

Report
by the International Helsinki Federation for Human Rights (IHF)
to the OSCE Supplementary Human Dimension Meeting
on Electoral Standards and Commitments
(Vienna, 15-16 July 2004)

The OSCE participating States have recognized in several documents – particularly in the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen Document) – that periodic, genuine elections are the foundation of a representative government; that the right to participate in elections that are free and fair is a fundamental right guaranteed by international law; and that to be democratic, an election process must be universal, equal, fair, secret, free, transparent, and accountable.¹

In practice, however, these criteria have often been violated, sometimes flagrantly.² In addition to elections held in the **Central Asian OSCE participating States** in the past ten years, which have violated virtually all international standards of free and fair elections, other elections carried out in the OSCE region in 2003 were incompatible with OSCE standards. For example, the elections held in **Armenia, Azerbaijan and Chechnya** were among those riddled with most serious irregularities and fraud.

¹ OSCE/ODIHR, *Existing Commitments for Democratic Elections in OSCE Participating States*, October 2003.

² See International Helsinki Federation for Human Rights, *Human Rights in the OSCE Region, Europe, Central Asia and North America, Report 2004 (Events of 2003)*, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860

Central Asian OSCE States

In the **Central Asian republics – Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan and Turkmenistan** – most of the elections since their independence have been characterized by serious irregularities, lack of transparency, failure to provide equal conditions for all candidates to promote different political views, and abuse of public resources, among other things. Moreover, it appears that they have been conducted with the simple aim of increasing presidential powers to the detriment of the legislative branch and to fulfill intentions of the leaders of these countries to remain in office for life. Their desire for increasing power has seriously inhibited the development of democracy, the rule of law and human rights in the whole region.

The 2003 constitutional referendum in **Kyrgyzstan**, which shifted power from parliament to the president, was announced only two weeks prior to the poll, and the draft constitution was prepared in a manner that did not allow participation by a variety of political actors in the process.

In **Tajikistan**, the June 2003 constitutional referendum extended the number of presidential terms in office. The referendum was held without public debate and without the possibility to vote individually for each proposal. The officially announced extremely high voter turnout raised concerns about the accuracy of the results.

The OSCE Centre in Ashgabat reported that in **Turkmenistan**, the April 2003 elections to the People's Council, as well as local elections, violated all principles of democracy. They were held two years ahead of schedule, a move President Niyazov is suspected to have taken in order to reallocate the posts and eradicate any opposition from the parliamentarians. While Turkmenistan's Central Election Commission reported these elections to be of "high standard", most Turkmen citizens knew nothing about them. There was no election campaign, and the state media failed to inform citizens about the candidates. Alternative parties and individual candidates who did not belong to the country's only officially registered party, Niyazov's Democratic Party of Turkmenistan, were excluded from political balloting. The majority of seats in the People's Council had been distributed among state officials, and only 65 MPs could be elected by the people. One hundred forty contenders competed for these seats, all of them nominated by the presidential administration. Every candidate was scrutinized for his or her nationality, loyalty to the president, service record, and absence of convicted relatives. According to the Central Election Commission, 99.8% of eligible voters took part in the balloting, but the real figure is believed to be considerably lower. Election commissions took the ballot boxes directly to people's homes. Fearful of reprisals in case of refusal to participate, citizens cast their voices for names they had never heard. The August constitutional amendments marked an additional step in the

erosion of the democratic principles that had been constitutionally adopted after Turkmenistan gained independence.³

The **Kazakh** government sought to block the opposition from the electoral process during the December 2002 parliamentary by-elections and the September 2003 local elections: it manipulated the vote to ensure its own dominance of elected office. The international community has consistently criticized the conduct of Kazakhstan's elections, noting that they fell short of international standards. These recent elections indicated that Kazakhstan has made little if any progress toward meeting international standards for free and fair elections.⁴

Armenia and Azerbaijan

In **Armenia**⁵, presidential elections were held in February and March 2003 and parliamentary elections and a constitutional referendum in May. In **Azerbaijan**⁶, presidential elections took place in October.

In both countries opposition candidates were not allowed to register, thus being eliminated from the elections entirely. Similarly, while the public television companies in both countries did grant all candidates the legally required free time for equal promotion, in other programs they resorted to bias in favor of the pro-governmental candidates or incumbents, therefore failing to create equal conditions for all candidates. In **Azerbaijan**, many journalists were harassed, attacked, arrested and subjected to editorial interference. Since 2000, local non-governmental organizations getting foreign grants are deprived of the right to observe any elections.

In both countries, election periods were characterized by arbitrary arrests of people for participation in opposition events. In **Armenia**, about 400 people who participated in opposition presidential rallies were fined or placed in administrative detention for up to two weeks. The defendants did not have access to legal counsel, and the trials were usually held at night and behind closed doors; some were not even brought to a court building. In Baku, **Azerbaijan**, on 16 October, hundreds of people were arrested during a demonstration against election irregularities (the Ministry of Interior cited the figure of ca. 400), 34 of whom are still in detention as of today. Seven opposition leaders faced unfair trials, one of which is still continuing. Hundreds were reportedly injured, including dozens of journalists. In

³ International Helsinki Federation for Human Rights, Annual Report 2004, Turkmenistan http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=5541

⁴ Human Rights Watch, *Political Freedoms in Kazakhstan*, April 2004, at <http://www.hrw.org/reports/2004/kazakhstan0404/index.htm>.

⁵ Information on Armenia is based on reports from the Armenian Helsinki Association.

⁶ Unless otherwise noted, information on Azerbaijan is based on reports from Human Rights Center of Azerbaijan.

addition, some 15 election commission members were placed in administrative detention for refusing to sign forged election protocols and for engaging in monitoring activities.

In **Armenia**, legal provisions on elections are largely in line with international standards, but their implementation in 2003 was disappointing. Both votes were characterized by serious abuse of state and public resources to promote the election campaigns of the incumbent president and pro-governmental parties, with local officials virtually working as their election campaigners.

During the Armenian presidential vote, independent observers recorded ballot stuffing, multiple voting, bribing voters at polling station and casting ballots for persons who were ineligible to vote. Buses bearing state registration plates transported people from one polling station to another to allow them to cast votes several times. The official final statistics revealed that the number of cast ballots was larger than the number of signed voters. In addition, violent incidents occurred during the election campaigns and on the day of polling. Despite numerous complaints about irregularities and fraud, and the fact that the Constitutional Court submitted materials to the Prosecutor's Office to investigate them, the Armenian Helsinki Association noted in early July that it is not aware of a single court ruling against those responsible for the wrongdoings.

The Parliamentary Assembly of the Council of Europe (PACE) registered significant problems during vote count in over 30 % of polling stations.⁷ The Armenian Helsinki Association reported about the use of a code for members of the electoral commissions to allow people to cast a ballot under fictitious names. In contrast, tens of thousands of citizens who should have been entitled to vote were not registered on voter lists and a shortcoming of the election law led to the formation of political imbalanced electoral commissions.

The OSCE/ODIHR Election Observation Mission concluded that in **Azerbaijan** the election “failed to meet OSCE commitments and other international standards for democratic elections.”⁸ It reported, among other things, widespread intimidation in the pre-election period and excessive use of force by police at some stages of the campaign; unequal conditions for the candidates; the failure of the authorities to properly implement the election code; restrictions on public rallies and domestic observation of the elections; and the seriously flawed counting and tabulation of election results. Only part of the irregularly cast votes was invalidated and the fundamental issue of systematic and

⁷ PACE, op.cit.

⁸ OSCE/ODIHR, *Republic of Azerbaijan. Presidential Elections 15 October 2003, OSCE/ODIHR Election Observation Mission Report, 12 November 2003*, at www.osce.org/documents/odhir/2003/11/1151_en.pdf?PHPSESSID=Oedd83e222d51c5ad17c74e3ebc57f5b; pages 3-4.

widespread election fraud was not addressed. Moreover, the critical phase of vote tabulation was carried out in secrecy.⁹

One of the prerequisites for transparent elections – observation by civil society groups – was undermined because the activities of observers were limited and they were often intimidated by authorities. For example, some observers were arrested for allegedly interfering with the work of the election commissions. NGOs with more than 30% foreign funding were excluded from observation outright.

At least 28 pickets organized by the opposition in the summer of 2003 to protest election fraud were dispersed, and in September authorities tried to hinder the opposition from organizing elections rallies and supporters from attending them. Under various pretexts (e.g. alleged violations of traffic rules), drivers were stopped for ID checks and the police failed to protect participants in pickets from mob attacks. Sometimes victims, instead of assailants, were arrested.¹⁰

Russian Federation (Chechnya)

The population in the war-torn **Chechnya**¹¹ was called to the polls three times in 2003: at a referendum on a new Chechen Constitution, at Chechen presidential elections, and at elections for the Russian State Duma. All of them were carried out despite the fact that the political and security conditions in Chechnya did not provide for free and fair elections.

As one of the prerequisites of fair elections, states are expected to ensure that law and public policy permit political campaigning in a “fair and free atmosphere, in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from form casting their vote free of fear of retribution,” as stated by the OSCE Copenhagen Document (7.7.). Obviously, this very basic criterion was not met in Chechnya.

During 2003 and still today, grave human rights and humanitarian law violations continue in Chechnya. They include, for example, forced “disappearances” and extra-judicial, summary and arbitrary executions. Torture and other inhuman and degrading treatment is regularly used against detainees. Despite statements by Russian authorities prior to the 2003 polls that the situation in

⁹ OSCE/ODIHR, *Republic of Azerbaijan. Presidential elections 15 October 2003, OSCE/ODIHR Election Observation Mission Report.*

¹⁰ Federation of Human Rights Organizations of Azerbaijan (FHROA), *Reports #1-2 about monitoring of situation of preparation of Presidential elections in Azerbaijan (June 15 – August 31, 2003 and September 1-30,2003.)*

¹¹ Unless otherwise noted, based on Moscow Helsinki Group (MHG), “*Chechnya 2003. Political Process through the Looking Glass*,” 2004. See also MHG, *Presidential Elections in Chechnya*, Monitoring Reports, posted at <http://www.ihf-hr.org>.

Chechnya was getting back to normal and would thus allow the holding of elections and a referendum, in reality violence increased in Chechnya in connection with all of the elections, reaching its peak in connection with the presidential election. At the same time, however, lead-ups to both the referendum and the presidential elections showed the lowest number of “disappearances,” a fact that indicated that the authorities can control such practices if they wish to do so.

All candidates except Moscow-supported Akhmed Kadyrov faced difficulties managing their campaigns. Some had their registration withdrawn or were denied free TV time. Others were threatened and even shot at. One after another, the most important presidential candidates either had their candidacy cancelled, or they dropped out of the election. Days before the election, bombs were planted in polling stations despite the fact that they were under 24-hour guard. On election day, unknown assailants fired at some polling stations. Many inhabitants of Grozny left the city for the countryside for security reasons.

In the period leading to the presidential election, the population was intimidated by masked men dressed in camouflage fatigues to pressure them into voting for Kadyrov. These men broke into houses and physically abused and threatened residents. In addition, authorities pressured Chechen refugees in the Ingushetian camps to participate in the elections: should they fail to abide, they would be excluded from humanitarian aid and made ineligible for compensation for destroyed property. There were also widespread rumors of bribes paid to the voters by Akhmed Kadyrov.

Official voter turnout records showed figures as high as 96% during the referendum (allegedly with virtually all voting for the new Constitution), and 83.3% during the presidential election. In some districts the official presidential election turnout was an incredulous 100%, all allegedly in favor of Kadyrov. The Election Commission cited the figure of 545,000 of voting population (including 30,000 servicemen), a number lacking credibility considering the past decade of war and emigration.

Independent observers challenged the official turnout figures and reported very low participation. The IHF and other NGOs argued that neither security procedures nor open adequate public debate were sufficient to allow for a free and fair referendum or an election, and questioned the legitimacy of the process by which the Constitution was drafted and the referendum was called.¹²

¹² International Helsinki Federation for Human Rights, "The Constitutional Referendum in Chechnya was neither Free nor Fair. Official Results are not Credible", http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=3372
Moscow Helsinki Group, "Presidential Elections in Chechnya. Human Rights Monitoring", No. 1-6
Nr. 1, http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3695
Nr. 2, http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3696
Nr. 3, http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3768
Nr. 4, http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3704
Nr. 5, http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=5204
Nr. 6, http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3710

Following the violent death of President Kadyrov on 9 May 2004, Russian authorities set the date of presidential election for 29 August. Yet, the prerequisites for fair and free elections are no better now than they were a year ago. In the aftermath of the 9 May attack, the IHF and other human rights organizations have documented dozens of cases of "disappearances", torture, rape, ill-treatment and extra-judicial executions. And the 21/22 June armed attacks in Nazran and other towns in Ingushetia causing several civilian casualties, represented a serious escalation of the ongoing armed conflict in Chechnya and the surrounding regions. All this violence by both sides of the conflict is further testimony to the fact that normalization in the region is far from reality.¹³

For the reasons stated above, the IHF urges the government of the Russian Federation to postpone the presidential elections in Chechnya and to focus instead on seriously promoting a meaningful dialogue between the fighting parties to bring about an end to this tragic and bloody conflict. Only in this way can conditions for fair and free elections be created, and elections can then be carried out in line with international standards and reflect the genuine will of the people. The IHF and the Moscow Helsinki Group consider that minimal conditions for the holding of free and fair elections must include: a recognized cessation of hostilities by both sides to the conflict; a plurality of candidates; free operation of the media and guaranteed exercise of freedom of expression by all; and the agreement of the international community, including the OSCE and the Council of Europe, to send observers.¹⁴

¹³ See also IHF statement, "IHF Condemns Killing of Chechen President, Akhmed Kadyrov. Conditions Must Be Created for Free and Fair Elections," 10 May 2004, at http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=5477.

¹⁴ Ibid.