

**CONCLUSION**  
**on the compliance of the legislation regulating the elections to the  
 Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan held  
 on December 22, 2019, with international standards for democratic  
 elections**

As part of its long-term monitoring of the elections to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan held on December 22, 2019, the International Institute for Monitoring Democracy Development, Parliamentarianism and Suffrage Protection of Citizens of IPA CIS Member Nations analyzed the national legislation regulating the present election for compliance with:

- provisions of the Convention on Standards of Democratic Election, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States (*hereinafter referred to as CIS Convention*)<sup>1</sup>;
- UN documents (Universal Declaration of Human Rights; International Covenant on Civil and Political Rights, as well as comments adopted by the UN Committee containing interpretations of its individual provisions, including Article 25 “The right to take part in the conduct of public affairs;” 2005 Declaration of Principles for International Election Observation);
- acts of the Organization for Security and Cooperation in Europe (1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension, *hereinafter referred to as the Copenhagen Document*; other treaties adopted within the OSCE framework);
- recommendations of the European Commission for Democracy through Law of the Council of Europe (*hereinafter referred to as the Venice Commission*) summarized in the Code of Good Practice in Electoral Matters consisting of Guidelines and Explanatory Report.<sup>2</sup>

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<sup>1</sup> Relevance of the CIS Convention in relation to the purposes of the present Conclusion, despite Uzbekistan’s non-participation in this agreement, is demonstrated by

– ratification by the Republic of Uzbekistan of the Convention on the CIS Interparliamentary Assembly (2019), followed by an invitation of the said international organization which performs electoral monitoring primarily on the basis of the standards of democratic elections formalized in the CIS Convention, to participate in the monitoring of the present elections;

– long-standing practice of applying the Convention’s provisions by the missions of the Commonwealth of Independent States during the monitoring of national elections in the Republic of Uzbekistan;

– interrelation of fundamental international acts establishing the principles of election observation, manifested, in particular, in the consideration of the provisions of the CIS Convention by the OSCE/ODIHR (see, for instance, the Republic of Uzbekistan Presidential Election of December 4, 2016 OSCE/ODIHR Election Observation Mission Final Report, section V Election Administration, section VII Candidate Registration).

<sup>2</sup> The Republic of Uzbekistan, being neither a member of the Council of Europe nor a state that has acceded to the Statute of the Venice Commission, cooperates with the Commission

National electoral legislation was also considered in the context of its consistency with Recommendations of the CIS Interparliamentary Assembly (*hereinafter referred to as IPA CIS*) on Improving the Legislation of the IPA CIS Member Nations in Accordance with the International Election Standards; recommendations of the CIS Observer Missions based on the results of observation of the national elections in the Republic of Uzbekistan submitted in previous periods.

The present Conclusion presents the findings of the conducted expert review.<sup>3</sup>

### **General Characteristics of Electoral Legislation**

According to the Constitution of the Republic of Uzbekistan (*hereinafter also referred to as the Constitution*) that formalizes basic electoral rights, the people are the sole source of state power (Article 7); the state shall express the will of the people (Article 2); supreme public authorities elected by the people shall have the exclusive right to act on behalf of the people (Article 10); citizens shall have the right to participate in the management and administration of public and state affairs, both directly and through representation by way of democratic formation of state bodies (Article 32); citizens shall have the right to vote and be eligible for election to public office; elections are conducted on the basis of universal, equal and direct suffrage by secret ballot; the electoral procedure shall be specified by law (Article 117); at the same time, none of the laws or normative legal acts shall run counter to the norms and principles established by the Constitution (Articles 15, 16).

According to the Constitution, the highest state representative body that exercises legislative power is the Oliy Majlis of the Republic of Uzbekistan, whose lower chamber (Legislative Chamber) shall consist of one hundred and fifty elected deputies (Article 76, 77). Political parties shall express the political will of various sections and groups of the population, and through their democratically elected representatives shall participate in the formation of state authority (Article 60).

Based on the constitutional provisions, the legislation regulates all stages of the electoral process, including specific guarantees of electoral rights.

The preparation and conduct of elections to the Legislative Chamber of the parliament is specifically regulated by a codified legislative instrument: the Election Code of the Republic of Uzbekistan (*hereinafter also referred to as the*

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through requests for *ad hoc* advisory support. In particular, at the request of the Chairman of the CEC of the Republic of Uzbekistan, the Venice Commission carried out an expert review of the draft of the Election Code in effect now. The expert review focused on assistance in harmonizing national electoral legislation with the standards of the Council of Europe and other international commitments on democratic elections (Joint Opinion on the Draft Election Code of the Republic of Uzbekistan, 2018).

<sup>3</sup> The review is based on the texts of regulatory legal acts translated into the Russian language and published in the National legislation database of the Republic of Uzbekistan (LexUz).

*Basic Law; the present text refers to this document in all cases, unless specified otherwise).*

Certain aspects of legal relations arising in connection with the conduct of parliamentary elections are also regulated by other legislative acts of the Republic of Uzbekistan, such as the Law on Mass Media, the Law on Political Parties, the Law on Financing of Political Parties, the Law on Public Associations, the Law on Local Authorities, certain provisions of the Criminal Code, the Code of Administrative Liability, the Code of Administrative Procedure and a number of administrative, financial and procedural legal acts.

Legal regulation of elections in the Republic of Uzbekistan also encompasses international legal principles and norms, including the generally recognized norms of international law whose precedence is recognized by the Constitution. International documents concerning electoral-law issues that are taken into account by the national regulation are represented by the acts of global and regional organizations, primarily those mentioned in the preamble to the present Conclusion. Improvement of national electoral legislation and law-enforcement practice is based on a constructive reception of recommendations made in the reports of the international organizations conducting election observation of the missions in which the Republic of Uzbekistan participates.

In particular, significant changes to electoral legislation that took place between the previous (2014) and the current election are associated with the implementation of the recommendations of international monitoring and expert organizations. Adoption of the Election Code (2019) enhanced the legal protection of election participants, demonstrating the political will to establish democratic procedures and achieve compliance of national legislation with international standards. However, the relatively short period of time between the introduction of the new regulation and the start of the election campaign (three months before the upcoming elections) is not in line with the Venice Commission's recommendation to maintain the stability of the "fundamental elements of electoral law, regulating the electoral system itself" for one year before an election (Article II.2.b of the Code of Good Practice in Electoral Matters).

The electoral legal framework is also formed by subsidiary laws, primarily those of the Central Election Commission of the Republic of Uzbekistan (*hereinafter also referred to as the Central Election Commission or CEC*). Central Election Commission shall have control over the execution of electoral legislation; ensure its uniform application by developing instructions and providing clarifications on the organization of elections (Article 14).<sup>4</sup>

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<sup>4</sup> In particular, on the eve of the present elections the following documents were adopted: Regulation on the Accreditation of Mass Media Representatives during the Election Campaign, Regulation on Observers from Political Parties and Self-Government Bodies of Citizens, Regulation on the Procedure for the Pre-Election Agitation of Candidates for Deputies, Regulation on Observers from Foreign Countries and International Organizations, Regulation on Proxies of the Candidate, Regulation on the Authorized Representatives of the Political Parties, Regulation on the Procedure for Collecting Signatures by Political Parties to Participate in the Elections and Verifying the Accuracy of Compilation of Signature Sheets, Instruction on the Formation of Composition of the District and

Overall, the legal basis of the upcoming elections complies with the international norms which have identified as the main source of electoral law not the set of administrative rules, but the Constitution and the definite and transparent legislation (Clause 3 of Article 1 of the CIS Convention; Article II.2.b of the Code of Good Practice in Electoral Matters; OSCE Guidelines for Reviewing a Legal Framework for Elections), as well as the legal safeguards of electoral rights and freedoms (Clauses 5.7, 5.8, 7.1 of the Copenhagen Document).

### **Formalization of Certain International Electoral Standards**

International legal acts formalizing standards for democratic elections name universal, equal, free and direct suffrage by secret ballot as fundamental principles (Article 1 of the CIS Convention).

According to the provisions of the Constitution of the Republic of Uzbekistan (Article 117), that are reiterated in the Election Code (Article 3), elections to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan shall be open and shall be held on the basis of universal, equal and direct suffrage by secret ballot, which complies, in particular, with provisions of the International Covenant on Civil and Political Rights (Clause b of Article 25), according to which every citizen shall have the right and the opportunity, without any discrimination or unreasonable restrictions, to vote and to be elected at genuine periodic elections by universal and equal suffrage, which shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

#### ***Principle of Universal Suffrage***

Conduct of elections based on the principle of universal suffrage is formalized by the Constitution (Article 117) which also stipulates that all citizens shall have equal rights and freedoms, without discrimination by sex, race, nationality, language, religion, social origin, convictions, individual and social status (Article 18), regardless of their education, type and nature of occupation. (Article 4). This complies with the provisions of the Copenhagen Document (Clause 7.3) and the CIS Convention (Article 2).

Compliance with this principle is directly dependent on non-discrimination of the *electoral censuses* provided for in the national legislation, which stipulates the possibility of exercising the right to vote and be elected.

According to the Constitution, all citizens of the Republic of Uzbekistan over the age of 18 shall be eligible to exercise the right to vote at parliamentary

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Precinct Election Commissions, Regulation on the Procedure for the Formation of Polling Stations at Diplomatic Missions and Consular Offices of the Republic of Uzbekistan in Foreign States, Regulation on the Procedure for the Formation of Polling Stations in Places of Detention and Imprisonment, Regulation on the Procedure for the Activities of Precinct Election Commissions, Regulation on the Procedure for the Activities of District Election Commissions, as well as Instruction on Documenting Cases on Violations in the Field of Organization and Conduct of Elections by Election Commissions.

elections (Article 117). The interconnection between the right to elect members of the Legislative Chamber of the parliament and the age restriction is in accordance with international legal documents (Article 25b of the International Covenant on Civil and Political Rights; Clause 7.3 of the Copenhagen Document, Article 1.1b of the Venice Commission Guidelines).

Constitution also establishes other restrictions on the right to vote: citizens who have been declared legally incompetent by a court of law and those sentenced to imprisonment for grave or particularly grave crimes do not participate in elections. Restrictions of the right to be elected concern citizens who have been legally certified as insane by a court of law or persons held in places of deprivation of liberty pursuant to a court sentence (Article 117).

Moreover, the law establishes additional restrictions on the right to be elected (Article 71): the age limit (the requirement to reach the age of twenty-five years); the residency limit (the requirement to reside permanently in the territory of the State for five years prior to elections); the profession limit (military personnel of the Armed Forces of the Republic of Uzbekistan, employees of the State Security Service, the National Guard, the Ministry of Internal Affairs, the State Customs Committee of the Republic of Uzbekistan and other paramilitary units, professional servicemen of religious organizations and associations shall not be registered as a candidate for deputy).

The majority of the above-mentioned restrictions do not contradict the principle of universal suffrage and are in compliance with the CIS Convention and similar provisions of the Code of Good Practice in Electoral Matters (Article I.1.1) which stipulate that restrictions of suffrage must not infringe or cancel universally recognized human and civil rights and freedoms or constitutional and legislative guarantees of their realization, or be discriminatory (Clause 3 of Article 1).

However, considering that “length of residence requirement may be imposed on nationals solely for local or regional elections” (Article I.1.c of the Code of Good Practice in Electoral Matters) and that “any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law” (Clause 24 of the Copenhagen Document), application of the residency limit to the exercise of the right to be elected in national parliamentary elections does not seem to be fully consistent with democratic election standards in this regard.

Compliance with the principle of universal suffrage, especially with regard to the exercise of the right to be elected, is designed to ensure the order of nomination and registration of candidates.

The Republic of Uzbekistan has a majority electoral system; members of the lower chamber of the parliament are elected in single-member territorial constituencies. However, only political parties have the right to nominate a candidate for deputy (Article 37). If the necessary number of voters' signatures in their favour is obtained, political parties have the power to nominate one hundred and fifty candidates – one candidate for each constituency, both members of their party or non-party persons (Article 70). A political party shall

have the right to cancel its decision to nominate a person who may be disqualified of the candidate status by the relevant election commission not later than fifteen days before the election. Further, before the expiration of the term of nomination of candidates the political party can make a proposal on the registration of a new candidate to the respective election commission. (Article 42).

Standards for democratic elections presuppose that the nomination procedure should be sufficiently inclusive: “the right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties” (Clause 17 of the General comments on Article 25 of the International Covenant on Civil and Political Rights); “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination” (Clause 7.5 of the Copenhagen Document). Nomination of candidates for deputies exclusively by the supreme bodies of political parties does not fully comply with these requirements, although, according to the current legislation political parties are entitled to nominate not only members of their party, but also non-party persons (Article 70). Nevertheless, it is recommended to consider the possibility of legislative formalization of non-party nomination mechanisms.

The nomination procedure should also not be unduly burdensome; therefore, it is recommended to exempt parties represented in the parliament from collecting and presenting signatures in their support.

It is also advisable to legally formalize a specific number of invalid signatures whose discovery constitutes grounds for refusing to register the list of candidates submitted by a party. Currently, if during the examination of signature sheets containing at least fifteen per cent of the required number of signatures of voters the number of signatures of supporters “is less than the minimum number,” these signature sheets shall be invalidated in full (Article 39). Quantitative specification would provide more certainty to signature verification. Moreover, according to the Venice Commission recommendations, “checking of signatures must be governed by clear rules,” while “checking process must in principle cover all signatures; however, once it has been established beyond doubt that the requisite number of signatures has been collected, the remaining signatures need not be checked” (Article 1.3 of the Code of Good Practice). Meanwhile, the current regulation allows for the possibility to refuse registration of a list of candidates submitted by a party, even if the number of valid remaining signatures is enough to meet the legal requirement.

An important guarantee for the proper implementation of the principle of universal suffrage is the procedure for compiling and specifying voter lists. The law provides that voter lists are drawn up on the basis of the Single Electronic List of Voters, a state information resource containing information on voting citizens and their permanent and temporary residence addresses. Single Electronic List of Voters is formed and updated on the basis of the information provided by the competent state bodies and specified by the relevant precinct

election commission during the election campaign. Each precinct election commission within three days after its formation receives the preliminary list of voters allocated in the Single Electronic List of Voters. After receiving the preliminary list of voters, precinct election commission shall take measures to identify the population living in the territory of the polling station by the way of door-to-door visits. In accordance with the results of door-to-door visits, election commissions can make changes in the voter lists, entering correction related to voter's surname, name, patronymic, date of birth and residence address in Single Electronic List of Voters (Article 28). The CEC coordinates the activities on the implementation of Information Management System of the Electoral Process and the use of a Single Electronic List of Voters (Article 14).

Citizens will be provided with the opportunity to get acquainted with voter lists in the building of precinct election commission, as well as with the relevant information from voter list related to them on the official website of the CEC. The lists of voters shall be made available to the public fifteen days before the elections. Precinct election commission shall notify the place and time for getting acquainted with the list.

Election commissions may also make changes to voter lists after they are presented to public. Making changes to voter lists shall be terminated three days before elections (Article 29). The names of voters, for any reason not included in the list of voters, on the basis of a document certifying the identity, citizenship and residence of the voter, shall be included in the Annex to the list of voters (Article 52).

Taking into account the fact that in the repeat elections, voting is carried out on the lists of voters previously drawn up for the main elections (Article 60), it is recommended to adjust the relevant norm by giving the opportunity to vote to the voters who have acquired active voting rights in the period between the main and the repeat elections.

Proper implementation of the principle of universal suffrage is ensured, *inter alia*, by voting conditions and procedures.

In this regard, it is worth mentioning the ample opportunities offered to voters by the current legislation to ensure the universality of the right to vote.

These include, firstly, the establishment of polling stations under the diplomatic and other representative offices of the Republic of Uzbekistan in foreign countries, in sanatoriums, resorts, hospitals and other permanent medical institutions, in places of residence of citizens located in remote and inaccessible areas, in places of detention and imprisonment; in hospitals and military units (Article 10); and secondly, special forms of voting designed for voters who are unable to come to the polling station on elections day.

In this regard, there is voting at the place of residence of the voters (Article 56), as well as early voting that begins ten days before the elections and ends three days before the elections (Article 57). Procedural features of special forms of voting meet the requirements of the CIS Convention (Clause 3 of Article 3). At the same time, taking into account the purely auxiliary value of early voting applied on a strictly necessary basis, it seems reasonable to

establish a legal requirement that a voter must document the reasons for his/her absence on the day of the elections (vacation, business trip, travel abroad, etc.) and submit it to the respective precinct election commission.

Exercise of the right to vote by persons with physical impairment is supported by the preparation of ballot papers based on the Braille alphabet (Article 31); premises of precinct election commissions shall be equipped with ramps and, if necessary, specially equipped secret ballot booths for persons with disabilities (Article 50); a voter who is not able to fill in the ballot paper on his/her own has the right to invite another person to the booth or the secret ballot room at his/her discretion, with the exception of persons who are members of the election commission, observers and representatives of the media (Article 55). Thus, the current legal norms satisfy both the provisions of the CIS Convention determining the necessity of legislative formalization of additional guarantees and conditions for participation in voting by people with physical impairment (Clause 2.d Article 19) and the provisions of the UN Convention on the Rights of Persons with Disabilities ensuring that voting procedures, facilities and materials are appropriate, accessible (Clause a.i Article 29).

From the point of view of accessibility of voting premises for voters on the election day, it is recommended to make provisions for actions of district commission to ensure voting in cases when the voting premises cannot be opened. This recommendation is conditioned by the legal instruction on opening the voting premises in the presence of at least two-thirds of the members of the precinct election commission (Article 53).

Overall, as the analysis shows, the national legislation contains a significant part of the regulatory prerequisites for holding parliamentary elections based on the principle of universal suffrage.

### ***Principle of Equal Suffrage***

The principle of equal suffrage implies equal opportunities for each voter to influence the results of the election.

Under the Constitution, elections to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan are held on the basis of equal suffrage; every citizen shall have only one vote (Article 117); under the law, every citizen participating in the election shall have one vote (Article 5), which complies with the relevant recommendations of the Code of Good Practice in Electoral Matters (Article I.2.1).

This principle is largely ensured by the procedure of election constituency formation. In accordance with the law, borders of election constituencies for the election of deputies of the Legislative Chamber shall be determined, as a rule, with an equal number of voters throughout the territory. When forming election constituencies, the maximum permissible deviation in the number of voters in election constituencies shall generally not exceed ten per cent (Article 9).

Thus, the national legislation provides the necessary regulatory prerequisites for holding parliamentary elections on the basis of the principle of equal suffrage.



### ***Direct Suffrage***

Under the Constitution, elections are based on direct suffrage (Article 117).

In accordance with the law, members of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan shall be directly elected by citizens (Article 6), which meets the requirements of the CIS Convention (Article 4).

Thus, the national legislation provides the necessary regulatory prerequisites for holding parliamentary elections on the basis of the principle of direct suffrage.

### ***Principle of Secret Suffrage***

Secret suffrage, preventing possible pressure on voters, is designed to ensure the free nature of elections (Article 5 of the CIS Convention; Article I.4 of the Code of Good Practice in Electoral Matters).

It is constitutionally and legally established that voting in elections to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan is secret (Article 117 of the Constitution; Article 7 of the Election Code).

Voting secrecy is ensured by the creation of appropriate conditions that preclude any control over the expression of will of the voter. In particular, under the law, booths or rooms for secret ballot shall be equipped in the voting premises, the ballot boxes shall be installed in such a way when voters, approaching them, must pass through the booths or rooms for secret ballot (Article 49); the voter fills the ballot paper in the booth or room for secret ballot, the presence of persons other than the voter shall not be permitted when filling out the ballot (Article 55).

Thus, the national legislation provides the necessary regulatory prerequisites for holding parliamentary elections on the basis of the principle of secret suffrage.

### ***Regular and Compulsory Elections***

Regularity and compulsory nature of elections to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan is formalized in the Constitution, according to which members of the lower chamber of the parliament are elected for a term of five years (Article 76); elections are held in the year of the end of its constitutional term, on the first Sunday of the third decade of December (Article 117).

The election campaign for the election of deputies of the Legislative Chamber shall be announced by the CEC at least three months before its term of office expires (Article 36).

Overall, the national legislation provides the necessary regulatory prerequisites for holding parliamentary elections on the basis of the principle of regularity and compulsoriness.

***Open and Transparent Elections. Guarantees of the Status of National and International (Foreign) Observers***

An indispensable guarantee of democratic elections is their openness and transparency, which implies provision of comprehensive information to the participants of the electoral process on the preparation, conduct and results of elections (Article 7 of the CIS Convention).

According to the law, preparation and conduct of elections to the Legislative Chamber of Oliy Majlis of the Republic of Uzbekistan are carried out in an open and transparent manner (Article 8).

In particular, the lists of election constituencies with indication of their boundaries, the number of voters and the locations of district election commissions, shall be published by the relevant electoral commission at least seventy-five days before the elections (Article 9).

Election commissions shall inform citizens about their work, formation of election constituencies, precincts, composition of election commissions, their location and working hours, familiarize them with voters' lists, provide information on candidates for deputies of the Legislative Chamber, as well as the results of voting and elections. Meetings of election commissions shall be held open. Decisions of election commissions shall be published in mass media or otherwise publicly disclosed. Resolutions of the Central Election Commission shall enter into force from the moment of its adoption and shall be published on the official website of the Central Election Commission on the same day as well as on other sources, if it is necessary (Articles 8, 16).

Observers from the political parties which nominated the candidates for members of the Legislative Chamber, from citizens' self-governing bodies, representatives of the media, overseas observers and observers of the international organizations have the right to be present in all events associated with the preparation and conducting of elections, at voting premises on election day and at the counting of votes (Article 8).

International standards for democratic elections state that "the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place" (Clause 8 of the Copenhagen Document) and also state that "national observers should be given the widest possible opportunity to participate in an election observation exercise" (Article II. 3.2 of the Code of Good Practice). In this context, it seems important to ensure that non-partisan observers are able to observe elections at all stages of the election process.

National observers shall have the following rights: to be present at meetings of election commissions; to participate in meetings on nomination of candidates, meetings of candidates with voters; to be present at the polling station, to observe the progress of the preparatory work, the placement of booths or rooms for secret voting and the sealing of ballot boxes, the registration of citizens, the issuance of ballots; to be present at counting of votes and drafting the Protocol of the election commission; to request and receive copies of documents related to election results approved by the relevant election

commission; to report their observations to the relevant election commission, if there is reason to believe that at the relevant polling station there have been violations of the requirements of the law (Article 33). Premises of precinct election commissions shall have separate places for observers (Article 50).

Representatives of the mass media have the right to cover all events related to the preparation and conduct of elections, to be present at voting premises on election day, including being present at the counting of votes (Article 35).

On the day of voting, members of the precinct election commission shall create conditions for observers and media representatives to observe the election process (Article 54).

The results of the counting of votes shall be recorded in the protocol that shall be announced by the chairperson and a copy of the Protocol shall be immediately posted on the premises of the precinct election commission for public inspection for a period of not less than forty-eight hours; an authorized representative of a political party and observers participating in the vote counting process shall have the right to obtain a certified copy of the protocol of precinct election commission (Article 58). The resolution of the Central Election Commission on the results of elections shall be adopted not later than ten days after the election, and shall be published on the official website of the Central Election Commission and other sources (Article 96).

Besides public authorities, the requirement of openness and transparency of elections also applies to civil society institutions. In particular, political parties shall publish information on the financing of their participation in the elections on their official websites and in the press within one month of the publication of the election results (Article 100).

At the same time, the following would contribute to the greater transparency of the electoral process and to the maintenance of trust in the results of the elections: including in the final protocol of the precinct election commission of all changes in the voter lists, information on early voting and voting at the voter's location, as well as on the number of spoiled and unused ballots; disclosure, including by public display, of the final protocols of precinct election commissions, as well as calculation charts of district election commissions; disclosure of election results in disaggregated form, i.e. by constituency and polling station, including information on the total number of voters registered before and on election day; publication on the official CEC website of preliminary and final results by districts and polling stations; publication of decisions on complaints received by the CEC and district commissions, as well as financial reports of election participants.

Overall, as the analysis shows, the national legislation contains a significant part of the regulatory prerequisites for holding parliamentary elections based on the principle of open and transparent elections.

### ***Free Elections***

The principle of free elections provides the voters with the possibility to make their choice in respect of their participation or non-participation in elections within the form allowed by the law and by legal methods, without any influence, violence, threat to apply violence or an illegal coercion (Article 8 of the CIS Convention).

According to the Constitution, the freedom of choice in elections, including elections to the Legislative Chamber, is guaranteed by law (Article 117), which complies with the CIS Convention's provisions on revealing the freely expressed will of the people as the main goal of democratic elections (Clause 1 of Article 9).

The Basic Law includes special norms that guarantee the observance of this principle. In particular, voting in elections is free (Article 7), any form of coercion and bribery of voters by the person collecting signatures shall entail liability established by law (Article 38), it is forbidden to conduct agitation accompanied by the distribution of goods, services (except for information) to voters free of charge or on preferential terms, as well as by the payment of funds (Article 44).

To avoid influencing the voters on the election day and the day before the voting starts, it shall be prohibited to publish (promulgate) the results of public opinion surveys, forecasts of election results, other researches related to the elections, including their placement in the information networks, as well as in the Internet (Article 103). Violation of the procedure for publication (promulgation) of the results of opinion polls, forecasts of election results, as well as other studies related to elections entails administrative liability (Article 51<sup>9</sup> of the Code of Administrative Liability of the Republic of Uzbekistan).

In addition, the prohibition of foreign financing of election campaign participants is aimed at ensuring this principle, which complies with the requirements of the Code of Good Practice in Electoral Matters (Article I.2.3, d). Financing of elections and other material support of candidates and political parties at the expense of foreign States, their natural and legal persons and international organizations is prohibited (Article 98), as is printing of agitation materials outside of the Republic of Uzbekistan (Article 47).

At the same time, a clear legal definition of the persons allowed to stay on the premises of the polling station at the time of voting would contribute to a better implementation of the principle of free elections, as well as the principle of holding elections by independent electoral bodies.

Thus, overall, the national legislation contains a significant part of the regulatory prerequisites to ensure free parliamentary elections.

### ***Authentic Elections***

Authentic character of elections is ensured by political pluralism, an ideological variety and, in the institutional dimension, a multi-party system (Clause 2 of Article 9 of the CIS Convention).

The Constitution guarantees a diversity of political institutions, ideologies and opinions; no ideology shall be granted the status of state ideology (Article 12); citizens have the right to form political parties; no one may infringe on the rights, freedoms and dignity of the individuals, constituting the minority opposition in political parties, public associations and in representative bodies of authority (Article 34).

Authenticity of elections is fostered by the provision of candidates for deputies with full capabilities to conduct election campaign (Clause 3 of Article 9, Clause 2 of Article 10 of the CIS Convention; Article I.2.3, a of the Code of Good Practice in Electoral Matters). Candidates for deputies of the Legislative Chamber of the parliament are guaranteed equal access to the media for pre-election agitation, as well as to proliferation of printed agitation materials, which complies with the requirements of the Code of Good Practice in Electoral Matters (Article I.2.3, a). Intentional destruction or damaging of information or agitation materials placed on buildings, structures or in other locations during the preparation and conduct of elections or referendums entails administrative liability (Article 51<sup>7</sup> of the Code of Administrative Liability of the Republic of Uzbekistan).

At the same time, according to the legal definition, pre-election agitation is an activity carried out during the election campaign and aimed at encouraging voters to vote for a candidate or a political party (Article 44). In this regard, administrative liability is provided for violation of conditions and procedure of pre-election agitation or agitation on referendum issues by a candidate, a proxy, representative of a political party or an official (Article 51<sup>5</sup> of the Code of Administrative Liability of the Republic of Uzbekistan), as well as for publication or dissemination by other means of knowingly false information about a candidate or a political party in order to influence election results (Article 51<sup>6</sup> of the Code of Administrative Liability of the Republic of Uzbekistan).

Vagueness of the definition of “false information” in relation to pre-election agitation leads to legal uncertainty, in light of which any campaign warning against voting for any of the candidates may be interpreted as damaging their honour and dignity, making it difficult for election participants to anticipate the consequences of their actions.

Meanwhile, according to the key documents of the UN Committee on Human Rights, the crucial importance of this freedom “for every democratic society requires any restriction of it to conform to the strict tests of necessity and proportionality” (Clauses 2, 20 and 22 of the General Comment No. 34 to Article 19 of the International Covenant on Civil and Political Rights); therefore, it is necessary that “defamation laws must be crafted with care to ensure that they do not serve, in practice, to stifle freedom of expression” (ibid., Clause 47). In order to ensure the full enjoyment of political rights, the free communication of information and ideas about political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform

public opinion (Clause 25 of the General Comment No. 25 to the International Covenant on Civil and Political Rights). The importance of protecting freedom of expression from unjustified restrictions is also stressed in the basic documents adopted within the OSCE framework (Clause 9.1 of the Copenhagen Document).

In this regard, it is recommended to expand the concept of pre-election agitation to include the possibility to campaign both for non-election of a candidate and for non-participation in the election; to specify the legal prohibition on dissemination of false information during pre-election agitation.

Overall, the national legislation contains a significant part of the normative preconditions ensuring the authenticity of the parliamentary elections.

### ***Fair Elections***

Observance of the principle of fair elections should provide for establishment of equal legal conditions for all participants of the election process (Clause 1 of Article 10 of the CIS Convention) and for prevention of election falsifications.

The adoption of this principle in elections to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan is facilitated by the fact that the CEC and district election commissions are mandated to provide equal conditions of participation in elections for candidates and political parties (Articles 14 and 22) and by a fair distribution of the budget funds allocated for the preparation and conduct of elections (Article 11).

According to the law, during the campaign, equal conditions of access to the state media shall be ensured by providing the same amount of broadcasting and print space free of charge; the terms and conditions of the mass media for broadcasting time and publishing space and other requirements shall be equal and same for all (Article 46); candidates and political parties have equal conditions for agitation through meetings with voters (Article 48); the candidate list shall be entered in ballot paper in alphabetical order (Article 31).

Requirements aimed at ensuring the principle of fair elections are directed not only to the public authorities, but also to the candidates for deputies who do not have the right to take advantages of their official position or advantages of office with the aim of being elected. This requirement is formalized in the CIS Convention (Article 3, § 6).

Transparency in electoral financing, which largely ensures equal opportunities for candidates, is defined by the CIS Convention as an important guarantee of fair elections (Article 12). The conditions and procedure for state and non-state funding of election campaigns established by law are primarily consistent with democratic-election standards. Violation of the election financing procedure entails administrative liability (Article 51<sup>8</sup> of the Code of Administrative Liability of the Republic of Uzbekistan).

At the same time, according to the law, political parties, other public associations, enterprises, institutions, organizations and citizens may voluntarily grant their own funds for the conduct of elections; these funds shall be received

by the Central Election Commission for using in the process of the election campaign (Article 98). It seems that the primary recipients of the relevant funds (subject to subsequent detailed financial reporting) should be candidates and political parties themselves. At the same time, introduction of proportional sanctions for violations of election financing rules would ensure that direct private campaign financing of a candidate would meet the requirements of the law.

The principle of fair elections presupposes, among other things, the prevention of electoral violations and effective counteraction to possible abuses.

In order to prevent possible abuses and, in particular, multiple voting by the same persons, the possibility of entering a voter in the voter lists on election day seems to should be more strictly regulated and subject to control.

To prevent possible abuses during voting and vote counting, the number of ballot papers received by precinct election commission cannot be more than half a per cent of the number of citizens included in lists of the precinct. In the upper right corner of ballot paper, two members of precinct election commission shall sign and signatures shall be confirmed by the seal of precinct election commission. Ballot paper not confirmed by precinct election commission shall not be taken into account when counting votes (Article 32). According to the law, during field voting (at the place of residence of the voter), observers and media representatives may be present (Article 56). The law prescribes actions of precinct election commission after the completion of voting aimed at prevention of falsifications (Article 58).

Moreover, according to the law, elections may be invalidated on the whole or in some election constituencies or on separate polling stations due to violations committed during the election process that have affected the results of voting. If the election is recognized as invalid on some polling stations, the results of voting on these polling stations shall be excluded from the overall election results, provided that elections in general may be declared valid without these results (Article 96).

The provisions of national legislation meet the requirements of international electoral standards in terms of vote counting directly at the polling station (Clause 20 of the General comments on Article 25 of the International Covenant on Civil and Political Rights; Article 3.2 of the Code of Good Practice in Electoral Matters).

Vote counting procedure and, in particular, the criteria for ballot papers validation, should also comply with the principle of fair elections. In this regard, taking into account the optimization of the mentioned criteria in the new election legislation of the Republic of Uzbekistan, it is recommended to formulate further provisions on the proper filling of the ballot paper by the open list method, indicating the acceptability, in addition to the directly mentioned ones, of any sign that clearly and unambiguously identifies the intention of the voter.

The fairness of elections is also affected by the legislative provisions concerning the conduct of repeat voting as well as the recognition of elections as not conducted or invalid.

According to the recommendations of the Venice Commission, the law must provide the option to annul the entire election or merely the results for one constituency or one polling station; in the event of annulment, a new election must be called in the area concerned (Article II. 3.3.e of the Code of Good Practice in Electoral Matters).

National regulation complies with this requirement. According to the law, if more than two candidates are nominated, and none of them is elected, district election commission shall decide on repeat voting with two candidates who have the highest number of votes and inform about it the relevant election commission and district voters. Repeat voting shall be conducted within two weeks; the candidate who receives more votes than the other candidate is considered elected in re-voting (Article 59).

Election shall be recognized not to have conducted if less than thirty-three percent of the total number of voters in the voter list take part in; if repeat voting failed to determine the candidate to be elected; if no more than two candidates from a constituency ran for election and none of them was elected. It should be noted that easing of the requirement for the candidate to receive an absolute majority of votes of the voters who took part in the voting (Article 96), including taking into account the norm on the minimum required attendance, may favourably affect the efficiency of the expression of will.

Election shall be deemed invalid if there were violations of the electoral legislation that do not allow to reveal the will of the voters.

If the election in the electoral constituency has been declared not conducted or invalid, repeat election shall be held within one month after the main election (Article 60). In this regard, it seems advisable to legally formalize a minimum duration for the collection of signatures and the holding of campaigning events during snap election.

Since the fair character of the election presupposes, among other things, the efficiency of the electoral expression of will, i.e. its effective impact on the formation of the elected public authorities, it is recommended to extend to repeat election the repeal of the minimum voter turnout requirement provided for repeat voting (Article 59).

Thus, overall, the national legislation contains a significant part of the regulatory prerequisites to ensure fair parliamentary elections.

### ***Conduct of Elections by Independent Electoral Bodies***

In accordance with the Constitution, elections are conducted by a system of electoral bodies headed by the Central Election Commission (Article 117), which meets the requirements of the CIS Convention (Clause 1 of Article 11) and the recommendations of the Venice Commission (Article 3.1 of the Code of Good Practice).

The Constitution places the formation of the CEC under the joint jurisdiction of the chambers of the Oliy Majlis (Article 78) which elect its members on the recommendation of regional representative bodies of state power; the head of the CEC is elected from among its members on the proposal



of the President of the Republic of Uzbekistan at a meeting of the CEC (Article 117).

The Constitution establishes that the basic principles of the CEC's work are independence, legality, collegiality, transparency and fairness (Article 117). In addition to the CEC, parliamentary elections are prepared and conducted by district and precinct electoral commissions. Election commissions and their members shall carry out their activities independently from any state bodies, public associations and officials; interference in the work of election commissions is not allowed and such interference shall be subject to liability in accordance with the law (Article 11).

District election commissions are formed by the CEC not later than seventy days before the election composing of a chairperson of the commission, a deputy chairperson, a secretary and six to eight members of the commission. Candidates for the members of the district election commissions shall be discussed at the meetings of representative bodies of state power shall be recommended for approval by the Central Election Commission (Article 21).

Precinct election commission shall be formed by district election commission composed of five to nineteen members, including a chairperson, a deputy chairperson and a secretary, not less than forty days before the election. Candidates for the membership of the precinct election commission shall be recommended by citizens' self-governing bodies, public associations, enterprises, institutions and organizations, which are discussed at the meetings of representative bodies of state power and are recommended for approval to the relevant district election commission (Article 23).

At the same time, it is recommended to mandate political parties represented in the parliament to delegate their representative with the right of consultative vote to the CEC, district and precinct election commissions during the preparation and conduct of the election campaign.

Citizens who reached the age of twenty-one, have a secondary and higher education, as a rule, have the work experience of preparation and conduct of elections, has authority among the population may be the members of district and precinct election commissions. Members of other election commissions, members of political parties, khokims of regions, sub-regions, city, officials of prosecutor's offices, courts, close relatives and proxies of candidates, as well as direct subordinates of the candidates may not be members of the election commission. In addition, more than half of the members of the precinct election commission cannot be recommended from one organization (Article 25). In order to ensure independence of members of election commissions, it seems advisable to introduce a legal ban on the participation in the work of the same electoral commission of persons with subordinate status in work relations.

In addition, measures to further harmonize the regulation of legal liability for electoral offences with the updated electoral legislation will contribute to ensuring the integrity and systemic legal impact. In this regard, it is recommended, in particular, to specify the list of criminal offences that prohibit joining electoral commissions of all levels in case of an unexpunged or unserved

sentence for the commission of such offences, and to include in this list electoral crimes, regardless of their nature and degree of public danger. At the moment, the relevant restriction concerns only the unexpunged or unserved sentence for grave and particularly grave crimes. However, none of the electoral crimes: violation of secrecy of a ballot, forgery of election documents, making false entries into ballots or subscription lists, knowingly false count of votes committed during organization and/or holding of elections by officials, representatives of political parties or self-government bodies, members of initiative group or election/referendum commissions (Article 146 of the Criminal Code of the Republic of Uzbekistan); impediment to free exercising by individuals their right to elect or to be elected parliament members, to carry out pre-election campaign, or of exercising their powers by the agents of parliamentary candidates by way of violence, threats, deception, or bribe, or of impediment to free participation of individuals (Article 147 of the Criminal Code of the Republic of Uzbekistan), are qualified as grave or particularly grave.

Similarly, it is recommended to establish a restriction on participation in the work of election commissions of all levels within a certain period of time after bringing to administrative liability for committing such violations as interference in the activities of the CEC of the Republic of Uzbekistan, election commissions, commissions for holding referendums, as well as creating obstacles to their work (Article 51<sup>2</sup> of the Code of Administrative Liability of the Republic of Uzbekistan); for failure to implement decisions of the Central Election Commission of the Republic of Uzbekistan, election commissions and commissions for holding referendums, as well as unlawful refusal to consider their appeals, violation of terms of their consideration without a valid reason (Article 51<sup>3</sup> of the Code of Administrative Liability of the Republic of Uzbekistan); for violation of rights of a candidate, a proxy, an observer or an authorized representative of a political party (Article 51<sup>4</sup> of the Code of Administrative Liability of the Republic of Uzbekistan).

The right of the members of commission who disagree with the commission's decision to express their separate opinion which shall be attached to the protocol in written form is a certain guarantee of independence (Article 26).

Independence of CEC members is further guaranteed by the extension to them of the immunity rules that apply to the deputies of the Legislative Chamber and members of the Senate.

At the same time, according to the law, powers of the member of the Central Election Commission may be terminated due to systematic failure to perform his/her duties (Article 13). Moreover, in case of detection of breaches of legislation on election in the activity of district and precinct election commissions, the CEC has the right to make a decision on the necessity of holding repeat election by the new composed district and precinct election commissions (Article 60). It seems that the possibility of judicial review of these

decisions would help to ensure greater independence of the electoral commissions.

Thus, overall, the national legislation contains a significant part of the regulatory prerequisites for the organization of parliamentary elections by electoral commissions operating on a collegial basis and not directly subordinated to other public authorities.

### ***Procedure and Conditions for Settling Electoral Disputes***

Objective and timely resolution of electoral disputes is an integral component of international electoral standards.

According to the Constitution, everyone shall be entitled to legally defend his rights and freedoms, and shall have the right to appeal any unlawful action of state bodies, officials and public associations (Article 44).

Under national legislation, electoral disputes are considered in administrative and judicial procedures.

The election commissions shall, within their competence, consider appeals of individuals and legal entities received by them during the election campaign on violation of the requirements of the electoral legislation or on other issues of the organization of elections, carry out examination on these appeals and provide written answers within three days, and on appeals received less than six days before the elections or on the day of voting – immediately (Article 101).

In particular, everyone can appeal to precinct election commission on a mistake or inaccuracy in voter lists. Precinct election commission shall be obliged to consider the appeal within 24 hours and either eliminate a mistake or inaccuracy, or provide a reasonable respond to applicant on rejection of the appeal. Actions and decisions of the precinct election commission can be appealed to the court (Article 30).

The CEC considers appeals of voters and other participants of the election process and make decisions on them; cancels the decisions of the territorial election commissions either independently or upon the presentation of the General Prosecutor of the Republic of Uzbekistan, in the case if these decisions contravene with the law; submits materials on violation of requirements of the Election Code to the court or law enforcement bodies (Article 14).

Decisions of election commissions may be appealed by the bodies of political parties that nominated candidates to deputy, candidates, the proxies, observers and voters to the higher election commission or to the court within ten days after the decision. Decisions of the Central Election Commission may be appealed to the Supreme Court of the Republic of Uzbekistan within ten days after the decision has been made, including the decision on the invalidation of election (Article 96). The complaint must be considered within three days of its receipt and, immediately, if less than six days remain before election day. The complainants shall have the right to directly participate in the consideration of the complaint (Article 102).

An appeal against the actions (decisions) of an election commission shall be considered by a court not later than three days from the moment of its submission, and if there are less than six days left till the election day, immediately. An electoral complaint shall be considered by a court with the summons of the applicant and the representative of the respective election commission, as well as the prosecutor, and in the case when the complaint concerns not the applicant but another citizen, then this person as well. The court decision is handed over to the appropriate election commission and to the applicant immediately after its issuance (Article 142 of the Code of Administrative Procedure of the Republic of Uzbekistan). Decisions on cases on challenging the actions (decisions) of election commissions are subject to immediate execution (Article 167 of the Code of Administrative Procedure of the Republic of Uzbekistan).

According to recommendations of the Venice Commission, “the appeal body must have authority over such matters as the right to vote – including electoral registers – and eligibility, the validity of candidatures, proper observance of election campaign rules and the outcome of the elections;” therefore, “all candidates and all voters registered in the constituency concerned must be entitled to appeal; a reasonable quorum may be imposed for appeals by voters on the results of elections (Article II.3.3.d, f of the Code of Good Practice in Electoral Matters). It is therefore recommended that the right to judicial appeal of key aspects of the electoral process be formalized in law, including the possibility of submitting vote recount applications as well as invalidating the results of votes by political parties, candidates (in the case of a particular constituency) as well as voters (in the case of a particular polling station) and setting time limits for the submission of such complaints, consistent with the principles of effective legal protection and legal certainty.

Moreover, according to the law, decisions of election commissions may be appealed to the higher election commission or to the court by the bodies of political parties that nominated candidates to deputy, candidates, proxies, observers and voters (Article 102). It is recommended to expand the scope of possible applicants by including other persons regarding whom relevant election commissions have made decisions, including those establishing the absence of active voting rights and denying these persons to be included in the election lists on this basis.

Overall, as the analysis has shown, the national legislation contains a significant part of the normative prerequisites for effective consideration of electoral complaints and restoration of violated electoral rights.

**The analysis has found that the legal regulation of the preparation and conduct of elections to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan generally complies with international standards for democratic elections. National legislation contains the main regulatory prerequisites for the open and transparent conduct of parliamentary elections by a system of independent electoral bodies based on universal,**

**equal, direct and secret suffrage and the provision of adequate legal protection to all participants in the electoral process.**