

Preliminary Statement
Coalition for Democracy and Civil Society's Findings
of the Long-Term and Short-Term Observation
of Kyrgyzstan's June 27, 2010 National Referendum

Observation Period of May 15 to June 27, 2010

The Coalition for Democracy and Civil Society (Coalition) is an independent, non-partisan and neutral organization, working to strengthen democracy and build civil society in the Kyrgyzstan.

I. EXECUTIVE SUMMARY

The Coalition for Democracy and Civil Society (Coalition) conducted a long- and short-term observation of Kyrgyzstan's June 27 national referendum. The goal of the observation was to provide an independent, nonpartisan assessment of the election commission's work, referendum preparations, voter education efforts, public opinion, and referendum day processes.

The observation effort involved Coalition leaders, two lawyers, and a team of 35 independent long-term observers (LTOs) who were deployed across all regions of the country beginning on June 1. The violence in the south in mid-June limited the Coalition's ability to fully observe all processes. The Coalition also conducted a short-term observation on the referendum day. On June 27, Coalition deployed approximately 1000 short-term observers (STOs) to 500 polling stations, organized by a team of 70 coordinators.

Despite the limited timeframe in which referendum was conducted and substantial challenges related to the recent tragic events in the Kyrgyzstan's south, the Coalition's observers noted an unprecedented high voter turnout for the referendum. While some problems and electoral violations were noted, they could not have affected the overall result of the referendum. Generally, the Coalition's opinion is that the referendum results reflect the will of Kyrgyzstan's voters.

The following are the Coalition's major findings and preliminary conclusions from its observation of the pre-referendum period and referendum day:

- The preparation for the referendum was conducted during a very difficult, transitional period within a very short time frame. The most difficult challenge in conducting the referendum related to the mass disorders in the south involving the displacement of a great number of Kyrgyzstani citizens to other regions, including potential referendum voters. This created challenges in verifying voters on the referendum voters' lists and enfranchising voters, since many citizens who left the conflict areas did not have any identification documents. In some

locations in the south, election commissions' preparation and composition was affected by the violence.

- Information on amendments to the referendum and voting procedures was not been published with enough advance notice and widely enough to sufficiently inform citizens, which caused confusion about the main points of the changes introduced.
- The Coalition notes that the referendum ballots security was of high quality and expresses a hope that this practice will continue.
- The Central Commission for Elections and Referendum (CEC) has generally operated in an open and transparent manner and respected key deadlines.
- On referendum day, the Coalition assessed the opening and voting processes as satisfactory, although its observers did document several electoral violations:
 - The most common problem involved incidents in which voters who claimed to be at the correct polling station could not find their names in the main voters list and had to be added to the additional lists.
 - Violations of indelible finger-inking procedures were documented in 25 percent of the polling stations observed. In some cases, voters who were already inked were allowed to vote.
 - The Coalition observed some incidents in which voters were allowed to vote without identification or proper election commission verification.
 - Some instances of ballot stuffing were observed.
- The Coalition positively assesses the aspiration of authorities to ensure the right of internal migrants and internally displaced persons (IDPs) to vote; however, it notes violations related to the interpretation and application of the relevant legislation.
- The Coalition takes special note of the Interim Government's efforts to ensure the safety and security of participants in the referendum process not only in Osh and Jalal-Abad oblasts, but throughout the country.

The long- and short-term observation has been supported by the National Democratic Institute (NDI) under grants from the National Endowment for Democracy (NED) and the United States Agency for International Development (USAID). Additional support has been provided by the Organization for Security and Cooperation in Europe (OSCE).

II. INTRODUCTION AND BACKGROUND

Political Context

Social unrest in spring 2010 in all regions of Kyrgyzstan led to the ousting of former President Bakiyev and the establishment of the People's Interim Government composed of opponents of the Bakiyev regime.

The period preceding the social unrest was characterized by unpopular economic measures such as drastic increases in electricity, heating and mobile phone tariffs. Besides, President Bakiyev strengthened family rule by appointing his son Maxim Bakiyev the Director of the Investment & Economic Development Agency, which in reality performed the functions of the government in the budget, economic policy and investment management areas. Mr. A. Gurevich, who was wanted by Interpol for charges in economic crimes, was also involved in the management of the agency.

After the change of government, members of the Interim Government dissolved the Jogorku Kenesh (Parliament), Constitutional Court and Government. The Interim Government announced that all powers of the Parliament, President, and Government would be transferred to the Interim Government, which assumed overall responsibility for the future of the country for a period of six months.

Recognizing the need to reform the political system, the Interim Government formed the Constitutional Council, consisting of 75 members, which developed a new draft constitution.

On May 20, 2010, the Interim Government set June 27, 2010 as the date for a referendum (plebiscite) on adopting the new draft constitution (Decree #40).

The Interim Government formed a newly appointed CEC consisting of nominees from political parties and non-governmental organizations (NGOs). Subordinate election commissions were formed by political parties and gatherings of voters.

The new constitution provides for a switch to a parliamentary system of governance in Kyrgyzstan, although some experts believe that it would provide for a switch to a hybrid system (with power shared between the executive and legislative branches). The voters were offered a chance to vote in favor or against the draft constitution and the law on its enactment, which, in turn, provides for the abolishment of the Constitutional Court as a separate entity and confirmation of Ms. Roza Otunbaeva as Interim President until December 31, 2011.

The events in the south of the country in June affected the preparation for the referendum day conduct in the conflict-affected areas.

Coalition Referendum Observation Methodology

The Coalition conducted a long-term observation of the social and political situation in the country and of the activities on preparation and conduct of the referendum scheduled for June 27, 2010, to provide an objective assessment of the preparation and conduct of the referendum in terms of their compliance with the legislation of the Kyrgyz Republic and the international norms and commitments of Kyrgyzstan.

The Coalition is a politically neutral non-governmental organization created to provide civic education for the purposes of increasing voters' legal awareness and to organize monitoring of all stages of the electoral process and referendum conduction events, including monitoring of observance of the electoral legislation by all participants of the electoral process, and analysis of the current situation both in individual regions and in the country in general.

The observation effort involved Coalition leaders, two lawyers, and a team of 35 independent LTOs who were deployed across all regions of the country beginning on June 1. The violence in the south in mid-June limited the Coalition's ability to fully observe all processes. In addition to the long-term observation, the Coalition conducted a short-term observation on the referendum day. On June 27, Coalition deployed 1000 STOs to 500 polling stations and a team of 70 coordinators.

LTOs monitored the course of activities on referendum preparation, the actions of election commissions on all levels, and the actions of the Interim Government on ensuring a free, fair, and equal declaration of the will of voters during the referendum; assessed the levels of the interest in the referendum manifested by referendum participants and the sufficiency of their knowledge regarding the referendum question; and thoroughly tracked the campaigning and press and television speeches about the referendum question.

In their mission, the LTOs adhered to the principle of impartiality and neutrality. LTOs communicated only what they witnessed first hand and could corroborate. Naturally, observers could also communicate the information reported to them by other citizens, but when communicating such facts or information, of whose validity they are not certain, observers had to clearly and distinctly emphasize that it was "unverified information."

During the observed period, the Coalition's headquarters held three formal meetings with the Chairman of the CEC, Mr. A. Sariev. At these meetings, issues concerning the course of referendum preparation, particularly the process of verification of referendum participant lists, forming of regional referendum commissions, campaigning, etc., were discussed. According to the results of the last meeting, the issues of ensuring participation in the voting by the referendum participants who previously resided in the

conflict zones, total number of referendum participants, and application of the new provisions introduced into the legislation, which regulate the conduct of the referendum with respect to organization of the voting procedures in the conflict zones.

On June 19, the CEC and the Coalition signed a Memorandum on Joint Action in the area of verification of the referendum voter lists.

The Coalition conducted a Training of Trainers in order to prepare a group of monitors for verification of the lists of voters in 80 precinct election commissions (PECs) throughout the country. Nevertheless, given the current situation, as well as late delivery of voter lists from the CEC (June 19), the Coalition decided to conduct the verification of the referendum participants/voter lists as it appeared possible, and to conduct remaining verification following the referendum and before the parliamentary elections.

Furthermore, on 21-22 May in Bishkek and 25-26 May in Osh, the Coalition held trainings for its long-term observers, and on 10-11 June it held trainings for the Coalition's coordinators of short-term observers, who conducted a series of country-wide seminars for STOs for a week, trained and accredited 1,000 observers as of the referendum day.

III. FINDINGS AND ANALYSIS

A. Observation of Pre-Referendum Period

Legal Framework

The Interim Government issued several decrees and regulations related to the legislation governing the preparation and conduct of the referendum during the period from April 7, 2010 to voting day, June 27.

The decision of the Interim Government to recognize its decrees as normative legal acts and to require that the CEC, in preparing for the referendum, should be first of all guided by the Interim Government's decrees constituted a fundamental change in the conduct of the referendum.

In turn, the provisions of existing constitutional law of the Kyrgyz Republic "On referendum of the Kyrgyz Republic", Code of the Kyrgyz Republic on elections in the Kyrgyz Republic, and the Law of the Kyrgyz Republic "On Central Election Committee and procedures of the referendums of the Kyrgyz Republic" were to be applied only if they did not conflict with normative and legal acts of the Interim Government of the Kyrgyz Republic.

Analysis of the Interim Government's acts has shown that some of the decrees were aimed at technicalities of the referendum set for June 27, 2010 and upcoming elections to Jogorku Kenesh (Parliament) of the Kyrgyz Republic. In particular, these were the issues related to CEC composition, approval of the CEC Chairman, and dismissal and assignment of individual members of the election commissions for the referendum.

The second group of normative and legal acts issued by Interim Government introduced changes to the legal regulation of organizational and procedural matters of the referendum. These were the following:

- CEC of the Kyrgyz Republic was delegated with the powers to: explain the norms of election legislation and determine the procedures to verify the lists of voters; oversee procedures to conduct referendum awareness-raising campaign to explain the question submitted for the referendum; oversee voting procedures, etc. (as of April 21, 2010, #20);
- During clarification of voter lists an opportunity was provided to exclude a citizen from the main list who temporarily left their permanent residence location without changing his or her registration in that particular election district based on written application of his or her relative (wife, husband, parents, children, brothers, sisters and etc.). However, if this voter appeared at the polling station on voting day where he or she was excluded from the main voters list, he or she would be included in a supplementary list and would be permitted to vote (as of May 27, 2010, #53);
- Each voter was given the opportunity to vote at any polling station located on the territory of the country on the day of voting provided that he or she was not able to arrive at the polling station where he or she was included on the voters list. In that circumstance, the voter would submit an application to the district electoral committee indicating the reasons for voting in a different location and would produce his or her passport or another ID (as of June 10, 2010, #63);
- Referendum should be carried out in the entire territory of the Kyrgyz Republic even in the case of state of emergency in some areas of the country provided that the number of citizens included into the voters list and staying on the territory of the districts where there is state of emergency makes up less than half of the population of the Kyrgyz Republic included in the referendum voters list (April 21, 2010, #20);
- The citizens who have reached 18 years as of the day of referendum upon producing their passport or another ID should be entitled to vote during the referendum (June 17, 2010, #72).

It should be noted that all decrees of the Interim Government related to referendum fail to make any reference to the existing Constitution. However, the effect of the Constitution as of October 23, 2007, was not cancelled. In addition, Interim Government in its Decree #1, Paragraph 2, stipulated that in the Kyrgyz Republic, the Constitution of the Kyrgyz Republic adopted by the national referendum of the Kyrgyz Republic as of October 21, 2007 should maintain its legal force until new version of the Constitution of the Kyrgyz Republic is adopted.

The Coalition draws special attention to the fact that the most difficult challenge in conducting the referendum turned out to be mass disorders in the south of the country involving the displacement of a great number of Kyrgyzstan citizens to other regions, including potential referendum voters. There occurred challenges in verifying voters on the referendum voters list and enfranchising voters, since many citizens who left the conflict areas did not have any identification documents. The issue of security of voting became one of the most important.

To address the above-mentioned risks and with a goal to ensure the voting rights of the population, and to enfranchise as many potential voters as possible in the areas affected by conflict, the Interim Government adopted several decrees on June 23-24, which:

- Provided citizens included into the lists of displaced persons prepared by local public administration bodies and local self-government bodies with the opportunity to vote at the place of their temporary stay even in the absence of ID documents;
- Any citizen included into the lists of displaced persons in the case of his or her appearance at the polling station could vote by means of his or her inclusion into supplementary list;
- Based on the decision of relevant district electoral commission internally displaced persons could vote at the place of their temporary stay;
- Any citizen was entitled to vote upon absence of ID documents in the case if at least two members of district election committee establish his or her identity. In such case he or she should be included into supplementary list of voters;
- Officers of law enforcement bodies and military men engaged in the process of law and order provision and security of the population in Osh and Jalal-Abad oblasts were entitled to vote upon producing their service certificate or military ID;
- The relevant referendum commission, upon recommendation of local self-governance bodies and local public administration bodies, was entitled to make a decision on mobile voting at the location of temporary stay or residence of the citizens.

It should be noted that information on changes to the referendum administration and voting processes were not published with enough advance notice and widely enough to sufficiently inform citizens, which has caused confusion about the main points of the changes introduced. For instance, between 23 and 25 June the Interim Government introduced a number of decrees related to the inclusion of citizens into additional voter lists on referendum day. The amendments that were introduced 2 to 3 days prior to voting day also caused arbitrary interpretation and application, which caused certain difficulties in terms of arrangement of voting process and work of the precinct election commissions.

In the light of urgent amendments introduced by Interim Government, CEC adopted the relevant regulations, as appropriate, to explain the procedures of implementation of introduced amendments.

In addition, CEC adopted several acts aimed at enabling safety of the documents of district election commissions (e.g. using stickers with ID numbers and safe-packages). These procedures are new; they had not been applied before at any elections carried out in the Kyrgyz Republic.

Voter Education and Campaigning

Before the events in the south of the republic, voter education on the draft constitution considered in the referendum was conducted actively across the whole country. Voter education involved several different initiatives:

- Oblast election commissions disseminated newspapers with the draft constitution among polling stations for the referendum;
- Explanation meetings were held with the participation of members of the Interim Government, members of the Constitutional Committee and local activists;
- Starting on June 8, rayon *akims* held meetings with the local population, during which each participant received a newspaper and an explanation of the new constitution;
- Non-governmental organizations that involved lawyers, experts, regional leaders and members of Constitutional Committee conducted voter education and information campaigns.

During the events in the south, the above-mentioned voter education campaigns continued to be carried out the regions that were not affected by the conflict. Once the situation in Osh and Jalal-Abad oblasts stabilized, several meetings were held with the population of these oblasts, too.

Based on its observation of the voter education process, the Coalition noted a high level of public interest regarding the significant changes introduced by the draft constitution. However, citizens sometimes questioned why the referendum would only include a single question that would imply three questions at the same time.

Local population was not always informed in a timely manner about upcoming voter information and education meetings.

The Coalition observed that administrative resources were not used in the voter education campaign, which was one of the positive actions to enhance public confidence in the referendum.

Election Commissions

Before the events in the south of Kyrgyzstan, the planned activities were conducted in all regions relating to forming precinct election commissions, training of commission members (training was mainly conducted by IFES), verifying voters lists, informing voters about voting day and other preparations.

Subordinate election commissions were formed by political parties and gatherings of voters. Such political parties as *Akshumkar*, *Ata-Meken*, *Zamandash* and *SDPK (Social Democratic Party of the Kyrgyz Republic)* were active in nominating their candidates to the election commissions.

It should be noted that upon formation of precinct election commissions, upper election commissions and representatives of political parties, non-governmental organizations were unofficially guided by the notion that those individuals who worked in such commissions before and who committed (by action or by neglect) violations of election legislation and voters' rights should not be included as commission members for the referendum.

The following violations of the legislation were noted in the course of observation that were not systematic or on a wide scale:

- Individuals who had close relations were included into the composition of the commission (Nookan rayon referendum commission, Jalal-Abad oblast);
- Violation of the rights of commission members, and in particular, failure to inform about coming session (Toktogul rayon, Jalal-Abad oblast);
- Substitution of ballot results (Ton rayon referendum commission, Issyk-Kul oblast);
- Mixing of the activity of the commission and local public administration, since the premises of rayon commission are mainly located in the buildings of local public administrations (e.g. Naryn rayon referendum commission);
- Failure to provide observers the opportunity to attend sessions of the commission and to familiarize themselves with the documents of the commission (Naryn rayon referendum commission).

In general, the Coalition emphasizes that the activities of CEC were transparent and open during the period of preparation and carrying out of the referendum when all the information about the activity of CEC was accessible for the first time in the history of Kyrgyzstan. In addition, CEC members demonstrated their mobility, competence and responsibility in the course of processes related to arrangement of subordinate commission's activity.

Public Opinion

Due to the current social and political situation in the country, there were contradicting opinions among the public regarding the upcoming referendum and their participation. According to the Coalition's own informal assessment of citizens' opinions before the referendum, the majority of citizens in many regions of the country felt that the referendum was necessary, and they would participate in the referendum.

Some citizens believed that the best alternative would be delaying referendum, since there were a number of problems that could have affected citizens' participation and results of voting. Due to the psychological condition of citizens after the events in Osh and Jalal-Abad and the hundreds of thousands of displaced people, measures to provide maximum enfranchisement seemed extremely difficult in these regions in such a short amount of time. The latter opinion was largely expressed by some political leaders and representatives of non-governmental organizations.

B. Referendum Day Observation

On referendum day, the Coalition deployed 1000 short-term independent observers to 500 polling stations across the country. All observers received a special training on quality observation based on the international standards of observation. The work of the STOs was coordinated by a team of 70 coordinators.

In addition to this, in Osh city, the area worst affected by the violence in mid-June, the Coalition deployed three mobile groups composed of experienced observers, including the head of the Coalition. They monitored procedures in different parts of Osh city and its outskirts.

Based on the findings of the observation on voting day in 500 polling stations, the Coalition observers revealed and documented some 70 violations.

On referendum day, the Coalition operated a lawyers' hotline to provide advice to citizens and receive signals about violations. Phone calls primarily dealt with the questions about voting procedures and violations. The Coalition received 100 phone calls with questions about voting procedures and 50 phone calls about violations. The Coalition acted on all received phone calls.

Opening of the Polls

The opening process was, in general, assessed positively despite violations observed in some polling stations, such as failure to conduct the drawing of lots and not allowing observers into polling stations. Coalition observers also noted untimely opening of several polling stations (such as PEC #4077 in Naryn city, and PECs #2115 and 2119 in Jalal-Abad oblasts).

Voting Process

Overall, independent observers assessed the voting as “satisfactory”.

Problems observed were mostly related to the voter lists. Voters could not find their names in the main lists and had to be added to the additional lists. Such incidents were documented in 30 percent of the polling stations observed by the Coalition.

Unauthorized persons were present in a total of two observed polling stations and, in some instances, they were found to be interfering in the voting process. A representative of Kuzmin’s Joint Stock was present at PEC #285 and gave orders to the commission members. Also, a representative of the mayor’s office was present at PEC #71 in Tokmok city.

The Interim Government’s Decree #80, which was intended to provide internally displaced persons the opportunity to vote at any polling station if they provided a valid form of identification, caused a large number of difficulties in terms of its interpretation and implementation. Members of some PECs arbitrarily interpreted the norms of the decree and made violations, which did not appear to be systematic. For example, there were instances in which voters not included on the main voter lists and lists of internally displaced persons were allowed to vote without identification documents or with photocopy of passport. Such violations were noted in a total of seven polling stations observed by the Coalition.

Also, in some polling stations, there were instances of family voting (PEC #143 in Alay rayon, PEC #160 in Karakol city, PEC #2008 in Suzak rayon, PEC #8187 in Isfana city, and PECs #170 and 168 in Nookan rayon.)

Violations of inking procedures were documented in 25 percent of the polling stations observed by the Coalition. For example, in 20 polling stations, voters who were already inked were allowed to vote.

There were several occasions when PEC members issued more than one ballot to a single voter (PECs #2140 and 2008 in Jalal-Abad oblast, PEC #3004 in Issyk-Kul oblast, PECs #68 and 83 in Talas oblast).

Instances of voting without an ID and ballot stuffing were observed at PEC #169 in Chui oblast, PECs #160 and 153 in Issyk-Kul oblast, PEC #2075 in Jalal-Abad oblast, PEC #8187 in Isfana city of the Batken oblast, and PEC #5062 in Uzgen rayon of Osh oblast.

Violation of observer rights were documented at PECs #120 and 160 in Karakol of Issyk-Kul oblast. Acts were filed to document violations.

Mobile Voting

At some PECs, where mobile voting took place, frequent problems arose because of large crowds of voters. However, it is worth noting that majority of the voters at these polling stations noted the possibility to vote as a positive aspect.

V. CONCLUSIONS AND RECOMMENDATIONS

Despite violations documented by the Coalition, they did not impact the voting results, which, in the Coalition's opinion, reflect the will of voters.

In spite of the limited timeframe in which referendum was conducted and substantial challenges related to the recent tragic events in the south of the country that accompanied the conduct of the referendum, the Coalition observers noted high voter turnout for the referendum.

The Coalition observed the following improvements on previous elections and referenda:

- A new principle guiding the formation and composition of the CEC;
- Greater transparency in the work of the CEC;
- High voter turnout on referendum day;
- Efforts undertaken by the Interim Government to ensure safety of participants of the electoral process not only in Osh and Jalal-Abad oblasts but also throughout the country; and
- The aspiration of authorities to ensure the right of internal migrants and internally displaced persons (IDPs) to vote; however, Coalition notes violations related to the interpretation and application of the relevant legislation.

The Coalition takes special note of the efforts undertaken by the Interim Government to ensure the safety of participants of the electoral process, not only in Osh and Jalal-Abad oblasts but throughout the country.

The Coalition highly assesses the aspiration of authorities to ensure the right of internal migrants and internally displaced persons (IDPs) to vote; however, it notes violations related to the interpretation and application of the relevant legislation.

For many years, the Coalition pointed to the need to enhance security of the ballots. The Coalition notes that the referendum ballots security was of high quality and expresses a hope that this practice will continue.

Coalition believes that information about severe violations reported by observers from political parties and NGOs should be considered in conformity with the Kyrgyz legislation by law enforcement agencies and courts.

If violations are confirmed, Coalition calls on the CEC and relevant state bodies to undertake an objective and fair investigation and consider the issue of invalidating voting results in the precincts in question and bring those who committed violations to justice.

The Coalition will issue a more detailed, final referendum observation report with specific recommendations to the Interim Government within one month.