18 January 2001), page 4. Further, the Election Law should specifically list those crimes that are considered to be so serious that forfeiture of a human right – suffrage – is required.

⁶ The phrase “has not been cancelled or annulled by time of registration” in sub-clause (3) may address this issue. The relevant legal provision for cancelling or annulling a conviction should be considered when evaluating sub-clause (3).

⁷ See Article 23 of the Universal Declaration of Human Rights; Article 6 of the International Covenant on Economic, Social and Cultural Rights; Article 1 of the European Social Charter; Article 24 of the Constitution of Kazakhstan. See also Paragraph 7.5 of the OSCE 1990 Copenhagen Document (Citizens have the right “to seek political or public office, individually or as representatives of political parties or organisations, without discrimination”).

⁸ Paragraph 16.1 of the OSCE 1989 Vienna Document. See also Paragraph 9.4 of the OSCE 1990 Copenhagen Document.

⁹ See Principle VII, Paragraph 1 of the OSCE 1975 Helsinki Document; Paragraphs 13.7 and 16.1 of the OSCE 1989 Vienna Document; Paragraphs 5.9 and 7.3 of the OSCE 1990 Copenhagen Document; Paragraph 7 of the OSCE 1994 Budapest Document; Paragraph 2 of the OSCE 1999 Istanbul Document; Articles 2 and 21 of the Universal Declaration of Human

Clause (2) of Article 54 requires that a candidate must have “fluent mastery of the state language”, as determined by the Central Election Commission. This provision should specifically state fair and objective standards for determining fluency in the state language so that a candidate will know how he or she will be measured, and so that voters and observers will be able to judge whether a candidate has been treated fairly and in conformity with the objective standards stated in the law. **The OSCE/ODIHR recommends** that the Draft Election Law be accordingly amended.

3. Article 58 Limitation on Candidacy Rights of Independent Candidates

Article 58 regulates creation of campaign funds for candidates in presidential elections. Article 58 permits campaign funds for candidates to come from three separate sources. However, the source in clause (2) is limited to a candidate nominated by a political party. Thus, this article discriminates against independent candidates as it prohibits independent candidates from receiving funds from political parties.¹⁰ Paragraph 7.5 of the OSCE 1990 Copenhagen Document provides that citizens have the right “to seek political or public office, individually or as representatives of political parties or organisations, without discrimination”. Further, a political party should have the right to provide financial support to an independent candidate in an election where the political party has not nominated its own candidate. A small political party may not have sufficient strength to nominate a candidate for a presidential election. However, it should have the right to support a candidate, financially and otherwise. **The OSCE/ODIHR recommends** that the limiting phrase “that nominated him” be reformulated so that an independent candidate can receive financial support from political parties. However, the article should clearly state that the total amount of contributions from political parties cannot exceed the amount stated in the clause.

4. Article 59 Limitations on Candidacy Rights

Clause (2) of Article 59 limits registration of candidacy for President to a person who can “pay an election fee of his (her) own resources into the account of the Central Election Commission in the amount of one hundred minimum wages established by the legislation” (sic).

Clause (2) discriminates on the basis of social or property status as it precludes candidates who do not have sufficient personal wealth to pay the fee. It is clearly discriminatory as it precludes a candidate from relying on the support of a political party or individual citizens for payment of the fee. The law is not clear, but it appears that the wage unit reference is a monthly wage. Requiring a person to pay eight years of wages from personal funds, in order to be a candidate, is simply unacceptable. There is no legitimate basis for requiring such a high registration fee to be paid from

Rights; Articles 2 and 26 of the International Covenant on Civil and Political Rights; Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Article 24 of Constitution of Kazakhstan.

¹⁰ Clause (2) of Article 92 and clause (2) of Article 106 have similar provisions and should be accordingly amended. These concerns are based on the assumption that the words “organisations” and “entities”, as they are used in clause (3) of Articles 58, 92, and 106, do not include a political party.

personal funds. Even a poor citizen has the right to participate in government, including the right to be a candidate for President. The fact that the fee is refundable, after the elections to candidates crossing the 5% threshold of votes, does not solve the problem, as the amount of the election fee is well beyond the financial means of many potential candidates.

Clause (2) also violates a citizen's right to freedom of expression and association as it prohibits a citizen from contributing to a candidate's effort to satisfy one of the first hurdles for registration. Such a blanket prohibition is unacceptable. Although a reasonable limitation on the amount that a citizen or political party can contribute would be permissible, the absolute prohibition of citizen or political party contributions to this fee violates international standards.¹¹

Article 59 requires a candidate for President to submit "a medical certificate of psychical state of health". There is no justification for this requirement. It may discourage citizens from exercising the right to seek public office, is contrary to the Constitution of Kazakhstan, and problematic under international standards. Article 33 of the Constitution of Kazakhstan provides guidance on this issue. A citizen's "psychical state of health" is not relevant to qualification for candidacy *except* where the citizen has been "judged incapable by a court". This principle is also stated in Article 4 of the Draft Election Law ("citizens recognized incapable by a court" cannot be a candidate). Article 33 of the Constitution is consistent with the universal legal principle that a person is presumed competent and can be a candidate until adjudicated in a court of law as not possessing mental competency.

Voters are best suited to judge the intellectual capacity, honesty, integrity, and general persona presented by candidates. **The OSCE/ODIHR recommends** that Article 59 be amended to delete the requirement for a medical certificate of psychical state of health.¹²

5. Article 96 Limitation on Candidacy in Runoff Elections

Clause (1) of Article 96 provides for a runoff election for deputies of the Majilis "if election was deemed invalid, or there were two candidates when they have not been elected"(sic). Clause (5) of Article 96 states that "political parties, which have overcome a three-percent barrier and have taken part in the previous elections, may also take part in a runoff election." It is not clear why there should be a "three-percent barrier" if the "election was deemed invalid" under clause (1). If the election was deemed invalid, then no political party would have overcome the "three-percent barrier". **The OSCE/ODIHR recommends** Article 96 be reformulated so that candidates and political parties who participated in the election can participate in a "runoff" election held because the first "election was deemed invalid."

¹¹ This concern is also applicable to Article 88, which requires an election registration fee for a candidate for deputy of the Majilis of the Parliament to pay nearly two years of wages from personal funds.

¹² This concern is also applicable to similar requirements found in Articles 73, 89, 104, and 118 of the Election Law.

6. Article 97-1 Limitations on Candidacy Rights/Abrogation of the Will of Voters

Clause (5) of Article 97-1 provides that “if a political party is liquidated or a person elected to Majilis of the Parliament terminates to be a member of the political party, the term of office of the member of Majilis of the Parliament elected based on the party list of the above political party shall be terminated”(sic). This provision is triggered regardless of whether the member had any role or responsibility for the liquidation of the political party and, in the second situation, regardless of whether the loss of political party membership is voluntary through resignation or follows expulsion from the party.

Clause (5) of Article 97-1 is contrary to the commitment formulated in Paragraph 7.9 of the 1990 OSCE Copenhagen Document: “candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures”. Although Article 97-1 is a legal provision, it is not a legal provision that is in conformity with democratic parliamentary and constitutional procedures.¹³

Clause (5) of Article 97-1 also provides that “a political party may change the order of candidates on the party lists by submitting to the Central Election Commission an appropriate application in writing together with the extract from the minutes of the meeting of the superior body of the political party.” This provision allows post-election change in the order of candidates on the list of a political party. This provision is contrary to the commitment in Paragraph 7.9 of the 1990 OSCE Copenhagen Document, domestic constitutional principles, and international standards.¹⁴ Post-election change in list order misleads voters and abrogates the candidate choice made by voters on Election Day.

The OSCE/ODIHR recommends that the draft Election Law be amended to reflect ownership of mandates by elected candidates. In particular, an elected candidate should not forfeit a mandate due to a change in political affiliation, or liquidation of the party, or due to a post-election decision of a political party.

7. Post-Registration Cancellation of Candidacy

There are several provisions in the draft Election Law that permit the cancellation of a candidate’s registration for various post-registration wrongs committed by the candidate.¹⁵ An amendment in Article 50 contemplates that “warnings” will be given to candidates prior to cancellation. The issuance of “warnings” is an improvement

¹³ See Articles 47 and 52 of the Constitution of Kazakhstan; *Sadak and Others v. Turkey*, Application Nos. 25144/94, 26149/95, 26154/95, 27100/95 and 27101/95, European Court of Human Rights (11 June 2002) (post-election forfeiture of a mandate due to dissolution of political party is incompatible with the very essence of the right to stand for election and to hold parliamentary office, and infringes the unfettered discretion of the electorate to exercise free and universal suffrage).

¹⁴ *Id.*

¹⁵ Examples are found in Articles 27, 34, 50, 59, 73, 89, 104, and 118 of the Election Law.

compared to an outright cancellation of registration. It, however, does not meet the minimum level of legal safeguards that the State must provide prior to revocation of the human right of passive suffrage. Revocation of candidate registration, where based on the candidate's wrongful acts or omissions unrelated to legal qualifications for candidacy (such as citizenship, age, residency, procedural filing requirements), cannot occur until certain legal safeguards have been respected. The draft Election Law should be amended in order to provide these minimum safeguards, as enshrined in OSCE Documents.

As noted in Paragraph 5.19 of the OSCE 1990 Copenhagen Document, every person is presumed innocent until adjudicated guilty in accordance with certain legal safeguards. This presumption of innocence applies not only to criminal proceedings, but proceedings that seek to revoke, remove, or "cancel" a human right or fundamental freedom.¹⁶ Further, "in the determination of his civil rights", everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."¹⁷ "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights..."¹⁸ Paragraph 5.16 the OSCE 1990 Copenhagen Document and Paragraph 21 of the OSCE 1989 Vienna Document specifically incorporate these cited provisions for the determination of civil rights, and Paragraph 13.9 of the OSCE 1989 Vienna Document provides that "the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal, include[s] the right to present legal arguments and to be presented by legal counsel of one's choosing." Paragraph 5.17 of the OSCE 1990 Copenhagen Document also recognizes the right to be given free legal counsel where the person does not have sufficient means for legal assistance and the interests of justice so require.

The above safeguards are the minimum requirements the law must provide before revoking a person's human right to passive suffrage. In the absence of legal recourse, the issuance of "warnings" before "the candidate, the party list is cancelled by the appropriate selective commission" (sic) are not sufficient to meet OSCE commitments and international standards. **The OSCE/ODIHR recommends** that all provisions for post-registration cancellation of candidacy include the minimum legal safeguards required by OSCE commitments and other international standards.¹⁹

¹⁶ Although all legal systems apply different "burdens" or "levels" of proof in criminal and civil or administrative proceedings, all legal systems do require that there be proof and mere accusation never is sufficient.

¹⁷ See Article 6(1) of the European Convention for Protection of Human Rights and Fundamental Freedoms.

¹⁸ Article 10 of the Universal Declaration of Human Rights. See also Article 14 of the International Covenant on Civil and Political Rights ("In the determination ... of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.").

¹⁹ Notwithstanding the complete absence of the required legal safeguards, the sanction of cancellation of registration is disproportionate, in light of the conduct that can be a basis for cancellation. Instead of relying on a draconian "cancellation" regime, it would be more appropriate to authorize the imposition of a monetary fine based on consideration of several factors, which could include: (a) the threat that the violation presents to the conduct and administration of future elections, (b) whether the violator profited from the violation, either monetarily or through the allocation of a mandate for the violator or the violator's political party or coalition, (c) the duration and pervasiveness of the conduct giving rise to the

B. ELECTION COMMISSIONS

The OSCE/ODIHR has previously expressed concern that election commissions lack multi-party representation, are subject to the control of government authorities, and do not act independently. Despite inclusion of a mechanism that provides the basic elements of a framework for political consultations, the amendments to the draft Election Law do not fully address previous OSCE/ODIHR concerns about formation of election commissions.

An amendment to Article 10 provides that territorial, district, and precinct election commissions “shall be formed by appropriate maslikhats after the consultation with political parties” (sic). The proposed text envisions an enhanced role for the maslikhats in the formation of the territorial, district, and precinct election commissions as well as raises the possibility that political parties would be able to delegate representatives to election commissions at all three levels. This is particularly important in regard to the precinct election commissions, which play perhaps the most visible role in terms of public trust in the electoral process. The decision to provide political parties with a voice in the formation of election commissions through the introduction of consultations with maslikhat “working groups” is a welcome development. However, the modalities of the consultations should be further elaborated to ensure inclusiveness and due consideration for the proposals put forth during these consultations. It does not appear from the current provisions that there is any binding obligation for the maslikhats to take into account the recommendations of the working group and actually include representatives of political parties in the commissions. Therefore it is not clear if these provisions indeed will result in inclusive multi-party election commissions.

Furthermore, the government appointing body can always control territorial, district, and precinct election commissions as the amendment to Article 10 allows appointing government bodies to “replace” any member and to “terminate” an election commission.²⁰

The obligation to “consult” with “various political parties” is not the obligation to establish multi-party or pluralistic election commissions. **The OSCE/ODIHR recommends** that the legislature further clarify the articles regulating the appointment of election commissions. The law should be amended to substantially broaden and guarantee an inclusive and adequate representation of political parties on election commissions.

An amendment to Article 10 attempts to protect the independence of election commission members by limiting grounds for removal. This is a welcome development. However, the amendment should go even further to protect election

violation, (d) whether and to what degree there was an effort to conceal the violation, (e) the attitude and conduct of the violator upon discovery of the violation, (f) whether government authorities or public officials or resources were involved in the violation, (g) the number of times the violation occurred, (h) the number of other persons involved in the violation, and (i) the potential harm to free, fair, democratic, and transparent elections in the future.

²⁰ An amendment creating clause (8) in Article 19 may be attempting to limit this power. However, the English text is not clear and the intent of the amendment cannot be ascertained.

commission members from undue dismissal. **The OSCE/ODIHR recommends** that Article 10 be amended to provide for: (1) written notice to the commission member of the proposed grounds for removal, such grounds which should be clearly stated in the law, (2) a hearing before an appropriate tribunal to contest the challenged removal, (3) a voting requirement greater than simple majority in order to support the removal, and (4) the right to appeal to a court to challenge a decision for removal.

It is also *recommended* that the provision allowing for “termination” of an election commission be removed from the law. As members of an election commission can be dismissed or replaced, including all of the members, there does not appear to be valid justification for this provision. It is of concern that this provision could be applied to invalidate a decision of an electoral commission at a late date by “terminating” the election commission and using the “termination” as grounds that the decision of the election commission was without legal authority. Until a justifiable basis for this termination provision is presented, it should not be included in the Draft Election Law. Further, if the concept of “termination” remains in the law, Article 10 should be considered with clause (15) of Article 12, which suggests that “termination” of an election commission requires initiating action by the Central Election Commission. The English text of Article 10 grants this initiating power to any “higher electoral commission”.

Despite the significant amendment in clause (6) that stipulate that “no one shall interfere with the activity of electoral commissions when they perform their authorities”, it of concern that appointing government bodies could control election commissions, without interfering, simply through the exercise of the new “replacement” and “termination” provisions in the amended Article 10.

The amendment to Article 19 significantly expands the rights of a member of an election commission so that the member has a meaningful opportunity to participate in administering the election. This is a positive amendment. However, **The OSCE/ODIHR recommends** that sub-clause (1) of clause (5) of Article 19 specifically state that the minimum number of hours of notice be 48 hours, unless there are exigent circumstances that require a time period less than 48 hours.

The amendment to Article 19 also clarifies situations where it would be improper for a person to be a member of an election commission due to a conflict that would impair the member’s ability to discharge his duties or create an appearance of conflict. This is also a positive amendment. The requirement for residency within the territory where the election commission is located is an improvement as well.

Clause (5) of Article 20 provides that a decision of an election commission is made by majority vote. If a tie vote occurs when there is an even number of commission members present, then the vote of the Chairperson of the election commission is decisive. **The OSCE/ODIHR recommends** that this provision be amended to respect the principle of one person-one vote in the decision making process in an election commission, regardless of whether there is a tie vote.

Amendments to clause (6) of Article 20 provide more detail, than previously existed in the law, concerning the procedure for challenging a decision of an election

commission. Although this is an improvement, Article 20 should be further amended.

A deadline of ten days for challenging a decision is generally too long, within the context of election disputes. Election disputes should be lodged and decided expeditiously. **The OSCE/ODIHR recommends** that, absent unique local factors, this period be no more than five days in Article 20. It is also *recommended* that Article 20 specifically list those persons who have rights to: (1) challenge a decision of an election commission, (2) notice of the challenge, (3) respond to the challenge, and (4) present evidence in support or against the challenge.

As uniformity and consistency in decisions is important, **The OSCE/ODIHR recommends** that challenges to decisions be filed in only one forum designated by the law – either a court or higher election commission. The option of making challenges in different forums will only lead to “forum shopping” and inconsistency in decisions. Further, “forum shopping” is almost certain due to the sentence “The court judgments shall be binding upon the relevant electoral commissions”. This phrase suggests that a court judgment is binding upon *all* election commissions. If this is the case, then the authority of higher election commissions, including the Central Election Commission, can be circumvented by filing a challenge with a court instead of an election commission. The vagueness of this sentence underscores other significant problems with Article 20 – the failure to identify the level of “a court” intended (local court, appeals court, or Supreme Court) and the failure to identify what commissions are intended by “relevant electoral commissions” and “higher electoral commissions”. **The OSCE/ODIHR recommends** that Article 20 be amended to state a clear and understandable hierarchical complaint process that defines the roles of each level of election commission and each level of courts. It is important that this process be uniform to prevent “forum shopping”. This process should also identify which bodies act as fact-finding bodies of first instance and which bodies act as appellate review bodies.

The amendment to clause (9) of Article 20 should be considered carefully. This amendment removes the prohibition preventing the spouse or “close relative” of a candidate from being a member of an election commission.

C. ELECTION RULES

1. Voters Lists

There are several amendments to Articles 24 through 26 that appear to be positive improvements. These amendments include a publication requirement for most voters lists²¹, new deadlines for submission of lists, and expedited deadlines for considering applications to correct data, both in election commissions and courts.

²¹ Lists for voting in “special” precincts (military, ships, hospitals, distant pastures, foreign states, *etc.*) are not subject to the publication requirement.

2. Election Canvassing

There are several amendments to Articles 27 through 32 that address the problem of government interference in election processes and partiality in media access and coverage. For instance, Article 28 guarantees equal conditions to media access for election contestants. However, the positive aspects of these amendments are lessened by the inclusion of some questionable provisions. **The OSCE/ODIHR recommends** that these amendments be reformulated, taking into consideration the comments below.

Article 28 qualifies the clause (1) right to “promote” candidates and political parties with the phrase “citizens possessing active right to elect”. As each citizen has the right to free expression, association, and speech, which encompasses the right to promote and support candidates and political parties, regardless of whether the citizen can vote or stand for election, clause (1) impermissibly limits the rights of a citizen. This limitation is contrary to OSCE commitments, other international standards, and domestic constitutional law.²² **The OSCE/ODIHR recommends** that this qualifying phrase be deleted from Article 28.

Clause (5) of Article 28 prohibits the use of certain campaign materials printed outside of the territory of the Republic of Kazakhstan. This provision violates the principle that a citizen has the right to receive and impart information regardless of frontiers.²³ OSCE participating states recognize that citizens have the right “to receive and impart information and ideas without interference by public authority regardless of frontiers, including through foreign publications and foreign broadcasts.”²⁴ OSCE participating states commit themselves “to take all necessary steps to ensure the basic conditions for free and independent media and unimpeded transborder and intra-State flow of information, which we consider to be an essential component of any democratic, free and open society.”²⁵ **The OSCE/ODIHR recommends** that the clause (5), Article 28 prohibition be deleted from the law.

On a positive note, the draft Law now foresees the conduct of TV debates that are central in democratic society. They contribute to the presentation of diverging political views and help voters to make a fully informed choice.

The provisions in Article 28 on timing of direct access slots are unsatisfactory. Order of application is not a legitimate criterion for this purpose as this is relatively random and may well fail to take into account the relative desirability of having slots at different times during the election campaign. The same problem applies to the drawing lots. Further, this approach is inconsistent with the concept of granting blocks of slots to candidates and political parties to use as they see fit. Rather, each media outlet

²² See Paragraph 26.1 of the OSCE 1991 Moscow Document; Paragraph 26 of the OSCE 1999 Istanbul Document; Article 19 of the Universal Declaration of Human Rights; Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Article 20 of the Constitution of Kazakhstan.

²³ See Article 19 of the Universal Declaration of Human Rights; Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Article 20 of the Constitution of Kazakhstan.

²⁴ Paragraph 26.1 of the OSCE 1991 Moscow Document.

²⁵ Paragraph 26 of the OSCE 1999 Istanbul Document.

should be required to distribute party slots fairly throughout the campaign, subject to review by the Central Election Commission. The timing of direct access slots should also be fair, balanced and non-discriminatory; slots should not be allocated on a random basis. **The OSCE/ODIHR recommends** that Article 28 be accordingly amended.

Articles 27 and 28 permit the purchase of paid political advertisements. However, the draft law does not require that these broadcasts be identified as being paid political advertisements. Although this may be a requirement stated in another source, such as the Election Media Rules, it should also be included in the draft Election Law as the law places some requirements in this regard, particularly the publication of contract rates in Article 28. **The OSCE/ODIHR recommends** that Article 28 be amended to require proper identification of these advertisements as paid political advertisements.

Clause (6) of Article 27 should be clarified and revised if needed.

Although clause (3) of Article 28 provides that the government shall guarantee direct and equal access to TV, radio and newspapers for candidates, there is no provision specifying which state body or the manner in which the media provisions are to be enforced. During elections, the Central Election Commission may be the most appropriate body for enforcement. **The OSCE/ODIHR recommends** that Article 12 of the draft Election Law be amended to specify that the Central Election Commission has powers to enforce the obligations set out in the law that regulate the media during elections.

The last paragraph of clause (7) of Article 28 should be clarified and revised if needed.

Article 28 clause (9) related to the publication of pre-electoral opinion polls implements the OSCE/ODIHR recommendations contained in “the Comparative Study: Laws and Regulations Restricting the Publication of Electoral Opinion Polls.”

Clause (2) of Article 32 permits printed election materials to remain outside the premises of election commissions and polling stations on Election Day if the materials were put on the premises “earlier”. Regardless of when such election materials have been placed on these premises, these materials should not be permitted to remain on or near the premises on Election Day. **The OSCE/ODIHR recommends** that clause (2) be amended to prohibit such materials on the premises or within a stated distance of the premises on Election Day.

3. Financing of Elections

Article 33 clause (4) should be amended so that foreign citizens and stateless persons residing in Kazakhstan have the right to freely express their opinion and to associate during election campaign although they are non-citizens. The rights to freedom of expression and association according to Articles 10 and 11 of the European Convention of Human Rights do not only belong to citizens but to all persons within the jurisdiction of a member State.

Clause (10) of Article 34 is of concern as it provides grounds for cancellation of a candidate's registration. Under this clause, the filing of a financial report required by clause (9), one day late and although legally sufficient in all other aspects, can result in the cancellation of candidacy. **The OSCE/ODIHR recommends** that this cancellation provision be deleted from Article 34.

The text in clause (2) of Article 35 is ambiguous in the English translation and the intent of the article is not clear.

The text in clause (1) of Article 36 is ambiguous in the English translation and the intent of the article is not clear.

4. Voting Procedures

Some problems arise from the articles regulating voting procedures. They are discussed as they appear in Articles 37 through 42.

An amendment to clause (3) of Article 37 provides for delivery of ballots to precinct election commissions no later than one day before elections. However, the amendment does not state the earliest possible date on which ballots may be delivered. It is preferable that the law state the precise time period within which ballots must be delivered. This time period should consider not only administrative and logistical needs, but should also consider the high importance of maintaining security of the ballots.

An amendment to clause (2) of Article 39 prohibits the presence of unauthorised persons in a polling station during the election process. This is a positive amendment that addresses previous OSCE/ODIHR concerns.²⁶ **The OSCE/ODIHR recommends** that this prohibition be extended to election commissions at all levels.

The provisions for "mobile voting" in clause (6) of Article 41 have been amended. This amendment partially addresses previous OSCE/ODIHR concerns about mobile voting. However, the amendment does not go far enough to ensure the prevention of fraud. **The OSCE/ODIHR recommends** that the following safeguards be incorporated for mobile voting: (1) the law should state that all other procedures for identifying a voter and issuing a ballot are applicable to the mobile voting procedure, (2) the number of persons who have used the mobile ballot box must be recorded in polling station and successive protocols and tabulations by election commissions in order to identify particular areas where the proportion of votes cast using mobile ballot boxes is unusually high, which may point to fraud, and (3) at least two members of the polling station commission, who are not members of the same political party, should administer mobile voting jointly within the geographical territory covered by a polling station.

It is also *recommended* that Article 41 include a general provision requiring that all procedures for identifying a voter and issuing a ballot are applicable for voting in "special" precincts (military, ships, hospitals, distant pastures, foreign states, *etc.*).

²⁶ The text in the last sentence of clause (1) of Article 39 is ambiguous in the English translation and the intent of the text is not clear.

5. Determination of Election Results

An amendment to Article 43 requires that the count of the votes at the polling station be completed within 12 hours. This is an improvement in the law. **The OSCE/ODIHR recommends** that Article 43 be further amended to require that the results of the counting be submitted to the district election commission no later than 12 hours after the count is completed. Further, the law should require that the district election commission submit the tabulations of the results to the respective higher election commission within 12 hours. It is also *recommended* that the Central Election Commission should be required, within 48 hours, to announce the preliminary results in the form of tables with all relevant details, which will enable all interested parties to audit the outcome of the elections from polling stations, through intermediate levels, to the Central Election Commission level.

Clause (7) of Article 43 requires that a decision on the validity of a ballot be made by a vote of 2/3's majority of the total number of commission members. However, the clause does not provide for a situation where the decision fails for lack of 2/3's majority vote, *i.e.*, the clause does not state whether the ballot shall be considered valid or invalid for lack of a decision. Further, assuming that the ballot is to be considered valid, which it arguably should since otherwise a minority of 1/3 of the members would have power to invalidate all ballots, the clause does not state how it shall be determined toward which candidate or political party the ballot should be counted. **The OSCE/ODIHR recommends** that clause (7) of Article 43 be amended to address these concerns. The power to invalidate ballots should not be given to a minority of 1/3 of the members of the precinct election commission.

Article 43 clause (8) of the draft Law would require that a copy of the protocol summarising the results of the vote count be posted in each polling station, and allow observers to receive a copy of the protocol complete with the signatures of the Chairman and Secretary of the precinct election commission and its seal.

Under Article 43 clause (8-1), the district election commission would hold a meeting at a predetermined polling station (whose location would be announced in the media no later than 10 days before voting) in order to tabulate the election results for a given district on the basis of the protocols submitted by precinct election commissions. This clause also foresees that a copy of the protocol of the tabulated election results for a given electoral district would be posted at the polling station at which the district election commission meets.

Article 43 clause (8-2) foresees that district election commissions would prepare an "unofficial summary table" of the results of voting by polling station within five days after the elections. Each district election commission would post this document within the polling station at which it conducted its meeting to tabulate the election results. This clause also calls for the district election commissions to prepare and post an official summary table on the basis of the polling station protocols, but it does not specify a deadline for its preparation and posting, does not provide instructions as to how long the protocol should be posted at the polling station (which might well be located in a school, hospital, or other public building), and does not give observers,

candidates and their proxies, or the mass media the right above and beyond the posting of results, to receive a copy of the official summary table upon request.

Clause (9) of Article 43 relates to a new vote count. **The OSCE/ODIHR recommends** that this clause be amended to state that observers shall be provided timely notice of a recount and have the opportunity to observe the recount.

The new Article 43-1 provides for the use of automated information systems in elections. Clause (2) of the article provides that “observers and authorized persons shall have the right to familiarize themselves with any information that is entered into, and obtained from, the automated information system.” This is a positive provision. However, this article should be expanded to specifically ensure that the integrity and reliability of such a system can be trusted. **The OSCE/ODIHR recommends** that the law provide that authorized representatives of candidates and political parties have the opportunity to verify the accuracy and soundness of hardware and software used for any automated information system. Whether manual, mechanical, or electronic processes are used, procedures for audit and inspection to ensure accuracy and reliability must be in place.

Clause (5) of Article 44, regulating the announcement of results, has been amended. However, it should be amended further to require that the announcement of results includes all information on the results of mobile voting and early voting, and all information is broken down to the precinct level so that all results can be traced from the lowest level of voting through the tabulations at each level of election commission, including the Central Election Commission. This degree of detail is necessary to enable observers to track results and locate specifically where fraud has occurred, in the event that the numbers are unlawfully changed during the tabulation processes.

It is also *recommended* that Article 44 include a general provision stating that all procedures for counting and tabulating votes are applicable in “special” precincts (military, ships, hospitals, distant pastures, foreign states, *etc.*).

Notably absent from the draft Election Law is a specific and clearly stated process that permits a voter, candidate, and political party to challenge the election results and seek invalidation of the results in one or more polling stations, or to challenge the tabulation of results by one or more election commissions. Nor is there any provision in Article 12 that permits the Central Election Commission to invalidate election results in one or more polling stations, or to invalidate the tabulation of results by one or more election commissions. **The OSCE/ODIHR recommends** that the draft Election Law be amended to address these omissions.²⁷ However, invalidation should

²⁷ Article 66 suggests that some authority or authorities may declare elections invalid. However, the article does not identify this authority. The Central Election Commission adopts a decision not to register the election of the President if elections have been recognized as invalid in at least one-fourth of the total number of precincts or administrative territorial units. This provision is not only vague, but relies on an arbitrary fraction of one-fourth, without regard to the actual number of votes involved. Article 66 does not create the needed mechanisms for challenging results. Further, it creates uncertainty and potential for post-election lawsuits due to its vagueness and lack of detail. Nor is the Article 66 power to refuse

not occur where an electoral irregularity or misdeed could not have affected the allocation of a mandate.

The draft Election Law permits the President of the Republic (and the Chairpersons of the Senate or Majilis) to submit a challenge to the Constitutional Council disputing the results of the counting of votes in elections for the President (Article 68), Senate (Article 84), and Majilis (Article 100). The President of the Republic should not have the power to challenge before the Constitutional Council the regularity of these elections. Articles 68, 84, and 100 should be amended, as well as Article 72 of the Constitution. Considering that the President may veto the decision reached by the Constitutional Council, and that his veto requires a two-thirds majority in the Council to be overruled, the President has the power to obstruct the electoral process on a scale that may virtually invalidate the elections, be they Parliamentary or Presidential. **The OSCE/ODIHR recommends** that the legal framework be accordingly amended.²⁸

D. TRANSPARENCY

The introduction of a separate article on transparency is a welcome and necessary addition to the amended draft law. The new Article 20-1 addresses some of previous OSCE/ODIHR concerns regarding observers and transparency of the electoral processes. Additional amendments should be made in this new article and other articles of the draft Election Law to ensure transparency of all electoral processes.

Observation is no longer restricted to Election Day procedures but covers all phases of the election process (Article 20-1 clause (1)). Candidates, their proxies, observers, representatives of mass media are allowed to attend meetings of election commissions and to receive information about the election process.

The phrase in clause (5) of “number of the polling station” implies that an observer will only be permitted to observe in one polling station. Effective observation requires that observers be able to attend several polling stations and election commissions on Election Day. **The OSCE/ODIHR recommends** that clause (5) be accordingly amended.

Clause (5) related to the accreditation procedures for local observers is unclear in the English translation of the Draft Election Law. However, during their visit to Warsaw, the delegates of the Central Election Commission informed the OSCE/ODIHR that the accreditation process had been simplified and did not require the involvement of any election commissions. Each political party, NGO, and media outlet that decides to send observers will be responsible to accredit their observers directly.

The requirement in sub-clause (4) of clause (6) that observers “substantiate their conclusions by documented, valid and verifiable facts” violates principles protecting

registration of an elected candidate the same power as the power to invalidate results and require repeat polling.

²⁸ The text in clause (3) of Articles 68, 84, and 100 should also be reviewed as it is not clear whether the clause addresses precincts or larger administrative units.

the right to free speech and expression.²⁹ Further, any legal provision that hinders legitimate observation and reporting is questionable. This is especially applicable to any provision that attempts to “muzzle” observers or prevent them from reporting or releasing information that has been obtained by observation efforts. **The OSCE/ODIHR recommends** that Article 20-1 be amended to conform to OSCE commitments, international standards, and the Constitution of Kazakhstan.

Under clause (7) of Article 20-1, the deadline for accreditation of international observers was reduced from 15 before election day to 5 days. This is a welcome development.

Article 62 provides that the results of counting the votes in a presidential election are recorded in protocols of the territorial election commissions. **The OSCE/ODIHR recommends** that Article 62 be amended to provide that each observer present at the meeting is entitled to a copy of the protocol and that the protocol must be publicly posted at the office of the territorial election commission.³⁰

Article 65 provides that the results of territorial election commission protocols in a presidential election are tabulated by the Central Election Commission to establish the results of the presidential election. **The OSCE/ODIHR recommends** that Article 65 be amended to provide that each observer present at the Central Election Commission meeting is entitled to a copy of the tabulation of the protocols and that the tabulation must be publicly posted at the office of the Central Election Commission.³¹

E. LEGAL PROTECTIONS

Article 20, which regulates the activity of election commissions, provides some legal protections for challenging the decision of an election commission. Article 20 has been discussed *supra*. The concerns, comments, and recommendations previously stated about Article 20 are applicable to all articles of the law that relate to legal protections for suffrage rights.

Articles 47 through 51 provide additional legal protections for suffrage rights. Although each of these articles has been amended, the most significant amendments are in Article 50. The list of prohibited activities that could interfere with election processes has been expanded substantially. For the most part, this is a positive improvement. However, clause (2) of Article 50 is too broad and could be applied in a manner that would violate a person’s right to free speech and expression. This limitation on free expression and speech could prevent a robust and vigorous campaign, which is critical to election campaigning in a democracy. Such a broad prohibition is not in compliance with OSCE commitments, international standards,

²⁹ See Paragraph 9.1 of the OSCE 1990 Copenhagen Document; Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Article 20 of the Constitution of Kazakhstan.

³⁰ This concern is also applicable to similar provisions in Articles 78, 94, 108, and 122 of the Election Law. The amendment in Article 20-1 that grants observers the right “to receive in electoral commissions any information about the electoral process” is not sufficient.

³¹ This concern is also applicable to similar provisions in Articles 81, 97, 97-1, 111, and 125 of the Election Law. The amendment in Article 20-1 that grants observers the right “to receive in electoral commissions any information about the electoral process” is not sufficient.

and domestic constitutional principles.³² **The OSCE/ODIHR recommends** that clause (2) of Article 50 be deleted or reformulated in a manner that is consistent with the right to free speech and expression.

An amendment to Article 49 requires that government authorities, including election commissions, maintain hours on weekends and the day of voting to ensure that it is possible for such challenges to be accepted and considered. This is a positive amendment.

Although there are positive amendments that address legal protection concerns previously expressed by the OSCE/ODIHR, the draft Election Law fails to provide a clear, efficient, and expeditious process for the lodging, consideration, and appeal of election related complaints. At a minimum, the draft Election Law should be amended to clearly define the procedures for complaints and appeals, including the respective competent bodies and the times by which *all* complaints and appeals must be lodged and adjudicated. In order to comply with international standards, these procedures should provide the following for voters, candidates, and political parties:

- The right to file a complaint to protect suffrage rights
- The right to present evidence in support of the complaint
- The right to a public hearing on the complaint
- The right to a fair hearing on the complaint
- The right to an impartial tribunal to decide the complaint
- The right to transparent proceedings on the complaint
- The right to an effective remedy
- The right to a speedy remedy
- The right to appeal to an appellate court if a remedy is denied³³

Clause (7) of Article 73 and clause (2) of Article 82, regulating the registration of deputies of the Senate, fails to identify to which court a decision of the Central Election Commission should be appealed. Similar provisions are stated in clause (10) of Article 89 and clause (2) of Article 98 for registration of deputies to the Majilis, clause (7) of Article 104 and clause (2) of Article 112 for maslikhat elections, and clause (7) of Article 118 and clause (2) of Article 126 for elections to bodies of local self-administration. **The OSCE/ODIHR recommends** that these articles be amended to specifically state the level of court to which the decision is appealed.

³² See Paragraph 9.1 of the OSCE 1990 Copenhagen Document; Paragraph 26 of the OSCE 1991 Moscow Document; Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Article 20 of the Constitution of Kazakhstan.

³³ See, e.g., Articles 8 and 10 of the Universal Declaration of Human Rights; Paragraph 13.9 of the OSCE 1989 Vienna Document, Paragraphs 5.9 through 5.12 of the OSCE 1990 Copenhagen Document, and Paragraphs 18 through 21 of the OSCE 1991 Moscow Document. Further, the comments and recommendations stated in the OSCE/ODIHR Review of the Election Legislation for Election Disputes, Appeals and Penalties, Republic of Kazakhstan (26 April 2001) should be considered when the legislature considers additional amendments to the Election Law.

IV. CONCLUSION

The OSCE/ODIHR assessment of the amended draft Election Law of the Republic of Kazakhstan is provided with the intention of assisting the authorities in their stated objective to improve the legal framework for democratic elections, and to bring the draft Election Law more closely in line with OSCE commitments and other international standards for the conduct of democratic elections.

The OSCE/ODIHR recognizes that the current text of the amended draft Election Law includes significant improvements in the areas of transparency, formation of more pluralistic election commissions and the creation of more equal conditions for campaigning. However, a number of outstanding concerns remain to be addressed, as indicated in the Executive Summary.

The OSCE/ODIHR continues to stand ready to assist the authorities in their efforts to create a legal framework for democratic elections in conformity with OSCE commitments and other international standards for democratic elections.