

OSCE/ODIHR
Election Observation Mission
Republic of Armenia
Parliamentary Elections 2007

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INTERIM REPORT No. 3
18 April – 2 May 2007

I. EXECUTIVE SUMMARY

- Twenty-two parties and one bloc will be on the ballot for the proportional list contest in the 12 May National Assembly elections. A total of 119 candidates will contest the 41 majoritarian constituency elections (an average of just under three candidates per constituency).
- Election preparations continue according to schedule and are proceeding in an orderly manner. Precinct Election Commissions have been formed and have convened their first sessions.
- Vigorous campaigning by the majority of parties and by many majoritarian candidates is discernible countrywide. Most parties appear to favour an approach of holding unannounced or short-notice rallies.
- Editorial comment in a newspaper drawing upon an allegedly clandestinely recorded conversation between an opposition leader and a foreign diplomat has drawn widespread comment. President Robert Kocharyan publicly characterized the opposition leader's reported remarks as "treason". It remains unclear whether an investigation has been initiated into how and by whom the alleged recording was made. Otherwise, the media environment is generally devoid of negative reporting on election-related matters.
- Foreign Minister Vartan Oskanian, addressing the OSCE Permanent Council, again emphasized the Armenian authorities' commitment to strive for elections in line with international standards.

II. BACKGROUND

On 17 April, Armenia's Minister of Foreign Affairs, Vartan Oskanian, addressed the OSCE Permanent Council. A significant part of his statement was devoted to the 12 May parliamentary elections, which he characterized as "a serious challenge for Armenia to demonstrate its determination to consolidate through free and fair elections its progress towards democratization and rule of law." Mr. Oskanian emphasized the Armenian authorities' commitment to improving upon a past record where "mistakes were undeniable" and to strive for elections in line with international standards.

The Russian-language newspaper *Golos Armenii* on 21 and 26 April published two editorials that drew upon an allegedly clandestinely recorded conversation between Orinats Yerkir party chairman Artur Bagdasaryan and a British embassy official. *Golos Armenii* stated that a recording of the conversation, of unknown origin, had been delivered to its office anonymously. The newspaper contended that the published excerpts revealed that Mr. Bagdasaryan was seeking a negative assessment of the parliamentary elections by the international community. The matter has since become known as the "Marco Polo affair" after the Yerevan restaurant where the meeting took place.

Under the Armenian Constitution, “The state shall ensure the protection of fundamental human and civil rights and freedoms in conformity with the principles and norms of international law.”¹ Individual rights are directly enforceable against the State,² and the State also undertakes to guarantee respect for basic rights.³ Among the rights of persons is freedom of expression⁴ and protection of the secrecy of their communications.⁵ At this writing it is not clear whether an investigation has been initiated into how the recording was made, and by whom. The OSCE/ODIHR EOM requested a meeting on the matter with the National Security Service (NSS), but this was declined with the explanation that “this case was not initiated by the state, and therefore we have no comments on it at this stage”.

In an address to students at Yerevan State University on 27 April, extensively reported in the media, President Kocharyan indicated that in response to the publication of the newspaper articles, he had immediately ordered “my security service” (presumably the NSS) to contact *Golos Armenii’s* editorial office and determine the circumstances of the recording. Mr. Kocharyan also expressed his opinion that the articles portrayed matters truthfully and that Mr. Bagdasaryan had committed an act of treason.

The British Embassy condemned the way in which the conversation was recorded and presented, and confirmed its commitment to promoting effective democratic institutions and processes in Armenia. Orinats Yerkir stated that Artur Bagdasaryan underlines the importance of elections being conducted according to international standards in all his conversations, public and private.

National celebrations of the 15th anniversary of the formation of the Armenian Army have increased greatly in visibility as they approach their culmination on the 9 May Victory Day holiday.

III. CANDIDATES

The deadline for withdrawal from the elections passed on 2 May. There will be 22 parties and one bloc on the ballot for the proportional contest, after two of the parties that had been registered, the Armenian Pan-National Movement and the Progressive Party, withdrew their lists on 29 April and 2 May, respectively. A small number of candidate withdrawals from the majoritarian contests meant that in total 119 continued in the race at the 2 May deadline and will appear on the majoritarian ballot papers. This is an average of just under three candidates per constituency; the number of constituencies where there is only one candidate remains at seven, and eleven contests have only two candidates. The commonly cited reason for candidate withdrawal was a realistic assessment of negligible prospects of winning.

A court of first instance on 5 April extended the pre-trial detention of Vartan Malkhazyan, a majoritarian candidate in TEC 14 (Ashtarak). The Election Code includes provisions allowing a person in pre-trial detention to be nominated and registered as a candidate (as in Mr. Malkhazyan’s case), and that a candidate for election to the National Assembly may be detained or brought to court only with the Central Election Commission’s (CEC’s) consent.⁶ Both the CEC and a court official confirmed to the OSCE/ODIHR EOM that the CEC was neither consulted nor informed about Mr. Malkhazyan’s detention being extended. At present a challenge on the basis of the Election Code to the legality of the extension is pending in the Court of Appeal, and a related complaint was made to the CEC.

¹ Constitution (2005), Art. 3, clause 2.

² Ibid., clause 3: “The state shall be limited by fundamental human and civil rights as a directly applicable right.”

³ Ibid., Art. 14: “Human dignity shall be respected and protected by the state as an inviolable foundation of human rights and freedoms.”

⁴ Ibid. Art. 27.

⁵ Ibid. Art. 23, clause 5: “Everyone shall have the right to secrecy of correspondence, telephone conversations, mail, telegraph and other communications, which may be restricted only by court decision in cases and in conformity with the procedure prescribed by the law.”

⁶ Election Code, Art. 111.6.

IV. ELECTION ADMINISTRATION

A. ELECTION PREPARATIONS

Administrative preparations for the election are proceeding according to schedule. During this reporting period a number of important electoral preparation deadlines passed. The period for citizens to request inclusion in the voter list ended on 27 April. Precinct Election Commissions (PECs) were formed in the period 23-26 April and convened their first sessions, at which the three leadership positions were elected, on 27 April. On 2 May, upon the passing of the party and candidate withdrawal deadline, the CEC adopted the form of the ballot papers.

The CEC continues enhancing the openness of election preparation procedures. It established a schedule of regular press briefings and introduced on its website a chart on complaints it has considered. Further to the OSCE/ODIHR EOM's observation in Interim Report No. 1⁷ concerning periodic inaccessibility of the CEC website, the CEC recently added a welcome clarification to the website's first page citing assurances by its service provider and technical specifications about the accessibility of the website.

At an extraordinary session on 23 April, the CEC adopted an amendment to its rules of procedure that limits the right of authorized representatives to be present during CEC sessions only to when political party registration issues are heard.⁸ This followed a situation on 20 April at a CEC session that had included consideration of appeals from the Republic Party⁹ and Impeachment Bloc, at which the right of authorized representatives to participate in the discussion was questioned by most CEC members.

Most Territorial Election Commissions (TECs) are working effectively, and are open in their dealings with OSCE/ODIHR EOM long-term observers. OSCE/ODIHR EOM observers noted that influence of local self-government over the work of TEC 17 (Artashat) and TEC 39 (Vayots Dzor) appears to breach the provisions for independence stated in Article 32.1 of the Election Code.

There are no provisions in the Election Code regarding gender representation in the election administration. Two out of the nine CEC members are women (Interim Report No.1 stated that three women were in the CEC, but the woman listed by the CEC¹⁰ as the member representing the judiciary had in fact been replaced by a man in February 2007). In the TECs the representation of women in the membership is even lower – 15 per cent; 11 of the 41 TECs have no female members at all. Only three TECs have a female chair, and in three TECs women serve as deputy chairs.

Eligibility to be a PEC member is based on having undergone training in election procedures. The PECs that convened on 27 April are receiving further training in preparation for election day, beginning on 1 May and conducted jointly by the CEC and IFES/Armenia.

B. DOMESTIC OBSERVERS

The deadline for accreditation by the CEC of domestic election observers passed on 2 May. Fifty-three nongovernmental organizations (NGOs) were registered, indicating a high level of local civil society interest in the 12 May elections. The CEC refused accreditation to ten NGOs, mainly because they did not meet the requirement that their statute includes “democracy and human rights protection” among

⁷ See OSCE/ODIHR Interim Report No. 1: http://www.osce.org/documents/odihr/2007/04/23888_en.pdf

⁸ Decision No. 90-N, amending CEC decision No. 40-N. Two authorized representatives may be nominated by a party/bloc for the whole period of the elections (Election Code, Art. 100.5).

⁹ An opposition party, not to be confused with the ruling Republican Party.

¹⁰ The CEC website, www.elections.am, was not updated at the time of the OSCE/ODIHR EOM's arrival in country.

their defined areas of activity.¹¹ Domestic observation groups that the OSCE/ODIHR EOM met stated that they are mainly focused on election day observation. There has been little interim reporting of observation results by domestic observer groups.

C. VOTER EDUCATION

The OSCE/ODIHR EOM is aware of widely circulating anecdotes and apparently speculative comments about activities that members of the public characterize as preparation for election fraud. One of the most frequent is the allegation of “passport collection” – representatives of political parties either taking down passport details, or collecting copies of passports or actual passports. Whether the allegations have any basis in fact has proved unverifiable, but their circulation could be taken as an illustration of mistrust and cynicism among part of the electorate. OSCE/ODIHR EOM observers were present at a meeting when the governor of Kotayk warned mayors in the region against such passport collection, and in Sevan a local NGO is promoting a “don’t sell your vote” campaign of voter information TV slots. Centrally, the CEC and other state bodies have not made similar initiatives to emphasize to voters that secrecy of their vote is protected by law and that election day procedures safeguard against the possibility of someone knowing how the individual voter has voted.

D. VOTER LISTS

As announced by the Central Election Commission on 2 May, the number of registered voters is 2,301,662. The decreased number, compared to the figure announced on 9 April by the police (see Interim Report No. 2¹²), appears to have resulted from corrective efforts by various organizations (police, local community leaders, political parties, and NGOs). Reportedly only a low number of people used the two dedicated telephone hotlines to report voter list inaccuracies, or checked their voter list entries at PEC premises.

The CEC and the police informed the OSCE/ODIHR EOM that voter list statistics disaggregated by gender are not compiled (according to Armenian Statistical Office data from 2006,¹³ women comprise 51.7 per cent of the population, which could be expected to be reflected in the voter list).

Although the deadline for citizens to apply for inclusion in the voter list passed on 27 April, voters may still request corrections of entries on the voter list from the heads of communities or the police (up to seven and five days prior to election day, respectively). On election day a citizen who is not on the voter list may be added to a supplementary voter list for the precinct in which he or she is legally entitled to vote, on the basis of a court or police order that may be obtained up to and including on election day.

Special provision is made in the Election Code for voting at medical institutions, by means of mobile ballot boxes from the PEC for the precinct in which the institution is located. Such voting is for the proportional list contest only. All military personnel will be voting at regular precincts, since all military units are based less than 50 kilometres from the nearest precinct; voting by conscript soldiers is also for the proportional list contest only. The affected PECs will have separate voter lists for medical institution and military voting. Since police officers assigned to duty at a polling station on election day may vote only at that polling station, all PECs will have a separate police officer voter list.

E. COMPLAINTS AND APPEALS

The Election Code permits appeals to the courts against actions (or inaction) of election commissions. Appeals against actions of the CEC are in the competence of the Court of Appeal (except for those

¹¹ Election Code, Art. 29.

¹² See OSCE/ODIHR Interim Report No. 2: http://www.osce.org/documents/odihr/2007/04/24101_en.pdf

¹³ www.armstat.am

related to summarization of the results of an election, which go to the Constitutional Court).¹⁴ This provision contradicts the Civil Procedure Code, which stipulates that election-related cases shall not be heard by the Court of Appeal. Instead, under the Civil Procedure Code electoral disputes are considered as civil cases; electoral disputes would therefore be within the jurisdiction of the courts of first instance. Practice has shown that actions (or inaction) of the CEC are indeed being appealed in the first instance court (i.e. in accordance with the Civil Procedure Code but contrary to the Election Code). The OSCE/ODIHR EOM has not yet, however, observed any negative consequences of the legislative provisions being contradictory, such as delays, or confusion on the part of plaintiffs.

The court of first instance reviewed the case of “Supreme Council – Association of Former Parliamentarians” (NGO) against the CEC, but with the parties to the case being absent. The plaintiff complained that the CEC had failed to respond to irregularities that TV channels had broadcast campaign programs outside the official campaign period. The court found the complaint groundless (the formal judgement has yet to be issued).¹⁵ The other 12 complaints by this NGO against the CEC (see Interim Report No. 2) have not been heard at this writing.

The Republic Party filed a complaint in first instance court challenging inaction of the CEC in respect of ensuring equality of media campaign coverage of political parties. The plaintiff alleged that three of its campaign events were not broadcast and that the CEC did not comply with its legal obligation to monitor adherence to election campaign procedures. The court rejected the complaint on 28 April.

A CEC official told the OSCE/ODIHR EOM that any complaint addressed to the CEC receives an official response reflecting the position of the CEC, although this is not characterized as a “decision” of the CEC. In this reporting period, the OSCE/ODIHR EOM was informed that six complaints were registered with the CEC.¹⁶ Two of these were about the allocation of places for campaign posters, and a third raised the issue of posting a candidate’s campaign poster without the candidate’s consent; in that case the CEC ensured the removal of the poster. A fourth concerned the time of broadcasting campaign slots (see below, Section VI). The OSCE/ODIHR EOM is waiting to receive documentation on the other two. The CEC has been handling complaints in a transparent manner.¹⁷

A small number of complaints were filed with TECs. TEC 39 (Vayots Dzor) received a complaint about a candidate’s inclusion of the Armenian flag in a campaign poster (a violation of the Election Code¹⁸), with a request for the candidate’s deregistration. The TEC found that the object in question on the poster was not the Armenian flag. The plaintiff, a rival candidate, appealed the TEC decision to the court of first instance, which on 2 May found incorrect the TEC’s finding that the object was not a flag, but rejected the appeal on the grounds that only the TEC, and not the plaintiff, was competent to apply to court for the candidate’s deregistration. TEC 29 (Spitak) received a complaint by candidate Vahan Madatyan (Alliance Party) that rival candidate Arkady Hambarzumyan (Republican Party) had not made the legally required declaration of income when applying for registration. Mr. Madatyan asked for Mr. Hambarzumyan’s deregistration. The TEC rejected the complaint on 30 April. TEC 17 (Artashat) received complaints concerning inaccessibility of voter lists at PEC premises, and allocation of premises for campaign headquarters; the TEC rejected both complaints on 28 April.

Prosecutors also play a role in handling complaints related to the election process. The prosecutor general formed two working groups for creating effective mechanisms against election-related violations (one to study reports about electoral violations, the other to supervise any resulting

¹⁴ Election Code, Art. 40.3.

¹⁵ Judgments must be issued within 14 days of a ruling. Civil Procedure Code, Art. 124, as amended 21 February 2007.

¹⁶ These are in addition to seven complaints lodged previously (see Interim Report No. 2)

¹⁷ The CEC’s complaints database has been available at www.elections.am since 18 April 2007. It includes information on the applicant, subject of the complaint, the date complaint was lodged and the response that was rendered.

¹⁸ Election Code, Art. 21.3.

investigation). Prosecutors around the country were instructed to immediately report on election-related violations for the working groups' attention. The Office of the Prosecutor General published its first summary report of cases submitted to the working groups: out of 18 matters brought to the working groups' attention, so far five criminal cases were initiated,¹⁹ and one was found groundless. The criminal cases being pursued include attacks on party campaign offices and candidates, and clashes between candidates. An official from the Office of the Prosecutor General told the OSCE/ODIHR EOM that the remaining cases are under examination.

V. CAMPAIGN ENVIRONMENT

Vigorous campaigning by the majority of parties in the proportional contest and by many majoritarian candidates is discernible throughout the country, and involves extensive use of street advertising and rallies. Most parties appear to favour an approach of holding previously unannounced or short-notice rallies. These are often held outdoors but attract a considerable audience through the use of loudspeakers, text messages, individual phone calls, etc. to bring the meeting to people's attention. This phenomenon may explain why, in most of the country, the OSCE/ODIHR EOM has had difficulty obtaining from parties their schedule of planned rallies and campaign meetings.

There is a degree of variation across the country in implementation of the procedure (defined in the Election Code and a CEC regulation) whereby, on the basis of requests received and forwarded by the TECs, municipal and community authorities should put premises for campaign meetings at the disposal of political parties and candidates on the basis of equality and free of charge. Some TECs closely follow the regulation, but in other cases parties or candidates apply directly to the city authorities with the evident approval of the TEC, or (as noted above) hold impromptu meetings. Members of TEC 21 (Armavir) and TEC 24 (Martuni) indicated to OSCE/ODIHR EOM observers that they were displeased with the holding of unannounced rallies, but have taken no prohibitive action.

The OSCE/ODIHR EOM viewed a copy of a letter from the office of the mayor of Spitak to Orinats Yerkir requesting 100,000 AMD (€200) for provision of premises for a campaign meeting, the subject of a complaint by Orinats Yerkir to the CEC (see Interim Report No. 2). The CEC answered on 12 April that only central government property, not property of local self-governments, should be put at parties' disposal.

Along with wide poster placement activity, the commercial billboard space in the center of Yerevan is dominated by campaign posters of the Republican Party and Prosperous Armenia, and to a lesser extent the Armenian Revolutionary Federation (ARF) Dashnaktsutun.²⁰ The OSCE/ODIHR EOM received copies of four letters sent by the Heritage party to three advertising agencies in March and April 2007 asking for billboard space, all of which got a negative response. The OSCE/ODIHR EOM attempted, so far unsuccessfully, to arrange meetings with some of the agencies and clarify rules for commercial poster authorization and placement.

As noted in Interim Report No. 2, the Election Code prohibits parties and candidates, during the election campaign, from giving or promising – directly or indirectly – any goods or services to citizens on favourable terms.²¹ Enforcement of this provision has been limited, in part since prosecutors are reluctant to pursue cases in which a clear connection to influencing voters cannot be proved. The OSCE/ODIHR EOM directly observed one episode of provision of goods by a political party that meets the legal definition of prohibited conduct in an election campaign. The electoral authorities have not received, at this writing, any formal complaint against this or any similar conduct.

¹⁹ Under Articles 117, 131, 185 (2.1), 235 (1) and 258(3.1) of the Criminal Code of the Republic of Armenia.

²⁰ As previously noted, a considerable amount of commercial billboard space in Yerevan is used to celebrate the 15th anniversary of the Armenian Army.

²¹ Election Code, Art. 18.7.

An associate of a majoritarian candidate in TEC 30 (Vanadzor) was stabbed to death on 26 April. On 28 April the Office of the Prosecutor General telephoned the OSCE/ODIHR EOM office in Yerevan to convey a statement that “no political implication” could be attached to the incident; it provided supporting information in a statement on its website on 28 April. The Office of the Prosecutor General reportedly made a similar statement in reaction to a reported exchange of gunfire between supporters of rival political parties in Yerevan’s Erebuni community on 19 April.²² On 22 April Heritage Party filed a complaint with the police in Avan community, Yerevan, that a campaigner for the party had been assaulted. The police acknowledged to the OSCE/ODIHR EOM that it received this complaint.

VI. MEDIA ENVIRONMENT

In general, based on OSCE/ODIHR EOM preliminary media monitoring results of the official campaign, the media provided voters with extensive information about political and electoral events. There is a noticeable difference in coverage by national and local media: the nationwide media (including those based in Yerevan and broadcasting also in other parts of the country) focused predominantly on activities of government and pro-presidential political forces, while some local media paid more attention to local competitions, including individual majoritarian contestants.

Since the beginning of the official campaign, both public broadcasters (*HI* television and *Public Radio*) have generally pursued an editorial line that would guarantee equal conditions for contestants. *Public Radio* in particular has so far in its evening news programme offered balanced political coverage (both in time and tone). *HI* television has in general covered a number of contesting forces. Quantitatively, Orinats Yerkir received the greatest attention in *HI* newscasts, followed by the Armenian People’s Party. Some specific elements of *HI*’s news coverage of Orinats Yerkir call into question whether the channel’s qualitative approach towards that party is unbiased: following the publication of the first of the *Golos Armenii* articles about Artur Baghdasaryan (see above, Section II), *HI* decided to present the article in full and verbatim (although omitting one negative comment about the president) in its main news programme, and did not present any response from Orinats Yerkir or any other source.

The so-called “Marco Polo affair” aside, television coverage was generally devoid of critical remarks or negative information. A number of media outlets appeared to cover a broader range of political subjects, and thus to comply with legal provisions requiring fair and equal conditions.²³ However, the monitored television channels devoted the highest portion of their politically-related information in newscasts to three governmental and pro-presidential parties. The substantial attention in the media (particularly television) to government activities included a strong focus on Prime Minister Serge Sargsyan. The way in which Mr. Sargsyan’s public appearances around the country were presented by television reports, not clearly distinguishing his roles as prime minister and as leader of the Republican Party, would appear to reflect a broader issue that legal provisions concerning political campaigning by officials or use of state resources for campaigning are difficult to apply.²⁴

In the news programmes of all four nationwide TV channels (public TV *HI*, and the private channels *H2*, *Armenia TV* and *ALM TV*) the government was given the highest share of the monitored political content (*H2* gave 31 percent of almost exclusively positive and neutral coverage, for example). All channels have so far presented the government in overwhelmingly positive or neutral tones. Apart from coverage of the authorities, the monitored TV channels dedicated the largest part of their political party-related newscast information to the Republican Party (in *Armenia TV* and *ALM TV*), to ARF Dashnaktsutiu (in *Yerkir Media*) and to Prosperous Armenia (in *H2*, *Shant TV* and *Kentron TV*); negative coverage of these parties was almost completely absent. Only radio stations (especially

²² *Arminfo*, 19 April 2007.

²³ *Ibid.*, Art. 20.3 and 20.5.

²⁴ *Ibid.*, Art. 22.1.

RFE/Radio Liberty) broadcast critical views voiced by electoral contestants such as the Impeachment Bloc, the New Times Party and the Republic Party.

The public media so far adhered to their legal obligations regarding free time allocation and all participating parties and blocs used their right, though not comprehensively. On 19 April, majoritarian independent candidate Tatoul Manaseryan appeared during the free airtime allocated for the Marxist Party of Armenia. While a transfer to another party or a representative is prohibited,²⁵ and based on the Election Code²⁶ the party could have been deregistered, the CEC took the more lenient approach of issuing a general warning.

Two complaints received previously by the CEC to change the time periods for airing free and paid campaign slots (see Interim Report No. 2) were rejected by the CEC on 19 April. A further complaint on the same matter was lodged with the CEC on 27 April jointly by twelve proportional list contestants and rejected on 30 April.

The print media displayed a diversity of views and a more critical and analytical approach than the electronic media, but their low circulation makes them a supplementary source of information only. The state-funded *Hayastani Hanrapetutyun* showed clear affiliation with the authorities by allocating 39 per cent and 13 per cent of coverage to the government and president, respectively. The newspaper *Haykakan Zhamanak* presented a very critical position towards the authorities.

VII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM Head of Mission, Ambassador Boris Frlec, met again with the President of the National Assembly, at the latter's invitation, to hear about the parliamentary cross-factional working group on elections. Working level contacts with this group were subsequently taken up. The OSCE/ODIHR EOM noted that Armenian authorities, including the working group, have continued requesting advance notification of the content of its Interim Reports and the findings of its long-term observation so far. The OSCE/ODIHR EOM emphasized, in response, that to comply with this request would place it in breach of the well-respected OSCE/ODIHR methodology for election observation. The OSCE/ODIHR EOM also emphasized that the Armenian authorities have the necessary mechanisms in their electoral and legal system to identify and remedy any irregularities.

The OSCE/ODIHR EOM met the leadership of Prosperous Armenia on 23 April, thereby completing the introductory round of high-level contacts with political parties. OSCE/ODIHR EOM core team members have been travelling to the regions to consolidate their observation of the pre-election day environment and processes, and complement the work of the 14 long-term observer teams. The OSCE/ODIHR EOM met the representatives of the resident diplomatic community from the OSCE participating States and international organizations on 25 April.

For election day the OSCE/ODIHR EOM expects to receive 298 short-term observers (STOs) seconded by the OSCE participating States and 14 locally-recruited STOs. It is expected that around 60 members of the OSCE Parliamentary Assembly, 31 members of the Parliamentary Assembly of the Council of Europe, and 8 members of the European Parliament will join the OSCE/ODIHR EOM in election day observation efforts.

²⁵ CEC decision N 84 from 8 April 2007.

²⁶ Election Code, Art. 18.8.