



# Statement of the NDI Pre-Election Delegation to Kyrgyzstan

*Bishkek, September 8, 2000*

## I. INTRODUCTION

This statement is offered by an international pre-election delegation to the Kyrgyz Republic, organized by the National Democratic Institute for International Affairs (NDI). The delegation visited Kyrgyzstan from September 4 through 8, 2000. The purposes of the delegation were to 1) express the international community's interest in and support for a democratic election process in Kyrgyzstan, 2) assess electoral and political conditions in advance of the October 29, 2000 presidential election, and 3) offer an accurate and impartial report on its findings. NDI does not seek to interfere in the election process, nor does it seek at this point to make a final assessment of the process. The Institute will continue to monitor pre-election political developments and will organize an international delegation to observe the upcoming election if acceptable conditions for a democratic election process are met.

NDI is an independent, nongovernmental organization working to strengthen and expand democracy worldwide. The Institute has conducted over 40 international election observer delegations and over 60 pre-election delegations around the world. The Institute has supported the development of democratic processes in Kyrgyzstan since 1993 and has maintained a permanent office in Bishkek since 1996.

## II. BACKGROUND

Askar Akayev was elected president of the newly independent Kyrgyzstan in 1991. He was reelected in 1995. On August 28, 2000, he declared his candidacy for the October 29 election. Numerous challengers are now undertaking the procedures required for registration as candidates. The election will be governed by legislation adopted in 1999. Under the Constitution of the Kyrgyz Republic, the presidency occupies a powerful role.

Kyrgyzstan was considered a model of democratic progress in the region in the initial years of its independence; the civic sector and independent media grew in strength and political parties emerged. Since then, however, questions about the political will to advance democracy

have arisen. The concerns include the dissolution of the parliament in 1995, and the flawed conduct of the October 1998 referendum, the October 1999 local elections and the February and March 2000 parliamentary elections.

### **III. THE DELEGATION AND ITS WORK**

This pre-election delegation included Matyas Eorsi, Member of Parliament in Hungary and Deputy in the Parliamentary Assembly of the Council of Europe; Frank McCloskey, former U.S. Congressman from Indiana; Mjusa Sever, Advisor to the President of the National Assembly of the Republic of Slovenia; Laura Jewett, NDI Deputy Director for Eurasia; and Scott Kearin, NDI Resident Director in Kyrgyzstan. Sharon Rogers, NDI Civic Trainer, and Kareem Al-Bassam, NDI Program Officer, both based in Kyrgyzstan, also participated in the delegation.

The delegation made its observations and findings based upon NDI's seven years of experience in Kyrgyzstan, as well as in other countries around the world; analysis of the legal framework for the election; review of materials on Kyrgyzstan produced by other international organizations, Kyrgyz and international press and impartial Kyrgyz election monitoring organizations; and analysis of information presented during the delegation's meetings in the country. Delegation members had 40 meetings in Bishkek and Osh over a four day period. Although the President was unable to meet with the delegation, it met with eight other candidates and a cross-section of government and election officials, political party leaders, journalists, representatives of election monitoring organizations, including the Coalition of NGOs "for Democracy and Civil Society" and other civic groups, and representatives of the international community.

### **IV. OBSERVATIONS AND RECOMMENDATIONS**

Political and civic activists remain committed to participating in the political process. The delegation was impressed by the respect for democracy expressed by the people with whom it met, including government and administration officials, candidates, parliamentary deputies, civic activists and journalists.

At the same time, events surrounding the parliamentary elections in February and March, as well as recent developments, are undermining Kyrgyzstan's progress toward democracy. The fairness of the electoral process and the freedom of citizens to cast ballots they deem meaningful have been compromised. Before the parliamentary elections, NDI recommended allowing full participation by political parties, eliminating the potential for politically motivated judicial proceedings and enhancing judicial independence, ensuring press freedoms and media access, protecting the right to assemble, separating local authorities and state officials from the electoral process, and providing full access to the electoral process for observers. No concerted actions were taken in these directions. Several prominent political parties were excluded from participating in the parliamentary elections. The judiciary engaged in efforts that disqualified candidates. In many cases, media coverage was biased. Local authorities interfered unlawfully in election procedures. Violations by election officials were not prosecuted. The unprecedented

protest demonstrations that followed the parliamentary elections are evidence that public confidence in electoral procedures has eroded. Given the problems that occurred in the parliamentary elections, extraordinary efforts are now required to encourage citizens' confidence in future elections.

The presidential election is the best and most immediate opportunity for the country to demonstrate its commitment to continued democratic reforms. The Constitution and election law provide a framework for a democratic election process. By addressing several issues related to implementation of these norms before the presidential election, the government of Kyrgyzstan would contribute to a process that is more credible, and therefore more likely to enjoy domestic and international support. This support would, in turn, provide a basis for long-term progress toward democracy. The delegation offers the following observations and recommendations in the spirit of international cooperation.

### **Role of Election Monitors**

The role of election monitors in safeguarding elections, as well as increasing citizen participation and public confidence in the process, is integral to the conduct of democratic elections. NDI has been impressed with the impartiality and professionalism of the monitoring efforts undertaken by NGOs and citizens around the country, such as those who are members of the Coalition of NGOs "for Democracy and Civil Society." Efforts such as these should be encouraged.

Article 17 of the Election Code of the Kyrgyz Republic and the Copenhagen Declaration of the OSCE, to which Kyrgyzstan subscribes, recognize the right of nonpartisan domestic monitors to observe all aspects of the election process. During the parliamentary elections, however, some observers were unlawfully prevented from fulfilling their responsibilities. The period prior to the presidential contest raises additional concerns. The delegation is troubled by the possibility of new regulations that would restrict monitors' rights to observe the election process and their ability to operate effectively. Such restrictions would contradict the clear language of the election law. Questions have also been raised about the permissibility of international support for monitoring groups and organizations. This issue appears to be based on an interpretation of regulations that confuses nonpartisan participation in the election with partisan promotion of specific candidates. Civic activists intending to monitor the presidential election have faced public criticism, harassment and intimidation, sometimes by government and election authorities themselves. These developments threaten the transparency and credibility of the election.

***Recommendation:*** *Before, during, and after the election, domestic election observers should be guaranteed unhindered access to all aspects of the election process, as provided by law. The delegation welcomes assurances from high-ranking government officials that the rights of monitors will be respected, and urges such officials to call publicly on all government and electoral authorities to cooperate with and ensure the legal rights and safety of observers.*

## **Ability of Contestants to Register their Candidacies**

In any democratic election, candidates seeking to compete peacefully for political power must be free to gain access to the ballot through transparent and equitable eligibility criteria and without political discrimination. The Constitution and the Election Law provide equal opportunities for putting forth a presidential candidacy. Yet, there has been a pattern over the past year of preventing candidates from registering based on minor technicalities and criminal charges that appeared to be politically motivated.

***Recommendation:*** *The delegation recommends that criminal proceedings against candidates be avoided during the pre-election period, except for crimes committed during that time. Any proceedings that are initiated should be open to public scrutiny.*

Another problem in the parliamentary elections was deregistration of candidates after they had been accredited. Even the perception of politically motivated interference in candidate registration can damage public confidence in the impartiality and openness of the process.

***Recommendation:*** *Once the Central Election Commission registers a candidate, that registration should remain valid through the election.*

For the presidential election, new hurdles have been erected. The most prominent of these is the Kyrgyz language test administered by the Central Election Commission. The Constitution requires the President to have a command of the state language, but neither the Constitution nor the election law specifies how that competency should be measured. Six presidential candidates have already failed the test according to criteria that are neither public nor uniform. This subjective process has fostered speculation that the testing is open to politically motivated implementation.

***Recommendation:*** *Election authorities should eliminate the language test or devise a new system for evaluating command of the Kyrgyz language that is objective, clear, uniform, reasonable and public.*

## **Involvement of Regional and Local Authorities**

Election authorities should act, and be perceived as acting, in an impartial manner, to ensure the “level playing field” necessary for fair competition. Democratic elections further require a strict separation between the administration, candidates and election authorities. The delegation received credible reports that several candidates or their activists have experienced harassment and even violence from local authorities as they have sought to collect the signatures required for registration. Other reports have referred to pressure on citizens from local authorities to sign or not sign specific petitions. Numerous election commissions are closely associated with local administrations. For example, many share the same building, and the CEC itself is located in the Government House. This practice limits public access, facilitates government interference and contributes to a perception that election commissions are not independent.

***Recommendation:*** The NDI delegation recommends that the President and other high government officials compel local authorities and state officials to comply with provisions of the election law that prohibit interference with the election process. Public assurances should be made in this regard, violators should be prosecuted, and election commission offices should be moved to separate, accessible locations.

## **Freedom of the Press and Access to Media**

Democratic elections require that all political parties and candidates have reasonable access to the media and that media coverage of the activities surrounding elections is impartial. In particular, the state-owned media, operated with taxpayer money, must allow equal and fair opportunities for all candidates to address voters, and coverage must be balanced. The media must be free to gather and impart information about candidates and important political issues. The press must act ethically and professionally. These requirements are especially important in a presidential election, when the incumbent is likely to receive disproportionate exposure.

During the period prior to the presidential election in Kyrgyzstan, several independent media outlets are confronted with judicial proceedings or harassment from officials in response to election-related articles. Some journalists have reported receiving pressure from government authorities to pursue or avoid specific election-related topics. Even the perception of politically motivated interference with the media can undermine voters' confidence in the availability of balanced information.

***Recommendation:*** Government authorities should defer judicial proceedings against journalists and media organizations until after the electoral period and direct state-run media to comply with election law provisions concerning equitable distribution of time and space to all contestants.

## **Election Procedures**

In democratic elections, voters' choices must be respected and recorded accurately. The electorate must have confidence in the integrity of the process. In Kyrgyzstan's parliamentary elections, domestic and international observers noted problems with voter registration, early voting and mobile ballot boxes, ballot security and production of protocols. These lapses led to incidents of ballot fraud and undermined confidence that votes would translate accurately into parliamentary mandates.

***Recommendation:*** The delegation recommends a number of measures to address these concerns. Election commissions should make systematic efforts to update voter rolls before election day and post them for public review as required by law. Commissions should restrict early voting and voting outside polling places to voters who will be legitimately unable to appear at the site. Ballot security should be assured. In addition, precinct election commissions should sign protocols in ink, post them for public review, and make them available to candidates and observers. These steps are all required by the election law. Top government officials and the Central Election Commission should publicly insist on their implementation. Election commissioners at any level who violate the law should be prosecuted.

#### **IV. CONCLUSION**

The delegation recognizes that building democracy is an ongoing process, not a final achievement. Despite the challenges of creating and maintaining participatory democracy, young countries around the world have demonstrated the capacity to conduct elections that meet international standards and enjoy the confidence of their people. Like these countries, Kyrgyzstan is capable of conducting democratic elections. The delegation is confident that with tolerance, openness and compromise, agreement can be reached on the steps necessary to hold a democratic election. NDI remains committed to supporting such efforts.

The delegation appreciates the hospitality, time and insights offered by the individuals and groups with which it met. A list of meetings can be obtained by contacting the NDI office in Bishkek at 66-40-70.