

INTERIM REPORT No. 2
3 - 24 April 2012

27 April 2012

I. EXECUTIVE SUMMARY

- The election campaign, which officially started on 8 April, is vibrant. Contestants are generally able to campaign and have been provided with free venues and poster space. However, there have been instances of obstruction of campaign activities, including two violent scuffles in Yerevan.
- The OSCE/ODIHR Election Observation Mission (EOM) has noted cases where campaign provisions of the Electoral Code were violated. These included campaigning in schools, teachers and students being asked to attend campaign events of the Republican Party of Armenia, and campaign material of some parties being placed on municipal buildings and polling stations. A business owned by the leader of Prosperous Armenia is distributing tractors in several provinces, *de facto* as part of the party's campaign. As of 17 April, the police has examined or was examining 14 cases of possible electoral offences.
- Preparations for the elections are proceeding according to legal deadlines. The Central Election Commission (CEC) and Territorial Election Commissions (TECs) continue to work in an open and transparent manner. Precinct Election Commissions (PECs) have been formed and are being trained. The CEC has adopted and published the main procedural rules and official documents, well in advance of election day.
- The media monitored by the OSCE/ODIHR EOM are providing extensive political and election-related coverage. Before the start of the official campaign, the President and government officials received extensive coverage in the monitored media. After 8 April this has decreased significantly, with media focusing on the major parties and the one registered bloc. The public broadcaster is fulfilling its obligation to provide parties and blocs registered for the proportional elections with free and paid airtime.
- As of 20 April, the CEC had received more than 80 complaints, the vast majority filed by the same individual. While denying them consideration since private citizens do not have the right to file complaints unrelated to their personal voting rights, the CEC examined the substance of some of these complaints, and found no violations of the Electoral Code. Four cases regarding candidate registration were filed with the Administrative Court, all connected to the five-year residency requirement for candidate registration. All were rejected on technicalities without examining the core issue whether the residence requirement had been legally satisfied.

II. CAMPAIGN AND CAMPAIGN FINANCING

The official campaign period began on 8 April. After a slow start, the campaign has picked up and is vibrant. It is mainly conducted through the media, street advertising, door-to-door canvassing and *ad hoc* meetings. Only a few parties have been using billboards or organizing larger rallies, with the Republican Party of Armenia (RPA) and Prosperous Armenia (PA) being most visible.

While Article 18.6 of the Electoral Code prohibits campaigning and distribution of campaign material by pedagogical staff and in educational institutions, OSCE/ODIHR long-term observers (LTOs) reported a number of cases of teachers and students involved in the RPA campaign. In Edjmiadzin, on 11 April students and teachers were released from school to attend an RPA rally. On 14 April in Arabkir (a district of Yerevan), teachers asked students to attend, after classes, an RPA rally with President Sargsyan. LTOs observed RPA majoritarian candidates (constituencies 19 and 21, Armavir province) campaigning in schools with students and teachers present.

Some cases of the use of administrative resources by the RPA were observed, including use of an ambulance for announcing a campaign event in Kapan (Syunik province). OSCE/ODIHR LTOs also noted staff from the local tax office discussing that they had been released early from work on condition that they attended an RPA rally in Talin (Aragatsotn province) on 20 April.

New regulations restricting the usage of campaign posters and material appeared to be mostly complied with. There were a few exceptions where RPA, PA, and the Armenian Revolutionary Federation (ARF) placed their posters on municipal buildings or polling stations. The OSCE/ODIHR Election Observation Mission (EOM) also noted RPA party flags in a number of schools (Vanadzor and Armavir provinces). The EOM has noted several instances of use of inflammatory language at rallies of the Armenian National Congress (ANC).¹

The integrity of the electoral process is an important campaign theme, with nearly all parties and many media raising concerns about the quality of the voter list, vote buying and civil registration procedures.² Some interlocutors have also raised concerns about the high number of new passports – the main identity document for voter identification – being issued.³ At the same time, all parties and the bloc running in the elections have stated their commitment to hold transparent and democratic elections, and several initiatives aimed at ensuring this have been launched.⁴

As of 17 April, the police has examined or was examining 14 cases of suspected electoral offences. Seven investigations were closed due to lack of evidence, while investigations of the other seven cases were ongoing at the time of writing.

Although all contestants were generally able to campaign and were provided with free venues and poster space, there were a few instances of opposition campaign activities being disrupted. These included: preventing the distribution of flyers, reported intimidation of participants at rallies,⁵ and

¹ These include references by an ANC candidate to President Sargsyan as the 'Führer' of a 'fascist regime' (observed by OSCE/ODIHR LTOs in Yerevan on 20 April) and statements by ANC leader Levon Ter-Petrosyan calling the ruling power a 'criminal regime' which was 'worse than the Communists' since it 'used the army to kill its own citizens' (observed by LTOs at two rallies in Armavir and Edjmiadzin on 18 April).

² All political parties, except the RPA and the United Armenians Party (UAP), raised concerns about the quality of the voter list with the OSCE/ODIHR EOM. Vote buying and civil registration procedures were a frequent theme in daily newspapers (*Zhoghovurd*, *Hraparak*, *Zharangutyun*, *Armenian Times*, *Aravot*), some TVs (*Shant TV*, *Yerkir Media*) and Internet sites such as A1+, news.am and Iragir.am.

³ These interlocutors included ANC and PA representatives. See also Section III on Election Administration.

⁴ Such initiatives include a monitoring group at the National Assembly, led by the speaker of parliament, and an intra-party headquarter for "oversight of the elections", established on 11 April by the ANC, PA and ARF. Heritage, which initially supported the latter, withdrew from this initiative. The RPA launched an initiative for a code of conduct, to be signed by all participants in the proportional elections, which would stipulate the rules of fair competition and ensure respect of the Electoral Code.

⁵ On 15 April, in a village in Armavir province, a number of residents separately informed OSCE/ODIHR 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.

two violent scuffles. The latter took place between supporters of the ANC and the RPA in constituency 7 in Yerevan on 15 and 16 April, when ANC activists were distributing campaign material considered insulting by the supporters of the RPA candidate. While the police is investigating one of the attacks on ANC activists, it considers them to be common offences, rather than election-related.⁶ The RPA candidate, for his part, filed complaints about the content of the ANC campaign material with Territorial Election Commission (TEC) 7 and the police.

Article 18.7 of the Electoral Code prohibits parties and candidates, as well as charitable organizations whose names may be associated with them, from giving or promising goods and services to voters during the campaign period. OSCE/ODIHR LTOs noted that after the start of the campaign period, new tractors appeared in Aragatsotn, Ararat, Armavir, Kotayk, Lori and Shirak provinces, next to or adorned with PA campaign material. According to a PA brochure, the party attached importance to the creation of tractor stations in all provinces.⁷ The OSCE/ODIHR was informed by the general director of Multigroup, a company which belongs to the PA leader, that the distribution of tractors is part of a business project. PA headquarters issued a statement that no tractors were being donated and that the party was not implementing any charitable programs.⁸

Since the end of candidate registration, seven candidates from proportional lists and eight majoritarian candidates withdrew.⁹ While most of them cited personal reasons and other obligations, a candidate standing in constituency 21 was physically attacked before his withdrawal.¹⁰ Another candidate who withdrew told the OSCE/ODIHR EOM that the sole purpose of his registration was to allow for another majoritarian candidate to stand, since at least two candidates must initially be registered for the election to take place.¹¹ Following the withdrawals, only one majoritarian candidate remains on the ballot in constituencies 28 and 35.¹²

Candidates, parties and the one registered bloc filed the first reports on the financing of their campaign, which were due on 17 April, in a timely and correct manner. The Central Election Commission (CEC) reported no violations on this process. However, 31 majoritarian candidates did not open special accounts for the purpose of funding their campaign. The CEC's Oversight and Audit Service interprets Article 25 of the Electoral Code as not obligating candidates to open this account if they do not intend to fund any event qualified by the Code as campaign expenses. The law also does not specify a deadline for opening an account.

III. ELECTION ADMINISTRATION

Administrative preparations for the elections are proceeding according to legal deadlines. The 1,982 Precinct Election Commissions (PECs) were formed by 11 April.¹³ OSCE/ODIHR LTOs reported

⁶ Pursuant to the provision under which the incident is being investigated, Article 117 of the Criminal Code, the maximum penalty for intentional infliction of minor personal injury is two months detention, while for hindering election campaigning using violence (Article 149) it is five years imprisonment.

⁷ OSCE/ODIHR LTOs in Kotayk and Armavir were informed that the tractors are given to communities by PA for free. In Gavar, the EOM was informed by a local PA representative that they are part of PA's program.

⁸ <http://www.alplus.am/en/politics/2012/04/21/bhk>.

⁹ The candidates who withdrew from proportional lists were from Rule of Law Party (RoL) (three women), RPA (one woman) and Heritage (two men). All eight candidates who withdrew from the majoritarian elections were self-nominated (seven men and one woman).

¹⁰ According to the authorities, a criminal investigation of this case is underway.

¹¹ The candidate remaining on the ballot confirmed this account to OSCE/ODIHR LTOs.

¹² A majoritarian election takes place even if there is just one candidate. The ballot will include two alternatives, in favor and against the candidate, and the candidate must receive more than 50 per cent of the votes.

¹³ TECs appointed 2 PEC members, while ARF, Heritage, PA, RoL and RPA each appointed one PEC member.

that despite some substitutions in the membership, the PECs convened their first sessions.¹⁴ PEC trainings on pre-election and election-day procedures are underway; LTOs positively assessed the trainings they attended.

The CEC and TECs continue to work in an open and transparent manner, granting information and access to their sessions to party, bloc and candidate proxies, observers and media representatives. OSCE/ODIHR LTOs reported that TECs and PECs are generally well-equipped, although in some cases their premises were of concern.¹⁵ Representatives of parliamentary parties at the regional level generally expressed trust in the election administration since they could nominate PEC members and appoint proxies at all levels of the election administration, while the ANC bloc, which as an extra-parliamentary force is not represented in PECs, expressed its lack of trust. However, possible conflict of interest could decrease the level of trust in some TECs.¹⁶

The CEC in its work continues to meet legal deadlines. During the reporting period, the CEC has allocated free and paid airtime in the media, designated the places for paid campaign billboards,¹⁷ and published on its website the locations designated for free poster space and indoor meeting venues for the parties and bloc running in the proportional elections. The CEC has approved and made the main procedural rules and standard forms of official documents available on its website, well in advance of election day. However, the CEC did not issue a regulation defining the five-year permanent residence for determination of candidate eligibility and did not establish clear and objective procedures for its certification. In practice, there was an inconsistent approach by the Passport and Visa Department of the police (PVD) in issuing such certificates. Moreover, the complaints considered by the CEC and the court showed some candidates were unclear about the residence criteria for registration.

The question whether candidates may grant free transport services to voters on election day also remains unaddressed. The CEC and the PVD have launched voter education programs on TV and also produced posters and flyers, focusing on voting procedures and voter list verification.

The CEC continues to accredit domestic observers.¹⁸ However, a narrow and literal interpretation of Article 29.1.3 of the Electoral Code has resulted in the rejection of nine domestic organizations that applied for accreditation.¹⁹ Despite the fact that the statute of one of the rejected organizations (Martuni Women's Community Council) defines "protection and promotion of women's rights" as its goal, the CEC initially rejected the registration on the grounds that the organization's statute does not include goals related to "democracy and protection of human rights". When this and another

¹⁴ In constituency 17, the TEC (for PECs 17/04 and 17/05), RoL (PEC 17/07) and RPA (PEC 17/11) initially appointed local council members as PEC members, which is prohibited by the Electoral Code (Article 39.2); they were later replaced. The RPA had to replace some of its proposed PEC members (PECs 4/17, 4/22, 4/23) since they had also been appointed by TEC 4.

¹⁵ Candidates and TEC representatives believe that the small premises of TECs 14 and 20 will cause problems during the tabulation of the election results. TEC 17 told LTOs about two polling stations located in mayor's offices, which is not in line with the Electoral Code (Article 15.3).

¹⁶ LTOs were informed that three members of TEC 20 and three members of TEC 21 are working in the Armavir governor's office, while the governor is standing as a candidate on the RPA proportional list. TEC 41 is chaired by the wife of one of the majoritarian candidates in that constituency. The Electoral Code is silent on situations when a conflict of interest is ground for not appointing or replacing an election commissioner.

¹⁷ Applications for paid billboard space were only submitted by the five parliamentary parties. Although required by the law, the CEC did not inform the majoritarian candidates that they could also apply for such space (under Article 20.6 of the Electoral Code).

¹⁸ As of 21 April, 44 domestic organizations with almost 23,000 observers have been accredited.

¹⁹ Article 29.1.3 of the Electoral Code requires foreign and domestic NGOs to be dealing with "issues relating to democracy and protection of human rights", according to their statutes.

organization changed their statutes to specifically include protection of democracy and human rights, they were registered.²⁰

By law, the number of voters in each constituency within a province (*marz*) should not deviate more than 10 per cent from the average for that province. The CEC decision delineating the constituencies strictly adhered to this requirement.²¹ 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 two *marzes* deviates significantly from the country average.²²

In an effort to improve the quality of the voter list, the police continues to revise the data, including by door-to-door checks, in co-operation with local authorities, political parties and domestic observers. This decreased the number of registered voters by 3,251 between 27 March and 16 April, due to removal of entries of deceased and deregistered people.²³ The PVD explained to the OSCE/ODIHR EOM that the increase in the number of new passports issued during 2011–2012 was mainly due to replacements of previously prolonged passports.²⁴

IV. THE MEDIA

The media monitored by the OSCE/ODIHR EOM²⁵ are providing extensive political and election-related coverage within the newscasts, special electoral programs, and paid airtime.²⁶ This includes interviews with candidates and representatives of political parties or blocs but very few debates.²⁷

The National Commission on Television and Radio (NCTR) tasked broadcasters to provide media monitoring reports on their own TV programs. While no media outlet expressed objections about this to the OSCE/ODIHR EOM, the law does not appear to require media outlets to provide monitoring data to the NCTR.²⁸ The NCTR sent written warnings to two local TV channels which failed to provide the required monitoring reports. The NCTR itself performs full-scale monitoring of the national and Yerevan-based regional broadcasters, while it inspects the data provided by the other TV and radio stations randomly, without notice, once or twice a week. On 17 April, the NCTR published its first media monitoring report of 18 TV channels and 12 radio stations. The report did not note any violations of the Electoral Code, and no formal complaints from political parties or candidates were filed with the NCTR during the reporting period. The NCTR, however, sent official letters to four TV channels to alert them of what it considered unbalanced coverage.²⁹

²⁰ NGOs 'Liberty and Democracy' and 'Martuni Women's Community Council'.

²¹ CEC decision 6-N of 12 January 2012, "On delineation of the majoritarian constituencies' boundaries".

²² According to the CEC decision, the average number of registered voters per constituency for the whole country was 60,333. The number of registered voters in constituency 39 was 46,317 as of 12 January, while the numbers in constituencies 19, 20 and 21 exceed 72,000 voters.

²³ As of 16 April, a total of 2,482,593 voters were registered.

²⁴ 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.

²⁵ The monitoring period covered in this report is 27 March–20 April.

²⁶ The six large political parties and the registered bloc have been placing paid political advertisement on television and radio since 8 April.

²⁷ Four TV debates were aired by *Yerkir Media* during the reporting period, and one by *Kentron TV*. However, one or more invited candidates or party representatives did not attend the debates on *Yerkir Media*.

²⁸ Under Article 36.2 of the Law on Television and Radio Broadcasting as amended on 10 June 2010, the NCTR, in order to exercise its powers, requires and receives necessary information from competent bodies, organizations and officials.

²⁹ The letters were sent to *H1*, *H2*, *Kentron TV* and *Yerkir Media*. The NCTR informed the OSCE/ODIHR EOM that although it noted some bias, it did not formally establish violations, since it can determine only at the end of the campaign period whether a broadcaster's coverage was balanced or not.

Before the start of the official campaign period, the President and government officials received extensive news coverage by the media monitored by the OSCE/ODIHR EOM.³⁰ This coverage decreased significantly after 8 April. Since then, the media are mainly focusing on the six large parties and bloc, while only 8 per cent of political news coverage is given to the remaining three political parties.³¹ Majoritarian candidates receive only limited coverage.

The public broadcaster, *Public TV and Radio*, is meeting its obligations to provide parties and the bloc which registered proportional lists with free and paid airtime. The public television, *H1*, devoted 21 per cent of its news coverage to the RPA, including campaign events in which President Sargsyan appeared in his capacity of party leader, 22 per cent to the ANC, 11 per cent to Heritage (including Free Democrats on the Heritage candidate list), 13 per cent to RoL, 9 per cent to the ARF, and 7 per cent to PA. *Public Radio* gave similar amounts of news coverage to the registered proportional lists. The coverage devoted to individual parties and blocs on private broadcast media varied, with different broadcasters devoting the highest amount of coverage to different parties.³²

The OSCE/ODIHR EOM noted several cases where TV channels broadcast in their news pre-recorded campaign material which was also used by political parties in paid advertisement, instead of relying on their own materials.³³

V. COMPLAINTS AND APPEALS

Various political parties, candidates, and civil society groups have expressed their lack of trust in the election administration, courts, and law enforcement bodies to address election-related complaints in an impartial and effective manner to the OSCE/ODIHR EOM. Although election stakeholders have publicly reported numerous complaints, few formal complaints have been filed with the respective authorities.

As of 20 April, the CEC had received more than 80 complaints, the vast majority filed by the same individual, mainly alleging campaigning by high-level public officials running as candidates and imbalanced news reporting. The CEC continues to deny consideration of this individual's complaints since the Electoral Code does not give private citizens the right to file such claims.³⁴ However, the CEC examined the substance of some of these complaints and found no violations of the Electoral Code. Few complaints have been filed at TECs; in one case, the complainant

³⁰ For example, 49 per cent by public *H1* and 51 per cent by private *Shant TV*.

³¹ The combined news coverage of the Democratic Party of Armenia, the Communist Party of Armenia and the UAP in the eight monitored TV and radio channels is the following: *H1* (12 per cent), *H2* (11 per cent), *Armenia TV* (9 per cent), *Kentron TV* (5 per cent), *Shant TV* (4 per cent), *Yerkir Media* (10 per cent), *Public Radio* (17 per cent), *Radio Free Europe/Radio Liberty* (0 per cent).

³² The private television channel *H2* devoted most of its political news coverage to the RPA (20 per cent) and PA (20 per cent), *Armenia TV* to Heritage (25 per cent), the RPA (21 per cent) and the ANC (19 per cent), *Kentron TV* to PA (46 per cent), *Shant TV* to Heritage (22 per cent), the RPA (21 per cent), the ANC (17 per cent) and PA (15 per cent), and *Yerkir Media* to the ARF (29 per cent). *RFE/Radio Liberty* gave coverage to all major parties, predominantly to the RPA (27 per cent).

³³ Identical campaign material of PA was broadcast in newscasts by *Kentron TV* on 8 April and by *Shant TV* on 9 April, by *Kentron TV* and *Yerkir Media* on 13 April, and by *Kentron TV* and *Shant TV* on 14 April and on 19 April, and by *Kentron TV* on 20 April. On 19 April, *H2* and *Armenia TV* broadcast identical news items about a campaign event of an RPA majoritarian candidate. However, this footage has thus far not been aired as paid advertisement on any of the broadcasters monitored by the OSCE/ODIHR EOM.

³⁴ The applicant also filed several complaints and appeals to the Administrative Court and the Administrative Court of Appeal; all have been denied consideration on various grounds.

mistakenly claimed that campaigning prior to the official campaign period is legally prohibited.³⁵ In another case, TEC 23 gave a majoritarian candidate a three-day warning to cease violation of campaign poster regulations.³⁶

Four cases related to candidate registration were filed to the Administrative Court.³⁷ 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.³⁸ Two majoritarian candidates (in constituencies 19 and 37) each claimed a competitor had been unlawfully registered, having not met the five-year residence requirement. The court rejected all four cases on technicalities, without examining the core issue of whether the five-year residence requirement had been legally satisfied.³⁹ Under the law, these decisions could not be appealed.

The police investigated several media reports of vote buying but did not find any evidence and thus closed the cases. Civil society groups maintain that citizens are reluctant to report cases of vote buying, for fear they will be prosecuted for taking bribes or for filing false claims.

VI. OSCE/ODIHR EOM ACTIVITIES

During the reporting period, the OSCE/ODIHR EOM continued its regular activities, meeting state officials, party representatives, candidates, the election administration, court officials, media and civil society representatives, and the international community. LTOs deployed throughout the country continue to observe electoral preparations and the campaign in the regions and are preparing for the deployment of short-term observers. A briefing for members of the diplomatic community and international organizations accredited in the Republic of Armenia was held on 5 April.

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

³⁵ Article 18.1 of the Electoral Code provides that campaigning prior to the official period is not prohibited. Parties and candidates the OSCE/ODIHR EOM talked to seemed to be generally unaware of this provision.

³⁶ The complainant filed a subsequent complaint requesting deregistration of the candidate on grounds that he had not complied with the warning. On 24 April, the TEC issued a decision that the warning had been complied with.

³⁷ Other notable recent complaints to the Administrative Court include a case alleging politically biased appointments to TEC 35 (rejected on grounds that the CEC is not authorized to examine the professional competence of the TEC members it appoints) and a case challenging the CEC's decision clarifying that signed voter lists will not be open to the public after election day (denied consideration on grounds that a clarification of the law is not a legal act subject to judicial review). A claim filed earlier by an NGO to include 'against all' on the ballots was denied consideration due to lack of jurisdiction.

³⁸ The plaintiff was initially provided a five-year residence certificate, but it was soon after revoked after an investigation prompted by a media report about his extended absence from the country led to an investigation that the plaintiff had been absent for a ten-month period.

³⁹ 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 due to missing the three-day deadline for filing complaints for protection of electoral rights.