



Office for Democratic Institutions and Human Rights

**REPUBLIC OF ARMENIA**  
**PARLIAMENTARY ELECTIONS**  
**6 May 2012**

**OSCE/ODIHR Election Observation Mission**  
**Final Report**



Warsaw  
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**REPUBLIC OF ARMENIA**  
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**OSCE/ODIHR Election Observation Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Prime Minister of the Republic of Armenia, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed on 22 March 2012 an Election Observation Mission (EOM) for the 6 May 2012 parliamentary elections in Armenia. The OSCE/ODIHR EOM assessed compliance of the election process with OSCE commitments, and other international standards for democratic elections, as well as with domestic legislation. For election day, the OSCE/ODIHR EOM joined forces with delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP), issuing a joint Statement of Preliminary Findings and Conclusions.

The elections, which were held under an improved legal framework, were characterized by a competitive, vibrant and largely peaceful campaign, which was, however, marked by a low level of confidence in the integrity of the process. Some violations of campaign provisions by electoral contestants, including the use of administrative resources and attempts to limit voters' freedom of choice, created an unequal playing field and ran counter to OSCE commitments. The elections were administered in an overall professional and transparent manner prior to election day. Election day was generally calm and peaceful, although organizational problems and undue interference in the process, mostly by party representatives, were observed. Deficiencies in the complaints and appeals process were cause for concern.

The elections were held under a new Electoral Code, which provides a generally solid framework for the conduct of democratic elections. It contains a number of improvements, but a number of substantive shortcomings remain to be addressed. The implementation of the Electoral Code fell short, both in letter and spirit, in ensuring an equal playing field for campaigning and protecting voters from undue influence.

The election administration, headed by the Central Election Commission (CEC), administered the elections in an overall professional and efficient manner. Some conflicting guidance and the lack of clarification by the CEC of some important aspects resulted in inconsistent implementation of procedures, such as the inking procedure against possible multiple voting. The CEC and Territorial Election Commissions (TECs) worked in an open and transparent manner, and generally enjoyed the trust of the representatives of parliamentary parties at the regional level.

Many contestants questioned the accuracy and quality of the voter register and voter lists, claiming they were open to abuse on election day. While the authorities took numerous steps to improve the accuracy of voter lists, additional efforts and better co-ordination among government institutions are required for further improvement.

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in Armenian.

Candidate registration was inclusive, and very few prospective candidates were rejected. It was problematic that the CEC took no steps to define the five-year residency requirement for candidates and to establish clear and objective procedures for its certification. The 20 per cent gender quota for proportional lists was met, although the effectiveness of the quota is limited as candidates may withdraw after a list has been registered. There is no requirement for the original gender proportions to be maintained. Women account for only 11 per cent of all elected Members of Parliament (MPs).

The election campaign was vibrant, competitive and largely peaceful, with a few isolated violent incidents. Electoral Code provisions aimed at ensuring equal opportunities for all contestants with regard to campaign venues and poster space were generally respected. At the same time, the campaign was marked by lack of confidence by the public and many stakeholders in the integrity of the electoral process and allegations of electoral malpractice, especially vote buying.

There were cases of misuse of administrative resources, especially mixing of campaigning and official duties by education-sector employees, and cases where the governing Republican Party of Armenia (RPA) actively involved teachers and pupils in campaign events. The Prosperous Armenia party and one RPA candidate violated the Electoral Code provision that prohibits contestants and associated charitable organizations from providing or promising goods and services to voters. The misuse of administrative resources, including human resources of education-sector employees, violated the Electoral Code and contributed to an unequal playing field for political contestants, contravening paragraph 7.7 of the OSCE 1990 Copenhagen Document. Campaign financing rules have been strengthened and were largely respected but would benefit from further improvement.

The media overall met their obligation to provide free and paid airtime and ensure non-discriminatory conditions and unbiased news coverage of contestants during the official campaign period. Nonetheless, the OSCE/ODIHR EOM noted cases of bias toward certain parties in some private media, which contradict the principle of unbiased coverage set by the Electoral Code, and cases where campaign materials produced by parties were presented as news items by some private broadcasters, which undermined the credibility and independence of media reporting and deprived viewers of independent reporting.

Some 27,000 domestic observers from 54 non-governmental organizations (NGOs) were accredited by the CEC. At the same time, a narrow and literal interpretation of the applicable legal provision resulted in the rejection of a number of NGOs. Only four of the registered NGOs produced post-election reports on their findings. The Electoral Code provision requiring testing by the CEC of citizens wishing to be domestic observers remains a concern.

The legal framework unduly restricts the right to file election-related complaints. This and the manner in which election commissions and courts dealt with election complaints often left stakeholders without effective consideration of their claims, contravening paragraph 5.10 of the OSCE 1990 Copenhagen Document and Article 8 of the Universal Declaration of Human Rights. Election commissions and courts in general took an overly formalistic approach to handling complaints, frequently dismissing complaints on technicalities or without examining their core substance or relevant evidence. In some cases, legally unsound decisions were issued. The prosecutor general's office and the police were transparent in

their follow-up activities on reported violations but launched few criminal investigations in election-related cases and often rejected opening criminal cases on spurious grounds.

Election day was calm and peaceful overall. The voting process was orderly and well organized in the large majority of polling stations observed. However, international observers assessed voting negatively in nine per cent of polling stations, which is considerable. This assessment was mainly due to organizational problems, undue interference in the process, generally by proxies, and cases of serious violations, including intimidation of voters. One fifth of observed vote counts were assessed negatively, mainly due to procedural problems, such as failure to perform basic reconciliation procedures, cases of non-transparent counts, problems completing the results protocols, and isolated cases of serious violations. The tabulation process at most TECs was assessed positively, although many TEC premises were overcrowded and inadequate. Several challenges to the validity of results were lodged to TECs, the CEC and the Constitutional Court, all of which were rejected at the time of this report.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Prime Minister of the Republic of Armenia, on 22 March 2012 the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) for the 6 May 2012 parliamentary elections. The OSCE/ODIHR EOM was headed by Radmila Šekerinska and consisted of 17 experts and 24 long-term observers (LTOs), who were based in Yerevan and 10 locations throughout the country. The EOM members were drawn from 23 OSCE participating States.

For election day, the OSCE/ODIHR EOM joined forces with delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP). Overall, 349 short-term observers from 42 OSCE participating States and 1 OSCE Partner for Co-operation were deployed on election day.

The OSCE/ODIHR EOM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation. This final report follows a Statement of Preliminary Findings and Conclusions which was released in Yerevan at a press conference on 7 May 2012.<sup>2</sup>

The OSCE/ODIHR EOM wishes to thank the Prime Minister of Armenia for the invitation to observe the elections, the Central Election Commission (CEC) for its co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs for its co-operation and assistance. The EOM also wishes to express appreciation to other national and local state institutions, election authorities, candidates, political parties and civil society organizations for their co-operation, and to the OSCE Office in Yerevan, embassies of OSCE participating States and Partners for Co-operation, and international organizations for their support.

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<sup>2</sup> For the Statement of Preliminary Findings and Conclusions as well as all previous OSCE/ODIHR reports on Armenia, see <http://www.osce.org/odihr/elections/armenia>.

### III. BACKGROUND AND POLITICAL CONTEXT

The 6 May 2012 parliamentary elections were called by President Serzh Sargsyan on 23 February. The outgoing government was a coalition between the Republican Party of Armenia (RPA), Prosperous Armenia (PA) and the Rule of Law party (RoL). The political scene was polarized in the run-up to the elections, with the major non-parliamentary opposition group, the Armenian National Congress (ANC), strongly criticizing the authorities in connection with the controversial 2008 presidential election and the events that followed it.

The current electoral system has been criticized by opposition parties. In late January 2012, the opposition parties Heritage and Armenian Revolutionary Federation–*Dashnaktsutyun* (ARF) submitted a draft bill proposing to change the mixed electoral system to a proportional one. The draft bill was debated by parliament in late February but was not adopted.

### IV. THE LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Parliamentary elections in Armenia are primarily regulated by the Constitution and the Electoral Code. The Constitution, adopted in 1995 and last amended in 2005, guarantees the fundamental rights and freedoms necessary for democratic elections. However, a five-year citizenship and residency requirement for candidates, a ban on individuals holding dual citizenship running for national office, and disenfranchisement of all prisoners, regardless of the severity of the crime committed, weaken the guarantee of universal suffrage and candidacy rights and are inconsistent with OSCE commitments and international standards for elections.<sup>3</sup>

Elections to the National Assembly are held under a parallel mixed electoral system. Of the 131 members of parliament, 90 are elected under a proportional system, in a single nationwide constituency. To qualify for the allocation of mandates, parties must pass a threshold of 5 per cent of valid votes cast, and blocs of political parties one of 7 per cent. The remaining 41 deputies are elected under a majoritarian system in single-mandate constituencies, in one round of voting. To be eligible to be elected as a member of parliament, a person has to be at least 25 years old, be a citizen of Armenia for the last five years, not hold the citizenship of another state, permanently reside in Armenia in the last five years, and possess voting rights.

The 2012 parliamentary elections were the first national elections to be conducted under the new Electoral Code that was adopted in May 2011. Authorities, political parties and civil society groups were given an opportunity to provide their views during the drafting of the new Code. The scope of the public consultation process was seen as a step toward increasing public confidence in elections, although the opposition chose not to participate and some

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<sup>3</sup> See paragraphs 7.3 and 7.5 of the OSCE 1990 Copenhagen Document and Article 25 of the International Covenant on Civil and Political Rights (ICCPR). Also, the Code of Good Practice in Electoral Matters of the Council of Europe's Commission for Democracy through Law (Venice Commission) indicates that no length of residence should be required for candidates in national elections, and that limitations to prisoners' voting rights should be proportional to the gravity of the crimes for which they have been convicted; see: [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023rev-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.pdf), paragraphs I.1.1.c-d.

civil society groups expressed discontent that their proposals were not incorporated. While the Electoral Code was adopted well in advance of the elections, to some extent there was a lack of awareness and inconsistent interpretation of the new regulations amongst stakeholders.<sup>4</sup>

The Electoral Code generally provides a sound framework for the conduct of democratic elections. It offers a number of improvements, some based on previous recommendations of the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission).<sup>5</sup> There remain, however, a number of substantive shortcomings.<sup>6</sup> Its implementation fell short, in both letter and spirit, in ensuring an equal playing field for campaigning and protecting voters from undue influence. Since the Code's adoption, the CEC issued a number of supplementary regulations.

Other relevant legislation includes, *inter alia*, the Law on Political Parties (2002) and a new Law on Freedom of Assembly (2011). The Administrative Offenses Code and Criminal Code were amended in 2011, increasing penalties for existing electoral offenses, as well as establishing new offenses. However, the Criminal Code does not include specific offenses for abuse of official position and state resources in election campaigning. Although defamation and libel were decriminalized in 2010, the distribution of libellous campaign material remains a criminal offense.

## V. THE ELECTION ADMINISTRATION

The elections were administered by a three-tiered system of election commissions comprising the CEC, 41 Territorial Election Commissions (TECs; one for each single-mandate constituency), and 1,982 Precinct Election Commissions (PECs). All election commissions have seven members. Under the new Electoral Code, CEC and TEC members are no longer appointed based on party nominations and may not be members of a party or be involved in political activities.<sup>7</sup> The new legal requirement that at least two members of the CEC and of each TEC be of the under-represented gender was met. Contestants could appoint proxies.<sup>8</sup>

CEC members are appointed by the President, upon nominations made by the Human Rights Defender (3 members), the head of the Chamber of Advocates (2 members) and the head of the Court of Cassation (2 members). The current CEC was appointed in July 2011. Under

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<sup>4</sup> For example, stakeholders appeared to be unaware of the new provision allowing campaigning prior to the official campaign period, and campaign regulations were not consistently applied.

<sup>5</sup> At the request of the National Assembly, OSCE/ODIHR and the Venice Commission carried out a joint legal review of the new Electoral Code; see: <http://www.osce.org/odihr/elections/84269>. Areas of legislative improvement include, *inter alia*, gender quotas for election administration and candidate lists, campaign regulations, campaign finance transparency, and complaints and appeals procedures.

<sup>6</sup> These include, *inter alia*, potential inequality in allocation of mandates to provinces, excessive restrictions on candidacy rights, ease of candidate de-registration, unregulated internet voting, and an overly restrictive complaints and appeals process.

<sup>7</sup> The Administrative Court dismissed a complaint alleging that the CEC had appointed politically affiliated members to TEC 5 on grounds that the CEC does not have authority to scrutinize the professional competence or possible political affiliation of the members it appoints to the TECs.

<sup>8</sup> TECs issue up to three blank proxy authorizations per party, bloc or majoritarian candidate and precinct. Proxies do not need to be certified, and the election administration does not keep track of their names.

transitional provisions of the Electoral Code, 2 members were appointed for 3 years, 3 for 5 years, and 2 for 7 years. In the future, CEC members will be appointed for six-year terms.

TECs are permanent bodies whose members are appointed by the CEC, from among citizens nominating themselves as TEC members. The CEC appointed the TECs in their current composition in August 2011. The lack of provisions aimed at preventing possible conflict of interest in the election administration resulted in a number of TEC appointments that may have affected the impartiality of these commissions.<sup>9</sup>

PECs are temporary bodies; by 11 April they were formed for each of the 1,982 precincts.<sup>10</sup> Two members of each PEC were appointed by the respective TEC, while each parliamentary party appointed one of the remaining five members. Political parties replaced some 400 PEC members after their initial appointment, mostly due to personal requests. PEC members were required to pass a CEC-administered test and receive a CEC qualification certificate in order to be appointed.

The chairpersons, deputy chairpersons and secretaries of the CEC and TECs were elected by commission members from among themselves. The positions of PEC chairpersons and secretaries were distributed by the CEC among the political party appointees, proportional to the number of seats the parties won in the proportional component of the last parliamentary elections, which resulted in a diverse countrywide distribution of these positions.

Representatives of parliamentary parties at the regional level generally expressed trust in the election administration since they could nominate PEC members and appoint proxies at all levels of the election administration, while the ANC bloc, which as an extra-parliamentary force was not represented in PECs, expressed its lack of trust.

Before election day, the election process was administered in an overall professional and efficient manner. The CEC and TECs worked in an open and transparent manner, granting to proxies, observers and media representatives information and access to their sessions. However, CEC and TEC decisions were taken with limited open discussion, somewhat reducing transparency. All necessary election preparations were made within legal deadlines.

The CEC clarified most important procedural aspects of the process in sufficient detail and posted the approved rules on its website well in advance of election day.<sup>11</sup> However, the CEC did not address in due time the questions whether candidates may grant free transport services to voters on election day<sup>12</sup> and whether it was necessary to remove all campaign

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<sup>9</sup> OSCE/ODIHR LTOs were informed that three members of TEC 20 and three members of TEC 21 were working in the office of the governor of Armavir province, who was a candidate on the RPA proportional list. TEC 41 was chaired by the wife of one of the majoritarian candidates in that constituency. The Electoral Code is silent on situations when a conflict of interest could be grounds for not appointing or replacing an election commission member.

<sup>10</sup> Precincts are delineated by the police and can have up to 2,000 voters.

<sup>11</sup> Prior to election day, some political parties and civil society groups requested the CEC to regulate or clarify a number of issues in the new Electoral Code, mostly related to election-day procedures; however, the CEC left such issues unaddressed, claiming the law was either sufficiently clear or that the CEC lacked broad power to regulate matters under the Code.

<sup>12</sup> Article 18.7 of the Electoral Code generally prohibits contenders from providing any goods and services to voters on election day, although cases were observed where candidates and proxies brought voters to polling stations for voting.



posters and banners before the campaign silence period;<sup>13</sup> both issues surfaced on election day.

While delineating constituencies, the CEC adhered to the legal requirement that the number of voters in each constituency within a province (*marz*) should not deviate more than 10 per cent from the average constituency size for that province.<sup>14</sup> A new provision (Article 17.2 of the Electoral Code) stipulates that constituency boundaries must not cross provincial boundaries. As a consequence, the number of voters in constituencies in two *marzes* deviated significantly from the national average, which somewhat affected the equality of the vote.<sup>15</sup>

The CEC provided voter information on television and produced posters and leaflets, focusing on voting procedures. It also organized nationwide training for the majority of TEC and PEC members; PEC training was overall assessed positively by OSCE/ODIHR LTOs, although many PECs faced problems with counting procedures on election night.

## VI. VOTER REGISTRATION

Voter registration is passive and based on the state population register. The Passport and Visa Department of the police (PVD) is responsible for the permanent maintenance of a nationwide electronic voter register, which is updated on a regular basis.<sup>16</sup> The voter register includes eligible voters who are registered in Armenia.<sup>17</sup> A digital, searchable version of the voter register was posted on the CEC website on 26 March, as required by law.

Citizens can apply to the 61 PVD offices for correction of discrepancies in the voter list (including other voters' records), no later than five days before election day. Disputes regarding PVD decisions on requests for correction or inclusion in the voter list are resolved by first-instance courts of general jurisdiction, whose decisions in such cases can not be appealed.

Voter lists are extracted from the voter register and compiled for each precinct, according to citizens' place of residence. Provisional and final voter lists<sup>18</sup> were posted both at polling stations and, for the first time, in a downloadable version on the PVD website, as provided by the Electoral Code. All voter lists were public (except the ones for use in military units)

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<sup>13</sup> The Electoral Code contains no provisions which regulate the presence of previously posted campaign materials on election day and the day preceding election day, when any campaigning is prohibited.

<sup>14</sup> Except the capital Yerevan, which has a special status, Armenia is divided into ten *marzes* (provinces).

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

<sup>16</sup> The voter register is updated on an ongoing basis, and twice a year, in June and November, the PVD submits the updated voter register to the CEC.

<sup>17</sup> According to the Constitution and the Electoral Code, eligible voters must have Armenian citizenship, be at least 18 years old on election day, have not been declared incapacitated by a court and must not be serving a prison term.

<sup>18</sup> Provisional voter lists are to be posted at each polling station 40 days before election day, while the final voter lists are to be posted 2 days before election day.

and could be accessed by citizens, either on the internet or at their respective polling station. According to the CEC, 2,523,101 voters were eligible to vote on election day.<sup>19</sup>

For the first time, non-registered citizens who reside abroad but were in Armenia on election day could participate in the proportional part of the elections. They had to request from the PVD to be included in an additional voter list as per their address in Armenia, not later than seven days before election day.<sup>20</sup> The same deadline applied to citizens who reside in the country but were not registered in the state population register, and for registered voters who wanted to vote in a community where they do not permanently reside. Special additional voter lists were compiled for military personnel, detainees at pre-trial detention centres, hospitalized voters undergoing inpatient treatment, and police and National Security Service personnel stationed away from their permanent residence. For the first time diplomatic service staff posted abroad and their family members could vote via internet, from nine to five days before election day. Some 195 people availed themselves of this opportunity. The additional voter lists for these categories of voters are compiled only for the proportional elections.<sup>21</sup>

The Electoral Code provides for voter registration on election day. Article 12.2 is vague as it does not clearly stipulate which categories of voters can apply for registration during the last four days before election day and on election day itself.<sup>22</sup> The possibility of multiple entries in the voter lists in the last two days before election day, after delivery of final voter lists to PECs, as well as on election day, remains of concern.

In the run-up to the elections, concerns about the quality of the voter register and voter lists were expressed by most political parties, with the exception of the RPA, adding to a general lack of confidence in the electoral process. These parties alleged that deficiencies in the register, such as inflated numbers, inclusion of deceased people and high numbers of voters registered at the same address, might be used for manipulations on election day. They also raised questions regarding the presence on voter lists of citizens living abroad,<sup>23</sup> and the overall increase in the number of registered voters by some 170,000 since the 2008 presidential election.<sup>24</sup> OSCE/ODIHR LTOs verified six cases of demolished buildings or of buildings damaged during the 1988 earthquake where voters were still registered.<sup>25</sup>

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<sup>19</sup> According to the PVD, 2,484,003 voters were registered as of 5 May, excluding those on military voter lists and individuals who were added to additional voter lists on election day by PECs.

<sup>20</sup> In total, 1,256 voters belonging to this category were added before election day.

<sup>21</sup> See Electoral Code, Articles 2.5, 8.3–8.6 and 8.8.

<sup>22</sup> Article 12.2 provides for voter registration “during the four days preceding election day and on election day until the end of voting”. The CEC and the PVD interpreted this article as regulating cases when a registered voter had been omitted from the voter list due to technical reasons. Article 12.3 allows a voter to address courts for correction of personal data or addition to the voter list, including on election day. The court issues a decision tasking the PVD to make relevant updates. According to the final CEC results protocol for the proportional part of the elections, 1,384 voters were added on election day.

<sup>23</sup> Armenian citizens who live abroad and do not register with an Armenian embassy or consulate remain on the voter list in their place of registration in Armenia. The PVD informed the OSCE/ODIHR EOM that there is no legal ground to remove these citizens from the voter list.

<sup>24</sup> According to the authorities, the increase in the number of voters is due to factors such as citizens turning 18 years old and diaspora Armenians being granted citizenship (around 27,000 since 2008).

<sup>25</sup> As observed in Gyumri (Shirak province) and constituency 6 in Yerevan.

On 28 April, a group of 28 MPs challenged the constitutionality of the Electoral Code provisions that deny access, after election day, to the voter lists signed by voters. On 5 May, the Constitutional Court upheld the constitutionality of the provisions, while ruling that these provisions do not exclude access to the voter lists for protection of the electoral rights.

The exchange of relevant data among government institutions for the purpose of voter register maintenance was insufficiently regulated.<sup>26</sup> The PVD informed the OSCE/ODIHR EOM that the police made efforts to remove deceased citizens from the voter register, since Civil Status Registry Offices did not supply timely and sufficient relevant data. Thus, voters who were reportedly deceased were removed from the register on the basis of written statements of relatives and/or neighbours. The police also undertook various measures, in co-operation with local authorities, political parties and domestic observers, to improve the accuracy and quality of the voter lists. Police carried out door-to-door verification, launched a telephone hotline, and, together with the CEC, ran a voter information campaign in the media.

In response to stakeholders' concerns regarding the high number of passports having recently been printed, the PVD stated that the increase in the number of new passports issued during 2011–2012 was mainly due to replacement of expired passports.<sup>27</sup>

## VII. CANDIDATE REGISTRATION

The nomination procedure for candidates and political parties allows for inclusive political participation. To be registered, contestants had to present a copy of the statute of the party (or parties in the case of blocs), as well as personal data and the official documents certifying the five-year citizenship and residence in Armenia for each candidate. Parties and blocs running in the proportional component of the elections had to pay an electoral deposit of AMD 8 million (some EUR 15,685),<sup>28</sup> while the deposit for candidates running in single-mandate constituencies was AMD 1 million (around EUR 1,960).<sup>29</sup> The deposit is returned if a party or bloc obtains a mandate in parliament under the proportional system, or if a candidate in the majoritarian elections is elected or receives at least five per cent of the vote.

The candidate registration process was inclusive and provided voters with a wide choice. The CEC registered all 9 candidate lists for the proportional component of the elections, put forward by 8 political parties and 1 bloc of parties, with a total of 1,016 candidates.<sup>30</sup> The TECs registered 155 majoritarian candidates in the 41 constituencies, of which 89 were

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<sup>26</sup> OSCE/ODIHR and the Venice Commission have previously recommended that all relevant authorities in Armenia take all necessary steps, in an integrated approach, to continue their efforts to compile an accurate voter register; see <http://www.osce.org/odihr/elections/84269>.

<sup>27</sup> The PVD informed the OSCE/ODIHR EOM that some 200,000 passports were issued in 2009, around 270,000 in 2010, around 398,000 in 2011, and around 100,000 from 1 January to 10 April 2012. The police stated that starting from April 2011, citizens whose passports had been extended would not be able to enter the Schengen area.

<sup>28</sup> Equal to 8,000 times the minimum salary. According to the Law on the Minimum Monthly Salary, the minimum salary to be used as the calculation basis is AMD 1,000 (around EUR 2). At the time of writing, the official exchange rate was approximately EUR 1:AMD 510.

<sup>29</sup> Equal to 1,000 times the minimum salary.

<sup>30</sup> RPA, PA, ARF, RoL, Heritage, Communist Party of Armenia (CPA), Democratic Party of Armenia (DPA), United Armenians Party (UAP), and the ANC bloc.

nominated by 13 parties and 66 were self-nominated; 2 self-nominated candidacies were rejected.<sup>31</sup> The alternatives in majoritarian contests were at times limited, with just one or two candidates standing in 9 constituencies.<sup>32</sup> After registration, 12 candidates withdrew from the proportional contest and 18 from majoritarian contests. The case of a self-nominated candidate in constituency 21, who was beaten on 6 April and subsequently withdrew his candidacy, was still being investigated by the authorities as of election day.

The Electoral Code does not provide a factual definition of the five-year permanent residence requirement for candidate registration. Despite this gap, the CEC did not establish criteria and procedures for its certification.<sup>33</sup> Although the CEC opined that it was not authorized to issue such a clarification, the Electoral Code entitles the CEC to pass decisions in order to maintain and control the uniform implementation of the law, including the power to adopt decisions regulating different aspects of the election process which are applicable to all state bodies.<sup>34</sup> In practice, there was an inconsistent approach by the PVD in issuing such certificates.<sup>35</sup> Moreover, the complaints considered by the CEC and the court showed that some candidates were unclear about the residence criteria for registration.

Armenia acceded to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1993. *De facto* equality of women's participation in elections has yet to be realized and therefore further state actions, including strengthening of additional temporary measures, are required. The strongest temporary special measure undertaken to date is the requirement that proportional candidate lists have both genders represented among each integer of five candidates, starting with candidate number two. However, the effectiveness of the quota is limited as candidates may withdraw after the list has been registered and there is no requirement for the original gender proportions to be maintained.

Parties nominated women to list positions according to the minimum legal requirement.<sup>36</sup> Out of 1,016 candidates initially registered on proportional lists, 235 were female (22 per cent). Prior to election day, seven female candidates withdrew from party lists, including six from RoL. As a result, this list had 18 per cent women candidates, below the legal minimum gender quota. Of the 155 majoritarian candidates initially registered, 12 were female (almost 8 per cent). Of the 41 single-mandate constituencies, 32 had no female majoritarian candidate (78 per cent). This shows that while women have the right to stand as a candidate, realization of this right and opportunity to stand is problematic. Furthermore, 3 of the 12 female majoritarian candidates reported no campaign expenditures, which casts doubt on the genuineness of their candidacy.

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<sup>31</sup> One prospective candidate was rejected for not fulfilling the five-year residency requirement, while the second did not pay the required electoral deposit.

<sup>32</sup> Constituencies 28 and 35 had only one candidate. The respective ballots had two alternatives, in favor and against the candidate, who had to receive more than 50 per cent of the valid votes cast to be elected.

<sup>33</sup> Five applications to the PVD for the certificate of five-year residence were denied and therefore these candidates could not register.

<sup>34</sup> Articles 36.1–2, 49.1.4, 49.1.7 and 49.1.14.

<sup>35</sup> While most candidates were issued the certificates based on data in the state population register, the residence of some candidates was investigated more thoroughly, at times based on media reports, jointly with other state institutions.

<sup>36</sup> Some parties registered more women: the UAP registered 39 per cent, and the ARF 32 per cent.

## VIII. THE ELECTION CAMPAIGN AND CAMPAIGN FINANCE

The official campaign period began on 8 April. Although the new Electoral Code does not prevent parties from campaigning before that date, the majority of contestants refrained from doing so.<sup>37</sup> The campaign was vibrant and competitive. The contestants campaigned mainly through the media, street advertising, door-to-door canvassing, rallies and *ad hoc* meetings. The most visible were RPA and PA, which intensely competed against each other, despite being both part of the governing coalition. Their proportional lists included many government officials, including the president, the prime minister, ministers and, in the case of RPA, all eight provincial governors of this party.

The campaign was peaceful, despite some instances of use of inflammatory language and four violent incidents between supporters of different parties.<sup>38</sup> All contestants underlined their commitment to hold elections in line with international standards. Despite numerous initiatives by the authorities, contestants and civil society, aimed at ensuring the integrity of the process,<sup>39</sup> public confidence in the integrity of the electoral process remained a serious challenge. The campaign was marked by allegations of deficiencies in the voter lists, issuance of passports to facilitate election fraud, and voter intimidation. Many OSCE/ODIHR EOM interlocutors raised the issue of vote buying as a major and widespread problem. Some unusual traffic observed by OSCE/ODIHR observers in front of and inside some campaign offices shortly before election day and cases of vote buying reported to the police on election day indicate that such allegations, in some instances, may have been justified.<sup>40</sup>

The freedoms of assembly, expression, and movement were generally respected. Nonetheless, cases of pressure on voters, such as obliging employees to attend campaign events and attendance checks at RPA rallies, and discouragement to attend opposition rallies, raised concern.<sup>41</sup> Such practices put in question the extent to which voters had an opportunity

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<sup>37</sup> Some contestants were not aware that campaigning before the official campaign period is allowed. On 3 March, the CEC received a complaint from the ANC which accused RPA of early campaigning. On 4 April, TEC 2 received a complaint from an RPA candidate about an ANC candidate conducting early campaigning by distributing campaign flyers. Both complaints were rejected.

<sup>38</sup> Such as references by an ANC candidate to President Sargsyan as the 'Führer' of a 'fascist regime' and statements by ANC leader Levon Ter-Petrosyan calling the government a 'criminal regime' which was 'worse than the Communists' since it 'used the army to kill its own citizens'. The violent incidents included scuffles in Yerevan on 15 and 16 April, when RPA supporters assaulted ANC candidates and activists who were distributing campaign material considered insulting by the RPA supporters.

<sup>39</sup> These included public statements by the president and the CEC chairperson, the establishment of working groups by parliament and by the prosecutor general, inter-party headquarters of PA, ANC and ARF for monitoring electoral violations, a code of conduct initiated by RPA (and joined by PA, RoL, DPA and CPA), and a voter awareness campaign implemented by IFES. In a project funded by the European Union and implemented by the OSCE Office in Yerevan, the Human Rights Defender established a legal assistance project for the elections.

<sup>40</sup> In Hrazdan (Kotayk province), Vanadzor (Lori province) and Gyumri, OSCE/ODIHR LTOs observed groups of voters, with passports, in and around RPA campaign premises waiting to be signed on to lists. The LTOs were informed by some interlocutors that money was handed over in exchange for voters' signatures.

<sup>41</sup> On 27 April, the RPA rally organizer in Gyumri checked the attendance by asking all present Gazprom employees to raise their hands. At the same event, the director of the Gyumri Department of Cultural Affairs pledged his staff's support to the RPA candidate. In Aragatsotn province, OSCE/ODIHR LTOs noted staff from the local tax office discussing the fact that they had been released early from work to attend an RPA rally. In a village in Armavir province, a number of residents separately informed the LTOs that they had been threatened with job loss by the authorities if they attended a Heritage rally scheduled for the same day. In Syunik province, the head of a village compiled a list of RPA supporters and a list of 'suspects', asking the local school director to verify it.

to discuss and learn freely about all contestants' views. They may have also had a negative effect on the possibility of casting the vote free of retribution, contrary to paragraph 7.7 of the OSCE 1990 Copenhagen Document (see also Legal Framework section).

Article 18.1 of the Electoral Code establishes a fixed campaign period when rules aimed at ensuring equal opportunities for the candidates are applied. The local authorities provided electoral contestants with free venues for campaigning and spaces for posters. The CEC allocated free and paid airtime in the media and designated places for paid campaign billboards and posters. However, in some cases the authorities, including the CEC, did not provide sufficient information to all candidates and unequal treatment was at times noted as a result.<sup>42</sup> Contestants did not always comply with the law, especially with regards to the use of campaign material.<sup>43</sup> While the Electoral Code regulates the usage of printed campaign material, restrictions on placement of printed material (Article 20.2) refer only to posters and not to other types of campaign material, such as banners or billboards. At the same time, the Electoral Code unduly restricts placement of posters on privately owned facilities.

Cases of misuse of administrative resources were observed.<sup>44</sup> Although the Electoral Code and the Law on Public Education prohibit mixing of campaigning and official duties by employees in the education sector, OSCE/ODIHR LTOs observed numerous cases where RPA actively involved teachers and pupils in campaign events, including in schools and/or during school hours.<sup>45</sup> The RPA campaign was conducted at the local level with the active participation of school directors and teachers. In one instance, the rector of a private university, during school hours, encouraged attendants to vote for RPA candidates.<sup>46</sup> The misuse of administrative resources, including human resources of education-sector employees, violated the Electoral Code and contributed to an unequal playing field for political contestants, contravening paragraph 7.7 of the OSCE 1990 Copenhagen Document.

Article 18.7 of the Electoral Code prohibits electoral contestants and associated charitable organizations from providing or promising goods and services to voters during the campaign period. Multigroup, a company of PA leader Gagik Tsarukyan, distributed some 500 tractors during the campaign period. The project was mainstreamed into the PA's campaign.<sup>47</sup>

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<sup>42</sup> Applications for paid billboard space were only submitted by the five parliamentary parties. Although required by Article 20.6 of the Electoral Code, the CEC did not inform majoritarian candidates that they could also apply for such space. Unequal treatment was observed by the OSCE/ODIHR EOM in Vanadzor, where the RPA majoritarian candidate campaigned in schools during school hours while the ARF candidate and a self-nominated candidate were allowed to campaign in schools only after school hours.

<sup>43</sup> OSCE/ODIHR LTOs observed RPA posters on public transport in Lori province, as well as RPA, PA and ARF posters on municipal buildings. In Yerevan, managers of several private buildings complained to TEC 3 that posters of PA, ARF and an ANC candidate had been posted on their buildings without their consent. RPA posters were noted on school buildings designated to serve as polling stations in Armavir, Lori and Shirak provinces.

<sup>44</sup> OSCE/ODIHR LTOs observed an ambulance advertising an RPA rally in Kapan (Syunik province), a truck owned by the Vanadzor local government attaching RPA flags on street lights, and three cases of local heads of communities campaigning for RPA during working hours (Kotayk province).

<sup>45</sup> OSCE/ODIHR LTOs observed cases of teachers and students being released from school to attend RPA rallies or being asked to attend rallies after school hours in Ejmiatsin (Armavir province), Yerevan, Vardenis (Gegharkunik province), Hrazdan and Charetsevan (Kotayk province) and Vanadzor.

<sup>46</sup> Similar cases were observed in Ejmiatsin and in Vanadzor.

<sup>47</sup> OSCE/ODIHR LTOs noted the tractors in seven provinces, often adorned with PA campaign material or parked close to massive PA posters. The tractors also featured in the PA political advertisement on TV.

Deciding on a complaint in this matter, the CEC ruled the law had not been violated.<sup>48</sup> The OSCE/ODIHR EOM also noted one instance where an RPA candidate did not comply with this article.<sup>49</sup>

The new Electoral Code has strengthened campaign finance rules.<sup>50</sup> Numerous changes relating to the regulation of campaign financing were introduced, including higher campaign spending limits,<sup>51</sup> an increased number of expenditure reports to be submitted prior to election day, and categorization of expenditures which should be reported.<sup>52</sup> However, so-called organizational expenditures, such as services of marketing agencies, campaign offices, transportation and communication expenses, are considered not to affect the will of voters and are therefore excluded from official campaign expenditures.<sup>53</sup> The narrow legal definition of categories which must be declared is of concern as it unduly reduces transparency, is easy to circumvent and allows for the possibility to avoid reporting of campaign-related expenditures.<sup>54</sup>

Campaign financing is supervised by the Oversight and Audit Service of the CEC. Under Article 28.4 of the Electoral Code, each fraction represented in parliament should appoint one auditor to the Oversight and Audit Service, at its own expense. Heritage did not appoint an auditor; it informed the OSCE/ODIHR EOM that this was due to lack of financial resources.

Article 25.1 of the Electoral Code requires all electoral contestants to open special campaign bank accounts; however, the Oversight and Audit Service interpreted this provision as non-mandatory for those contestants who did not intend to spend funds on their election campaign. Some 11 majoritarian candidates did not open special campaign accounts, and another candidate reported no expenditures. All other candidates reported to the Oversight and Audit Service, and their reports were publicized in a timely manner on the CEC website. The Oversight and Audit Service did not have a proactive approach or an effective mechanism to examine the accuracy of the submitted reports, which lessened the value of parties', bloc's and candidates' reporting. Only a few campaign finance violations were identified by the CEC.<sup>55</sup>

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<sup>48</sup> The CEC based its decision on the PA's explanation that the project was of a business nature and not related to the campaign.

<sup>49</sup> In Kapan (Syunik province), OSCE/ODIHR LTOs observed a sign (along a road being repaired) informing that the RPA candidate in constituency 38 was involved in this project financed by the Kajaran Mining Factory. The candidate is the son of the company's director. TEC 38 dismissed an ANC candidate's complaint on this matter on grounds that this was not an illegitimate activity. The CEC refused to consider an appeal against the respective TEC decision.

<sup>50</sup> Contestants must open a special bank account for all campaign funds. Funds may include donations from voters, contestants' personal funds, and donations by the nominating party. Foreign and anonymous donations are prohibited by law.

<sup>51</sup> AMD 100 million (around EUR 196,000 at the time) for contestants in the proportional elections and AMD 10 million (around EUR 19,000) for majoritarian candidates.

<sup>52</sup> Expenditures which have to be reported include those for campaigning in the media, renting of premises and halls, campaign posters and banners, and printed campaign materials.

<sup>53</sup> CEC Decision No. 33 of 16 February 2012.

<sup>54</sup> See also the OSCE/ODIHR and the Venice Commission Joint Opinion on the new Electoral Code, available at <http://www.osce.org/odihr/elections/84269>.

<sup>55</sup> These included non-submission of the third campaign finance report by two self-nominated majoritarian candidates (constituencies 12 and 32) and a Heritage majoritarian candidate exceeding the spending limit (constituency 12).



## IX. THE MEDIA

### MEDIA LANDSCAPE

Despite a limited advertising market, numerous media outlets are operating in Armenia. According to official data by the National Commission on Television and Radio (NCTR), following the broadcast licensing tenders of December 2010, the number of licensed broadcasters was reduced from 42 to 15 private TV channels, of which 6 have national coverage; all of these broadcasters are based in Yerevan. In addition, 10 regional TV channels received a digital license. Television is the most influential source of news in Armenia. Print media is constrained by limited circulation figures, and daily newspapers are published only in Yerevan. The use of internet is rapidly increasing,<sup>56</sup> but it appears to be the most important news source for only a limited number of citizens.<sup>57</sup>

In a positive development, defamation and libel were decriminalized in May 2010; however the number of civil libel suits against journalists and media outlets remains high and is a matter of concern among media representatives. The OSCE Representative on Freedom of the Media urged the authorities to adequately protect the media in civil defamation cases and welcomed a ruling of the Constitutional Court from 15 November 2011 which instructed courts to avoid imposing hefty fines on media outlets in civil libel lawsuits.<sup>58</sup>

### LEGAL FRAMEWORK FOR THE MEDIA

The Constitution guarantees freedom of expression and freedom of the media. The Law on Television and Radio Broadcasting obliges TV and radio channels to provide equal conditions for candidates and to ensure impartiality during election campaign periods. The law establishes two supervisory bodies: the NCTR, which licences and monitors private broadcasters, and the Council of Public TV and Radio. Half of the NCTR's eight members are elected for a six-year term by the parliament and half are appointed by the president. The president also appoints the five members of the Council of Public TV and Radio.

The Electoral Code provides rules for the media coverage of the official campaign period with regard to free airtime, news coverage and paid advertisements; it stipulates a campaign silence period and prohibits the publication of exit polls before the closing of the polls. Public and private broadcasters are required to ensure non-discriminatory conditions and to provide unbiased information in their news programs.

The public broadcaster, *Public TV and Radio*, is obliged to provide each political party registered for the proportional contest with 60 minutes of free airtime on public television *H1*, and 120 minutes on public radio. In addition, each party can buy up to 120 minutes of

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<sup>56</sup> According to official data, in early 2012 the number of mobile internet users was about 1.8 million, and the number of broadband internet users was about 380,000.

<sup>57</sup> According to a survey by the Caucasus Research Resource Centers–Armenia, TV is the most important news source for 90 per cent of Armenians, followed by internet (6 per cent), radio (2 per cent), and newspapers (1 per cent); see: [http://www.crrc.am/store/armedia/CRRC\\_ArMedia%20Survey%20Report\\_FINAL%20KP\\_edited.pdf](http://www.crrc.am/store/armedia/CRRC_ArMedia%20Survey%20Report_FINAL%20KP_edited.pdf).

<sup>58</sup> Regular Report to the Permanent Council by the OSCE Representative on Freedom of the Media, 24 November 2011, available at: <http://www.osce.org/fom/85336>.



paid airtime on public television and 180 minutes on public radio.<sup>59</sup> In line with the Electoral Code, public and private broadcasters published the prices for paid advertising on 5 March.<sup>60</sup>

The Electoral Code tasks the NCTR to supervise the implementation of the media-related provisions during the campaign period and to monitor the broadcasters. The NCTR must publish three media monitoring reports during the election period.<sup>61</sup> In a decision that appeared to be an unduly broad interpretation of the law, the NCTR tasked broadcasters to provide media monitoring reports on their own TV programs.<sup>62</sup> The NCTR did not include any gender analysis in its media monitoring of these elections.

The NCTR noted no violations of the Electoral Code in its first two media monitoring reports. Following the third report, the NCTR initiated three administrative cases against two private channels, *Kentron TV* and *Yerkir Media*; two of them concerned biased coverage (against both TV companies) and one a breach of the election silence period (against *Kentron TV*) regarding an election day interview with an ANC representative. Although this interview was broadcast live and ultimately the violation was committed by a politician, the NCTR fined *Kentron TV* AMD 1 million (around EUR 1,961).<sup>63</sup> By contrast, violations regarding biased coverage were not sanctioned, which points to a lack of substantial enforcement mechanisms of the NCTR.<sup>64</sup>

During the campaign period, the NCTR received three formal complaints from candidates; all were rejected.<sup>65</sup> At the same time, the CEC considered and took a number of decisions on media-related issues, thus demonstrating overlapping jurisdiction on media-related matters.<sup>66</sup>

## OSCE/ODIHR EOM MEDIA MONITORING



The OSCE/ODIHR EOM media monitoring findings show that the media offered extensive coverage of the elections.<sup>67</sup> The 8 monitored TV and radio channels devoted a total of 256

<sup>59</sup> On 2 April, the CEC decided by lottery the order of appearance of the parties in free and paid airtime.

<sup>60</sup> By law, the prices may not exceed the average cost of commercial advertising over the last six months prior to calling the elections.

<sup>61</sup> The NCTR published its reports by the legal deadlines of 17 and 27 April and 11 May.

<sup>62</sup> Under Article 36.2 of the Law on Television and Radio Broadcasting, the NCTR, in order to exercise its powers, requires and receives necessary information from competent bodies, organizations and officials.

<sup>63</sup> The administrative fine is based on Article 60.7 of the Law on Television and Radio Broadcasting. The ANC representative who violated the campaign silence period was not penalized by the court under the Administrative Offences Code.

<sup>64</sup> The NCTR cannot impose administrative fines on broadcasters for biased coverage, as is the case for violations of the election silence. The only punitive measure at the disposal of the NCTR for biased coverage is the issuing of warnings. The NCTR can suspend the license of broadcasters after issuing three warnings on the same matter (Article 55.b of the Law on Television and Radio Broadcasting).

<sup>65</sup> Vladimir Karapetyan (constituency 2) filed one complaint against *Armenia TV* and *Armnews TV* for alleged unbalanced news coverage about his opponent Samvel Farnanyan, and another one against *H2* for an interview with the same candidate. Anushavan Nikoghosyan (constituency 32) filed a complaint against *Kentron TV*, claiming the broadcaster had violated their contract regarding paid airtime.

<sup>66</sup> The Electoral Code is unclear which body, the CEC or NCTR, has jurisdiction to consider election-related media complaints; both bodies claimed jurisdiction. The CEC issued decisions on a number of media-related matters (Decisions No. 150-A and No. 151-A of 20 April 2012, No. 218-A and No. 221-A of 30 April 2012, and No. 237-A, No. 238-A and No. 241-A of 4 May 2012).

<sup>67</sup> The OSCE/ODIHR EOM monitored the prime time (18:00–24:00 hours) political and election-related coverage of six national TV channels: H1 (public television), H2, Armenia TV, Shant TV, Yerkir Media, Kentron TV; two radio stations: Public Radio and Radio Free Europe/Radio Liberty; and the daily state newspaper Hayastani Hanrapetutyun.

hours to election-related issues, within newscasts, paid and free airtime, and information programs. During the campaign period, the media aired interviews with candidates and party leaders. Two private TV channels organized TV debates, but in 7 cases one or more invitees did not attend the scheduled debates. No debates among prominent candidates or party leaders were organized.

In general, the broadcasters offered access to all major political parties. This enabled voters to be informed of the various political positions. Before the official start of the campaign on 8 April, the media offered extensive news coverage to the president and government officials, favouring the governing parties.<sup>68</sup> After 8 April, the focus of the media was mainly on the six main contestants (RPA, PA, ANC, RoL, Heritage and ARF). Majoritarian candidates and the three remaining parties running in the proportional elections received limited coverage.<sup>69</sup>

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

The coverage of two private broadcasters showed some bias: *Kentron TV* largely favoured PA, with 48 per cent of mostly positive news coverage; *Yerkir Media* devoted 27 per cent of news coverage to ARF and 16 per cent of coverage to PA, in both cases mostly positive. *H2*, *Armenia TV* and *Shant TV* were more balanced in their coverage, even if a more positive tone was noted towards RPA, RoL and PA. *Radio Free Europe/Radio Liberty* was more negative in tone towards RPA.

The OSCE/ODIHR EOM media monitoring noted that in many cases, TV channels broadcast in their news the same campaign material already used by contestants in paid political advertising, instead of relying on their own material. For example, campaign material of PA, not marked as such, was broadcast in news by *Kentron TV* 16 times, by *Shant TV* 5 times and by *Yerkir Media* once.<sup>70</sup> On 19 April, *H2* and *Armenia TV* broadcast identical news items about a campaign event of an RPA majoritarian candidate. Such practices damage the credibility of media reporting, undermine the autonomy of the media from the political sphere, and weaken the diversity of media outlets. Where this occurred, the unclear distinction between news and political advertising deprived the viewers of independent reporting.

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<sup>68</sup> During the period 27 March–7 April, the coverage of the president and government officials in the monitored channels was as follows: *H1* – 49 per cent, *H2* – 28 per cent, *Armenia TV* – 19 per cent, *Kentron TV* – 17 per cent, *Shant TV* – 51 per cent, *Yerkir Media* – 18 per cent, *Public Radio* – 21 per cent, and *Radio Free Europe/Radio Liberty* – 11 per cent.

<sup>69</sup> The combined news coverage of the DPA, the CPA and the UAP in the monitored channels during the campaign period was as follows: *H1* – 12 per cent, *H2* – 16 per cent, *Armenia TV* – 9 per cent, *Kentron TV* – 6 per cent, *Shant TV* – 5 per cent, *Yerkir Media* – 11 per cent, *Public Radio* – 24 per cent, *Radio Free Europe/Radio Liberty* – 1 per cent.

<sup>70</sup> Campaign material of PA was broadcast in its news by *Kentron TV* on 8, 13 and 14 April and daily between 19 and 30 April, and on 4 May; by *Shant TV* on 9, 14, 19, 21 and 23 April; by *Yerkir Media* on 13 April.

OSCE/ODIHR EOM media monitoring found that *HI* devoted 4 per cent of its election-related news programs to female candidates and party representatives, and public radio 5 per cent. This is disproportionately low, given that around 21 per cent of all registered candidates were female, and given Armenia's stated target of 30 per cent women in the legislature.<sup>71</sup> This is not consistent with OSCE commitments "to promote equal opportunity for full participation by women in all aspects of political and public life"<sup>72</sup> and CEDAW commitments of the State giving encouragement to female participation.<sup>73</sup>

## X. DOMESTIC AND INTERNATIONAL OBSERVERS

The Electoral Code provides for international and domestic election observation. Domestic non-party observers can be nominated by public associations engaged in issues related to democracy and protection of human rights and are accredited by the CEC.<sup>74</sup> Individuals must pass a CEC-administered test to qualify as domestic observers.

The CEC accredited 647 observers from 10 international organizations and 27,141 certified observers from 54 domestic non-governmental organizations (NGOs). The accreditation process was overall inclusive, although 10 accreditation requests by domestic organizations were rejected.<sup>75</sup> The CEC's overly narrow and literal interpretation of Article 29.1.3 of the Electoral Code, requiring nominating organizations to have the words "democracy and protection of human rights" in their statutes, resulted in the rejection of two domestic organizations whose statutes include protection and promotion of women's rights.<sup>76</sup> Only four domestic observer organizations produced post-election statements or reports as of 29 May.

Some 4,300 nominated domestic observers chose not to take the mandatory CEC-administered test or did not pass it and thus did not observe.<sup>77</sup> OSCE/ODIHR EOM interlocutors repeatedly shared their concerns regarding the mandatory testing of domestic observers, an issue previously raised by OSCE/ODIHR and the Venice Commission.

## XI. COMPLAINTS AND APPEALS

The complaints and appeals process is regulated by the Electoral Code, the Administrative Procedures Code, the Law on Fundamentals of Administration and Administrative

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<sup>71</sup> See [http://legislationline.org/download/action/download/id/3374/file/Armenia\\_2010%20Gender-Concept-Paper\\_Engl.pdf](http://legislationline.org/download/action/download/id/3374/file/Armenia_2010%20Gender-Concept-Paper_Engl.pdf).

<sup>72</sup> Paragraph 40.8 of the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, 1991.

<sup>73</sup> Paragraph 15 of the CEDAW Committee General Recommendation 23.

<sup>74</sup> Article 29.1.3 of the Electoral Code requires that foreign and domestic NGOs deal with "issues relating to democracy and protection of human rights", according to their statutes, in order to be accredited as observers.

<sup>75</sup> Of the ten rejected NGOs, only two, 'Liberty and Democracy' and the 'Martuni Women's Community Council', changed their statutes to specifically include "protection of democracy and human rights" and were subsequently registered by the CEC.

<sup>76</sup> 'Martuni Women's Community Council' and the 'Women's Resource Center of Meghri'.

<sup>77</sup> The CEC informed the OSCE/ODIHR EOM that 917 prospective domestic observers failed the test.

Proceedings and the Law on the Constitutional Court. Under the Electoral Code, decisions, actions and inactions of election commissions can be appealed to the superior commission, while all complaints against the CEC are under jurisdiction of the Administrative Court. Although Article 18.1 of the Electoral Code provides that campaigning prior to the official campaign period is not prohibited, Article 146.2 of the Administrative Procedures Code provides that complaints against election commissions regarding oversight of the campaign cannot be lodged prior to the official start of the campaign.<sup>78</sup> General administrative laws allow complainants to choose to file complaints directly to the Administrative Court, creating an overlapping jurisdiction with superior commissions.<sup>79</sup> Challenges to both majoritarian and proportional election results are solely under the Constitutional Court's purview.

A positive feature of the new Electoral Code is the requirement that administrative due process be applied by election commissions in handling of complaints. However, the Electoral Code unduly limits the right to file complaints to those whose personal electoral rights are at stake, essentially denying voters, accredited observers, and civil society groups the right to seek judicial remedy for breach of general electoral rights.<sup>80</sup> In addition, first-instance court decisions on electoral rights may not be appealed, further limiting the opportunity to obtain effective legal redress.<sup>81</sup> Moreover, the legal framework for complaints and appeals is unduly complex.

The manner in which election commissions and courts dealt with election complaints often left stakeholders without effective consideration of their claims, contrary to paragraph 5.10 of the OSCE 1990 Copenhagen Document as well as Article 8 of the Universal Declaration of Human Rights.<sup>82</sup> Election commissions and courts in general took an overly formalistic approach to handling complaints. A relatively small number of official complaints were filed with the appropriate institutions, despite the high number of informal complaints voiced. Various stakeholders expressed to the OSCE/ODIHR EOM a lack of trust in the election administration, courts and law enforcement bodies to impartially and effectively handle electoral complaints. Civil society groups stated that there is a public reluctance to report electoral offenses, especially vote buying, as citizens fear being criminally charged with accepting vote bribes or for filing false claims.

Prior to election day, the CEC received some 500 complaints. Some 95 per cent were filed by one person,<sup>83</sup> most alleging campaigning by high-level public officials running as candidates and imbalanced news reporting. The CEC denied consideration of these complaints on grounds that private individuals do not have a legal right to file such

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<sup>78</sup> Furthermore, the Administrative Court held in one case that campaign regulations in the Electoral Code do not apply before the start of the official campaign.

<sup>79</sup> Furthermore, under general administrative laws, complainants can choose to file complaints first to the administrative body which made the decision, action or inaction that is being challenged.

<sup>80</sup> Article 46.1, points 1 and 3, of the Electoral Code provides that decisions, actions (inactions) of an election commission may be appealed by anyone who finds that his or her 'subjective right of suffrage' is violated or by an observer if his or her 'observer rights' are violated.

<sup>81</sup> See Article 150.1 of the Administrative Procedures Code.

<sup>82</sup> Paragraph 5.10 of the OSCE 1990 Copenhagen Document establishes the right of everyone to "effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity". Article 8 of the Universal Declaration of Human Rights states that "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law".

<sup>83</sup> The individual is a former MP and head of an NGO, the 'Association of Former Parliamentarians'.

complaints.<sup>84</sup> At the same time, the CEC examined some facts alleged in these complaints and found no violations. Almost all other complaints filed to the CEC were denied consideration on technical grounds or rejected, often without due consideration of their substance or evidence.<sup>85</sup> Some decisions lacked sound legal basis,<sup>86</sup> and many lacked thorough factual and legal reasoning.

TECs received some 30 complaints prior to election day, mainly alleging infringements of rules related to vote buying, campaigning in schools and campaign posters. Most cases were not given due consideration and some decisions lacked sound legal basis. For instance, TECs 19 and 23 issued decisions that principals and teachers were not prohibited from campaigning in schools, which is an unreasonably narrow interpretation of Article 18.6 of the Electoral Code.<sup>87</sup> The CEC did not take the initiative to address this issue, but in one complaint ruled that establishing campaign offices in schools is not prohibited. On appeal, the Administrative Court upheld the decision of TEC 23.<sup>88</sup> In some cases, TECs issued warnings to candidates for violations of poster regulations. Several candidates requested de-registration of competitors for electoral violations and non-compliance with warnings, but none were approved.<sup>89</sup>

Some 24 complaints were filed with the Administrative Court before election day. Nearly all were denied consideration or dismissed on technicalities, without examining the core substance of the claim or without sound legal basis. Four cases related to candidate registration. A prospective candidate who was rejected both in the majoritarian (constituency 10) and the proportional contest claimed that the PVD improperly denied him a five-year permanent residence certificate and that, in turn, both the TEC and CEC unlawfully denied his registration.<sup>90</sup> Two majoritarian candidates (constituencies 19 and 37) each claimed a competitor had been unlawfully registered, not meeting the five-year residence requirement. The court rejected all four cases on technicalities, without examining the core issue of whether the residence requirement had been legally satisfied.<sup>91</sup> One plaintiff followed up the

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<sup>84</sup> On appeal, the Administrative Court upheld the CEC decisions not to consider these complaints.

<sup>85</sup> For instance, the CEC refused to consider several *de facto* appeals against TEC decisions, and in one case the CEC merely requested the TEC to revote on the decision, forcing the applicant to resubmit his appeal to the CEC which then refused to consider relevant evidence and rejected the case.

<sup>86</sup> For example, the CEC ruled that the placement of party flags is not regulated, as they are not campaign posters (which cannot be placed in certain locations, for example on means of public transportation and official buildings), and that campaign offices can be located in government administration buildings.

<sup>87</sup> Furthermore, Article 4.8 of the Law on Public Education states that “it is prohibited to conduct political activity and campaigning in educational institutions” and Article 5.1.1.2 of the Law on Political Parties provides, *inter alia*, that “activities...of parties ...in pre-schools, schools, [and] educational institutions...are prohibited.”

<sup>88</sup> The court ruled, in part, that Article 4.8 of the Law on Public Education that prohibits political activities and campaigning in schools should not be literally interpreted.

<sup>89</sup> The only penalties for electoral violations are a warning or de-registration; there are no fines which would ensure that penalties are effective and commensurate with the severity of the committed offense. Furthermore, Article 18.8 requires election commissions to request the court to de-register a candidate who does not comply with a warning to cease a violation, regardless of the severity of the violation.

<sup>90</sup> The plaintiff was initially provided a five-year residence certificate by the PVD, but it was subsequently revoked after a media report prompted an investigation that concluded he had been absent from Armenia for 10 months in the last five years.

<sup>91</sup> The court maintained that it had no authority to examine the core substance of the claims because the plaintiffs had defined their claim as against the PVD certificate/revocation and the TEC/CEC decisions, rather than against the PVD’s actions leading to the issuance of the certificates/revocation. When one plaintiff (constituency 10) submitted a follow-up claim to challenge the PVD’s actions, the court refused consideration by erroneously applying the three-day deadline for filing complaints for protection of electoral rights and then rejected a motion to consider the missed deadline as justified. The plaintiff informed the OSCE/ODIHR EOM that he intended to lodge a complaint to the European Court of Human Rights.

court's decision with a challenge to the constitutionality of the legal provision denying the possibility to appeal court decisions on electoral rights. The Constitutional Court denied consideration of the claim on grounds that it was manifestly unfounded.<sup>92</sup>

The prosecutor general's office and the police were transparent in their follow-up activities on reported electoral violations, many regarding vote buying. However, prior to election day, only one criminal investigation was launched and no charges were laid against potential violators. Many cases were closed, some after apparently only cursory consideration.<sup>93</sup> These institutions appeared to have the aim to discredit reports of electoral violations rather than to ensure that electoral crimes were uncovered and perpetrators brought to justice.<sup>94</sup> In three incidents, the police rejected initiating a criminal case on grounds that the perpetrators were justified in committing a criminal offense in the defence of their own electoral rights.<sup>95</sup> Such inaction undermined the rule of law. Several cases of physical attacks against candidates and campaigners were considered by police as common crimes, rather than electoral crimes.<sup>96</sup>

## **XII. ELECTION DAY**

Election day was calm and peaceful overall. The CEC declared that 62.3 per cent of all registered voters participated in the proportional component of the elections. On election day, international observers observed the opening of 105 polling stations, voting in 1,007 out of 1,982 polling stations,<sup>97</sup> and the vote count in 125 polling stations. They were also present in all 41 TECs and filed 120 reports on the handover of election material and the tabulation of results.

Proxies of contestants were present during opening, voting and counting at almost all polling stations observed, with RPA and PA proxies present in more than 80 per cent, and ANC and RoL proxies present in more than 60 per cent. A high presence of domestic observers and media representatives was noted during opening (in 73 per cent of polling stations observed), voting (87 per cent) and closing and counting (91 per cent). Some 32 per cent of PEC chairpersons and 48 per cent of PEC members in the polling stations observed were women.

### **OPENING AND VOTING**

Opening procedures were assessed positively in all but 3 of the 105 polling stations where opening was observed, although some procedural problems were noted. In particular,

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<sup>92</sup> On 31 May in a case challenging the proportional results, the Constitutional Court stated that legislative measures are needed to improve judicial consideration of disputes related to the (non-)issuance of residency certificates to ensure these court cases are considered in substance.

<sup>93</sup> According to the police, 60 cases were considered for investigation, many related to hindrance of campaign activities and vote buying. Prior to election day, 22 cases were closed due to lack of evidence.

<sup>94</sup> In official statements, law enforcement agencies often referred to reported electoral crimes as 'rumor' or 'gossip' and that inquiries had "proven reports to be untrue" or "proven the absence of crime".

<sup>95</sup> These cases involved supporters of a majoritarian candidate using force to hinder distribution of, and confiscating campaign materials of an opposing candidate. The police considered the materials to be libelous, thus absolving the perpetrators of their criminal actions.

<sup>96</sup> Under the Criminal Code, the common crime of minor physical assault carries a much lower prison term (up to two months) than the crime of hindering campaign rights using violence (up to five years).

<sup>97</sup> International observers submitted a total of 1,304 observation reports on voting, with several polling stations having been observed more than once during voting hours.

observers reported that in 16 polling stations the seal of the safe where election material was kept overnight was not intact, and in 3 stations the mobile ballot box was not properly sealed.

International observers noted journalists from *Kentron TV* videotaping at polling stations. Some *Kentron TV* journalists told OSCE/ODIHR EOM observers that they were doing so on behalf of PA, which had bought some 2,000 video cameras to tape the election-day process.

The voting process was orderly and well organized in the large majority of polling stations observed. Almost everywhere, the layout of polling stations was adequate, necessary election and information materials were present, and voter lists were displayed for public scrutiny. However, organizational problems, undue interference in the process and cases of serious violations were observed in a significant number of polling stations, resulting in a negative assessment of voting in 120 observations (9.4 per cent), which is considerable.

In 15 per cent of polling stations observed, lack of organization or disputes between PEC members and proxies or observers negatively affected the voting process. International observers reported overcrowding inside 203 polling stations observed (16 per cent), large groups of voters waiting to vote outside 197 polling stations (15 per cent), and tension or unrest in 49 polling stations (4 per cent). Some 696 polling stations observed (55 per cent) were not readily accessible for people with disabilities.

International observers reported 134 cases (11 per cent of observations) when unauthorized people, mostly proxies, interfered in or directed the work of the PECs. They also reported 46 cases (4 per cent) of people attempting to influence voters who to vote for, as well as 28 cases of pressure on or intimidation of voters (2 per cent).

International observers reported a number of serious violations, including 145 cases of group voting (11 per cent of polling stations observed), 58 cases of proxy voting (4 per cent), 24 cases of multiple voting (2 per cent) and 30 cases of series of seemingly identical signatures on voter lists (2 per cent).<sup>98</sup> In 84 polling stations observed (7 per cent), ballot boxes were not properly sealed. The secrecy of the vote was not always ensured, as not all voters marked their ballots in secret (12 per cent of polling stations observed) or put them in envelopes before leaving the voting booth (13 per cent). International observers noted several instances where videotaping by proxies or media representatives violated the secrecy of the vote. Voter identification procedures were generally adhered to. In 3 per cent of polling stations observed, voters were turned away because their names could not be found on the voter lists.

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

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<sup>98</sup> Issues of intimidation and compromised secrecy of the vote are generally regarded as having a greater impact on female voters, as more powerful male family and community members can use their enhanced position to pressure women whom to vote for. This view was also shared by various OSCE/ODIHR EOM interlocutors. No additional measures, such as increased protection of the secrecy of the vote and additional voter education and outreach to women voters, were taken by the CEC to prevent men from influencing women's votes.

On election day, some 200 complaints were lodged to PECs and 37 to TECs, relating to issues such as overcrowding, inking of passports, multiple voting, family voting, and vote buying. The OSCE/ODIHR EOM observed a few cases of complaints refused registration.<sup>99</sup> The CEC received some 30 election day-related complaints on issues such as campaigning during the silence period, vote buying, voter list irregularities, hindrance of proxies' and observers' rights, and interference by proxies in the voting process. All complaints lodged to the CEC were refused consideration or dismissed.<sup>100</sup> The Electoral Code does not require election day-related complaints to be considered immediately, and some TECs and the CEC issued their decisions several days after election day.

On election day and the day after, the police considered 78 cases of reported criminal violations, the majority related to vote buying. Other cases concerned issues such as proxy voting, group voting, multiple voting, carousel voting, and ballot box stuffing. Interference by local authorities in the voting process and hindrance of journalists' activities at polling stations were also reported to the police. Only seven criminal investigations were initiated – two on vote buying, four on hindrance of journalists' activities, and one for an assault on a police officer.

## COUNTING

The vote counts observed by international observers were mostly conducted in line with procedures. However, the vote count was assessed negatively in 24 of the 125 polling stations where it was observed, mainly due to procedural problems, as well as isolated cases of serious violations.

Proxies were present during all vote counts observed. International observers reported that proxies interfered in or directed the counting process in 13 cases, while non-PEC members participated in the count in 33 cases. Such undue involvement of unauthorized people is of concern as it undermines the principle of an independent election administration.

Some PECs did not begin the count immediately after voting had ended or did not perform basic reconciliation procedures required by law, such as counting the signatures of voters on the voter lists. A few PECs performed the count in a non-transparent manner, disregarding the requirements to show all envelopes and ballots to those present, or skipping safeguards against possible irregularities such as packing voter lists, unused ballots and envelopes before opening the ballot boxes. International observers reported isolated cases of serious violations, such as falsification of results or protocols (5 cases) or indications that ballot box stuffing had occurred earlier (5 cases). Some 18 PECs did not post copies of the results protocols for public scrutiny. PECs frequently did not perform a control check of the protocol figures; thus, figures on the results protocols did not always reconcile, and 26 PECs observed had problems completing the protocols. Some results protocols were not filled out

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<sup>99</sup> For instance, TEC 36 informed OSCE/ODIHR EOM observers that it did not register 12 complaints because there was no evidence submitted. TEC 17 refused to consider a complaint requesting invalidation of the results in several polling stations on grounds of missed deadline. On appeal, the CEC dismissed the claim; its decision implied, in part, that the CEC, in general, does not have authority to order invalidation of polling station results even if a TEC has unlawfully refused to do so.

<sup>100</sup> Two complaints were also filed to the Administrative Court, regarding the inking of passports; one was refused consideration on grounds of missed deadline and the other dismissed.



completely. This suggests that PEC trainings had not led to the required level of familiarity with counting procedures.

Four observed cases of expelling observers, six cases of extended breaks during the counting process and four cases of official protocol forms pre-signed by PEC members somewhat diminished the overall transparency of the counting process.

### **TABULATION AND ANNOUNCEMENT OF RESULTS**

The tabulation process was assessed positively in 33 of the 41 TECs. While it was transparent in most TECs, many TEC premises were overcrowded and not adequate for the reception and processing of PEC protocols. Many PEC results protocols had not been fully completed and frequently arithmetical errors had to be corrected by PECs (in accordance with the law). International observers reported that protocol figures were changed by 11 TECs (which is not permitted by the law) and that copies of the preliminary tabulation results were not posted for public scrutiny in 26 TECs, as required by the law, thereby reducing the transparency of the process.

The CEC started posting detailed preliminary results by polling stations for the proportional election on its website at around 01:30 hours on election night, which contributed to the transparency of the tabulation process. However, the results by polling stations for the majoritarian elections were posted on the CEC website only on 12 May. The CEC and TECs announced preliminary results for both proportional and majoritarian elections on 7 May.

Following the elections, 23 elected candidates from proportional lists, including the list leaders of RPA, RoL and ANC, decided not to take up their mandates and were replaced by subsequent candidates on the list. In total, there were more than 100 withdrawals of both elected and unelected candidates, including 67 from the RPA list and 28 from the PA list. Following the withdrawals, the new parliament has 14 women and 117 men; despite the 20 per cent gender quota for proportional lists, women account for only 11 per cent of all MPs.<sup>101</sup> The high number elected candidates who withdrew (18 per cent of elected MPs) raises concern about the degree of respect for voters' choice.

### **XIII. POST-ELECTION DAY DEVELOPMENTS**

The Electoral Code entitles candidates, proxies (in case they were present at the polling station during the vote count) as well as PEC members (in case their dissenting opinion was recorded in the challenged results protocol) to file recount requests for specific PECs with the superior TEC, until 18:00 hours on the day after election day.<sup>102</sup> The CEC informed the OSCE/ODIHR EOM of 17 requests for recounts of proportional polling station results and of 33 requests for recounts of majoritarian results. As a result, TECs performed recounts of 11 PECs for the proportional part of the elections, and of 27 PECs for the majoritarian one. The remaining requests were rejected due to lack of evidence regarding possible mistakes. OSCE/ODIHR LTOs observed some recounts and assessed them as having been carried out in line with the law, in an open and transparent manner and in the presence of the members

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<sup>101</sup> Before the withdrawals, the election results showed that 17 women had been elected to the new parliament (some 13 per cent of the 131 members), including two majoritarian candidates.

<sup>102</sup> TECs are also authorized to conduct recounts on their own initiative.

of the PECs in question, the applicants, observers and media. Recounts observed by LTOs did not produce significantly different results from those in the original protocols.

On 11 May, the TECs established the final majoritarian results in all 41 constituencies, while the CEC unanimously approved the proportional results on 13 May, before all election-related complaints and appeals had been adjudicated by the courts. On 18 May, the CEC announced that the first session of the newly elected parliament would be held on 31 May.

The OSCE/ODIHR EOM was able to compare 112 certified PEC protocol extracts obtained by international observers for the proportional elections, and 90 certified PEC protocol extracts with results of majoritarian contests, against the data posted on the CEC website. No serious discrepancies were found, although there were 17 cases of minor technical mistakes.

PEC-level proportional results released by the CEC show that voter turnout was lowest in constituency 35 (49.1 per cent) and highest in constituencies 23, 38 and 16 (some 75 per cent). Some polling stations had an extraordinarily high turnout. Of the 1,748 polling stations with 300 or more registered voters, 17 had a turnout exceeding 90 per cent. In all but three of these, RPA received a much higher share of the votes than it did countrywide. Nine of those polling stations showed more than 90 per cent of votes in favour of RPA, and 1 showed almost 99 per cent of votes cast for PA.

Several challenges to the validity of majoritarian and proportional results were lodged to TECs, the CEC and the Constitutional Court, some filed in duplicate. Although the Constitution and Electoral Code provide that the Constitutional Court has sole jurisdiction to consider complaints requesting invalidation of election results, the CEC and TECs considered and issued decisions in such cases, rather than forwarding the complaints to the court.

The ANC and PA filed complaints to the CEC requesting invalidation of the proportional results due to numerous alleged violations during the campaign period and on election day. The PA subsequently withdrew its complaint. While its complaint was still pending with the CEC, the ANC lodged the same complaint to the Constitutional Court. The CEC dismissed the ANC's complaint on grounds that invalidation of results can be granted only if violations could have impacted the results, although the CEC did not examine whether the alleged violations occurred. The Constitutional Court dismissed the ANC's complaint on 31 May.

TECs 3, 6 and 30 received complaints against their respective majoritarian election results. Complaints challenging the majoritarian results in constituencies 3, 7, 9, 17, 37 and 38 were lodged with the Constitutional Court. The complaints regarding constituencies 30 and 37 requested annulment on grounds, in part, that the winning candidate did not meet the five-year residence requirement.<sup>103</sup> Four decisions were issued by the time of this report, all upholding the results in the respective constituencies.

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<sup>103</sup> The candidate from TEC 37 was one of the complainants who had earlier challenged his contender's registration in the Administrative Court, on grounds that he did not meet the five-year residence requirement and was effectively denied consideration of the substance of his claim.

#### **XIV. RECOMMENDATIONS**

The following recommendations are offered for consideration by the authorities, political parties and civil society of Armenia, in further support of their efforts to conduct elections in line with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation. Many recommendations contained in the 2007 and 2008 OSCE/ODIHR EOM Final Reports and in the OSCE/ODIHR and Venice Commission Joint Legal Opinion of 2011, are also directly relevant for the 2012 parliamentary elections. The following recommendations are complementary to and should be considered and addressed together with those prior recommendations.<sup>104</sup>

The OSCE/ODIHR stands ready to assist the authorities and civil society of Armenia to further improve the electoral process.

##### **A. PRIORITY RECOMMENDATIONS**

1. Authorities and contestants should demonstrate more respect for the right of citizens to freely express their fundamental civil and political preferences, as required by paragraph 7.7 of the OSCE 1990 Copenhagen Document. They should refrain from putting pressure on voters, both during the campaign and on election day.
2. Special measures should be undertaken to increase public trust in the integrity of the election process. They could include, but not be limited to, increased transparency in the work of the electoral and state authorities, additional voter education on the secrecy of the vote, and enhanced campaigns against vote buying and vote selling. With regard to vote buying, consideration could be given to amending the Criminal Code to specifically provide immunity to persons reporting vote buying offenses, and citizens should be encouraged to report and provide evidence of any vote buying cases. Some of these measures could be undertaken in co-operation or consultation with civil society organizations, political parties, and other stakeholders.
3. Mechanisms providing for the uniform implementation of election-related legislation should be strengthened. This includes enhancing the authority of the CEC to adopt necessary decisions and clarifications, the implementation of which would be obligatory for all other stakeholders.
4. Efforts to improve the accuracy of voter lists should continue. To this end, an effective notification system between different public authorities should be created in order to facilitate data exchange and enable timely correction of records in the voter register and voter lists. In addition, issues such as high numbers of voters registered at the same address or at premises which are unsuitable for dwelling should be addressed. This is of particular relevance in view of the upcoming presidential election from 2013.
5. Law enforcement bodies should ensure that all persons who commit election-related offenses during the campaign period and on election day are promptly brought to justice. Election-related crimes should not be handled as common crimes and offenders

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<sup>104</sup> Recommendations 7, 10, 11, 30 and 32 from the 2007 OSCE/ODIHR EOM Final Report and recommendations 3, 16, 17, 20, 21, 28 and 30 from the 2008 OSCE/ODIHR EOM Final Report are directly relevant, in full or in part, for the 2012 parliamentary elections.

should not be absolved of criminal responsibility on the grounds that they were justified in committing a criminal offense in the defence of their own electoral rights.

6. Election commissions, law enforcement bodies, and courts should interpret, implement and enforce the electoral legal framework taking into consideration the spirit and intent of the law which aims to ensure an equal playing field for contestants, free will of the voters, and the integrity of the electoral process. This would include a wider interpretation of vote buying and enforcement of the ban on campaigning in schools and on involvement of educational staff and students in campaigning. In addition, the Criminal Code could be amended to include offenses for abuse of official position and administrative resources for campaigning. The criminal offense for distribution of libellous campaign material should be repealed.
7. Election commissions and courts should not take an overly formalistic approach to handling election-related complaints. They should refrain from denying consideration of complaints and appeals, duly consider the substance of all claims, and give impartial and thorough consideration of all relevant evidence. Election commissions should take a proactive role in gathering evidence to substantiate complaints and co-operate more closely with law enforcement agencies in this respect.

## **B. OTHER RECOMMENDATIONS**

### **LEGAL FRAMEWORK**

8. The legal framework should be amended to eliminate the five-year citizenship and residency requirement for candidates and the disenfranchisement of all prisoners regardless of the severity of the crime for which they have been sentenced. At a minimum, the law should clarify the residency requirement and provide for transparent and objective procedures established for determining whether it is met.

### **ELECTION ADMINISTRATION**

9. Training of election commission members on election procedures should be continued and enhanced, with a particular focus on counting and tabulation procedures.

### **VOTER REGISTRATION**

10. In order to increase public trust in the integrity of the voter registration process, various stakeholders could be invited to participate in a public audit of voter lists initiated and overseen by the authorities. For that purpose, downloadable voter lists could remain available to the public between elections. The PVD should continue to inform the public regularly about measures undertaken, especially in view of the upcoming presidential election.
11. Authorities should reconsider the mechanism for adding voters to voter lists on election day. The Election Code should clarify under which circumstances and which categories of voters can be added on election day and should contain clearly specified safeguards against possible multiple entries being introduced in the voter lists in the last two days before election day, after the delivery of final voter lists to PECs.

### **ELECTION CAMPAIGN AND CAMPAIGN FINANCE**

12. A more consistent approach towards the placement of campaign material could be considered. Article 20.2 of the Electoral Code should be amended, extending restrictions on placement of campaign posters to all types of printed campaign material. At the same time, narrowing the scope of restrictions on the placement of campaign material on privately owned facilities could be considered. The Electoral Code should be amended to provide for application of fines for violation of all campaign regulations, proportionate to the seriousness of the violation committed, and to disallow de-registration for minor violations.
13. Consideration could be given to expanding the legal definition of campaign expenditures so that all costs related to a contestant's campaign would be included.
14. To enhance the transparency of campaign financing, all electoral contestants should be required to open special campaign accounts and submit campaign finance reports, regardless of whether they are planning to or are spending funds on the campaign. The Oversight and Audit Service could have a more proactive approach in order to ensure transparent reporting by all contestants. The nomination of auditors by political parties should be mandatory; the costs could be covered from the state budget.

### **ADJUDICATION OF ELECTION DISPUTES**

15. The Electoral Code could be amended to permit citizens (or groups of citizens), accredited domestic observers, and civil society groups to file complaints against decisions and actions of election commissions, unlawful conduct in campaigning, and election results. Provisions in the Administrative Procedures Code prohibiting filing of campaign-related complaints prior to the official campaign period should be repealed.
16. The legal framework should be amended to simplify the election-related complaints and appeals process by establishing a singular, hierarchical process and eliminating dual jurisdiction. All relevant complaints and appeals provisions in various laws should be consolidated or referenced in the Electoral Code.

### **MEDIA**

17. Any campaign material prepared by political parties should be clearly marked as such when it is broadcast. In any case, such material should not be included in news programs without a clear indication that it is campaign material prepared by, or on behalf of, a party or contestant.
18. The NCTR mandate could be further defined with regard to media-related complaints and enforcement mechanisms. The adoption of a comprehensive instruction to this effect by the NCTR would be desirable. The procedures for dealing with complaints should be timely, clear and accessible in order to increase the level of confidence and provide complainants with prompt remedy. Sanctions should be clearly defined and commensurate with the gravity of the violation committed.

19. The NCTR should conduct its media monitoring relying on its own resources, instead of tasking broadcasters to provide monitoring reports on their own TV programs. Consideration could be given to enhancing the capacities and resources needed for this purpose. The NCTR may also consider including an evaluation of the tone of coverage in its media monitoring methodology, in order to detect possible political bias.

#### **PARTICIPATION OF WOMEN**

20. A review should be undertaken of the effectiveness of the candidate nomination quota as a temporary special measure for achieving *de facto* equality with regard to women's right and opportunity to stand as candidates.
21. Political parties should be encouraged to have a gender policy and to publicly provide gender-disaggregated information on their members. Consideration could be given to political parties being required to have a proportion of women on their senior decision-making bodies and to having more transparent and democratic methods for candidate selection.
22. The public media should ensure that women are not under-represented in their coverage and could undertake temporary special measures (such as giving additional airtime to female candidates, requesting parties to nominate female candidates for interviews, and airing programs on women in politics) to promote women's political participation. The NCTR could undertake a gender analysis in its media monitoring.

#### **DOMESTIC OBSERVERS**

23. The mandatory testing and certification of domestic observers should be reconsidered. As recommended previously by OSCE/ODIHR and the Venice Commission, any training of observers should be the responsibility of the observer organization itself, even though the CEC could consider offering optional training.

24.

#### **ELECTION DAY**

25. Overcrowding of polling stations and TECs should be addressed; polling station premises should be more suitable for large groups of people and for disabled voters.
26. The Electoral Code should be amended to provide immediate deadlines for consideration of election-day related complaints by election commissions and courts and to harmonize the deadline for announcing the final results with the deadlines for filing and consideration of all election-related complaints and appeals.

**ANNEX 1 – ELECTION RESULTS**

<b>Field of the protocol</b>	<b>Proportional results</b>		<b>Majoritarian results</b>		
Number of voters in the main voter list	2,501,597				
Number of voters in the additional voter lists compiled on election day	1,384				
Number of voters in the additional voter lists voting according to the place of stay	15,363				
Number of voters without registration	1,256				
Number of police officers in additional voter lists	1,493				
Number of voters in additional voter lists in medical facilities	1,809				
Number of voters in additional voter lists in facilities for holding arrestees	4				
Number of voters in additional voter lists for electronic voting	195				
Total number of voters in all voter lists	2,523,101		2,512,654		
Total number of voters who participated in voting	1,573,053		1,560,411		
Turnout	62.3%		62,1%		
Number of unused ballots cancelled at PECs	1,021,265		1,019,187		
Number of invalid ballots	53,831		80,148		
<b>Name of Party/Bloc</b>	<b>Number of votes received</b>	<b>%</b>	<b>Number of seats allocated under proportional system</b>	<b>Number of seats allocated under majoritarian system</b>	<b>Total number of seats</b>
Prosperous Armenia	454,673	30.2%	28	9	37
Heritage Party	86,998	5.8%	5		5
Armenian National Congress	106,903	7.1%	7		7
Armenian Revolutionary Federation	85,550	5.7%	5	1	6
Democratic Party of Armenia	5,577	0.4%	0		0
Communist Party of Armenia	15,899	1.1%	0		0
Republican Party of Armenia	664,440	44.1%	40	29	69
United Armenians Party	2,945	0.2%	0		0
Rule of Law Party	83,123	5.5%	5	1	6
Self-nominated candidates	–		–	1	1
<i>Total</i>	<i>1,506,108</i>		<i>90</i>	<i>41</i>	<i>131</i>

[Source: CEC website; [www.elections.am](http://www.elections.am)]

## 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](http://www.osce.org/odihr)).