



Office for Democratic Institutions and Human Rights

REPUBLIC OF ARMENIA

PARLIAMENTARY ELECTIONS

12 May 2007

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

30 January - 2 February 2007



Warsaw
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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In anticipation of an invitation to observe the upcoming parliamentary elections, scheduled for 12 May 2007, the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to the Republic of Armenia between 30 January and 2 February 2007. The NAM was composed of Gerald Mitchell, ODIHR Head of Election Department, Kirsten Mlacak, ODIHR Head of Human Rights Department, and Nicola Schmidt, ODIHR Election Adviser.

The purpose of the NAM was to assess the conditions and level of preparation for the elections, in line with OSCE commitments, and to advise on the establishment of an Election Observation Mission (EOM). The NAM held meetings in Yerevan with representatives of the authorities, election administration, political parties, media, civil society and international community (see annex for list of meetings).

The OSCE/ODIHR expresses its appreciation to the Ministry of Foreign Affairs, the Central Election Commission, representatives of other state institutions, political parties, civil society and media for their co-operation. The OSCE/ODIHR would also like to thank the OSCE Office in Yerevan for the assistance provided during the NAM.

II. EXECUTIVE SUMMARY

Parliamentary elections are due to be held in Armenia on 12 May 2007. These elections will be an important indicator on democratic progress in Armenia. Despite showing some improvements, both the presidential and parliamentary elections of 2003 fell short of OSCE commitments and international standards for democratic elections.

While the election code provides a solid foundation for the conduct of democratic elections, the upcoming elections will primarily require greater political will and good-faith implementation of the legislation in order to be conducted in line with OSCE commitments.

The administrative preparations for the upcoming elections appear to be well underway with training of potential election commission members and the Central Election Commission (CEC) preparing regulations to bring election procedures in line with the amended election code. The amended code is a comprehensive body of regulations which provides possible safeguards for greater transparency and integrity of the election process, extended rights for proxies and observers, and equal access to the media.

The election code was amended in two stages, in 2005 and 2006. The OSCE/ODIHR and the Council of Europe's Venice Commission had the opportunity to offer expert opinions on proposed amendments, upon the request of the National Assembly. A

number of these recommendations were taken into account during the amendment process. Although the amended code provides for a more balanced composition of election commissions, concerns still remain - especially on the side of the opposition - about the potential for impartial conduct of the election administration. The abolition of the quorum for election commissions to take decisions, introduced at a late stage of the amendment process, contributes to these concerns. However, other interlocutors stressed that the removal of a quorum is a necessary anti-boycott measure, and overall felt that the new legal framework is now satisfactory.

The new result-tabulation process, involving direct online summarization of preliminary Precinct Election Commission (PEC) results at Territorial Election Commission (TEC) level through a computer network connected to the CEC, has been generally welcomed by NAM interlocutors. This process enables publication of preliminary results broken down to PEC level.

Access to media remains a major issue of concern for many interlocutors, including those in the opposition. While equal access to public and private media is guaranteed by law during the official campaign period, including free airtime on public TV and radio, the opposition claims very limited media access in the current period before the official campaign is due to begin. This is reportedly the result of administrative obstacles and self-censorship. Moreover, many NAM interlocutors expressed concerns that media access will remain unequal during the official campaign period. However, other interlocutors cited examples of opposition leaders' appearance in the media.

According to a number of interlocutors, public confidence in the integrity of the election process in Armenia is low. The authorities and other interlocutors met by the NAM acknowledged problems with past elections and assured that the upcoming elections will be conducted in line with OSCE commitments and other international standards.

The NAM recommends that a standard OSCE/ODIHR Election Observation Mission be deployed to Armenia in mid-March to assess the 12 May 2007 parliamentary elections in line with OSCE commitments. The OSCE/ODIHR should request from participating States the secondment of 24 long-term observers and 300 short-term observers.

III. FINDINGS

A. BACKGROUND

The parliamentary elections on 12 May 2007 are an important indicator for democratic progress in Armenia. The OSCE/ODIHR has observed elections in Armenia since 1996, most recently the presidential and parliamentary elections of 2003.¹ Both these elections fell short of OSCE commitments and other international standards for democratic elections. The presidential election process did not provide equal conditions for the candidates despite a "vigorous countrywide campaign". *"Voting, counting and tabulation showed serious irregularities, including widespread ballot box stuffing."* The

¹ See *Final Report on the Presidential Election in Armenia 19 February and 5 March 2003*, http://www.osce.org/documents/odihhr/2003/04/1203_en.pdf, and *Final Report on the Parliamentary Elections in Armenia 25 May 2003*, http://www.osce.org/documents/odihhr/2003/07/533_en.pdf

parliamentary elections were assessed as having “*marked an improvement over the 2003 presidential election in the campaign and media coverage, but fell short of international standards for democratic elections in a number of key respects, in particular the counting and tabulation of votes.*”

Perpetrators of electoral violations during both elections in 2003 have not been held accountable. This climate of impunity was recognized by many interlocutors during the NAM. A number of interlocutors underscored previous OSCE/ODIHR recommendations, by stating that the climate of impunity be demonstrably brought to an end in the upcoming elections.

The Constitutional referendum of November 2005 was not observed by the OSCE/ODIHR. There was criticism of the referendum process by local and international observers; on substance, however, the Constitutional amendments resulted in a redistribution of powers, including the sharing of prerogatives between the president and parliament for appointment of various positions in the judiciary and the media regulatory bodies. The changes also provided that individuals obtained the right to appeal to the Constitutional Court.

The low level of confidence in the conduct of elections, and the integrity of the election system, indicate that greater political will and good-faith implementation of legislation is required for the conduct of elections to be in line with OSCE commitments and other international standards.

B. POLITICAL CONTEXT

Political parties in Armenia appear to be based on personalities rather than on platforms or social constituencies. Allegiances can be broadly divided into “pro-government” and “opposition”. Seventy-four parties are currently registered in Armenia.

Political parties are positioning themselves for the 12 May parliamentary elections with an outlook to the 2008 presidential election. The incumbent president, Mr. Robert Kocharian, will not be able to stand having completed two terms provided by the Constitution. During 2006, the political landscape has been characterised by the dissolution of the governing three-party coalition after the resignation of the then Speaker of the National Assembly, Artur Baghdasarian. His party, Orinats Yerkir (Rule of Law), went into opposition. Several leading members of his party subsequently joined other parties and formed a new “Entrepreneur” deputy group in parliament.

This enabled Prime Minister Andranik Markarian’s Republican Party of Armenia (HHK) to consolidate its position as the dominant party with the most seats in parliament. The decision of Defense Minister Serzh Sargisyan, until then not a member of any party but elected on the HHK list in 2003, to join the HHK in July 2006 and become chairman of its board, strengthened the party’s position further.

Despite recent discussions among some opposition parties about possible alliances, there is no coalition formed yet for the parliamentary elections. The largest parliamentary opposition force, the Justice Bloc led by Stepan Demirchian, has been facing internal disagreements and a decline in activities over the past months. Its

member parties have announced that they will contest the elections individually or as part of other alliances.

A new pro-government party Prosperous Armenia (BH), active since March 2006, has established an extended party network in all regions, reportedly with over 500 offices and 370,000 members. It has been involved in charitable activities throughout the country, which have been criticized by some as early campaigning and vote-buying. It is expected that BH will be a significant contestant with a visible campaign in the elections.

The NAM received complaints that employees of public enterprises, as well as health and education institutions, are being forced to join political parties. There were also allegations that a portion of salaries of some public sector employees was being withheld as a political donation to undeclared recipients.

Representation of women in the current parliament is low - only 7 out of 131 seats are held by women. According to the election code, women shall now make up 15 percent of a party's list for the proportional election and hold every tenth position on party lists. This is an improvement from the 2003 parliamentary elections. Some parties plan to exceed this provision and nominate 25 percent of women on their party's electoral lists, while few women are expected to stand in majoritarian races.

C. LEGAL FRAMEWORK

The legal framework for elections has changed since the last parliamentary elections. Most significantly, the number of parliamentary seats elected through the proportional representation system increased from 75 to 90 while the number of seats elected in single-mandate constituencies decreased from 56 to 41. Parliament is now elected for a five-year term. The threshold for party coalitions to enter parliament in the proportional contest was raised from 5 percent to 7 percent of votes; the threshold for parties contesting the elections individually remains at 5 percent.

The election code has been amended several times, including in May 2005 and in December 2006. The OSCE/ODIHR and the Venice Commission of the Council of Europe contributed to this process, at the request of the National Assembly, through provision of expert assessments and participation in related discussions.

The election code provides a solid and comprehensive foundation for the conduct of democratic elections. However, the main concern noted in previous elections was the failure to implement the legislation rather than shortcomings in the law. In amending the code, the National Assembly tried to ensure an inclusive, participatory process. However, some opposition factions withdrew their support for the amendments as some of their proposals, including the right to recall commission members, videotaping of the voting process and introducing the full proportional representation system were not introduced.

Most notably, the 2005 amendments changed the formula for the composition of election commissions, which in previous elections proved to be an obstacle to the independence, impartiality and professionalism of election commissions. The President, the six parliamentary factions, and the People's Deputy Group in the National Assembly

now nominate one member each to all levels of election administration. In addition, after a Constitutional Court ruling in November 2006 that participation of judges on election commissions was unconstitutional, the Council of Court Chairmen will now nominate one member from among the judicial staff.

The amendments also include provisions to ensure publication of results broken down to precinct level and changes in voting procedures to prevent fraud such as the introduction of envelopes, the requirement for commission members to sign the Voter List to confirm issuance of a ballot to a voter, and the introduction of video-recording of the counting and tabulation process, and clarification of the method of distributing tasks among PEC members. Military cards will now be stamped after voting to avoid multiple voting by members of the military. In addition, the rights of proxies and observers have been extended.

Mobile voting for patients in hospitals was introduced following a long-standing recommendation by the OSCE/ODIHR and the Venice Commission, but raising criticism by some that mobile voting also provides the opportunity for fraud. The sanctions now foreseen for violations of the election code are more severe. This, together with the extended rights of proxies, should lead to stricter enforcement of these provisions.

In an amendment introduced at a late stage of the process, the quorum for election commissions to hold sessions and take decisions has been abolished during the period from the date of scheduling nationwide elections until the date when the election results have been summarized. This is considered by some as a necessary anti-boycott measure, following the opposition's decision not to participate in the administration of the 2005 referendum. Others criticize it as a further possible means to manipulate the elections, although all decisions taken with or without the quorum can be appealed.

A number of NAM interlocutors expressed lack of confidence in the judiciary and its independence. They were especially concerned that perpetrators of electoral violations during both elections in 2003 have not been held accountable and insufficient efforts have been made to investigate and prosecute breaches of electoral legislation. This climate of impunity must be addressed to restore public confidence in the election process and the rule of law.

D. ELECTION ADMINISTRATION

The elections will be administered by the Central Election Commission (CEC), 41 Territorial Election Commissions (TECs) and approximately 2,000 Precinct Election Commissions (PECs). Payment provided by the amended code is one step towards ensuring that commission members at all levels conduct themselves in a professional and impartial manner, based on principles of legality, collegiality and openness as stipulated by the election code.

Despite the changes in the composition of election commissions, and while candidates and parties are able to nominate proxies to observe the work of commissions during the election, the election administration does not retain the full confidence of all political actors. Interlocutors representing the opposition do not expect that their representatives

on election commissions will be in leadership positions, and they are concerned that pressure may be applied to their commission members.

The CEC considers itself well prepared for the upcoming elections and has been conducting training for potential PEC members throughout the country. According to the CEC, a total of 36,000 citizens have been trained and received the necessary certificate to be PEC members. Additional training will be provided in co-operation with international organizations once PECs are established. The election code and all CEC decisions will be provided to PECs. These measures are intended to address problems of lack of training and materials that surfaced during previous elections. Some parties, however, doubt the sincerity of the CEC training efforts and claim that their representatives have been denied the necessary certificate. Parties also plan to provide their own training for election commission members and proxies.

The accuracy of the Voter List (VL) has been a significant problem in previous elections. The 2005 electoral code amendments introduced a national centralized voter register, maintained by the passport and visa department of the Police. Significant efforts have been undertaken to improve and clean the voter register over the past years. However, concerns remain about the estimated 20 percent of the population who emigrated but continue to be registered in Armenia, and the propensity of citizens to register where they own property or previously lived but do not anymore reside. Despite the clarification of procedures and measures taken to improve the VL and increase transparency, some interlocutors express distrust in its accuracy, criticizing the numbers of voters as inflated to allow for possible manipulation.

The VL is permanently posted on the CEC website allowing citizens to check their information. VLs will also be displayed at each polling station some 40 days prior to election day. A final VL will be posted at PECs two days before election day. Voters residing permanently outside Armenia can be included in the VL for out-of-country voting.

Election results from precincts shall be provided to TECs within 12 hours after the end of voting. At TEC level, PEC results will be directly entered into a computer which is connected to the CEC to allow online transmission of results. However, it would appear that PEC results are neither aggregated at TEC level, nor certified in a TEC protocol. It remains unclear whether the respective PECs will have the right to certify the data entry for their polling station at TEC level. Most interlocutors viewed this procedure as an overall improvement to increase transparency and real-time announcement of preliminary results broken down to PEC level.

E. MEDIA

Television remains the main source of information and can be described as predominantly pro-government, despite the formal transformation of state TV into a public-service broadcaster, and the existence of numerous private channels, many of which are *de facto* linked to political parties. The print media is seen as more pluralistic and news coverage is diverse and critical, however circulation is limited.

Two bodies supervise and regulate the electronic media: the National Commission on Television and Radio (NCTR) licenses and oversees the private broadcasters, and the

Council of Public Television and Radio supervises the public media. Despite legislative changes provided for by the Constitutional amendments, all members of the regulatory bodies are directly appointed by the President. This is expected to change once the appropriate legislative amendments have been passed by the National Assembly.

Public TV *HI* is the most influential media outlet in Armenia. Two independent TV stations, *AI+* and *Noyan Tapan*, which lost their license in 2002 and 2001 respectively, remain without frequency despite participation in numerous tenders and concerns expressed by the international community. Interlocutors and media experts described this denial of licenses as a clear message to other media outlets, which fear losing their licences, and effectively creating an atmosphere of self-censorship. This has been compounded by a few cases of violence against journalists over the past years. The media, especially private media, were criticized during previous elections for not providing equal access to contestants and demonstrating bias.

By law, all broadcast media, public and private, have to provide equal airtime during the official campaign period from 8 April to 10 May. Rates for political advertisements must be announced by 11 February, must be consistently offered to all contestants, and may not change during the election period. The CEC is obliged to ensure equal access by random selection of broadcast slots and order of appearance for both free and commercial airtime. Parties and candidates are entitled to 60 minutes free airtime on public TV plus 120 minutes commercial time, and 120 minutes free airtime on public radio plus 180 minutes commercial time. The NCTR will monitor compliance with the basic principle of provision of equal access by private media outlets.

The rate for campaign advertisements per minute in 2003 was established through a price-fixing arrangement between public and private TV at 120 USD, which was very high in comparison with rates for normal advertisements. Many interlocutors expressed their concern that this could also be the case during the upcoming elections.

In addition, there were concerns expressed by many interlocutors about access to the media before the official start of the election campaign. Several opposition representatives alleged that obstacles exist for them to gain access to media in the current pre-campaign period, even for paid advertisements. Representatives of pro-governmental parties, however, cited examples of opposition leaders' appearance in the media. The period prior to the official commencement of the campaign after the registration of candidates and parties is not regulated by law, and equal access is not legally guaranteed.

F. INTERNATIONAL AND DOMESTIC OBSERVERS

All NAM interlocutors welcomed the presence of an OSCE/ODIHR Election Observation Mission for the 12 May 2007 parliamentary elections. Some called for early deployment of a large number of observers and urged for comprehensive media monitoring. Other international observers are expected for the upcoming parliamentary elections, including delegations from the OSCE Parliamentary Assembly and the Parliamentary Assembly of the Council of Europe.

A number of domestic groups also plan to observe. "It's Your Choice", which has observed elections in Armenia since 1996, plans to observe starting with the official

campaign period and to have observers in every polling station on election day. A network of different domestic NGOs also plans to observe the election process. Yerevan Press Club and the Caucasus Media Institute will commence media monitoring in early February, and Transparency International Armenian Chapter will monitor campaign funding. All political parties which the NAM met plan to deploy proxies in polling stations on election day.

IV. CONCLUSIONS AND RECOMMENDATIONS

The NAM recommends that an Election Observation Mission be established according to the standard OSCE/ODIHR methodology, contingent upon the receipt of an official invitation from the Armenian authorities. The OSCE/ODIHR has already received indications from the authorities that such an invitation will be forthcoming. The NAM recommends to request from OSCE participating States the secondment of 24 long-term observers, to be deployed in mid-March. The OSCE/ODIHR EOM, with the assistance of long-term observers, will follow the pre-election campaign, access to media, candidate registration, complaints and appeals and election preparations. In addition, it is recommended to request 300 short-term observers for the observation of election day proceedings.

ANNEX – LIST OF MEETINGS

Yerevan, 30 January to 2 February 2007

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Ms. Lilit SHAKARIAN, Second Secretary, Human Rights Division

Central Election Commission

Mr. Garegin AZARYAN, Chairman
Mr. Abraham BAKHCHAGULYAN, Deputy Chairman

Police of the Republic of Armenia, Passport and Visa Department

Ms. Alvina ZAKARYAN, Head of Department

NATIONAL ASSEMBLY

Deputy Chairman of National Assembly

Mr. Vahan HOVANNISSIAN

Armenian Republican Party faction

Mr. Samvel NIKOYAN, Member of Faction

“Armenian Revolutionary Federation (Dashnaktsutyun)” faction

Mr. Hrayr KARAPETYAN, Head of Faction
Mr. Gegham MANUKYAN, Member of National Assembly, News and Political Programs Adviser for Yerkir Media Television

“Justice Bloc” Faction

Mr. Grigor HARUTUNYAN, Secretary of Faction

“National Unity“ Faction

Mr. Alexan KARAPETYAN, Secretary of Faction
Mr. Aghasi ARSHAKYAN, Member of National Assembly

Orinats Yerkir (Country Based on Rule of Law)

Ms. Hermine BISHARYAN, Secretary of Faction
Mr. Hovhannes MARGARYAN, Member of Faction

United Labour Party

Mr. Gurgen ARSENYAN, Head of Faction

People’s Deputy Group

Mr. Vladimir BADALYAN, Member of National Assembly
Mr. Mkrtich MINASSIAN, Member of National Assembly

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Alliance Party

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Mr. Andranik TEVANYAN, Member of Political Board

Heritage Party

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Prosperous Armenia Party

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Mr. Araf SAFARYAN, Head of Analytics Department
Mr. Vartan VARTANYAN, Board Member

“Republic” Party

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Public Television Company of Armenia *HI*

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Mr. Harutun HARUTUNYAN, Director of “Haylur” Information Service

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