



Office for Democratic Institutions and Human Rights

REPUBLIC OF ARMENIA
PARLIAMENTARY ELECTIONS
12 May 2007

OSCE/ODIHR Election Observation Mission Report



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**REPUBLIC OF ARMENIA
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**OSCE/ODIHR Election Observation Mission
Final Report¹**

I. EXECUTIVE SUMMARY

The elections to the National Assembly of the Republic of Armenia were held on 12 May 2007. Following an invitation by the Ministry of Foreign Affairs of the Republic of Armenia, the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 21 March 2007. The OSCE/ODIHR assessed the overall process in terms of its compliance with the 1990 Copenhagen Document and other election-related commitments.

The elections for the National Assembly demonstrated improvement and were conducted largely in accordance with OSCE commitments and other international standards for democratic elections. However, the stated intention by the Armenian authorities to conduct an election in line with OSCE commitments and international standards was not fully realized. While the authorities acted to address a number of previous shortcomings, other issues are yet to be sufficiently addressed, notably related to campaign regulation and performance of election commissions particularly during the vote count and tabulation.

The elections were to elect all 131 members of the National Assembly; 90 seats were filled through a proportional system and the remaining 41 through majoritarian contests. Compared to the nationwide proportional contest, majoritarian contests were characterized, in some places, by a competition that was to a degree limited, and seven out of 41 constituencies had only one candidate. Women's participation as candidates in the proportional contest was enhanced, although only five of the 119 majoritarian candidates were women. Candidate registration was carried out by the Central Election Commission (CEC) and the Territorial Election Commissions (TECs) in an inclusive manner.

There was visible and dynamic campaigning in both the proportional and most majoritarian contests, which took place in a permissive environment. However, on occasion the separation between the governing party and the State appeared to be blurred, most notably due to the convergence of the election campaign of the Republican Party with the longer-running campaign to celebrate the fifteenth anniversary of the Armenian Army, sponsored by the Ministry of Defence.

Media covered the elections extensively, in an apparent effort to enable parties and candidates to convey their messages. Public media adhered to legal requirements concerning allocation of free airtime during the official campaign period. The coverage of the campaign was largely devoid of critical viewpoints, although two newspaper editorials relating to private comments by an opposition leader, allegedly recorded surreptitiously, presented an exception. Subsequent public remarks by the President of the Republic referring to those comments as a serious criminal act, and their media coverage, introduced an element of intimidation to the campaign environment.

¹ This report is also available in Armenian, but the English version remains the only official version.

The Election Code, considerably amended and improved since the 2003 parliamentary elections, provided a sound basis for the conduct of democratic elections, although shortcomings remain. These pertain largely to the absence of clear provisions on early and indirect campaigning and to campaign finance regulations leaving scope for electoral contestants to exceed campaign finance limitations. In addition, the complaints and appeals process revealed inconsistencies in the legal framework. Sanctions related to possible vote buying were not implemented and publicly identified concerns generally not acted upon in the absence of formal complaints.

The election authorities generally worked efficiently in the pre-election period, and were technically well equipped and prepared for election day. The CEC demonstrated ongoing efforts to enhance transparency of election procedures, such as providing a schedule of regular press briefings and key information on its website. Substantial training of election officials and voter education efforts took place, although room for enhancing professionalism in counting and tabulation remains.

For the first time, there was a central computerized voter register under the authority of the police. Along with the CEC and others, the police took proactive measures to correct possible inaccuracies including posting the voter lists for public scrutiny in a timely manner, posting the voter register on the CEC website and opening telephone hotlines to provide citizens with online support.

Voting was assessed positively in the vast majority of polling stations observed, but overcrowding and challenges to secrecy of the vote due to specific placement of voting booths were observed. While counting was mostly conducted according to procedures, over one-third of polling station commissions observed had difficulties compiling protocols. This included some protocols that were being completed, corrected or entirely rewritten at respective TECs, creating a potential for tampering with sensitive election documents. Problems related to counting, tabulation and publication of results, as well as deficiencies in transparency, impacted on public confidence in the process.

The final election results were announced on 19 May, and were confirmed by a decision of the Constitutional Court on 10 June, rejecting four complaints calling for their annulment. The Court's judgment, nevertheless, noted a number of deficiencies in the regulation of elections, specifically in the areas of campaigning, campaign and party financing, as well as conflicting legal provisions contained in the Election Code and other legislation.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The elections to the National Assembly of the Republic of Armenia were held on 12 May 2007. The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) conducted a Needs Assessment Mission to Yerevan in the period from 30 January to 2 February 2007.² Following an invitation by the Ministry of Foreign Affairs of the Republic of Armenia, the OSCE/ODIHR established an Election Observation Mission (EOM) on 21 March 2007, consisting of 15 experts and 29

² The OSCE/ODIHR NAM report is available at http://www.osce.org/documents/odihr/2007/02/23307_en.pdf.

long-term observers deployed in the capital and around the country. Ambassador Boris Frlec was the Head of the OSCE/ODIHR EOM.

The Armenian authorities requested the OSCE/ODIHR EOM on a number of occasions to provide advance notification of the content of its Interim Reports. While the OSCE/ODIHR always aims to establish a regular dialogue with national authorities on issues of note or concern, submitting draft reports for commentary would not be in line with the standard OSCE/ODIHR methodology for election observation. The OSCE/ODIHR EOM's Interim Report No.3 and Post-Election Interim Report No.1 were publicly criticised by the authorities, including calling into question both the veracity of findings and the OSCE/ODIHR methodology. The OSCE/ODIHR stands by the findings of its Interim Reports, which are reflected in this Final Report.³

Observation of election-day procedures was a joint undertaking of the International Election Observation Mission (IEOM) formed by the OSCE/ODIHR, together with the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament. The OSCE Chairman-in-Office, Minister Miguel Ángel Moratinos of Spain, appointed Ms. Tone Tingsgaard, Vice-President of the OSCE Parliamentary Assembly and Head of the OSCE PA delegation, as the Special Co-ordinator to lead the OSCE short-term observers. Mr. Leo Platvoet headed the delegation of the PACE, and Ms. Marie Anne Isler Béguin headed the European Parliament delegation.

On election day, 411 short-term observers were deployed by the OSCE/ODIHR from 44 OSCE participating States, including 59 observers from the OSCE PA, 32 observers from the PACE and 13 observers from the European Parliament. The IEOM observed the voting in over 1,150 polling stations out of 1,923 polling stations countrywide, counting and completion of results protocols in 108 polling stations throughout the country, and the transfer of protocols and the tabulation of results at 39 of 41 TECs. The Armenian authorities' last minute denial of visas to OSCE/ODIHR observers seconded by an OSCE participating State, Turkey, was unfortunate and runs contrary to its OSCE commitments.⁴

The OSCE/ODIHR wishes to thank the State and local authorities of the Republic of Armenia, notably the Central Election Commission and the Ministry of Foreign Affairs, for their assistance and co-operation. The OSCE/ODIHR also wishes to express appreciation to the OSCE Office in Yerevan, the Embassies of OSCE participating States to the Republic of Armenia and the representative offices of international organizations in Yerevan for their support and co-operation throughout the duration of the mission.

III. POLITICAL BACKGROUND

The 12 May elections were to elect all 131 members of the National Assembly. Following constitutional amendments that came into effect with these elections, members of the National Assembly are now elected for five-year terms, an increase from the previous four-year term.

³ The OSCE/ODIHR acknowledges one inaccuracy in Interim Report No.3 derived from a translation mistake: in referring to a statement by President Kocharyan about the follow up to the newspaper revelations concerning Orinats Yerkir leader Artur Bagdasaryan, the president referred to "our security service", not "my security service" as quoted.

⁴ The 1990 OSCE Copenhagen Document, paragraph 8: "They will therefore invite observers from any other [OSCE] participating State ... to observe the course of their national election proceedings ...".

Ninety seats were filled on the basis of a national proportional contest of party or bloc lists, without preferential voting; in order to become eligible for seat allocation in this contest, a party had to pass a threshold of five per cent of the valid votes, while a bloc had to pass a threshold of seven per cent. The remaining 41 seats were filled by majoritarian first-past-the-post contests in single-mandate constituencies; in the majoritarian contests, the candidate polling the highest number of votes was the winner.

Changes in the political landscape since the last parliamentary elections in May 2003 affected the 2007 electoral competition. After the 2003 elections, a governing coalition had been formed comprising the Republican Party, the Armenian Revolutionary Federation (ARF) Dashnaktsutun, and the Orinats Yerkir (Law-based State) Party. In May 2006, Orinats Yerkir left the coalition, and its leader, Mr. Artur Bagdasaryan, resigned as Chairman of the National Assembly. The United Labour Party replaced Orinats Yerkir as a government coalition member. However, the three government partner parties did not enter the 2007 election as a coalition.

The broader political party landscape has been characterised by a degree of fluidity, with new actors emerging and others disbanding or falling into abeyance since 2003. Notable in this regard was the recent rapid rise of the party Prosperous Armenia. The partners in the Justice Alliance bloc, once the largest opposition force, failed to reach agreement on continuing as a bloc beyond the end of the current parliament, and competed either separately or not at all in the 2007 elections.

Prime Minister Andranik Margaryan, leader of the Republican Party, passed away unexpectedly on 25 March. As required by the Constitution, the government resigned but was retained in a caretaker capacity. On 4 April, President Kocharyan appointed Mr. Serge Sargsyan, hitherto Minister of Defence, as the new Prime Minister. On 11 April, the President appointed a new cabinet unchanged from the outgoing one, with the exception that Mr. Sargsyan's former defence portfolio was left vacant. Mr. Sargsyan was named, on 26 March, to take on the Republican Party leadership functions.

Two previous elections for the National Assembly of the Republic of Armenia, held in 1999 and in 2003, had been assessed as falling short of OSCE Commitments and other international standards for democratic elections.⁵

IV. LEGISLATIVE FRAMEWORK

The legislative framework for elections in Armenia is based mainly on the Constitution and Election Code.⁶ CEC instructions are also binding for election officials and other election participants. The Election Code was substantially amended since the 2003 National Assembly elections, following OSCE/ODIHR recommendations. The OSCE/ODIHR and the Council of Europe's Venice Commission submitted a series of commentaries on the post-2003 amendments and concluded that they had resulted in a number of improvements.⁷

⁵ OSCE/ODIHR reports on previous elections in Armenia are available at: <http://www.osce.org/odihr-elections/14350.html>

⁶ These are supplemented by legal instruments such as the Law on Political Parties, the Civil Code, the Civil Procedure Code, the Criminal Code and other statutes, as well as judicial decisions.

⁷ A final commentary was published in March 2007 covering the Code in its current form, except for the latest amendments from February 2007. See Venice Commission and OSCE/ODIHR, Final Joint

While the Election Code provided a sound basis for the conduct of democratic elections, shortcomings remain. The Election Code does not address what constitutes campaigning, and how to distinguish between regular political party activities and campaign activities, or fundraising by election participants and third parties, prior to and during the campaign period. In addition, regulations for complaints and appeals contain inconsistent and contradictory elements. There were also failures to implement some provisions, such as those related to vote-buying or party and campaign finance regulations.

The most recent amendments to the Electoral Code, adopted in February 2007,⁸ mainly address out-of-country voting (OCV) and the electoral rights of persons with dual citizenship, and eliminate the possibility for out-of-country voting. As the amendments were adopted in a short timeframe prior to the elections, they impacted on the electoral rights of Armenian citizens holding dual citizenship, as well as citizens residing or travelling abroad.⁹

The February amendments provide that elections shall be held only in the territory of the Republic of Armenia.¹⁰ The amendments also specify that persons holding dual citizenship may vote only if they are registered as residents of Armenia.¹¹ Although the Code refers to registration at one's place of residence,¹² the Speaker of the National Assembly indicated that Armenian citizens holding dual citizenship who were not residing in Armenia could vote in national elections if they were registered in Armenia based on owning property or investments.¹³

V. ELECTION ADMINISTRATION

A. ELECTION COMMISSIONS

The election administration for the 12 May 2007 elections comprised the Central Election Commission (CEC), 41 Territorial Election Commissions (TECs, corresponding to the 41 majoritarian constituencies), and 1,923 Precinct Election Commissions (PECs). The CEC and TECs are permanent bodies, while PECs were formed for these elections by 27 April. Appointments of members of election commissions are made in a hierarchical manner, in which each member of the CEC nominates one member to each TEC, who in turn nominate a member to each of the PECs under that TEC. The amended Election Code provides that one member of the CEC was nominated by the President of the Republic, one member was nominated by each parliamentary faction¹⁴ and the "peoples' deputy" group¹⁵ and one

Opinion on Amendments to the Electoral Code of the Republic of Armenia, adopted by the Venice Commission at its 70th plenary session (Venice, 16-17 March 2007) CDL-AD(2007)013, http://www.osce.org/documents/odihr/2007/03/23878_en.pdf

⁸ Law on making amendments to the electoral code of the Republic of Armenia, 26 February 2007.

⁹ The CoE Venice Commission has recommended that amendments to election laws should be avoided during the year preceding elections. See Venice Commission Opinion 190/2002, Code of Good Practice in Electoral Matters, Art. 65.

¹⁰ Previously, OCV was conducted in Armenian embassies and consulates.

¹¹ Election Code, Art. 2.7.

¹² Ibid., Arts. 9.1 and 11.1.

¹³ OSCE/ODIHR EOM meeting with Mr. Tigran Torosyan, President of the National Assembly, 26 March 2007.

¹⁴ There were six factions in the outgoing National Assembly.

¹⁵ Deputies that were elected as non-partisan candidates.

member was nominated by the judiciary. This arrangement enhanced the institutional balance in the composition of the election administration.

The TEC leadership “troikas” including the chairperson, deputy chairperson and secretary were elected by the TEC, but were dominated by the representatives of the Republican Party, ARF Dashnaktsutiun and appointees of the President, all affiliated to the incumbent executive branch. This reality challenges the spirit of balanced composition as provided for by the Code. In TEC 41 (Ijevan) and TEC 12 (Shengavit, Yerevan) members acknowledged that the Orinats Yerkir-appointed member had been removed from the TEC troika because that party was in opposition.

The PEC leadership “troikas” had a more diverse composition than TEC “troikas”. According to the Election Code, all candidates for a position on a PEC should have been trained beforehand and received a certificate of qualification. Speaking to PEC members, observers representing the IEOM noted that many of them were not aware of which entity had nominated them for PEC membership. Some PEC members told observers that they represented Prosperous Armenia, a party that was not represented in the outgoing National Assembly and was, therefore, not entitled to make election commission nominations.

B. ADMINISTRATION OF THE ELECTIONS

During the pre-election period the CEC achieved notable improvements in its efficiency and transparency of performance. All necessary election preparations were made within the required timeframe. The CEC established a schedule of regular press briefings, and introduced on its website a chart on complaints it had considered.

In accordance with amendments to the Election Code requiring publication of election results by precinct, the CEC introduced a networked computer system linking it to the TECs. However, according to a CEC decision from February, this system did not include the 13 TECs in Yerevan, where about half the electorate resides.¹⁶ As a result, almost one third of all TECs were excluded from the system. This substantially detracted from the objective of the networked computer system: providing the CEC with remote access to TEC data input during the vote tabulation, and simultaneous transmission of instructions.¹⁷ Despite the transparency measures mentioned above, the CEC discussed some issues at meetings that were not announced to the public. The CEC also adopted an amendment to its rules of procedure that limited the right of authorized representatives to be present only during CEC sessions when issues pertaining to registration of political parties as election contestants were heard.¹⁸

¹⁶ CEC decision 39-N. Instead, the tabulated results from the Yerevan TECs were to be delivered to the CEC premises and entered into the computer there, by CEC staff.

¹⁷ In a response to the OSCE/ODIHR EOM’s Post-Election Interim Report No.1, where this issue was raised, the CEC Chairman in a letter of 25 May 2007 stated that the system is “used only in [Republic of Armenia] regions, and the entry of voting results from Yerevan constituencies will be carried out in the CEC”. He added, “[The system] aims at transferring the voting results from the TECs to the CEC, i.e. to Yerevan, and it has fully met the expectations for ensuring publicity.” This explanation is not fully consistent with the public presentation of the system made on 12 April.

¹⁸ This followed a situation on 20 April, at a CEC session that had included consideration of appeals from the Republic Party [an opposition party formerly in the Justice Alliance and not to be confused with the governing Republican Party] and Impeachment Bloc, at which the interventions of authorized representatives of those parties had led to questions by most CEC members concerning their right to participate in the discussion. Under the Electoral Code, political party representatives are allowed to be

The CEC produced short TV films explaining election day procedures to voters, which were broadcast throughout the official campaign period. The OSCE/ODIHR EOM was aware of widely circulating allegations for collection of passport details, copies of passports or passports themselves by representatives of political parties. The CEC and other state bodies did not sufficiently emphasize to voters that secrecy of their vote is protected by law and that election day procedures safeguard against the possibility of someone knowing how the individual voter has voted.¹⁹ As a possible response to another rumour, the CEC on 9 May introduced a ban on the use of mobile telephones in voting booths, as part of a decision clarifying election-day procedures.²⁰

The TECs appeared to be well prepared for the elections and were generally working in a collegial manner. At times, TECs departed from their regular working and session schedules, creating potential difficulties for election contestants and observers.²¹

C. VOTER LISTS

Election Code amendments enacted in 2005 charged the Passport and Visa Department of the police, known as OVIR, with compiling a centralized and computerized voter list.²² Since then, considerable effort has been made, including with international assistance, to compile the voter lists on the basis of the passports' register maintained by the police and other residential and registration records, which appears to be an ongoing process. According to OSCE/ODIHR EOM interlocutors, surplus names on the voter lists, mainly of non-residents, and voters allegedly registered at "incorrect" locations, continue to cause problems.

The Election Code stipulates that voter registration is based on "voters' permanent addresses".²³ Registration of residence²⁴ is an obligation of citizens. Citizens can register by permanent or temporary residence address, property ownership, or "factual" residence address. Interlocutors of the OSCE/ODIHR EOM alleged that police and other records might not reflect changes of residence, in part because permanent or temporary residential registration requires consent of the property owner, but some owners are unwilling to consent to the registration of current occupants. The underlying difficulties were amplified by emigration of citizens from Armenia, often on a temporary basis.

The Election Code requires that voter list extracts be posted at PEC premises 40 days before election day.²⁵ In recognition of the past problems with the voter list, for these elections additional efforts were made by the police and the CEC, as well as by local community

present at commissions' meetings, to have access to documentation, to observe, and to participate in discussions and decision making with an advisory vote.

¹⁹ OSCE/ODIHR EOM observers were present at a meeting when the governor of Kotayk warned mayors in the region against such passport collection. In Sevan, a local nongovernmental organization promoted a "Don't sell your vote!" campaign of voter information TV slots.

²⁰ CEC decision 147-A "On uniform implementation of Articles 55 and 56 of the EC during the 12 May elections". The rumours concerned a form of supervised voting involving the use by voters of camera mobile phones in booths to photograph their ballot papers.

²¹ Please see also Section XII, Observation of Voting and Counting.

²² The February 2007 amendments to the Election Code (Art. 9) tasked the police "under the auspices of the government of the Republic of Armenia", and not anymore a specific department within the police, with compilation and maintenance of the voter list.

²³ Election Code, Art. 11.1.

²⁴ Registration of citizens' residences is also a responsibility of the police.

²⁵ For the 12 May elections, this deadline was 3 April 2007.

leaders, political parties and NGOs, to correct inaccuracies. This included door-to-door checking. The police and the CEC repeatedly used the media to call for public co-operation to correct the voter list, which could also be checked both on the CEC website and at PEC premises, and errors could then be reported to the respective OVIR offices.²⁶

Even when enquiries revealed that a registered person was not present at a particular address, this did not necessarily lead to deletion of voter registration, in order to avoid possible disenfranchisement of the voter in the event that he or she returned to vote. For this reason, removals from the voter list by the efforts described above were relatively few, including 9,607 deceased and 26,223 not at the recorded address, according to the police. The IEOM saw little evidence of voter list inaccuracy on election day; there were few observed instances of persons refused a ballot because they were not on the precinct's voter list. The CEC reported that only 1,906 voters were added to additional voter lists on election day.

The average number of voters per constituency was 56,426. By law, deviation from the average number may not exceed 15 per cent. In two TECs, TEC 14 (Ashtarak) and TEC 32 (Tashir), this limit was exceeded. In six other TECs, deviations were more than 10 per cent, which is permitted in "exceptional cases".²⁷ The CEC decision establishing the constituencies did not indicate what "exceptional" circumstances necessitated the deviations in these cases.

VI. REGISTRATION OF CANDIDATES

There were 22 parties and one bloc on the ballot for the proportional contest of the 12 May election. A total of 119 candidates competed for the 41 majoritarian seats. The majoritarian contests reflected local rather than nationwide political dynamics, with only the Republican Party fielding candidates in a majority of constituencies (25 out of 41 in total). Some two-thirds of the parties contesting the proportional ballot chose not to contest, or only contest a few of the majoritarian constituencies. Conversely, a number of small parties that had not registered proportional lists registered one or two majoritarian candidates each.

Candidate registration took place in an inclusive manner. All twenty-four parties and one bloc that had applied for the proportional representation contest were registered by the CEC on 4 April, including all individual candidates on the lists. Withdrawals of names from some of the lists subsequent to submission for nomination resulted in the largest lists being registered for Orinats Yerkir (120 names), ARF Dashnaksutiun (113), Prosperous Armenia (112) and the Republican Party (111).

For majoritarian contests, 135 applicants were registered as candidates at TEC sessions on 3-4 April, well within the deadline of 7 April. Five others had withdrawn before registration and there was one refusal of registration because of incomplete documentation. In TEC 19 (Vagharshapat), two of the four candidates were deregistered by court decision shortly after being registered.²⁸

²⁶ OVIR established two telephone hotlines to assist voters in this regard. The public response was limited. According to the police, 721 calls to the hotlines were made during the period they were open.

²⁷ Election Code, Art. 17¹.4. The six were TECs 13, 16, 19, 27, 35 and 38.

²⁸ Please see Section IX.B, Complaints and Appeals against Candidate Registration.

Recent amendments to the Election Code concerning the electoral rights of persons with dual citizenship²⁹ prohibit candidacy for national office by Armenian nationals with dual citizenship. However, the CEC did not adopt a procedure to require nominees to attest or otherwise demonstrate that they were not dual citizens; other qualifications for candidacy were subject to documentation.³⁰ The CEC chairman indicated to the OSCE/ODIHR EOM that it could be assumed that persons offering themselves for candidacy did not have dual citizenship, since otherwise they would commit a violation of the electoral law. This assumption was challenged by a case in TEC 13 (Erebuni-Nubarashen, Yerevan) in which a prospective majoritarian candidate was denied registration after submitting Russian Federation passport details in his nomination materials. Rather than automatically ruling him inadmissible as a candidate, the TEC asked the nominee to produce an Armenian passport; only when he failed to do this was his candidacy rejected.

The deadline for withdrawal from the elections was 2 May. After two of the parties that had been registered, the Armenian Pan-National Movement and the Progressive Party, withdrew their lists on 29 April and 2 May respectively, there were 22 parties and one bloc on the ballot for the proportional contest. A small number of candidate withdrawals from the majoritarian contests meant that in total 119 continued in the race after the 2 May deadline and appeared on the majoritarian ballot papers. The commonly cited reason for withdrawal was an assessment of negligible prospects of winning.

There was an average of just under three candidates per constituency. The number of constituencies where there was only one candidate remained at seven,³¹ and eleven contests had two candidates.³² The highest number of candidates in a single mandate constituency was six.³³

VII. ELECTION CAMPAIGN

A. LEGAL FRAMEWORK FOR CAMPAIGNING

The Election Code guarantees State support for pre-election campaigning by election participants on an equal basis. The official campaign period begins from the day after the deadline for registration of candidacies, and ends one day before election day. During the campaign period, election participants are specifically authorized to carry out a range of campaign activities, including displaying and disseminating materials, organizing public meetings and communicating via the media.³⁴

Although the Election Code prohibits certain forms of campaigning, it does not directly address whether campaign activities by election participants are permitted prior to the official campaign period.³⁵ The CEC rejected a complaint about early campaigning brought by an

²⁹ Please see Section IV, Legislative Framework.

³⁰ It would have been difficult to implement these amendments, since there would have been limited possibilities to confirm the absence of dual citizenship by potential candidates.

³¹ TEC 7, TEC 8, TEC 13, TEC 20, TEC 27, TEC 28, TEC 32. If only one candidate was registered in a single-mandate constituency, the voters were given a “vote against” option.

³² TEC 1, TEC 16, TEC 17, TEC 18, TEC 19, TEC 22, TEC 29, TEC 37, TEC 38, TEC 41.

³³ TECs 4 and 12.

³⁴ Election Code, Chapter 4, “Pre-Election Campaign” (Arts. 18-23).

³⁵ Article 23 prohibits campaigning after the end of the campaign period – on election day and the day before. Article 113 states, “During National Assembly elections, [the] pre-election campaign shall be

NGO concerning materials distributed by Orinats Yerkir, basing its conclusion on the absence of a clear statutory prohibition and the constitutional protections for political expression and assembly.³⁶ Contrary to the position of the CEC, however, the Office of the Prosecutor General stated to the OSCE/ODIHR EOM that campaigning prior to the campaign period is in fact illegal, but specific violations would be difficult to differentiate from legitimate political activities in the pre-campaign period.

Materials that explicitly constituted campaigning by Prosperous Armenia, in the form of large street billboards, were observed by the OSCE/ODIHR EOM in Yerevan on 7 April, the day before the election campaign officially started. The absence of regulation and hence the apparently highly permissive conditions for campaigning in the period before the official campaign subvert the intent of restrictions in the legal regulations for the campaign, particularly those related to campaign financing.

The Constitution requires openness of political party and campaign finance,³⁷ but there were deficiencies in disclosure, reporting and overall supervision. The “pre-election funds”, which parties/candidates must establish for campaigning³⁸, provide a basis for the CEC and its Oversight and Audit Service to monitor compliance with the campaign finance provisions.³⁹ Contestants submit reports on their pre-election funds within six days after the elections,⁴⁰ after which they are reviewed by the Oversight and Audit Service and published by the CEC or submitted to court in case of violation.

The CEC posted on the internet an ongoing summary of the status of campaign funds including aggregate revenues, expenditures and balances. These showed, among other information, that several weeks into the campaign one registered party had not opened an account, and four more had established them but had not transferred any funds; similarly, 53 majoritarian candidates had not established accounts.

The CEC has no competence to investigate whether a party or a candidate has failed to disclose relevant financial transactions outside the “pre-election fund”. Legislation on political parties requires them to submit annual financial reports, and to publish them in the mass media,⁴¹ by 25 March the following year. While authorities indicated to the OSCE/ODIHR EOM that these annual reports could serve as a vehicle for supervising early campaigning or other activities related to electoral campaigns, examination of available reports suggested otherwise. All of the party reports reviewed by the OSCE/ODIHR EOM⁴² describe finances only in broad categories, and do not identify specific sources of revenue or types of expenditure, or the purpose for which transactions were made.

There is also the serious question whether the reported amounts are accurate or complete. For example, Prosperous Armenia reported that it had no income, expenditures or property at all in 2006, despite its seemingly well financed party infrastructure. The role of the responsible

conducted in accordance with procedures and the timetable defined in Articles 18-23 of this Code.” However, the only time specifically referred to in these provisions is that contained in Article 23.

³⁶ CEC internal consultative meeting, 9 April 2007.

³⁷ Constitution, Art. 7.3: “Parties shall ensure the openness of their financial activities”.

³⁸ Election Code, Art. 25.1.

³⁹ Ibid., Arts. 25-26 and 112-113.

⁴⁰ Ibid., Art. 25.11.

⁴¹ Law on Parties, 3 July 2002, amended 2002, 2003, 2004, 2007, Arts. 28 and 28.4.

⁴² The OSCE/ODIHR EOM found seven reports in the press. It could not obtain copies of these public documents from the Ministry of Justice.

oversight body, the State Registry in the Ministry of Justice,⁴³ is only to determine whether reports are received on time and in proper form. If not, the matter is referred to the tax authorities.⁴⁴

Armenian law provides for the establishment of various non-profit⁴⁵ as well as commercial organizations. Some of these are linked to political parties and/or candidates, and could provide direct or indirect support to election campaigns.

Provisions in the Election Code do not explicitly address whether other activities of third parties, persons or organizations, in support of electoral campaigns, could constitute campaigning, and therefore should be disclosed as contributions. The CEC Oversight and Audit Service has advised that there would be difficulties in determining whether such activities constituted “campaigning”, and in any event would not be subject to reporting unless there is a legal agreement between the donor and the recipient. The State Registry in the Ministry of Justice takes a similar position with respect to the annual financial reports of political parties about the necessity for a legal agreement before third-party financing would become reportable.⁴⁶

The Election Code provides that electoral contestants receiving more the 25 per cent of the valid votes cast in the proportional election will receive 50 per cent reimbursement from the state budget of the incurred campaign costs.⁴⁷ This provision is difficult to apply to National Assembly elections, as the threshold of 25 per cent benefits the strongest parties only. The aim of budget financing or reimbursement to political actors is to enhance their equality and independence from donors.

B. CONDUCT OF THE CAMPAIGN

The official campaign period lasted from 8 April to 10 May. During this period, vigorous campaigning by most parties and majoritarian candidates was visible throughout the country. Municipal and community authorities, almost without exception, met their obligations to designate places for the display of campaign materials. Besides these designated places, and advertising on commercially rented installations, a permissive environment prevailed, with posters widely placed on public and private buildings and installations.

There was a flexible approach towards the formal procedure whereby, on the basis of requests received and forwarded by the TECs, municipal and community authorities should put venues for campaign meetings at the disposal of political parties and candidates on the basis of equality and free of charge. In instances where parties or candidates applied instead directly to

⁴³ This body serves as the repository for the charters and other required legal documents for various kinds of organizations (of both a commercial and non-commercial nature).

⁴⁴ Of the 75 registered political parties, the State Registry referred nine to the authorities for non-compliance with financial reporting; and requested another party, which filed a zero-balance statement, to provide further information. With respect to the report from Prosperous Armenia claiming no revenue, expenditure or property during 2006, no referral was made.

⁴⁵ Law on Charity (2002), Law on Foundations (2005), Law on Public Organizations (2001).

⁴⁶ The State Registry advised that in-kind contributions are not generally subject to inclusion in party annual reports, but that the form used for these reports does contain a space for gifts and donations. Please also see Section VII.C, “Vote Buying”, for the question of whether in-kind contributions to campaigning constitute vote buying.

⁴⁷ Election Code, Art. 113, which extends the provisions expressed in Article 81 (“Presidential Candidate’s Pre-Election Campaign”) also to the National Assembly proportional contest.

the municipal and community authorities, this was apparently with the approval of the TECs. Most parties appeared to favour an approach of holding previously unannounced or short-notice rallies, without prohibitive action from the authorities.

Highly visible and prevalent publicity to commemorate the 15th anniversary of the Armenian Army, sponsored by the Ministry of Defence, was launched prior to and ran throughout almost the entire campaign period. This was mainly visible in Yerevan, where about half the electorate resides. At a late stage in the campaign, the Republican Party campaign converged with the Army's anniversary campaign, with evident crossover of campaign messages and featured participants. The merging of the image of the party, whose leader was until recently the Minister of Defence, with the symbols and accomplishments of the armed forces, was evident.⁴⁸ As a result, the separation between the governing party and the State appeared to be blurred.

The commercial billboard space in the centre of Yerevan was dominated by campaign posters of the Republican Party and Prosperous Armenia, and to a considerably lesser extent the ARF Dashnaktsutun, with a significant amount also occupied by billboards commemorating the army anniversary. The OSCE/ODIHR EOM received copies of four letters sent by the Heritage party to three advertising agencies in March and April 2007 asking for billboard space, all of which got a negative response. The OSCE/ODIHR EOM also was given copies of a similar exchange of correspondence between a billboard provider and the Orinats Yerkir party.

The Russian-language newspaper *Golos Armenii* published two editorials negatively describing a conversation between Orinats Yerkir leader Artur Bagdasaryan and a UK diplomat, allegedly clandestinely recorded. The editorials contended that Bagdasaryan was seeking a negative assessment of the parliamentary elections by the international community. These events, and subsequent public remarks by the president referring to the aforementioned comments as a serious criminal act, introduced an element of intimidation into the election campaign environment.⁴⁹ The authorities failed to underscore that free expression and secrecy of private communication are protected by the Armenian Constitution, but said that an investigation would be undertaken.

There were some violent episodes shortly before and during the official campaign period, but their connection to the elections, or to election rivalries, was unclear, and they did not appear to seriously impact on the overall electoral environment.

C. "VOTE BUYING"

The Election Code prohibits parties and candidates, during the official election campaign, from giving or promising goods or services to voters,⁵⁰ which is commonly referred to as

⁴⁸ See the 1990 OSCE Copenhagen Document, Paragraph 5.4, "... a clear separation between the States and political parties; in particular, political parties will not be merged with the State".

⁴⁹ The 1990 OSCE Copenhagen Document, Paragraph 7.7, "[The participating States will] ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views..."

⁵⁰ Election Code, Art. 18.7: "During [the] pre-election campaign, it shall be prohibited for candidates (parties) to give (promise) – personally or through other means – any money, food, securities, or goods to citizens free or charge or on favorable terms, or to render (promise) any services."

“vote buying”, but is not qualified as criminal offence. The Prosecutor General indicated that criminal charges could be brought in such cases under the bribery laws if intent to influence voters could be demonstrated, but witnesses would be reluctant to cooperate since they could themselves be held liable.

The OSCE/ODIHR EOM directly observed one episode of provision of goods by a political party that met the legal definition of prohibited conduct during the election campaign.⁵¹ A person working for a majoritarian candidate in TEC 25 (Hrazdan) was arrested for vote buying on 9 May.⁵²

Numerous reported and some confirmed cases of material inducements being provided to voters during the campaign indicated that goods or services had been contributed in-kind to the campaigns of certain parties and candidates, by the candidates themselves or by other individuals or organizations. The Election Code contains no explicit restriction on in-kind contributions to a campaign, or concerning their disclosure. However, the provision against vote buying would seem to apply to situations in which candidates or parties “personally or through other means” give material inducements to voters.

Prosperous Armenia was known for its charitable activities, distribution of gifts and services to the population. During a CEC press briefing on 2 May, the issue of these activities, in the form of donating ambulances to communities, was raised. The CEC Chairman contended that these activities had been undertaken before the start of the official campaign, but also that the donation was made to the whole community and not individual voters, so could not be considered as vote buying.

The OSCE/ODIHR EOM also heard allegations that some voters were under pressure to vote for certain parties or candidates, for fear of consequences such as job dismissal. A candidate and incumbent deputy from Syunik region confirmed that workers at a large enterprise he owned were obliged to vote for him, but he characterized this as consistent with contemporary global corporate management styles.⁵³

VIII. MEDIA

A. BACKGROUND

Armenia has 61 television channels and 21 radio companies⁵⁴ as well as more than 100 print media publications. Television is the most important and influential source of information. The public service broadcaster *H1* reaches the whole of Armenia, and at least three private channels (*H2*, *Armenia TV* and *ALM TV*) cover large parts of the country. Print media include two state-funded newspapers, *Hayastani Hanrapetutyun* published in the Armenian language and *Respublika Armenii* published in the Russian language, and many private newspapers. However, due to a low circulation, up to 6,000 copies daily for any single publication, most have only a local outreach. Given the limited advertising market, and thus challenges to media with regards to their profit margin, especially in the regions, media outlets often receive revenues from business and political sources.

⁵¹ OSCE/ODIHR EOM Field observation, Kanaker-Zeytun community, Yerevan, 25 April 2007

⁵² Please see Section XIII.C, Other Developments.

⁵³ OSCE/ODIHR EOM meeting with candidate Vage Akonyan, Kapan, Syunik, 5 May 2007

⁵⁴ National Commission for Television and Radio, www.tvradio.am.

Despite the relatively high number of media outlets in Armenia, a lack of diversity in viewpoints presented by broadcast media has been criticized by international organizations dealing with freedom of expression, including the OSCE Representative on Freedom of the Media.⁵⁵ Factors affecting the media situation include a high level of influence over media outlets' editorial line by political and business interests, financial weakness of media outlets because of low advertising profitability, and legal actions against journalists in recent years. Moreover, the privately-owned TV channel *A1+*, which had lost its license in a questionable tender process in 2002, and has taken its legal challenge to the European Court of Human Rights,⁵⁶ remains off the air, despite having made at least 12 further bids for a new license.

B. LEGAL FRAMEWORK FOR THE MEDIA

The Constitution provides for both freedom of speech and freedom of information, and the 2000 Law on Television and Radio Broadcasting (the Broadcasting Law) forbids censorship and stipulates rules for the election campaign. The Election Code is the main legal basis for the conduct of the election campaign in the media.

The Election Code governs in some detail the performance of the broadcast media during the official pre-election campaign. This includes providing for free and paid airtime to all contestants based on an "equal conditions" principle. Each registered party or bloc in the proportional contest was entitled to receive on public television and public radio a maximum of 60 and 120 minutes of free airtime respectively, and no more than 120 and 180 minutes of paid airtime. In practice this meant two minutes of free TV and four minutes of free radio airtime a day; and from three to eight minutes of paid TV (the amount of daily paid airtime increased in the course of the campaign) and six minutes of paid radio airtime a day.

As required in the Election Code, on 8 April, the first day of the official election campaign, the CEC allocated by lottery the sequence of appearances in free and paid airtime, and broadcasts began on 10 April. While generally, public media adhered to their legal obligations, public TV *HI* interpreted the relevant CEC decision⁵⁷ in a somewhat formalistic manner. TV *HI* decided that all campaign slots could be broadcast daily as a bloc, in the time period set by the CEC, but for the most part outside primetime viewing. The CEC received three complaints requesting a change to the time periods for airing free and paid campaign slots. All were rejected,⁵⁸ with the justification that such a change, while broadcasts were underway, could potentially inconvenience voters.

All contesting forces used their free airtime.⁵⁹ On 19 April, majoritarian candidate Tatoul Manaseryan appeared during the free airtime allocated for the Marxist Party of Armenia. As a transfer to another party or a representative is prohibited,⁶⁰ the party could have been deregistered on the basis of the Election Code;⁶¹ however the CEC issued a general warning.

⁵⁵ OSCE Representative on Freedom of the Media, "The State of Media Freedom in Armenia", 26 July 2006, <http://www.osce.org/fom/documents.html?lsi=true&grp=297&limit=10&pos=10>.

⁵⁶ At this time, the hearing and the decision is still pending.

⁵⁷ CEC decision No.84-A from 8 April 2007.

⁵⁸ On 19 and 30 April 2007.

⁵⁹ The People's Party and the Social Democratic Hnchakyan Party did not use their time on *Public Radio*.

⁶⁰ CEC decision No.84-A.

⁶¹ Election Code, Arts. 18.8 and 103.1.

Aside from free airtime requirements, the law obliges both public and private media to present in their news programmes impartial and non-judgmental information about contestants' election campaigns, and to ensure equal and fair conditions.⁶² The CEC oversees the mass media to ensure equal campaign opportunities, with the right to make a court complaint in the event of a violation.⁶³ The broadcast media's compliance with legal procedures is also monitored by the National Commission for Television and Radio (NCTR), which may similarly apply to court in the event of a violation, and with the CEC also having a right to submit to the court its opinion on such a violation.⁶⁴

The country's leading private broadcasters offered to air paid political advertisements, but some local TV stations decided either not to accept any advertisements or to limit paid airtime to majoritarian contestants. The national broadcasters' advertising rates appeared high by local standards. *Armenia TV* had the highest rate at 130,000 AMD, approximately €260 per minute, especially when compared with commercial rates outside the campaign period. A considerable number of political forces criticized these high costs as prohibitive, and most of the spots offered were at less attractive times, before 19:00 hrs. Few election contestants used paid advertising.⁶⁵ For those who did, some broadcasters occasionally failed to display the on-screen title "political advertisement", and some paid campaign slots were broadcast within commercial breaks. Neither of these breaches of the Broadcasting Law prompted any reaction from the oversight bodies.⁶⁶

According to information from the CEC⁶⁷, there were altogether 14 complaints concerning the content of election-related broadcasts, submitted by the Republic Party, Orinats Yerkir, and Democratic Way. The CEC ruled against ten on the grounds that the law allows each media outlet to decide upon the content of its programmes; the other four complaints were passed to the NCTR.⁶⁸ A complaint from the Republic Party concerning breach of the silence period was passed to the Prosecutor General's office. Some of the Republic Party's complaints to the CEC were separately sent also to the NCTR, which did not find a violation in any of the cases.⁶⁹

⁶² Election Code, Art. 20.3 and 20.5.

⁶³ Election Code, Arts. 41.1 and 45.

⁶⁴ Election Code, Art. 20.9.

⁶⁵ The number of election contestants using paid advertising varied from five on *Kentron TV* to nine on *H2*. Data obtained from the NCTR, 11 May 2007.

⁶⁶ The absence of the "political advertisement" label was raised as one of the complaints in a Constitutional Court challenge to the election results (see below). At hearings on 4-5 June the CEC was unable to provide clarity about why the label had not been consistently applied but noted that the label was mandatory only for paid advertisement. In its decision, the Court acknowledged that the legal practice lacks a unified approach towards the requirements of Article 11 of the Broadcasting Law. This refers particularly to the good faith implementation by the CEC and NCTR of their supervisory authorities during the election period.

⁶⁷ CEC website, www.elections.am, 22 May 2007.

⁶⁸ In February 2007, media legislation was amended to bring it into conformity with constitutional amendments approved in 2005. Previously, the NCTR, which is also in charge of granting licenses, was composed of nine members, all presidential appointees, but the February amendments introduced changes to the Commission's membership that, when fully enacted, are meant to achieve more diverse composition comprising eight members, four presidential and four parliamentary appointees. The NCTR is responsible for private broadcasters. There is also a Council for Public TV and Radio, the executive body for public media, with all five members directly appointed by the president. There is no regulatory body for the print media.

⁶⁹ Information provided by the NCTR, 11 May 2007.

C. MEDIA MONITORING

On 22 March, the OSCE/ODIHR EOM commenced monitoring seven Yerevan-based television channels, two radio stations and four daily newspapers.⁷⁰ The OSCE/ODIHR EOM evaluated whether the media provided impartial and balanced coverage of the contestants and state authorities, and whether the political forces enjoyed unimpeded access to the media.

Before the start of the official campaign, several OSCE/ODIHR EOM interlocutors pointed out that an alleged longstanding editorial policy of major TV channels entailing limited or non-existent coverage of some opposition figures had been discernibly relaxed.⁷¹ The death of Prime Minister Margaryan overshadowed coverage of election developments before the start of the official campaign.

The absence of regulation for campaigning in the period before the start of the official campaign⁷² was noticeable also in the media. At least three TV channels aired political materials with promotional messages for the People's Party⁷³ (*ALM TV*), Prosperous Armenia (*Kentron TV* and *Hrazdan TV*) and the United Labour Party (*ALM TV*), before the start of the official campaign.

With the start of the official campaign period, there was a noticeable increase of media attention to campaign events and of visibility of election contestants. The electronic media provided voters with extensive reflection of political and electoral events in their evening newscasts, current affairs programmes and various talk-shows and interviews. *Yerkir Media*, in co-operation with the Yerevan Press Club and with international support, organized a regular series of national pre-election debates.⁷⁴

Overall, many national media (both in Yerevan and in other parts of the country) made a visible effort to cover a broad range of political subjects, and thus to comply with legal provisions requiring equal conditions. At the same time, most monitored TV channels devoted the highest portion of political information in newscasts to activities of the government⁷⁵ and three political parties, the Republican Party, Prosperous Armenia and ARF Dashnaktsutjun. Local media paid more attention to local competitions, including individual majoritarian contestants.

⁷⁰ The EOM, by using qualitative and quantitative analysis, monitored from 22 March through 10 May the following media outlets: the public-service broadcaster *H*, the TV channels *ALM TV*, *Armenia TV*, *H2*, *Kentron TV*, *Shant TV*, *Yerkir Media*; the Public Radio, the *RFE/Radio Liberty*; the state funded newspaper *Hayastani Hanrapetutyun* and the newspapers *Aravot*, *AZG* and *Haykakan Zhamanak*. Two domestic organizations, the Yerevan Press Club and the Caucasus Media Institute, also conducted media monitoring projects.

⁷¹ On 14 May 2007, 19 NGOs issued a public statement. While admitting certain improvements in access to the media during the official election campaign period, they still expressed concern over freedoms of media and assembly based on their observation and experience of problems and violations in these fields prior to the campaign.

⁷² Please see Section VII.A, Legal Framework for Campaigning.

⁷³ The Head of the People's Party, Tigran Karapetyan, is the owner of *ALM TV*.

⁷⁴ *Hamaspur* television network consisting of several regional TV channels also aired pre-election debates.

⁷⁵ Some public appearances of President Kocharyan were also covered extensively, including the speech at Yerevan State University on 27 April and the discussion with directors of three major TV channels on 10 May.

TV coverage of government activities included a primary focus on Prime Minister Serge Sargsyan. The way in which Mr. Sargsyan's public appearances in the regions were presented by the media, often not clearly distinguishing his roles as prime minister and as Republican Party leader, reflected a broader issue that legal provisions concerning campaigning by officials and its presentation by the media are difficult to apply and enforce. To a lesser extent, this was also the case for TV coverage of government ministers from ARF Dashnaktsutun.

When reporting about election contestants, the media paid attention principally to the positions of leading political personalities towards actual issues and questions, as well as to their previous achievements, rather than to the political perspectives or platforms of the political forces they represented. At the same time, TV channels in their main newscasts presented overtly positive and neutral information, limiting to a minimum critical remarks or negative information; however, some parties used their free and paid airtime to convey critical messages. Based on international practice, with respect to freedom of expression, an acceptance of heated exchanges of opinion can contribute to pluralism and should usually be tolerated in a democratic society. This is especially important during election campaigns that focus attention on government authorities, elected officials, and candidates for office.⁷⁶

The media generally respected the silence period that started 24 hours before election day; the one observed lapse was by the newspaper *Hayots Ashkhar*, which published materials bearing promotional signs of the Republican on 11 May.

Public Service Broadcasters: *HI* and *Public Radio*

From the beginning of the official campaign, both public broadcasters tried to pursue an editorial line that would guarantee equal conditions for contestants, adopting a principle to cover predominantly the major parties, those represented in parliament and those carrying out an active campaign. *Public Radio* in its main evening news programme offered its listeners balanced political coverage, both in time and tone, with the Republican Party (11 per cent), Orinats Yerkir (9 per cent) and the Armenian People's Party (9 per cent) accounting for the highest portion of its political coverage.

Public television *HI*, in its news programme, presented a number of political subjects, with the highest portion of its political coverage given to the government with 17 per cent (as compared to 43 per cent before the start of the official campaign) of predominantly neutral and positive tone. It was the only broadcaster that paid greatest attention to forces other than the pro-governmental parties, giving 12 per cent of its coverage to the Armenian People's Party and 10 per cent to the National Unity Party (of the pro-governmental parties ARF Dashnaktsutun received most coverage with 10 per cent). The information presented was overwhelmingly positive and neutral in tone.

However, *HI*'s coverage of Orinats Yerkir called into question whether the channel's qualitative approach towards that party was really unbiased. Following the publication of the first of the *Golos Armenii* articles about Artur Bagdasaryan,⁷⁷ *HI* was the only television channel that presented it *verbatim*, although omitting one negative comment about the President, in its main news programme. Later it also aired, at least twice, the President's

⁷⁶ "Existing commitments for democratic elections in OSCE participating States", Warsaw, October 2003, pp. 69-70, http://www.osce.org/documents/odihr/2003/10/772_en.pdf

⁷⁷ Please see Section VII.B, Conduct of the Campaign.

public remarks referring to the party chairman's private comments. Notwithstanding the editorial freedom to inform the public about important events, *HI* did not uphold journalistic standards by not presenting any response from Orinats Yerkir.

In addition, certain elements of *HI* pre-election as well as post-election coverage of some opposition forces, such as Heritage, Republic Party, Impeachment Bloc, and New Times Party, presented mostly by one journalist, raised concern about the channel's objectivity and impartiality in presenting different views in an unbiased manner.

Private channels

Similarly, in the news programmes of all nationwide private television channels, such as *H2*, *Armenia TV* and *ALM TV*, the government was given the highest share of all monitored political subjects, with 26 per cent of political coverage allocated by *H2*. Moreover, all channels offered viewers almost exclusively positive and neutral portrayal of the government. Apart from coverage of the authorities, the monitored private TV channels dedicated the largest part of their political newscasts to the Republican Party (*Armenia TV* and the highest portion in *ALM TV*, 21 per cent), to Prosperous Armenia (*H2*, *Shant TV* and the highest portion in *Kentron TV*, 23 per cent), and to ARF Dashnaktsutun (*Yerkir Media*, 41 per cent). Critical information about these parties was almost completely absent. Some private TV channels expressed clearly their editorial line by promoting certain parties or individual representatives in programmes other than news broadcasts, such as regular talk shows promoting the People's Party on *ALM TV*, or occasional documentaries featuring ARF Dashnaktsutun's political history on *Yerkir Media*.

Only radio stations, and mainly RFE/Radio Liberty, broadcast critical viewpoints voiced regularly by different contestants and voters, often transmitting also rather general negative comments about political developments.

Print media

The monitored print media offered readers a diversity of views, including critical comments, and presented a diversity of political forces and majoritarian candidates. However, print media often displayed an unbalanced approach. *Hayastani Hanrapetutyun* showed clear preferential treatment of the authorities and the Republican Party, granting them altogether more than 62 per cent of almost exclusively positive and neutral information. The private *Haykakan Zhamanak* presented a quantitatively balanced picture, but it showed clear bias in favour of the Impeachment Bloc in terms of its tone, which was overwhelmingly positive and neutral, while being negative about most of its opponents. *AZG* paid the highest attention to Prosperous Armenia, at 28 per cent. More balanced and analytical reporting was observed in *Aravot* daily.

IX. PRE-ELECTION COMPLAINTS AND APPEALS

A. LEGAL COMPETENCE

The Election Code permits appeals to the courts against actions or inaction of election commissions by political parties, coalitions and candidates. Electoral disputes are considered civil cases covered by the Civil Procedure Code, therefore falling within the jurisdiction of courts of first instance. This is because the Law on Normative Acts gives precedence to the

Civil Procedure Code over the Election Code, as the former was adopted earlier,⁷⁸ there being a contradiction between the Election Code which states that appeals against actions of the CEC are in the competence of the Court of Appeal,⁷⁹ and the Civil Procedure Code which stipulates that election-related cases shall be heard by the court of first instance.⁸⁰

The Election Code and provisions of the Civil Procedure Code on election-related disputes declare election-related first instance court decisions to be final and not subject to appeal. However, in six decisions on complaints rendered on 3 May, the court of first instance granted the right of appeal, citing different provisions of the Civil Procedure Code. The official explanation by the court was that legal provisions concerning actions of “state authority” applied⁸¹ rather than those regarding electoral rights.

B. COMPLAINTS AND APPEALS ABOUT CANDIDATE REGISTRATION

In TEC 19 (Vagharshapat) candidates Hakob Rafiki Hakobyan and Susanna Haroutunyan were deregistered by decision of the Armavir region first instance court on 10 April, following a complaint by a third candidate in that constituency. The complainant argued that both candidates were registered in breach of the requirement of “civic initiative” nominees’ applications, which requires that applications be supported by signatures of all 50 members needed to form the initiative group that had nominated them.

Candidates in National Assembly elections must submit a “Declaration of Property and Income by Senior Public Officials of the Republic of Armenia”.⁸² In TEC 29 (Spitak) candidate Vardan Madatyan complained to the TEC seeking deregistration of rival candidate Arkadi Hambardzumyan, on the basis that the incumbent deputy Hambardzumyan had claimed in campaign materials to have made charitable contributions to three communities in early 2007, with a total value of 44.5 million AMD, and to have funded various development projects in the region totalling 123.6 million AMD. However, his financial declaration reflected a personal income in 2006 of just over 3 million AMD. The TEC ultimately rejected the complaint, on the grounds that the contributions in question were not made within the financial reporting period. Upon appeal, a first instance court concluded that the contributions could not be demonstrated to be inconsistent with the candidate’s financial means at the time.

TEC 39 (Vayots Dzor) received a complaint about a candidate’s inclusion of the Armenian flag in a campaign poster, in violation of the Election Code, with a request for the candidate’s deregistration. The TEC found that the object in question on the poster was not the Armenian flag. The plaintiff, a rival candidate, appealed the TEC decision to the court of first instance, which found the TEC’s finding that the object was not a flag to be incorrect, but rejected the appeal on the grounds that only the TEC, and not the plaintiff, was competent to apply to court for the candidate’s deregistration. This ruling highlighted inconsistencies between court decisions; the court in the TEC 19 case having had no such reservation in accepting the application of candidate Hakob Varshami Hakobyan against his two rivals.

⁷⁸ Law on Normative Acts, Art. 24.3.

⁷⁹ Except for those related to summarization of the results of an election, which go to the Constitutional Court. Election Code, Art. 40.3.

⁸⁰ The constitutionality of provisions of the Civil Procedure Code, Chapter 24, had been challenged in the Constitutional Court. The court denied the complaint on 8 May 2007, Decision of Constitutional Court No.CCD-700, 8 May, 2007

⁸¹ In this case, the state authority was the CEC.

⁸² Election Code, Arts. 101.1 for proportional list candidates and 108.2.5 for majoritarian candidates.

C. OTHER COMPLAINTS

The CEC and TECs have responsibility under the Election Code to review actions by subordinate election commissions. There was a noticeable deficit in this regard due to evident passivity and lack of initiative by the election and other authorities responsible for upholding the regulatory framework, who stated that they would only take action upon receipt of a formal complaint.

The OSCE/ODIHR EOM was informed of 62 complaints registered with the CEC. These concerned, *inter alia*, allocation of places for campaign posters, the time of broadcasting campaign slots, violations of campaign procedures by media, and issues related to the accuracy of voter lists. The CEC rejected the majority of cases on jurisdictional grounds or as being without substance, as often parties or candidates were unable to provide any substantial evidence to support their claims. Any complaint addressed to the CEC received an official response reflecting the position of the CEC, although this was not characterized as a “decision” of the CEC.

While complaints received by the CEC were handled with overall transparency, some of its official responses were not sufficiently reasoned. For example, in response to a complaint by Orinats Yerkir that a mayor had breached the requirement for provision of state-owned premises as campaign venues free of charge⁸³ (asking for payment of 100,000 AMD⁸⁴), the CEC on 12 April declared the definition of state property to be central government and not local self-government property.⁸⁵ However, this was contrary to practice already widely in evidence during the campaign.

Another example was the CEC response to a majoritarian candidate in TEC 14 (Ashtarak), a pretrial detainee, who was appealing extension of detention while being registered as a candidate. The CEC explained that since the detention was initiated in December 2006, it did not have the jurisdiction to veto the court decision. The CEC failed to properly justify its decision. Taking into account that extension of the detention was made on 5 April, and that the Election Code stipulates that majoritarian candidates may be detained or brought to court only with CEC consent, the case could be seen as falling within the CEC’s jurisdiction.

A small number of complaints were filed with TECs, and none upheld. These included the candidate deregistration mentioned above, inaccessibility of voter lists at PEC premises, and allocation of premises for campaign headquarters.⁸⁶ More than 20 complaints⁸⁷ received by the courts of first instance, challenging inaction of the CEC, were also rejected.

Prosecutors also played a role in handling complaints related to the election process. During the election period, the Prosecutor General formed two working groups, one to study reports

⁸³ Election Code, Art. 18.1. “Pre-election campaign shall be carried out on the bases of equality. It shall be ensured by state bodies ... by providing halls and other premises for pre-election meetings, meetings of voters with candidates and other election related events. These shall be provided ... on an equal basis and free of charge ...”.

⁸⁴ Copy of a letter from the office of the mayor of Spitak to Orinats Yerkir requesting 100,000 AMD or approximately € 200, for provision of premises for a campaign meeting, viewed by OSCE/ODIHR EOM.

⁸⁵ Local Government Law, Art. 70.2.

⁸⁶ TEC 17 (Artashat).

⁸⁷ The majority of complaints were filed by the “Supreme Council” NGO and the Republic Party.

about electoral violations, the other to supervise any resulting investigation. The Prosecutor General issued four reports, listing 30 cases brought to the attention of his office in writing and 34 announcements obtained from mass media.

X. PARTICIPATION OF WOMEN

Armenia's legal framework provides for equality between men and women, including an anti-discrimination provision in the Constitution.⁸⁸ In addition, Armenia adopted a "National Action Plan 2004-2010 on Improving the Status of Women and Enhancing Their Role in Society". However, effective mechanisms for implementation and monitoring are not fully in place.

The 2007 elections took place in a context of very few women holding executive or decision making positions in public and political life. In the outgoing parliament, seven out of 131 deputies or 5.3 percent were women, and in government, one minister out of 16 was a woman.⁸⁹

Following the 2003 parliamentary elections, the OSCE/ODIHR had recommended that Armenia "increase the participation of women in the electoral process and especially to improve the representation of women as candidates and in parliament".⁹⁰ The amended Election Code, Article 100.2, now requires every party or bloc list for the proportional contest to include 15 percent women, and in at least every tenth position. In the 41 majoritarian contests, out of 119 candidates only five were women, competing in three constituencies.⁹¹

Traditional attribution of gender roles is prevalent in Armenia, and women need substantial support when trying to enter politics. Two NGOs⁹² have been offering leadership courses for women from civil society and political parties. A number of women standing as candidates in the elections participated in these programs. During the campaign period, two debates among female candidates of different parties were organized by the NGO "Women's Alliance", with around 1,000 attendees and broadcast on national TV. The independent weekly newspaper *ArmeniaNow* in March 2007 published a special edition on women in politics,⁹³ which was distributed throughout the country. But generally, visibility of women as candidates was low, and the OSCE/ODIHR EOM media monitoring established that less than four per cent of politics related news information on public media and nationwide TV channels covered female candidates.⁹⁴

⁸⁸ Constitution of the Republic of Armenia, Art. 14.1.

⁸⁹ For the parliamentary elections in 2003, a 5 per cent quota for women was applied for party and bloc lists.

⁹⁰ OSCE/ODIHR Final Report Parliamentary Elections Armenia 2003, available at http://www.osce.org/documents/odihr/2003/07/533_en.pdf

⁹¹ One in TEC 11 (Shengavit, Yerevan), two in TEC 12 (Shengavit, Yerevan), and two in TEC 31 (Vanadzor-Alaverdi).

⁹² NDI and 'Armenian Association of Women with University Education'

⁹³ See www.armenianow.com. According to the editor, 25,000 copies of the special edition were distributed.

⁹⁴ *H1* (public TV) 3.2 per cent; *H2* 2.8 per cent; *Armenia TV* 2.9 per cent; *Alm TV* 0.7 per cent; Public Radio 3.6 per cent.

After the 12 May elections, there are now 12 women deputies, all elected from proportional lists.⁹⁵ The Republican Party has only two women among its elected deputies: all other women on the list of the Republican Party who would have received a seat declined to take the mandate (as the last deputy entering parliament from the Republican Party was in position 82 on the list, six women in better positions than him declined). Prosperous Armenia, ARF Dashnaktsutun and Heritage have three women deputies each, and Orinats Yerkir has one.

XI. DOMESTIC AND INTERNATIONAL OBSERVERS

Fifty two domestic observation groups observed the 12 May parliamentary elections. The CEC refused accreditation to ten NGOs, mainly because they did not meet the requirement that relevant activities be included in their statute, and deregistered one on the grounds that it violated the provision of non-partisanship. Domestic observers were present in 82 per cent of polling stations visited by the IEOM during voting, and during 89 per cent of counts observed. In addition to the international organizations represented in the IEOM, the CEC accredited observers from the Executive Committee of the Commonwealth of Independent States and its Interparliamentary Assembly.

A recent amendment to the Election Code requires that international organizations be invited by either the President or the National Assembly, or the Government or the CEC.

Neither the Election Code nor the CEC regulation on observers contain a clear explanation of citizenship requirements for international and domestic observers. There were cases of Armenian citizens being registered as international observers and foreign citizens registered as domestic ones.

The Armenian authorities' last minute denial of visas to OSCE/ODIHR observers seconded by an OSCE participating State, Turkey, was not in line with Paragraph 8 of the 1990 OSCE Copenhagen document to invite election observers from any other OSCE participating State.

XII. OBSERVATION OF VOTING AND COUNTING

A. VOTING

On election day, voting took place in a mostly calm atmosphere. The conduct of voting was evaluated as very good or good in 94 per cent of polling stations visited. In many cases where it was assessed as problematic, this was due to overcrowding (14 per cent), and the maintenance of conditions for secrecy of voting with the open-front voting booths observed in polling stations (17 per cent). Unauthorized persons were present in 16 per cent of polling stations. Overcrowding, largely a consequence of challenging conditions at premises available to serve as polling stations and poor weather in some parts of the country, meant that voters were unwilling to wait outside, and caused one PEC in TEC 30 (Vanadzor) to close the polling station some 30 minutes early, denying the possibility to vote to people who were waiting.

⁹⁵ In the 2003 parliamentary elections one woman received a majoritarian mandate. The present majoritarian system does not seem conducive for women's representation in parliament.

Problems of an apparently deliberate character were observed in TECs concentrated in parts of Aragatsotn, Armavir, Ararat, Gegharkunik, Lori and Vayots Dzor regions, leading to a higher prevalence of IEOM observers' negative assessments. People voting more than once were observed in polling stations in TECs 23 (Sevan) and 31 (Vanadzor-Alaverdi);⁹⁶ an attempt by the PEC to conceal the same activity at a polling station in TEC 39 (Vayots Dzor) was also observed.⁹⁷ Outside one polling station in TEC 31, IEOM observers saw people having what appeared to be a false data page including a photograph inserted into their passports, suggesting preparation for voter impersonation fraud.⁹⁸ Vote buying was evidently taking place at premises opposite another polling station in the same constituency,⁹⁹ and in three instances elsewhere IEOM observers' noted that their arrival at a polling station caused a sudden dispersal of groups of people standing inside or immediately outside the premises.¹⁰⁰

Among episodes of tension connected to the behaviour of party or candidate proxies, or unauthorized persons, there was excitement at a polling station in TEC 29 (Spitak) when Prosperous Armenia representatives threatened the PEC and stole the ink pad used for the PEC stamp, causing voting to be temporarily suspended.¹⁰¹

B. COUNTING

The IEOM observed the vote counting and completion of results protocols at 108 PECs. Counting was protracted, although in only four observed instances did it extend beyond the legal deadline for completion.¹⁰² Where the IEOM observed the counting, it was mostly conducted procedurally correctly, however, in some six per cent of polling stations, PEC chairpersons did not declare or show the voter's choice on the ballots to those present, and in nine per cent the number of votes cast for contestants was not announced aloud.

The voting procedures require a voter to use a "V" mark to indicate his or her choice on the ballot paper. Problems of arbitrary application of this requirement arose, with some PECs ruling invalid ballots where the "V" mark was slightly outside the box, or untidily written, even though the voter's intent was clear.

In 35 per cent of the polling stations where counting was observed, the PEC members had difficulties completing the results protocols, and in 11 cases the PEC was observed taking the prohibited action of changing protocol "initial data".¹⁰³ This suggested that PEC trainings had not achieved the intended high level of familiarity with procedures that were new for these elections. The implications of the observed difficulties with completion of results protocols at PECs became more evident at the point of transfer of results for tabulation at the TECs, where it was established that many results protocols had been filled out incompletely or incorrectly by the PECs.¹⁰⁴

⁹⁶ PECs 23/51, 23/70, 31/11.

⁹⁷ PEC 39/10.

⁹⁸ PEC 31/61.

⁹⁹ PEC 31/04. IEOM observers' arrival appeared to cause the suspension of vote buying.

¹⁰⁰ PECs 25/17, 25/25, 37/66.

¹⁰¹ PEC 29/29.

¹⁰² Ten hours after the close of voting.

¹⁰³ Election Code, Art. 63.1; the "initial data included number of voters according to the voter lists, number of ballots and envelopes received, number of cancelled and unused ballot papers and number of ballot paper coupons.

¹⁰⁴ Please see Section XIII.A, Tabulation of Results.

Deliberate tampering with PEC counting and with results protocols was directly observed at some polling stations, in the form of moving ballots between piles, adding invalid ballots to piles, or in the compiling of the protocol.¹⁰⁵ At a PEC in TEC 7 (Malatia-Sebastia, Yerevan), a proxy of the single majoritarian candidate was allowed to participate in the proportional vote count, controlled the ballot pile for a leading party, and at the end of the count insisted on having a number recorded in the protocol for votes for this party without the ballots in the pile being counted. This proxy was allowed to completely take over the majoritarian vote count, and was observed to have placed a large number of votes cast against the candidate into the “for” pile.¹⁰⁶ At a PEC in TEC 21 (Armavir) the chairperson told IEOM observers that he would adjust the results for the party he was supporting, and was then observed accordingly recording a figure with 25 votes higher.¹⁰⁷

Vote counting is required to be conducted in controlled conditions in which only authorized persons may be present, and without interruption. This was frequently subverted by the widely observed use of telephones, particularly mobile telephones, by persons present at the count, including PEC members, apparently reporting details of the count while it was in progress.

XIII. POST-ELECTION DEVELOPMENTS

A. TABULATION OF RESULTS

The IEOM observed tabulation of results from the vote count in the polling stations at 39 out of the 41 TECs. Overall, IEOM observers assessed the conduct of the tabulation as bad or very bad in 34 per cent of TECs. IEOM observers reported deviations from established procedures in 31 per cent of TECs. These deviations included lapses in a number of procedures relating to the security of electoral materials and transparency.¹⁰⁸

The completion or correction of protocols at TECs was widely observed, 83 percent of TECs ordered corrections while compilation of new PEC protocols was observed at TECs 13 (Erebuni-Nubarashen, Yerevan), 16 (Masis) and 37 (Goris). Fourteen TECs were observed changing or ordering changes to initial data on PEC protocols, an action prohibited in the election code.

In seven TECs, bags containing ballot papers were delivered from PECs unsealed, or had clearly been sealed and reopened.¹⁰⁹ At TEC 19 (Vagharshapat), IEOM observers saw unsealed bags of ballot papers being taken downstairs to a campaign office of the Republican Party and then brought back up to the TEC premises sealed. TECs 4 (Arabkir, Yerevan), 36 (Artik-Maralik) and 40 (Noyemberian) were unable to complete the tabulation of results within the deadline of 14:00 hours on 13 May.

¹⁰⁵ Placing ballots deliberately on the wrong piles, or adding invalid ballots to a particular pile, was observed at PECs 11/09, 17/38, 29/29 and 29/42; the numbers of votes being recorded differently on the protocol compared to the number observed being counted was observed at PECs 10/10 and 16/43.

¹⁰⁶ PEC 07/04. This proxy was also observed placing ballots that had been ruled invalid into the pile he was controlling.

¹⁰⁷ PEC 21/40.

¹⁰⁸ Checking of the PEC seal by the TEC was not done consistently in 12 per cent of TECs observed; receipts for protocols were not issued to PECs in 13 per cent, and TEC certification of the PEC protocol was omitted in 18 per cent.

¹⁰⁹ TECs 13, 19, 24, 26, 31, 33 and 36.

The CEC had made considerable efforts to establish a transparent system for reporting of PEC results on its website and largely managed to achieve this goal within legal deadlines. The CEC announced preliminary results for the proportional contest at 16:10 hours on 13 May. Three CEC members, representing the former Justice Alliance, Orinats Yerkir and the National Unity Party, refused to sign the results protocol, stating that the extent of electoral violations reported to them called into question the accuracy of the election outcome.¹¹⁰

On 16 May, OSCE/ODIHR EOM observers at the CEC premises in Yerevan witnessed CEC staff, in the presence of TEC representatives, re-entering PEC protocol data for the proportional contest into the computerized tabulation system. It was explained to the OSCE/ODIHR EOM that original protocols brought to Yerevan by the TECs were used for data re-entry, and that final election results would be established on this basis.

On 19 May, the CEC held its session on establishing and announcing final results of the proportional election and approving the results of the majoritarian contest. The final results exhibited only minor differences as compared to the preliminary results. The same three CEC members who had refused to sign the preliminary results protocol refused to sign the final results protocol as well.

The OSCE/ODIHR EOM was able to compare 94 certified PEC “protocol extracts” obtained by IEOM observers from 35 constituencies with the disaggregated preliminary results of the proportional contest posted on the CEC website. Discrepancies in 187 individual items of data entry were found. Discrepancies included numbers swapped between lines and incorrect calculations. More significant discrepancies were found in the initial data which, according to the Election Code, should not have been altered after being initially recorded.

The Election Code provides that candidates, proxies or PEC members have the right to appeal the results of the voting in a particular precinct by submitting a recount request to the respective TEC. In cases where TECs rejected requests for recounts, the decision to do so was made on procedural grounds and in accordance with the law.¹¹¹

The OSCE/ODIHR EOM was made aware of more than 30 requests for recounts affecting more than 200 polling stations in 12 constituencies; these related mainly to majoritarian contests. Some of these requests were subsequently withdrawn by the complainants. In two cases, in TECs 15 (Talin) and 25 (Hrazdan), the complainants withdrew their requests for a recount after it had commenced, because they allegedly did not trust the TEC recount process. The recount at TEC 15 was affected by a demonstration outside the premises on 16-17 May and delays in reaching a quorum.

In the five places where recounts were conducted to completion, they were reported to have been carried out in a calm atmosphere and in accordance with procedures. TEC 33 (Ashotsk Gyumri) did not meet the deadline for summarization of the recounts, but reportedly was

¹¹⁰ According to the preliminary results, both the Armenian People’s Party (the principal partner in the former Justice Alliance) and the National Unity Party did not pass the 5 per cent threshold to retain parliamentary representation, and although Orinats Yerkir passed the threshold, its result was substantially lower than in 2003.

¹¹¹ Election Code, Art. 40².

given a deadline extension by the CEC.¹¹² Recounts observed by the OSCE/ODIHR EOM did not produce significantly different results from those recorded in the original protocols.

The Prosecutor General ordered the recount of results in 30 PECs in TEC 31 (Vanadzor-Alaverdi) on the basis of a complaint about electoral violations filed by losing candidate Larisa Paremuzyan. No major inaccuracies were reported from these recounts.

While the TEC protocols disaggregated by PEC for the proportional contest are required by law to be publicly posted, the posting of the majoritarian contest results as disaggregated by PEC is not stipulated in the Election Code. Consequently, proxies, observers and other interested parties had no possibility to check the correctness of certified PEC protocol copies against a TEC protocol for the majoritarian contest. Moreover, the period for which proportional and majoritarian result protocols should be on display at PEC and TEC premises is not stipulated. In many places, the OSCE/ODIHR EOM observed that protocols were taken down shortly after election day. On 18 May, the OSCE/ODIHR EOM noted that all TEC protocol data on majoritarian contest results had been removed from the CEC website.

B. POST-ELECTION COMPLAINTS

The OSCE/ODIHR EOM was informed of seven complaints filed with the CEC and around twice that number filed with TECs alleging irregularities on election day, including vote buying, ballot stuffing, the presence of unauthorized persons, and campaigning. The CEC demonstrated genuine efforts to handle disputes in a timely manner. Most of the complaints it received were rejected on jurisdictional grounds or as lacking substance. Although TECs also handled complaints in a transparent manner, some issues raised concern. In particular, on election day TEC 17 (Artashat) refused to review four complaints submitted by a candidate. The complaints had been erroneously addressed to individual PECs rather than to the TEC; instead of refusing them, the TEC could have advised complainants to correct the formal error.¹¹³

Election results can only be challenged in the Constitutional Court. On 26 May, Orinats Yerkir, the New Times Party, the Republic Party and the Impeachment Bloc lodged separate appeals against the proportional election results, requesting their annulment.¹¹⁴ The Constitutional Court decided to hear the complaints collectively. Hearings took place between 1 and 9 June. Plaintiffs complained of state interference in the electoral process, inaction of the CEC, campaigning before the official campaign period, breaches of campaign finance rules, breaches of the regulations covering media conduct in the elections, vote buying, the

¹¹² In his response to the OSCE/ODIHR EOM's Post-Election Interim Report No.1, the CEC Chairman claimed that this had not been the case, but on 5 June he told the Constitutional Court that problems during the recount had indeed occurred at TEC 33. Letter from the CEC Chairman to the Head of the OSCE/ODIHR EOM, 25 May 2007.

¹¹³ Election Code, Art. 40¹.3.

¹¹⁴ Court officials told the OSCE/ODIHR EOM, that, guided by the Law on the Constitutional Court, the court would receive complaints for both the proportional and majoritarian contest on the seventh day after the announcement of final results, i.e. 26 May for proportional and no later than 24 May for majoritarian contests. (There may be a possible difference of language between the Election Code and the Law on the Constitutional Court where, according to Constitutional Court officials, the Law on the Constitutional Court takes precedence). The Constitutional Court had fifteen days to render a final decision on the proportional results after their announcement, while one month was granted for deciding on majoritarian disputes. Moreover, the Constitutional Court could decide to prolong the deadline for a decision in the majoritarian contest for up to 50 days.

amendments in the law cancelling out-of-country voting, and falsification of results. Orinats Yerkir's complaint included a focus on alleged wrongdoing at specific TECs and PECs.

The CEC acknowledged that changes had been made to results protocols, but insisted that these were technical corrections only. It disputed all other complaints, although its position appeared weak with regard to campaign financing and the campaign in the media, as explicitly noted by the Court during the hearings.

The Constitutional Court ruled on 10 June to uphold the CEC decision on the final election results.¹¹⁵ The judgment nevertheless noted a number of deficiencies in the regulation of elections in Armenia, specifically with regard to campaigning and campaign and party financing. The Court also noted conflicting provisions between the Election Code and other laws such as the Broadcasting Law and the Civil Procedure Code. The Court emphasized the importance of separating government activities from campaigning. It also ordered the Office of the Prosecutor General to examine materials from six PECs¹¹⁶ with a view to initiating criminal proceedings as necessary.

The Constitutional Court also received three complaints about the majoritarian contest, concerning the results in TEC 11, TEC 33 and TEC 36, brought by defeated candidates Haghine Bisharyan (Orinats Yerkir), Hovhannes Hayki Margaryan (Orinats Yerkir) and Mushegh Aguni Sagatelyan (non-partisan), respectively. Both Orinats Yerkir candidates withdrew their appeals on 12 June, allegedly due to mistrust towards the court administration. The court heard the third complaint on 25 and 29 June. The plaintiff argued on a large number of violations during the elections, amounting to 1441 inaccuracies in the whole district. After examining materials of 26 polling stations, the court ruled on 29 June against the complainant.

C. OTHER DEVELOPMENTS

Consistent with statements by President Robert Kocharyan and Prime Minister Serge Sargsyan that criminal responsibility for electoral violations was being pursued, three criminal cases have concluded. On 31 May, the first instance court in Armavir ordered two and a half years imprisonment, changed to a one-year probation period, for a person accused of bribery in support of his candidate. All nine members of PEC 15/16 (in Getashen village, Armavir region) were tried on 5 June for falsification of the election results; the PEC chairman was sentenced to 18 months' imprisonment and the other members received suspended sentences of four years for the secretary and three years for other members, while a probation period of one year and two years was established for the secretary and other members respectively. On 6 June, a candidate proxy in TEC 25 (Hrazdan) was convicted of inciting another person to bribe voters. The court sentenced the proxy to one year's imprisonment, and his accomplice to a one-year suspended sentence.

XIV. RECOMMENDATIONS

The following recommendations are offered for consideration by the Armenian authorities, in support of their stated intentions and efforts to conduct elections fully in line with OSCE commitments and other standards for democratic elections.

¹¹⁵ Constitutional Court Decision No. CDD-703, 10 June 2007.

¹¹⁶ PECs 18/43, 20/36, 20/47, 23/39, 23/41, 41/14.

A. LEGAL FRAMEWORK

1. The Election Code should be brought into conformity with other legislation in order to eliminate discrepancies, including those identified by the Constitutional Court.
2. The Armenian authorities should consider a comprehensive review of provisions regulating campaign and campaign financing, in the context of full respect for fundamental civil and political rights before, during and after the official campaign period, with a view to ensure equal opportunities for electoral contestants, and full transparency and accountability for campaign expenditures in a timely manner. Existing provisions for campaigning should be clarified, including on early and indirect campaigning.
3. The definition of “state premises” that qualify for use free of charge in the campaign period should be clarified.
4. Consideration should be given to criminalize vote-buying by inclusion of this offence also in the Criminal Code, with a view to enhance enforcement.
5. Provisions of the Electoral Code regulating complaints and appeals procedures should be amended to ensure that each election commission issues a written decision, taken at a plenary session, on any written complaint submitted.
6. The CEC and the TECs should be obliged by law to refer all significant electoral violations, including those that could potentially affect the results, to prosecutors or other relevant authorities.
7. The Election Code should be amended to provide for the possibility to appeal a decision of the first instance court in any election-related dispute.

B. ELECTION ADMINISTRATION

8. The observed practice of privileged access for appointees of the governing parties and the president to the positions in the election commission “troikas” (chairperson, deputy chairperson and secretary) should be reviewed as a matter of urgency, with a view to underscore inclusiveness, and enhance public confidence in the independence of the election administration from possible political interference.
9. Separation of TEC premises from the central and local authorities’ buildings would be desirable in order to enhance public confidence in the independence of election administration from possible political interference.
10. For each case when the number of registered voters in a given constituency deviates with more than 10 percent from the average number of voters per constituency, the CEC should provide formal clarification of the relevant “exceptional circumstances” in writing, and should make all efforts to avoid such deviations.
11. With a view to limit possible overcrowding, consideration could be given to further reduce the maximum number of registered voters per polling station.

12. Transparency of performance of the CEC could be enhanced if the meeting schedule is posted on its website and regularly updated ahead of possible emergency meetings.
13. As TECs represent a venue for filing election complaints, all measures need to be taken to ensure that election stakeholders can file complaints and conduct observation activities as relevant.
14. Consideration could be given to form the PECs earlier in advance of election day, in order to enhance training, plan activities, and take care of matters relating to the display of voter lists at PEC premises.
15. Tabulation software should include reasonable safeguards against incorrect data input. Training of PECs should include clear explanation of these safeguards, as part of PECs' preparations for election day.

C. VOTER LIST

16. Efforts to improve the accuracy of the voter lists should continue, including through cross-checking with other available public records.
17. Should the relevant authorities decide to make publicly available gender-disaggregated data about the voter lists, this could offer clearer information as to how many men and women are registered respectively as voters, and contribute to further transparency of the voter registration process and enhance public confidence in the voter lists.

D. CANDIDATE REGISTRATION

18. Efforts should be made to boost participation in the majoritarian system, and women's participation.
19. The CEC should develop a consistent process for verification of signatures submitted as in the process of nomination of candidates of "civic initiatives".

E. ELECTION CAMPAIGN

20. Authorities and electoral bodies should ensure that administrative resources are not abused and guarantee equal conditions for all election contestants. Campaign activities must be clearly separated from official and State activities.
21. Provisions of Article 18.8 of Election Code covering violations of election campaign principles should be readdressed to enhance proportionality of sanctions. It is recommended that a warning or administrative sanction is applied instead of powers currently delegated to the election commissions to take the case to the court for deregistration of the candidate or the party.
22. Campaign materials should be removed for election day not only from inside of polling stations but also in its close vicinity, for example, within 50 meters from the polling station building. Removal of campaign materials should be a PEC responsibility.

23. The threshold of 25 per cent of the valid votes cast to qualify for a 50 percent reimbursement from the State budget of the incurred campaign costs should be reviewed, with a view to decreasing it.

F. MEDIA

24. Public media should develop a neutral, objective and informative editorial line in all its programmes; its reporting should be balanced and factual, including coverage of authorities' activities during an election period. Private broadcast media should adhere to basic requirements for impartial and fair campaign coverage.

25. Public media should be required to provide voters, through a variety of formats, with comprehensive information on all aspects of the election process, including voter education, and information about the system of seeking remedy for complaints.

26. The National Commission for Television and Radio should consider conducting its own media monitoring during election campaigns in order to identify unequal and preferential coverage in the news programmes. Its findings should be made public in a timely manner to allow the Commission and respective enforcement bodies to be proactive in adopting preventive measures.

27. Consideration should be given to re-scheduling the date of the CEC lottery for allocating free and paid airtime, in order to conduct it before the official start of the election campaign.

28. Consideration should be given to provide for minimum guaranteed access to media for majoritarian candidates to convey their campaign messages.

29. The Election Code should be amended to provide for free space for political subjects participating in the proportional contest as well as for majoritarian contestants in the state funded print media.

30. To ensure impartiality in the regulation of broadcasting, the Law on Television and Radio Broadcasting should be further amended to provide for more diverse membership on the National Commission for Television and Radio, including media professionals and representatives of civil society. Similarly, the Council for Public Television and Radio should not be selected by one political grouping, or by political forces alone.

31. To enhance media diversity, the process of granting licenses in the Law on Television and Radio Broadcasting should take into account different interests and become more transparent, with more quantifiable criteria for selection that permits greater public accountability.

32. Authorities should further enhance the status of the public service broadcaster by establishing a clear and transparent system of financing, based on multi-source incomes, lessening its dependence on the State budget.

G. VOTING PROCEDURES

33. Strict enforcement of the provisions that only a ballot paper bearing on the reverse side three required signatures of members of the responsible PEC is valid, should be ensured.
34. Retention of the “V” mark as the standard mark is desirable, but a more practical or liberal interpretation of what constitutes the acceptable presentation of the “V” mark should be encouraged, based on the principle that clarity of the voter’s intention has priority.
35. Voting booths should be placed in the voting premises according to a standard layout. Maintaining a layout with the open side facing into the voting room is only acceptable as long as the secrecy of the vote is fully preserved.
36. Cases of assisted voting could be registered in the PEC journal by recording the name of the person, and who assisted the voter. A person should only be able to assist one voter.
37. There should be a specific set time when the ballots are transferred from mobile ballot boxes.
38. The law should include clear provisions on telephone reporting by a PEC from its premises during voting, counting and tabulation to the responsible TEC or the CEC. The use of mobile telephones inside the premises where counting and protocol compilation is taking place should be prohibited.
39. Initial data, such as number of ballot papers and voting envelopes received, should be written into the PEC result protocols before the start of voting.
40. Majoritarian results with breakdown by PEC should be published on the CEC website at the time official final results are announced by the relevant authority.
41. A strict time period, for example seven days after election day, for the display of the election results at the PEC’s “visible place” should be established in order to uphold transparency.
42. Voter education such as a “don’t sell your vote” campaign, should be enhanced to cover election-day procedures and to encourage confidence in the electoral system.

H. OBSERVERS

43. The CEC should regulate that Armenian citizens are not registered to observe Armenian elections as international observers, and likewise, that foreign citizens are not registered as domestic observers, to avoid potential conflict of interest while observing elections.

I. WOMEN’S PARTICIPATION

44. Further significant efforts should be undertaken to substantially and effectively increase the representation of women in parliament and government, the participation of women as candidates and in the election administration at all levels.

ANNEX 1 – FINAL RESULTS

In the national proportional list election, five parties passed the threshold of five per cent of votes cast to gain representation in the National Assembly. Three of these five parties had won representation through the proportional system in the 1999 and 2003 parliamentary elections. The Prosperous Armenia and Heritage entered the national Assembly for the first time in 2007. In the majoritarian contests, the election of nine non-partisan candidates was a substantial decrease from 2003, when 37 of 56 majoritarian winners were non-partisan.

The new National Assembly convened for its inaugural session on 7 June. The elected deputies of Orinats Yerkir and Heritage were absent from the session, pending the outcome of the Constitutional Court hearing on challenges to the results.

The distribution of National Assembly seats after the 12 May 2007 elections is as follows¹¹⁷:

	Proportional	Majoritarian	Total
Republican Party	41	22	63
Prosperous Armenia	18	7	25
Armenian Revolutionary Federation	16	—	16
Orinats Yerkir	8	2	10
Heritage	7	—	7
Alliance Party	0	1	1
“Civic Initiative” (non partisan)	—	9	9
Total	90	41*	131*

* The winner in the majoritarian contest in TEC 15, Khachik Manoukyan (Republican Party), declined to take up his mandate because of ongoing controversy about the validity of the result in that constituency. A repeat election in that TEC was called for 26 August which was won by Khachik Manoukyan.

The distribution within factions in the National Assembly is as follows¹¹⁸:

	Members of Faction
Republican Party	65
Prosperous Armenia	25
Armenian Revolutionary Federation	16
Orinats Yerkir	8
Heritage	7
People’s Deputy Group	10
Total	131

¹¹⁷ Results according to CEC Website, www.elections.am and OSCE/ODIHR EOM information.

¹¹⁸ <http://www.parliament.am/deputies.php?sel=groups&lang=eng>. The difference in the distribution of seats seems to result from some changes in party alliance by elected parliamentarians shortly after the elections.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).