INTERNATIONAL ELECTION OBSERVATION
Republic of Armenia — Parliamentary Elections, 6 May 2012

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Yerevan, 7 May 2012 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP).

François-Xavier de Donnea (Belgium), Head of the OSCE PA Delegation, was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term observer mission. Baroness Nicholson of Winterbourne (United Kingdom) headed the PACE delegation, and Krzysztof Lisek (Poland) headed the EP delegation. Radmila Šekerinska (the former Yugoslav Republic of Macedonia) is the Head of the OSCE/ODIHR Election Observation Mission, deployed from 22 March 2012.

The assessment was made to determine whether the elections complied with OSCE commitments and Council of Europe standards, as well as with domestic legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, in particular the tabulation of results and the handling of possible post-election day complaints and appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report at its annual session in 5-9 July 2012. The PACE will present its report at its Standing Committee meeting in Tirana on 25 May. The EP will present its report to the next meeting of the Committee of Foreign Affairs of the European Parliament.

PRELIMINARY CONCLUSIONS

The 6 May 2012 parliamentary elections in the Republic of Armenia were characterized by a competitive, vibrant and largely peaceful campaign. At the same time, an unequal playing field due to violations of campaign provisions and cases of pressure on voters, as well as deficiencies in the complaints and appeals process were causes for concern. The elections were held under an improved legal framework and administered in an overall professional and transparent manner prior to election day. Election day was generally calm and peaceful, but marked by organizational problems and undue interference in the process, mostly by party representatives.

The freedoms of assembly, expression, and movement were generally respected and candidates were, for the most part, able to campaign freely.

The general lack of confidence among political parties and the general public in the integrity of the electoral process is an issue of great concern, despite all stakeholders underscoring their commitment to hold elections in accordance with international standards.

The elections were held under a new Electoral Code, adopted in May 2011. Despite some shortcomings, the Code generally provides a sound framework for the conduct of democratic elections. The Central Election Commission (CEC) and Territorial Election Commissions (TECs) generally worked in an open and transparent manner, and all legal deadlines were respected. Notwithstanding, the manner in which the CEC dealt with complaints undermined the right to effective legal redress.

The media monitored by the OSCE/ODIHR EOM offered extensive coverage of the main political contestants, providing them sufficient opportunities to reach out to voters. The public broadcaster provided political parties with free and paid airtime, in accordance with the Electoral Code. This appears to be an improvement to the period prior to the official campaign. The National Commission on Television and Radio did not note any violations of media-related provisions of the Code.

The process of candidate registration was inclusive overall, although the five-year citizenship and residency requirements are inconsistent with OSCE commitments and Council of Europe standards. Gender requirements were met during the registration of proportional lists, but there was no mechanism to maintain this quota when female candidates withdrew.

The accuracy of the voter lists and their potential misuse for electoral fraud were raised as concerns by most contestants, adding to the general lack of confidence in the electoral process. Voter lists were available for public scrutiny in advance of election day, and the authorities undertook various measures in order to revise and improve their quality and accuracy. Despite improved legislation with regard to voter registration, the accuracy of voter lists was negatively affected by insufficient regulation of data exchange between various institutions.

Campaign-related provisions of the Electoral Code were sometimes violated, mostly by local authorities and some parties. This included teachers being involved in campaign events during school hours, gifts to people and communities from organizations connected to political parties during the campaign period, and the posting of campaign materials on schools and municipal buildings. These observed cases contributed to an unequal playing field for electoral contestants and, together with cases of pressure on voters, are in contravention of paragraph 7.7 of the OSCE 1990 Copenhagen Document. This underscores the need for fair and proper implementation of the new Electoral Code by all stakeholders.

The new Electoral Code has strengthened campaign finance rules. However, the limited independence of the Oversight and Audit Service from the CEC and a narrow legal definition of campaign expenditures remain to be addressed.

The legal framework for complaints and appeals and the manner of dealing with electoral disputes by election commissions and courts often left stakeholders without effective consideration of their claims, contrary to OSCE commitments. The Electoral Code unduly limits the right to file complaints, and first-instance court decisions on electoral rights may not be appealed to a higher court.

The CEC registered 54 domestic NGOs to observe the elections, with over 27,000 observers. Contestants in the elections nominated a large number of proxies.

Election day was calm and peaceful overall. The CEC declared a preliminary voter turnout of 62 per cent. The voting process was orderly and well organized in the large majority of polling stations observed. However, organizational problems, undue interference in the process, mainly by proxies, and cases of serious violations, including intimidation of voters, were observed in a number of polling stations. The ink for stamping voters' passports against possible multiple voting did not work as intended. The vote count process was assessed negatively in one fifth of the observed polling stations, due to procedural problems and isolated cases of serious violations. The tabulation process at most TECs was assessed positively, although unsuitable premises and overcrowding were noted.

PRELIMINARY FINDINGS

Background

The 6 May 2012 parliamentary elections were called by President Serzh Sargsyan on 23 February 2012. The last parliamentary elections were held in May 2007, when the Republican Party of Armenia (RPA), led by President Sargsyan, and Prosperous Armenia (PA) emerged as the dominant forces, with 63 and 22 mandates, respectively. These two parties, together with the Rule of Law Party (RoL), form the government. The other parliamentary parties are the Armenian Revolutionary Federation–*Dashnaktsutyun* (ARF) and Heritage. The Armenian National Congress (ANC), a coalition led by former president Levon Ter-Petrosyan, is a major non-parliamentary force.

Legal Framework and Election System

The Constitution guarantees the fundamental rights and freedoms necessary for democratic elections. However, a five-year citizenship and residency requirement for candidates and disenfranchisement of all prisoners, regardless of the severity of the crime committed, weaken the guarantee of universal suffrage and candidacy rights and are inconsistent with international standards.[1]

A new Electoral Code was adopted in May 2011. While the Electoral Code was adopted well in advance of these elections, allowing sufficient time for familiarization, to some extent there was a lack of awareness and inconsistent interpretation of the new regulations amongst stakeholders.

The Electoral Code generally provides a sound framework for the conduct of democratic elections. However, its fair and proper implementation by all stakeholders is as important as the law itself. The law offers a number of significant improvements, some based on previous recommendations of the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission).[2] There remain, however, a number of substantive shortcomings. Since the Code's adoption, the Central Election Commission (CEC) issued a number of supplementary regulations.

Other relevant legislation includes, *inter alia*, the Law on Political Parties (2002) and a new Law on Freedom of Assembly (2011). The Administrative Offenses Code and Criminal Code were both amended in 2011, increasing penalties for existing offenses, as well as establishing new offenses.[3] Although defamation and libel were decriminalized in 2010, the distribution of libellous campaign material remains a criminal offense.

Parliamentary elections are held under a parallel, mixed electoral system. Of the 131 MPs, 90 are elected under a proportional system in a nationwide constituency. To qualify for the allocation of mandates, parties must receive at least five per cent of valid votes cast. Blocs must receive at least seven per cent. The remaining deputies are elected in 41 single-mandate constituencies.

---

1 See paragraphs 7.3 and 7.5 of the OSCE 1990 Copenhagen Document and Article 25 of the International Covenant on Civil and Political Rights (ICCPR). Also, the Code of Good Practice in Electoral Matters of the Council of Europe's Commission for Democracy through Law (Venice Commission) indicates that no length of residence should be required for candidates in national elections, and that prisoners' voting rights should be proportional to the gravity of the crimes for which they have been convicted.

2 At the request of the National Assembly, OSCE/ODIHR and the Venice Commission carried out a joint legal review of the new Electoral Code; see http://www.osce.org/odihr/elections/84269.

3 The Criminal Code does not include specific offenses related to abuse of official position or state resources in election campaigning.

Election Administration

The elections were administered by a three-tiered system of election commissions. It comprised the CEC, 41 Territorial Election Commissions (TECs), one for each single-mandate constituency, and 1,982 Precinct Election Commissions (PECs). All election commissions consist of seven members. Parties, one registered bloc and candidates registered for the elections could appoint proxies.

Under the new Electoral Code, the CEC and TECs are no longer appointed based on party nominations. PECs are temporary bodies and were formed by 11 April. Two PEC members were appointed by the respective TEC, while each parliamentary party appointed one of the remaining five PEC members. In the appointment process the requirement that at least two members of the CEC and of each TEC are of the under-represented gender was fulfilled.

Representatives of parliamentary parties at the local level generally expressed trust in the election administration since they could nominate PEC members. The ANC, which as an extra-parliamentary force did not have PEC members, expressed its lack of trust.

Before election day, the process was administered in an overall professional and efficient manner. The CEC and TECs worked in an open and transparent manner, granting to proxies, observers and media representatives information and access to their sessions. All legal deadlines were met. CEC and TEC decisions were taken with limited open discussion, somewhat reducing their transparency. The CEC clarified most important procedural aspects of the process in sufficient detail, and posted the approved rules on its website well in advance of election day.

While delineating constituencies, the CEC adhered to the legal requirement that the number of voters in each constituency within a province (*marz*) should not deviate more than 10 per cent from the average constituency size for that province. A new provision (Article 17.2 of the Electoral Code) stipulates that constituency boundaries can not cross provincial boundaries. As a consequence, the number of voters in constituencies in two *marzes* deviated significantly from the country average, which somewhat affected the equality of the vote.[4]

The CEC provided voter information on television and produced posters and leaflets, focusing on voting procedures. It organized nationwide training for the majority of TEC and PEC members; PEC training was overall assessed positively by OSCE/ODIHR EOM long-term observers (LTOs).

Voter Registration

The Passport and Visa Department of the police (PVD) is responsible for the permanent maintenance of a nationwide electronic voter register, which is based on the population register and updated on a regular basis. Voter lists were extracted from the voter register by polling station and posted both at polling stations and, for the first time, in a downloadable version on the PVD

[4] According to the CEC Decision No. 6-N of 12 January 2012, the national average number of registered voters per constituency was 60,333. The number of registered voters in constituency 39 was 46,317 as of 12 January (deviation of 23 per cent), while the numbers in constituencies 19, 20 and 21 exceeded 72,000 voters (more than 20 per cent). According to the Code of Good Practice in Electoral Matters of the Venice Commission (2.2.iv), the permissible departure from the norm should not be more than 10 per cent, and should certainly not exceed 15 per cent; see: http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.pdf.

website, within legal deadlines.[5] The Electoral Code provides voter registration on election day, which is contrary to good practice.[6]

The exchange of relevant data among government institutions was insufficiently regulated.[7] The possibility of multiple entries in the voter lists in the last two days before election day, as well as on election day, remains of concern. The OSCE/ODIHR EOM was informed by the PVD that the police made efforts to remove deceased citizens from the voter register, since Civil Status Registry Offices did not supply timely and sufficient relevant data. Thus, voters who were reportedly deceased were removed from the register on the basis of written statements of relatives and/or neighbours.

On 28 April, a group of 28 MPs challenged the constitutionality of the Electoral Code provisions that deny access after the elections to the voter lists signed by voters. On 5 May, the Constitutional Court upheld the constitutionality of the provisions and clarified that they do not exclude access to the lists for protection of their electoral rights.

In the run-up to the elections, concerns about the quality of the voter register were expressed by most parties, adding to the general lack of confidence in the electoral process. They alleged that deficiencies in the register, such as inflated numbers, inclusion of deceased people and high numbers of voters registered at the same address, might be manipulated on election day. They also raised questions regarding citizens living abroad,[8] and the increase in the number of registered voters by some 157,000 since the 2008 presidential election.[9] OSCE/ODIHR LTOs verified six cases of demolished buildings or of buildings damaged during the 1988 earthquake where voters are still registered.[10]

The police undertook various measures, in co-operation with local authorities, political parties and domestic observers, to improve the accuracy and quality of the voter lists. Police carried out door-to-door verification, launched a telephone hotline, and, together with the CEC, ran a voter information campaign in the media. Prior to election day, 2,484,003 voters were registered.[11]

---

5 In addition, a searchable version of the entire voter register was publicly accessible on the CEC website.

6 Article 12.2 provides for voter registration "during preceding four days and on election day until the end of voting". In case a voter has been omitted from the voter list due to technical reasons, he/she is added by the PEC to the list based on a PVD statement. Article 12.3 allows a voter to address courts for correction of personal data or addition to the voter list, including on election day. The court will issue a decision tasking the PVD to make relevant updates. According to the Code of Good Practice in Electoral Matters of the Venice Commission (1.2.iv), the registration should not take place at the polling station on election day; see: http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.pdf.

7 The Venice Commission and OSCE/ODIHR have previously recommended that all relevant authorities in Armenia take all necessary steps, according to an integrated approach, to continue their efforts to compile an accurate voter register; see http://www.osce.org/odihr/elections/84269.

8 Citizens of Armenia are entitled to vote in proportional elections regardless of their place of residence. By law, Armenian citizens who live abroad and do not register with an Armenian embassy or consulate remain on the voter list in their place of registration in Armenia. The PVD informed the OSCE/ODIHR EOM that there is no legal ground to remove these voters from the voter list.

9 According to the authorities, the increase in the number of voters is due to factors such as citizens turning 18 and diaspora Armenians being granted citizenship (around 27,000 since 2008).

10 As observed in Gyumri and constituency 6 in Yerevan.

11 This number included 238 diplomatic service staff and their family members, who, for the first time, could vote via the internet (before 6 May).

In response to stakeholders' concerns regarding the high number of passports having been printed, the PVD stated that the increase in the number of new passports issued during 2011–2012 was mainly due to replacements of previous passports.[12]

Candidate Registration

The candidate registration process was inclusive. The CEC registered all 9 candidate lists for the proportional component of the elections from 8 political parties and 1 bloc of parties, amounting to 1,016 candidates.[13] This provided voters with a wide choice. The TECs registered 155 candidates in the 41 constituencies, of which 89 were nominated by 13 parties and 66 were self-nominated. Two candidates, both self-nominated, were rejected.[14] The alternatives in majoritarian contests were at times limited, with just one or two candidates in nine constituencies.[15] After registration, 12 candidates withdrew from the proportional and 18 from the majoritarian contest. The case of a self-nominated candidate in constituency 21, who was beaten on 6 April and subsequently withdrew his candidacy, is still being investigated by the authorities.

The five-year permanent residence for the determination of candidate eligibility is not clearly defined. The CEC did not address this issue, which resulted in a lack of clear rules for candidate registration in this regard.[16]

The Electoral Code requires that proportional candidate lists have both genders represented among each integer of five candidates, starting with candidate number two. The effectiveness of the quota is limited as candidates may withdraw after the list has been registered and there is no requirement for maintaining the original gender proportion. All parties nominated women according to the legal requirement. Initially 235 female candidates were registered on proportional lists (23 per cent), of whom 7 withdrew. As a result, the proportion of women on RoL's list fell below 20 per cent. In the majoritarian races, 12 female candidates were initially registered (less than 8 per cent), one of whom withdrew. Of the 41 single-mandate constituencies, 32 had no female candidate.

The Campaign Environment and Campaign Finance

The election campaign was vibrant, competitive and largely peaceful. Competition was intense among all contenders, including current partners in the government. The freedoms of assembly, expression, and movement were generally respected. Some instances of use of inflammatory language by ANC candidates were noted.[17] There were four violent incidents, between supporters of different parties.[18] The authorities provided all contestants with free spaces for posters and

---

12 The PVD informed the OSCE/ODIHR EOM that some 200,000 passports were issued in 2009, around 270,000 in 2010, around 398,000 in 2011, and around 100,000 from 1 January to 10 April 2012. Police stated that starting with April 2011 citizens with extended passports will not be able to enter the Schengen area.

13 RPA, PA, ARF, RoL, Heritage, Communist Party of Armenia (CPA), Democratic Party of Armenia (DPA), United Armenians Party (UAP), and the ANC bloc.

14 One prospective candidate was rejected for not fulfilling the five-year residency requirement, while the second did not pay the required electoral deposit.

15 Constituencies 28 and 35 had only one candidate. The respective ballots had two alternatives (in favor and against the candidate). The candidate had to receive more than 50 per cent of the valid votes cast to be elected.

16 The CEC opined that it is not required to issue such a clarification. Five prospective candidates who applied to the PVD for the certificate of five-year residence were denied and therefore could not register.

17 These included references by an ANC candidate to President Sargsyan as the 'Führer' of a 'fascist regime' and statements by ANC leader Ter-Petrosyan calling the ruling power a 'criminal regime,' 'worse than the Communists' since it 'used the army to kill its own citizens'.

18 Those included violent incidents in constituency 7 in Yerevan on 15 and 16 April, when RPA supporters assaulted ANC candidates and activists who were distributing campaign material considered insulting by the

campaigning, as required by the Electoral Code. However, contestants did not always comply with the law, especially with regard to the use of posters and campaign material.[19]

All parties and the bloc running in the proportional elections underlined their commitment to hold elections in line with international standards. There were numerous initiatives by the authorities, electoral contestants and civil society aimed at ensuring the integrity of the process.[20] At the same time, the campaign was marked by allegations of deficiencies in the voter lists, vote buying, issuance of passports to facilitate election fraud, and voter intimidation. Thus, the low level of public confidence in the integrity of the electoral process remained a serious challenge.

The prosecutor general's office and the police were transparent in their follow-up activities on reported electoral violations. However, no charges were laid against potential violators and many cases were closed, some after only apparently cursory investigation. In three incidents, the police rejected initiating a criminal case on the grounds that perpetrators were justified in committing a criminal offence in the defence of their own electoral rights. This inaction is inconsistent with the constitutional principle of rule of law.

Cases of pressure on voters, such as obliging employees to attend RPA rallies and discouragement from attending opposition rallies, raised concern.[21] Such practices put in question the extent to which voters were free to discuss and learn about all contestants' views and cast their vote free of retribution, as provided by paragraph 7.7 of the OSCE 1990 Copenhagen Document.

Several cases of misuse of administrative resources, prohibited by the Electoral Code, were noted by the OSCE/ODIHR EOM.[22] Although the Electoral Code prohibits mixing of campaigning and official duties by employees in the education sector, OSCE/ODIHR LTOs observed numerous cases where the RPA actively involved teachers and pupils in campaign events, including during school

supporters of the RPA candidate. Also, the police is investigating the stabbing of an opposition supporter from Lernapat village (Lori province), allegedly by the son of the RPA mayor.

19 OSCE/ODIHR LTOs observed RPA posters on public transport in Lori province and posters on municipal buildings, mostly of RPA, as well as of PA and ARF. In constituency 3, managers of several private buildings complained to the TEC that posters of PA, ARF and an ANC candidate had been posted on these buildings without their consent.

20 These included public statements by the President and the CEC chairperson, the establishment of working groups by parliament and by the prosecutor general, inter-party headquarters of PA, ANC and ARF for monitoring electoral violations, a code of conduct initiated by the RPA (joined by PA, DPA, RoL, CPA), a Transparency International project on campaign-finance monitoring, and a voter awareness campaign implemented by IFES. The Human Rights Defender established a legal assistance project for elections.

21 For example, on 27 April, the RPA rally organizer in Gyumri (Shirak province) checked attendance by asking all present Gazprom employees to raise their hands. At the same event, the director of the Gyumri Department of Cultural Affairs pledged his staff's support to the RPA candidate. Several participants at that rally informed OSCE/ODIHR LTOs that they were Gazprom employees who had been ordered to leave earlier from work and attend the rally. In Talin (Aragatsotn province), LTOs noted staff from the local tax office discussing the fact that they had been released early from work to attend an RPA rally. In Armavir province, a number of residents separately informed the LTOs that they had been threatened with job loss by the authorities, the mayor and the RPA if they attended a Heritage rally scheduled for the same day. In Syunik province, the head of a village made a list of RPA supporters and a 'list of suspects', asking the local school director to verify them. The school director confirmed this to LTO, and presented herself as an RPA supporter. The head of Ageshat village (Armavir province) informed the LTOs that he had urged campaigners of a self-nominated candidate to leave the village and that he supports his brother who is running for the RPA.

22 OSCE/ODIHR LTOs observed an ambulance advertising an RPA rally to be held in Kapan (Syunik province), a truck owned by the Vanadzor local government attaching RPA flags on street lights and three cases of local heads of communities campaigning for RPA during working hours (Kotayk province).

hours.[23] In one case in Lori province, teachers and local authorities asked parents to attend an RPA event. RPA campaign material and party flags were observed by LTOs on a number of school buildings.[24] The RPA campaign was conducted at the local level with the active participation of school directors. In one instance the rector of a private university, during school hours, encouraged attendants to vote for RPA candidates.[25]

Misuse of administrative resources, including human resources of education-sector employees, violates Articles 18 and 22 of the Electoral Code. Moreover, such practices contribute to an unequal playing field for political contenders, contravening paragraph 7.7 of the OSCE 1990 Copenhagen Document.

Multigroup, a company belonging to PA leader Gagik Tsarukyan, distributed some 500 tractors during the campaign period. The project was mainstreamed into the PA's campaign.[26] Under Article 18.7 of the Electoral Code, electoral contestants and associated charitable organizations are prohibited from providing or promising goods and services to voters during the campaign period. In response to a complaint on this matter, the CEC decided that there was no violation of the law. It based its decision on the explanation of PA. The OSCE/ODIHR EOM also noted one instance where RPA candidates did not comply with provisions of this article.[27]

The new Electoral Code has strengthened campaign finance rules.[28] However, two main concerns remain: limited independence of the Oversight and Audit Service from the CEC, and a narrow legal definition of campaign expenditures.[29] Some 12 majoritarian candidates did not open special campaign accounts, and 1 reported no expenditures prior to election day.[30] All other candidates reported to the Audit Service of the CEC, and their reports were publicized in a timely manner. Up to election day, no campaign finance violations were identified by the CEC.

The Media

Television is the most important source of information in Armenia. Print media is constrained by limited circulation figures. Despite limited content diversity, during the official campaign period, which started on 8 April, broadcasters guaranteed access to all major political parties, thus enabling

---

23 Cases of teachers and students being released from school to attend RPA rallies or being asked to attend rallies after school hours, were observed by OSCE/ODIHR LTOs in Charensavan, Ejmiatsin, Hrazdan, Nor Hacin, Vardenis, Vanadzor and Yerevan.

24 RPA posters were noted on school buildings designated to serve as polling stations in Armavir, Lori and Shirak provinces. RPA flags were also observed on a number of schools in Armavir and Lori provinces.

25 Similar cases were observed in Ejmiatsin and in Vanadzor (Lori province).

26 OSCE/ODIHR LTOs noted the tractors in seven provinces, often adorned with PA campaign material or parked close to massive PA posters. The tractors also featured in the PA political advertisement on TV.

27 For example, OSCE/ODIHR LTOs observed a sign (along a road that is being repaired) informing that the RPA candidate in constituency 38 (Kapan, Syunik province) is involved in the repair project financed by the Kajaran Mining Factory. The candidate is the son of the director of this company. In response to a complaint filed by an ANC candidate on this matter, TEC 38 dismissed the complaint on grounds that this was not illegitimate activity. The CEC refused to consider an appeal against the respective TEC decision.

28 Contestants must open a special bank account through which all campaign funds must pass. Funds can comprise donations from voters, contestants' personal funds, and party donations. Foreign and anonymous donations are not allowed by law. There are spending caps established by law for the various contests.

29 The Electoral Code provides that organizational expenditures, such as services of marketing agencies, campaign offices, transportation and communication expenses, do not fall under campaign finance regulations. See also the OSCE/ODIHR and the Venice Commission joint legal review of the Electoral Code, http://www.osce.org/odihr/elections/84269.

30 Article 25.1 of the Electoral Code requires all electoral contestants to open special campaign accounts; however, the CEC Oversight and Audit Service interpreted this provision as non-mandatory for those contestants who do not intend to spend money on campaign activities.

voters to be informed of their political positions. This appears to be an improvement over the period prior to the official campaign. The Electoral Code regulates all broadcast media during the campaign period, with requirements for news coverage, paid advertisements and free airtime.

The media monitored by the OSCE/ODIHR EOM offered extensive coverage of the six large political parties and bloc within their news programmes.[31] They also broadcast interviews with party representatives and candidates, but only 19 televised debates. In seven cases, one or more invitees did not attend the scheduled debates. Media coverage of majoritarian candidates was limited. The public broadcaster, *Public TV and Radio*, provided political parties with free and paid airtime. The monitored broadcast media respected the campaign-silence provisions.

Public television *H1* devoted 20 per cent of its news coverage to RPA, 19 per cent to ANC, 12 per cent each to ARF, Heritage and RoL, and 8 per cent to PA. The tone of news coverage was generally neutral, although some positive tone was recorded for RPA and RoL. *Public Radio* allotted its news coverage equally among the major parties, overall. While the law prescribes that state newspapers must be impartial, the state daily *Hayastani Hanrapetutyun* devoted 24 per cent of its space to RPA, mostly neutral or positive in tone, 12 per cent to government officials and 5 per cent to the President in his official capacity.

The monitored private broadcasters showed some political division. *Kentron TV* favoured PA, while *Yerkir Media* favoured ARF and PA.

H2, *Armenia TV* and *Shant TV* provided equitable coverage to the major political parties, but a more positive tone was noted towards RPA (*Armenia TV, H2* and *Shant TV*), RoL (*H2),* PA (*Shant TV*) and ANC (*Shant TV*). *Radio Free Europe/Radio Liberty* was more negative in tone towards RPA.[32]

In accordance with the law, the National Commission on Television and Radio (NCTR) published two media monitoring reports, on 17 and 27 April. These reports did not note any violations of the Electoral Code, but the NCTR sent official letters to four TV channels referring to bias in the channels' news coverage.[33]

In several cases TV channels, instead of relying on their own material, broadcast in their news the same campaign material which was also used in paid political advertisement.[34] Such practices damage the credibility of media reporting and undermine the autonomy of the media from the political sphere, and may have been misleading for viewers.

---

31 The OSCE/ODIHR EOM monitored the prime time (18:00–24:00 hours) political and election-related coverage of six national TV channels: *H1* (public television), *H2*, *Armenia TV*, *Shant TV*, *Yerkir Media*, *Kentron TV*; two radio stations: *Public Radio* and *Radio Free Europe/Radio Liberty*; and the daily state newspaper *Hayastani Hanrapetutyun*.

32 *Kentron TV* allotted 48 per cent of news coverage to PA (mostly positive). *Yerkir Media* devoted 27 per cent of news coverage to the ARF (often positive) and 16 per cent to PA (often positive). *H2* devoted 19 per cent of news coverage to RPA (often positive), 18 per cent to PA and 12 per cent to RoL. *Armenia TV* allotted 23 per cent of news coverage to Heritage, 20 per cent to RPA (often positive), and 17 per cent to ANC. *Shant TV* allotted 21 per cent of its news coverage to Heritage, 19 per cent to RPA (often positive), 12 per cent to ANC (sometimes positive), and 14 per cent to PA (mostly positive). *Radio Free Europe/Radio Liberty* devoted news coverage to all major parties, predominantly to the RPA (26 per cent, at times negative in tone).

33 A third and last NCTR media monitoring report is to be published on 10 May. This report will include an assessment of the overall media coverage of the campaign.

34 Campaign material of PA was broadcast in news by *Kentron TV* 16 times, by *Shant TV* 5 times and by *Yerkir Media* once. On 19 April, *H2* and *Armenia TV* broadcast identical news items about a campaign event of an RPA majoritarian candidate.

Complaints and Appeals

The manner in which election commissions and courts dealt with election complaints often left stakeholders without effective consideration of their claims, contrary to paragraph 5.10 of OSCE 1990 Copenhagen Document as well as Article 8 of the Universal Declaration of Human Rights.[35] Election commissions and courts in general took an overly formalistic approach to handling complaints. The limited right to file complaints and to appeal first-instance court decisions adds to the lack of effective resolution of election complaints. In addition, the legal framework for complaints and appeals is unduly complex.

A relatively small number of official complaints were filed with the appropriate institutions, despite the high number of informal complaints voiced. Various stakeholders expressed to the OSCE/ODIHR EOM a lack of trust in the election administration, courts and law enforcement bodies to impartially and effectively handle electoral complaints, and that there is a public reluctance to report electoral offenses. Also, an insufficient knowledge of the complaint procedures was evident.

Decisions, actions and inactions of election commissions can be appealed to the superior commission, while all complaints against the CEC are under jurisdiction of the Administrative Court.[36] Complainants may choose to file complaints directly to the Administrative Court, creating an overlapping jurisdiction with superior commissions. Complaints against election results are solely under the Constitutional Court's purview. A positive feature of the new Electoral Code is the requirement that administrative due process is applied by election commissions in handling of complaints. However, the Electoral Code unduly limits the right to file complaints to those whose personal electoral rights are at stake, essentially denying voters the right to seek judicial remedy for breach of general electoral rights,[37] and court decisions on electoral rights may not be appealed.

Prior to election day, the CEC received some 494 complaints. The vast majority (461) was filed by one person, most alleging campaigning by high-level public officials running as candidates and imbalanced news reporting.[38] The CEC denied consideration of these complaints on grounds that private individuals do not have a legal right to file such complaints. At the same time, the CEC examined some of the facts alleged in these complaints and found no violations. Almost all other complaints filed to the CEC were denied consideration on various technical grounds or rejected, often without due consideration of the claim's substance or evidence. Some decisions lacked sound legal basis.[39]

---

35 Paragraph 5.10 of the OSCE 1990 Copenhagen Document establishes the right of everyone to "effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity". Article 8 of the Universal Declaration of Human Rights states that "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law"; see http://www.un.org/en/documents/udhr/index.shtml.

36 Article 146.2 of the Administrative Procedures Code provides that complaints against election commissions regarding oversight of the campaign cannot be lodged prior to the official start of the campaign. The Administrative Court held in one case that campaign regulations in the Electoral Code do not apply before the start of the official campaign.

37 Article 46.1, points 1 and 3, provides that decisions, actions (inactions) of an election commission may be appealed by anyone who finds that his or her 'subjective right of suffrage' is violated or by an observer if his or her 'observer rights' are violated.

38 The Electoral Code is unclear which body, the CEC or NCTR, has jurisdiction to consider election-related media complaints; both bodies claim jurisdiction.

39 For example, the CEC ruled that the placement of party flags is not regulated, as they are not campaign posters (which cannot be placed in certain locations, for example in public transportation and official buildings).

Some 30 complaints were lodged to TECs prior to election day, mainly alleging infringements of campaign rules including vote buying, campaigning in schools and poster violations. Most cases were not given due consideration. In some cases warnings were given to candidates for violations of poster regulations. Several candidates filed requests for de-registration of other candidates for electoral violations, but none were approved.[40] TECs 19 and 23 issued decisions that principals and teachers are not prohibited from campaigning in schools, which is an unreasonably narrow interpretation of the Electoral Code.[41] The CEC did not take the initiative to address this issue, however in one complaint it ruled that the establishment of campaign offices in schools is not prohibited. The Administrative Court upheld the decision of TEC 23.

Four cases related to candidate registration were filed with the Administrative Court. A candidate who was rejected both in the majoritarian (constituency 10) and the proportional contest claimed the PVD improperly denied him a five-year permanent residence certificate and that, in turn, both the TEC and CEC unlawfully denied his registration. Two majoritarian candidates (in constituencies 19 and 37) each claimed a competitor had been unlawfully registered without meeting the five-year residence requirement. The court rejected all four cases against the CEC and TEC decisions on technicalities, without examining the core issue of whether the residence requirement had been legally satisfied.[42] Some 22 complaints were filed with the Administrative Court before election day. Nearly all were denied consideration or dismissed on technicalities, without examining the core substance of the claim or without sound legal basis.

Domestic and International Observers

The Electoral Code provides for international and domestic election observation. The CEC accredited observers from 10 international organizations and 27,141 observers from 54 domestic NGOs.[43] The accreditation process was inclusive overall, although some cases of narrow or literal interpretation of legal requirements resulted in rejection of accreditation of 10 domestic organizations. Some 4,310 domestic NGO observers did not pass a mandatory CEC test or chose not to take it and thus did not observe. OSCE/ODIHR EOM interlocutors repeatedly shared their concerns regarding the mandatory certification of domestic observers, an issue previously raised by the OSCE/ODIHR and the Venice Commission.

Civil society representatives raised concerns regarding the elimination of Article 30.6 from the previous Electoral Code, which granted observers immunity from prosecution for expressing opinions about the electoral process. However, such concerns are addressed by the repeal of the defamation provisions in the Criminal Code in 2010.

---

40 The Electoral Code provides that the only penalty for electoral violations is a warning or de-registration.

41 Article 4.8 of the Law on Public Education states that "it is prohibited to conduct political activity and campaigning in educational institutions."

42 The court maintained that it had no authority to examine the core substance of the claims because the plaintiffs had defined their claim as against the PVD certificate/revocation and the TEC/CEC decisions, rather than against the PVD's actions leading to the issuance of the certificates/revocation. When one plaintiff submitted a follow-up claim to challenge the PVD's actions, the court refused consideration by erroneously applying the three-day deadline for filing complaints for protection of electoral rights. One complainant challenged the constitutionality of the legal provision denying the possibility to appeal decisions on electoral rights. The Constitutional Court denied consideration.

43 For party proxies, TECs issue three blank authorizations per contestant and precinct, which are then distributed by the contestants. Proxies do not need to be certified, and the election administration does not keep track of their names.

Election Day

Election day was calm and peaceful overall. The CEC declared a preliminary voter turnout of 62 per cent. It started posting detailed preliminary results by polling stations for the proportional election on its website at around 01:30 hours, which contributed to the transparency of the tabulation process.

While opening procedures were assessed positively in almost all polling stations observed, voting was assessed negatively in 10 per cent, which is considerable. The voting process was orderly and well organized in the large majority of polling stations observed; however, organizational problems, undue interference in the process and cases of serious violations were observed in a significant number of polling stations. Campaign materials were present outside some 8 per cent of polling stations visited.

In 15 per cent of polling stations observed, lack of organization or disputes between PEC members and party/candidate proxies or observers negatively affected the voting process. International observers reported overcrowding inside 16 per cent of polling stations observed, large crowds outside waiting to vote in 15 per cent, and tension or unrest in 6 per cent. Proxies were present in nearly all polling stations observed, and domestic observers in 87 per cent. Unauthorized people, mostly proxies, interfered in or directed the work of 12 per cent of the PECs observed. International observers reported cases of people attempting to influence voters who to vote for (4 per cent of polling stations observed), as well as cases of intimidation of voters (2 per cent). On election day, allegations of vote buying were reported to the police and several criminal cases were initiated.

International observers reported a number of serious violations, including group voting (12 per cent of polling stations observed), proxy voting (4 per cent), multiple voting (2 per cent) and series of seemingly identical signatures on voter lists (2 per cent). In 7 per cent of polling stations observed, ballot boxes were not properly sealed at the time of observation. The secrecy of the vote was not always ensured, as not all voters marked their ballots in secret (12 per cent) or put them in envelopes before leaving the voting booth (13 per cent). International observers noted several instances where videotaping by proxies or media representatives violated the secrecy of the vote. Voter identification procedures were generally adhered to; in 3 per cent of polling stations observed, voters were turned away because their names were not on the voter list. According to CEC figures, the numbers of voters added to additional voter lists on election day was very low.

The special ink for stamping voters' passports, a safeguard against multiple voting, should have remained visible for 12 hours but faded much faster. As a result of conflicting guidance from the CEC, which had not tested the ink beforehand, and TECs, some PECs continued to use the fading ink, while others used the ink intended for stamping ballot envelopes or mixed both types of ink.

Women represented 32 per cent of PEC chairpersons and 44 per cent of PEC members in the polling stations observed by international observers.

The vote count process was assessed negatively in almost one fifth of the observed polling stations. Some PECs did not begin the count immediately after voting had ended or did not perform basic reconciliation procedures required by law, such as counting the signatures of voters on the voter lists. A few PECs performed the count in a non-transparent manner. Unauthorized people participated in one in four counts observed. International observers reported isolated cases of serious violations, such as falsification of results or protocols (four cases) or indications that ballot box stuffing had occurred earlier (five cases). Figures on the results protocols frequently did not

reconcile, one in three PECs observed had problems completing the protocols, and one in four PECs did not post copies of the protocols for public scrutiny.

The tabulation process was assessed positively in 33 of the 41 TECs from which international observers reported during election night. While the process was transparent in most TECs, many TEC premises were overcrowded and not adequate for the reception and processing of PEC protocols. International observers reported that many PEC results protocols were not fully completed and that frequently arithmetical errors had to be corrected by the TECs (in accordance to the law). A few cases of problems with the data processing of results were reported.

The English version of this report is the only official document.
An unofficial translation is available in Armenian.

MISSION INFORMATION & ACKNOWLEDGEMENTS

Yerevan, 7 May 2012 – The OSCE/ODIHR Election Observation Mission opened in Yerevan on 22 March. It includes 17 experts in the capital, and 24 long-term observers deployed throughout Armenia.

On election day, 349 short-term observers were deployed, including a 60-member delegation from the OSCE PA, a 25-member delegation from the PACE, and a 10-member delegation from the EP. In total, there were observers from 42 OSCE participating States. Voting was observed in almost 1,000 polling stations out of a total of 1,982. Counting was observed in 102 polling stations across all constituencies. The tabulation process was observed in all 41 TECs.

The observers wish to thank the authorities of the Republic of Armenia for the invitation to observe the election, the Central Election Commission for its co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs and other authorities for their assistance and co-operation. The observers also wish to express appreciation to the OSCE Office in Yerevan and embassies and international organizations accredited in Armenia for their co-operation and support.

For further information, please contact:

- Radmila Šekerinska, Head of the OSCE/ODIHR EOM, in Yerevan (+374–10–545 922);
- Thomas Rymer, OSCE/ODIHR Spokesperson (+48–609–522 266); or Raul Mureşan, OSCE/ODIHR Election Adviser, in Warsaw (+48–22–520 0669);
- Neil Simon, Director of Communications, OSCE PA, in Copenhagen (+45–60108380);
- Tina Schoen, Deputy Secretary General, OSCE PA, in Copenhagen (+45–40304985);
- Bogdan Torcătoriu, PACE Interparliamentary Co-operation and Election Observation, in Armenia (+374–98355387), in Strasbourg (+33 388 413 282);
- Emilia Gallego Perona, EP (+374 96 697903 or +32 4989 81364), emilia.gallego@europarl.europa.eu.

OSCE/ODIHR EOM Address:
18 Bagramyan Street
0010 Yerevan, Republic of Armenia
Telephone: +374–10–545 922
Fax: +374–10–545 916
E-mail: office@odihr.am
Website: www.osce.org/odihr/elections/armenia/2012