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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**FINAL JOINT OPINION  
ON AMENDMENTS TO THE ELECTORAL CODE  
OF THE REPUBLIC OF ARMENIA**

**by  
the Venice Commission  
and  
the OSCE Office for Democratic Institutions and Human Rights  
(OSCE/ODIHR)**

**adopted by the Venice Commission  
at its 70<sup>th</sup> plenary session  
(Venice, 16-17 March 2007)**

**on the basis of comments by  
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## I. Introduction

1. On 28 March 2006, the President of the National Assembly of the Republic of Armenia requested the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to provide an Opinion on draft amendments to the Electoral Code. The most recent joint opinion of the Venice Commission and the Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the Election Code (CDL-AD(2006)026) is dated 15 June 2006 and addresses the Draft Law on Changes and Amendments to the Electoral Code of the Republic of Armenia (CDL-EL(2006)020). Following the adoption of the final amendments on 22 December 2006, the OSCE/ODIHR and the Venice Commission agreed on providing a final joint opinion on the amended law. This final joint opinion represents an update to the June 2006 Opinion and covers the latest amendments of 22 December 2006 (CDL-EL(2007)002).

2. The present opinion focuses on the amendments to the electoral code adopted by the National Assembly of the Republic of Armenia on 22 December 2006 and brings the co-operation between the National Assembly of Armenia and the Venice Commission and the OSCE/ODIHR during the process of amending the election law to completion.

3. The Joint Opinion on Draft Amendments to the Electoral Code of the Republic of Armenia by the OSCE/ODIHR and the Venice Commission (Joint Opinion on Draft Amendments to the Electoral Code of the Republic of Armenia, n.378/2006, Doc. CDL-AD(2006)026), 15 June 2006) categorised the set of proposed draft amendments in four areas: draft amendments which improve the legal framework for elections, draft amendments which need to be clarified or proved in practice, draft amendments, which might have ambivalent or negative effects and should be reconsidered, and previous recommendations that were not addressed by the proposed amendments. This Joint Opinion as well as a former Final Opinion on the Amendments to the Electoral Code of the Republic of Armenia, by the Venice Commission and OSCE/ODIHR (Doc. CDL-AD(2005)027, 25 October 2005) focused on three main points: electoral administration, electoral complaints, and mechanisms for ensuring the integrity of the election process. While noting improvements, both opinions stress that the conduct of genuinely democratic elections depends not only on a detailed and solid electoral code, but on good faith implementation of the electoral legislation.

4. The Law on making amendments to the Electoral Code of the Republic of Armenia dated 5<sup>th</sup> February 2007 recently modified the Electoral Code. This information was obtained too recently to permit inclusion of comments on this Law in the opinion. This Law concerns essentially dual citizenship and modifies several articles of the Code in connection to this issue. The Venice Commission and OSCE/ODIHR will provide an additional short opinion on the basis of these latest amendments.

5. This Final Joint Opinion should be read together with the following documents and prior opinions provided to the authorities of the Republic of Armenia. This Final Joint Opinion focuses on the recently adopted amendments; prior opinions should be consulted as they provide in-depth discussion and analyses that explain and support earlier recommendations made by the Venice Commission and OSCE/ODIHR:

- Electoral Code of the Republic of Armenia (including the amendments adopted on 17 May 2005 by the National Assembly of Armenia) (CDL-EL(2006)019).
- Law amending the Electoral Code of the Republic of Armenia (CDL-EL(2007)002; "the amendments").
- Final Opinion on the Amendments to the Electoral Code of the Republic of Armenia, by the Venice Commission and OSCE/ODIHR (CDL-AD(2005)027; "the Final Opinion").
- Joint Opinion on Draft Amendments to the Electoral Code of the Republic of Armenia (CDL-AD(2006)026; "the Joint Opinion").

- Congress of Local and Regional Authorities of the Council of Europe, Report on the constitutional referendum in Armenia observed on 27 November 2005 (CG/BUR (12) 97, Rapporteur: Sean O'Brien (Ireland, L, SOC) Document adopted by the Bureau of the Congress on 10 February 2006).
- Committee of Ministers of the Council of Europe, Recommendation no. R (99) 15, of the Committee of Ministers to Member States on Measures concerning Media coverage of Election Campaigns (Adopted by the Committee of Ministers on 9 September 1999 at the 678<sup>th</sup> meeting of the Ministers' Deputies).
- The Code of Good Practice in Electoral Matters of the Venice Commission (CDL-AD(2002)023rev).

6. The present document has been adopted by the Venice Commission at its 70<sup>th</sup> plenary session (Venice, 16-17 March 2007).

## **II. Amendments which improve the legal framework for elections and address previous recommendations**

7. The amendments adopted in December 2006 constitute improvement over previous draft amendments, particularly concerning issues such as distribution of tasks within election commissions, electoral deposits for candidacy, voting and counting procedures, and recall of election commission members.

### Functioning of the election administration

8. According to Article 46 of the amendments, amending Article 53 Part 1 of the Code, the precinct election commission (PEC) shall hold a lottery to distribute the following tasks among the commission members: a) on the day before election day, three commission members to sign all ballots and each page of the voter list before 24:00; b) on election day before 7:00<sup>1</sup> commission members to register voters, provided that there is at least one commission member per 1,000 voters; c) commission members to allocate ballots and voting envelopes, provided that there is at least one commission member per 1,000 voters; d) commission member to seal the voting envelopes and responsible for the ballot box; e) commission member responsible for mobile voting; and f) how functions shall rotate between precinct election commission members at two hour intervals. The commission chairperson and the secretary shall not participate in the lottery for specific tasks, but replace other commission members in case of absence.

### Training of members of election commissions

9. Article 28 of the amendments constitutes a new Part 1<sup>1</sup> of Article 34 of the Code introducing training for citizens wishing to become election commission members. Despite some concerns that a test of candidates for election commission members may serve as a qualifying instrument for membership of election commissions, and as long as this does not become an exclusive measure rather than an inclusive measure, such training courses may be an important step for empowering citizens and giving them a sense of ownership of the election process.

### Recall of an election commission member

10. The possibility to recall members of election commissions, abolished in 2002, had been re-introduced by previous draft amendments by granting the person or body that nominated the member the right to control actions of members of election commissions through recall. In a

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<sup>1</sup> The translation of the amendments states that this should happen before 17:00 hours on voting day. It is assumed that this is a mistake in translation as these tasks should be distributed before voting begins at 8:00 on election day.

welcome improvement, this right to recall was finally not included in Article 38 of the Code. The possibility of recall is not foreseen in the final version of the Code. As expressed in Paragraph 45 of the Joint Opinion<sup>2</sup> and Paragraph 77 of the Code of Good Practice in Electoral Matters, discretionary recall casts doubts on the independence and political neutrality of the members of electoral commissions.<sup>3</sup>

### Observers

11. In a positive amendment, Article 24 of the amendments explicitly identifies the following authorities as entitled to invite foreign observers: the National Assembly, the President, the Government, and the Central Electoral Commission of Armenia (Article 28 Part 1<sup>1</sup> of the Code). The amendments also reinforce the role of observation missions, as recommended by Paragraph 29 of the Joint Opinion. Article 25 of the amendments amends Article 29 of the Code to extend their accreditation until the 8<sup>th</sup> day following the official promulgation of the election results.<sup>4</sup> In case election results are challenged in court, observers' accreditation shall terminate on the day following the day on which the judicial act is published. If the court orders re-voting or a new election, observer organisations do not need to re-register. In a welcome development to ensure that no bureaucratic barriers and restrictions are created for election observation missions, the priority that Article 29 Paragraph 4 of the Code gives to organisations that cover the entire territory of the Republic of Armenia with their observation mission has been revoked by Article 25 of the amendments.

### Proxies

12. Article 23 of the amendments, amending Article 27<sup>1</sup> of the Code, clarifies and strengthens the role of proxies. Proxies are now allowed to be physically present next to commission members during voting day procedures and to observe their activities without disrupting their work. Furthermore, the amendments add a new Paragraph 6<sup>1</sup> of Article 27<sup>1</sup> to the Code which allows proxies to make comments and suggestions to the commission chairperson upon which the chairperson is now required to act.

### Video recording

13. The previous draft amendments proposed video recording of the voting and the summarising of results. The Venice Commission and OSCE/ODIHR cautioned against the use of video recording since it could have an intimidating effect on voters and might violate the secrecy of the vote (Paragraph 46 of the Joint Opinion). In a positive change from the provision foreseen in previous draft amendments, the adopted amendments (Art 41, amending Art 47, part 2 of the Code) limit videotaping by proxies, observers, and representatives of the mass media without any hindrance to the process of summarising the voting results.

### Police – Right to vote

14. Article 6 of the amendments changes Article 10 Paragraph 3 of the Code to provide that the Republic of Armenia Police shall distribute the list of police officers that will serve in the precinct electoral centres no later than three days prior to voting day. These officers will be removed from the voter list in their place of registration. They will have the right to vote in their duty

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<sup>2</sup> Joint Opinion on Draft Amendments to the Electoral Code of the Republic of Armenia (CDL-AD(2006)026). Hereafter "the Joint Opinion".

<sup>3</sup> During the meeting between the National Assembly of Armenia and the Venice Commission and the OSCE/ODIHR in Yerevan on 27-28 September 2006, some members of the National Assembly suggested that recall might be an instrument for acting against possible corruption of election commission members. However, it is debatable whether a recall provision would provide a greater deterrent than criminal penalties for bribery.

<sup>4</sup> The pre-amendment provision stated: "The authority of persons carrying out observation missions shall be terminated ten days after the end of elections" (Article 29, Part 6).

station and will be included in an additional list. This ensures the right to vote for Police officers on duty on election day while preventing possible multiple registration.

#### Patients in medical institutions – Right to vote

15. Article 40 of the amendments adds a new paragraph to Article 46 of the Code, extending voting opportunities for citizens undergoing in-patient treatment in medical institutions and who are unable on their own to attend the precinct centre on voting day. The initial draft amendments were broader, as they included any person unable to attend the polling station and disabled persons. Thus, this new regulation introducing mobile voting for certain persons receiving medical treatment only partially addresses the recommendation of the Venice Commission and OSCE/ODIHR (Paragraph 56 of the Joint Opinion) that all citizens, unable to attend the polling station, have their fundamental right to vote upheld.

#### Voting procedure

16. The adopted amendments (Article 43 amending Article 49 Part 11 of the Code) improve the voting procedure by introducing voting envelopes as additional safeguards for the integrity of the vote. However, concerns remain with regard to the stamping of envelopes (see below).

#### Identification of voters on election day

17. Article 47 of the amendments adds a new sentence to Article 55, Paragraph 2 of the Code introducing that the election commission member responsible for checking the registration of the voter shall sign the voter list next to the voter's signature in the column designated for the election commission member's signature. This signature requirement might be an adequate measure to improve the integrity of the process and to provide evidence in case of violations of the electoral law. The same amendment introduces another safeguard to prevent possible multiple voting by providing that the military card or certificate of military servants shall be stamped after identification. In a welcome step to avoid ex-post voter identification, the requirement foreseen in previous amendments for the voter and the responsible election commission member to sign the stub of the ballot before the bottom part of the ballot is given to the voter has finally not been introduced (see Paragraph 33 of Joint Opinion).

18. In another welcome change, previous draft amendments that had proposed changes to three articles of the Code (Article 55 Paragraph 2, Article 56 Paragraph 2, and Article 57 Paragraph 3) resulting in checking voter's identity at three stages inside the polling station on election day, have been withdrawn. This multiple voter identification check would have been complex and time consuming. The Joint Opinion (Paragraph 48) recommended checking a voter's identity only once provided that the purpose of assuring the integrity of the voting is pursued by other means, for example, an appropriate layout of the polling station, effective management of voter flow, and a clear overview of all staff and voter activity by commission members, proxies and observers. It is an improvement that the adopted amendments did not introduce multiple checks on voter's identity.

#### Counting and tabulation procedure

19. In a welcome development, the complex procedures for vote counting, summarizing of voting results and preparing of election protocols introduced by previous draft amendments (Paragraph 37 of Joint Opinion) have not been included in the amended Code.

#### Ballot papers – Stamping

20. The Joint Opinion analyzed the signing and stamping of the ballots. Both procedures could be problematic if they lead to any type of ex-post voter's identification (Paragraphs 33 and 49 of

the Joint Opinion). The adopted amendments eliminate the requirement of stamping the ballots, requiring only the signatures of three election commission members on the reverse side of the ballot (Article 46 amending Article 53 Part 1 of the Code). The signing of the ballots takes place 24 hours before the elections.

### **III. Amendments that require clarification and recommendations that remain to be addressed**

21. Some previous recommendations have not been addressed and issues remain to be clarified, including some which were previously pointed out in opinions of the Venice Commission and the OSCE/ODIHR as well as some which have been introduced by the adopted amendments.

#### Appointment of members to the CEC and TECs

22. The amended Code still does not specify or regulate who has the authority to appoint members of the CEC should a coalition or party alliance break apart (Paragraph 58 of the Joint Opinion; Paragraph 12 of the Final Opinion), or the appointment powers of the President of Armenia over vacancies on the CEC and TECs in emergency situations (Paragraph 59 of the Joint Opinion; Paragraph 13 of the Final Opinion<sup>5</sup>).

#### President powers for approving the composition of the CEC

23. The presidential role in approving the composition of the CEC remains unclear. Article 35 Paragraph 3 of the Code (as amended by Article 29 of the amendments) now sets a ten-day deadline for a decree of the President of the Republic of Armenia to approve the composition of the CEC, on the basis of nominations made by the entities responsible for forming the CEC. Former opinions expressed concern and asked for a clarification of this article of the Code (Paragraph 31 of the Joint Opinion; Paragraph 13 of the Final Opinion). It is still not specified whether the presidential decree is merely a formality, which would imply that the President has no power to veto, negate, or prevent an appointment by means of this formality.

#### Composition of election commissions

24. Paragraph 10 of the Final Opinion underlined that it is not possible to predict whether the provisions on the composition of election commissions will be applied in good faith.<sup>6</sup> The extent to which these provisions will result in a balanced composition of election commissions and an impartial and professional electoral administration remains to be seen during future elections. Good faith implementation of these provisions could increase confidence in the electoral administration. However, legislation alone cannot guarantee that members of electoral commissions will act professionally, honestly and impartially. The Venice Commission and the OSCE/ODIHR again stress that good faith implementation of the provisions on electoral commission formation and administration remains crucial.

#### Electoral deposits for candidacy

25. The previous draft amendments removed the following text of Article 128 Paragraph 1: "The community leader or council member candidates may use the resources in the pre-election fund to pay their electoral deposits". The adopted amendments confirm this removal. This amendment will make it more difficult for some citizens to seek candidacy and should be

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<sup>5</sup> Final Opinion on the Amendments to the Electoral Code of the Republic of Armenia, by the Venice Commission and OSCE/ODIHR, Strasbourg/Warsaw, 25 October 2005 (CDL-AD(2005)027). Hereafter "the Final Opinion".

<sup>6</sup> Cf. the Code of Good Practice in Electoral Matters of the Venice Commission (CDL-AD(2002)023rev), II. 3.1. e.

reconsidered. Consideration should also be given to reducing the financial amount for candidate deposits to encourage more candidates.

#### Voting procedure

26. Article 57 Part 3 (modified by Article 49 of the adopted amendments) specifies the procedure to be followed by the voter and by the election commission member responsible for stamping the voting envelopes and for the ballot box after the voter marks the ballot. The voter shall fold the ballot while in the voting booth, place it inside the voting envelope, and approach the ballot box. The election commission member shall seal the voting envelope, open the slot of the ballot box, and enable the voter to drop the voting envelope into the ballot box. While the stamping procedure aims at ensuring the integrity of the electoral documents and the voting process, concerns remain about possible identification of the voter during the counting (Paragraph 49 of the Joint Opinion). If in fact, the election commission member responsible for stamping the envelope also seals, i.e. closes, the envelope and this is not an error in translation, this procedure would raise an important objection: as a principle, after the voter has received the ballot, no one else should touch the ballot (Code of Good Practice in Electoral Matters, Paragraphs 34-35).

27. Following its election observation mission of the constitutional referendum in Armenia,<sup>7</sup> the Congress of Local and Regional Authorities of the Council of Europe recommended that measures be taken to avoid potential replacement of ballot boxes and ballot boxes seals. The Congress suggested that the ballot box seal number be registered in the Registry of the Precinct Electoral Commissions before the sealing of the ballot box and that the number is again recorded when the box is being opened for the counting, in order to avoid potential replacement of ballot boxes and seals. In view of the Congress and of OSCE/ODIHR and Venice Commission, the recent amendments brought to the Electoral Code do not include sufficient guarantees in this regard. It is therefore suggested to include measures (such as the one suggested in the Congress recommendation in 2005) to avoid potential replacement of ballot boxes and seals.

#### Validity of ballots

28. Article 50 of the amendments (Article 58 of the Code) provides that a ballot is invalid if "it is not signed". However, the article does not state by whom. Although it may be implicit that the signature refers to the Article 53 signatures of election commission members, this should be clearly stated.

#### Negative voting ("Voting against all")

29. The Venice Commission and OSCE/ODIHR have previously recommended that the voting option of voting against a candidate be removed from the Code. This voting option remains in Articles 57 and 116 of the Code in cases where only one candidate is standing in the election. It is again recommended that negative voting should be revoked, as elections are about expressing a positive choice in favour of a particular candidate or political party. It would also be desirable to have more than one candidate standing in any particular election to provide voters with a genuine choice between different candidates.

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<sup>7</sup> Congress of Local and Regional Authorities of the Council of Europe, Report on the constitutional referendum in Armenia observed on 27 November 2005 (CG/BUR (12) 97, Rapporteur: Sean O'Brien (Ireland, L, SOC). Document adopted by the Bureau of the Congress on 10 February 2006).

### Approval of printing and preparation of ballots

30. The printing and preparation of the ballots remains unclear and does not address previous recommendations of the Venice Commission and the OSCE/ODIHR (Paragraph 47 of the Joint Opinion). Article 43 of the amendments adds a new paragraph 11 to Article 49<sup>1</sup> charging the CEC with the printing and preparation of the voting envelopes. However, contradiction remains as to preparation of the ballots. Article 49<sup>1</sup> Paragraph 6 of the Code states that the CEC shall approve the ballot specimen and ensure the printing and preparation of ballots for presidential and National Assembly elections while according to Article 114 Paragraphs 3 and 5, the Territorial Electoral Commissions (TECs) shall be responsible for printing ballots for elections held under the majoritarian system and the CEC for printing ballots for elections under the proportional system. It would constitute better practice if overall responsibility for production of ballots (preparation and printing) was placed in the hands of the CEC as is the case with the envelopes, to ensure consistency and minimum standards.

### Complaints and appeals

31. As in former opinions, provisions related to complaints and appeals are of particular concern. Article 40 of the Code provides that decisions of Precinct Electoral Commissions can be appealed to the Territorial Electoral Commission; decisions of the Territorial Electoral Commission to the courts of first instance; and decisions of the Central Electoral Commission to the Court of Appeals. The amendments (Article 34) have not substantially changed the provisions that regulate complaints against decisions, actions or inactions of an election commission. Article 35 of the amendments introduces some changes to Article 40<sup>1</sup> of the Code, such as the possibility to correct formal mistakes in the applications. Previous concerns remain, such as the lack of clear definition of the powers and responsibilities of both the election commissions and the courts as appealing institutions (Paragraph 55 of the Joint Opinion; Paragraphs 27-35 of the Final Opinion). It is important that appeal procedures are clear, transparent and easily understandable to ensure the integrity of elections.

32. Further, Part 3 of Article 40<sup>1</sup> of the Code provides that complaints “containing false information shall not be reviewed”. This provision is problematic. First, determining the truth or falsity of information should not be based on an examination of the written complaint without a hearing. The truth or falsity of a matter should be determined by an election commission or court after hearing the evidence. Secondly, as the text is currently written, any unintended erroneous statement, such as a person’s name, address, or the exact time of an event, would prevent the review of an otherwise meritorious complaint. This text should be clarified.

33. Part 4 of the amended article provides that a complainant “shall not have the right to publicize, print, take excerpts from, or make copies of signed voter lists”. This may be too restrictive and prevent the complainant from fully presenting a case to the election commission or in a court. This text should be revised to ensure that a complainant has the full opportunity to present all evidence relevant to a complaint, including evidence related to the voters list.

### Extraordinary presidential elections

34. In case of a state of emergency or state of martial law, extraordinary presidential elections are prohibited, and shall take place on the 40<sup>th</sup> day after the cessation of the emergency or military situation (Article 91 of the Code, amended by Article 80 of the amendments). The former Joint Opinion, Paragraph 51, cautioned that there could be a danger of provoking or abusing this provision to prevent the realisation of extraordinary elections. The exact time of the end of the emergency or military situation is also unclear, considering that the 40 days deadline is determined on the basis of this time.



### Inking of voters' fingers

35. Previous opinions have recommended the marking of voters' fingers to indicate that he or she has already voted as an effective method for minimizing the risk of multiple voting (Paragraph 57 of the Joint Opinion; Paragraph 25 of the Final Opinion). The adopted amendments have not included this provision in the Code.

### Quorum and Voting Requirements

36. The latest amendments contain new provisions (Articles 33, 73, 93, and 94, which modify Articles 39, 83, 115, and 116 of the Code) that change the quorum and voting requirements during an election period for an election commission to adopt a decision. These changes introduce the possibility for adopting a decision based on minimum support and grant the chairperson a weighted vote, when deciding election results, in the case of a tie. Although these changes may ensure the adoption of decisions, they do not comply with the democratic principles of equality in voting and majority support by election commission members for the adoption of decisions.

37. The previous provision establishing a quorum for activities of election commissions (Article 39.6 of the Code) required half of the members to be present. The new provision (Article 33 of the amendments) allows commissions to act regardless the number of members "*if all the possibilities of ensuring the participation of the number of commission members necessary to convene a session have been exhausted*". While this provision may be considered a mechanism for avoiding deadlock and facilitating the adoption of decisions, it is not clear why the amendment does not contain mechanisms designed to secure the participation of absent election commission members. The expression "*all the possibilities of ensuring the participation*" is vague on what exact duties have to be fulfilled to mobilise election commission members to participate. These duties should be defined in the text.

38. Likewise, the new amendments (Articles 33, 73, 93, and 94) introduce a provision by which "*a decision shall be considered taken, if the number of commission members that voted for such decision is greater than the number of commission members that voted against it*". This changes the former provision (Article 39.7 of the Code): "*A vote shall be considered valid if more than half the commission members have taken part in the vote. A decision shall be considered adopted if more than half of the total number of commission's members has voted for it*". As the quorum requirement has been eliminated, a decision on the election of a member of parliament could be adopted with minimal support of the commission members. Although in theory this would be a plurality of those voting, it is possible that the decision could be adopted even without a plurality since the chairperson is granted a weighted vote in case of a tie when the decision relates to election results.

39. Mechanisms for ensuring the functioning of the election administration are not, in themselves, questionable. In an electoral system in which the formation and effective working of electoral commissions may be hindered by actions of the citizens involved, it may be understandable that some legal redressing mechanism may be designed. However, this cannot be understood as a full and unconditional endorsement of the measure due to the potential misuse of such provisions.

40. While deadlock should be avoided, giving the chairperson a weighted vote, on decisions relating to election results, grants disproportionate power to a single election commission member. Regardless of the undemocratic aspect of this rule, it undermines public confidence in an election administration that may be lacking in political pluralism due to absence of its members or other reasons. This unfortunate situation is further compounded by giving a weighted vote to the chairperson. It is **recommended** that consideration be given to applying

the principle of one person-one vote to the decision making process in election commissions.

### Media

41. Article 20 of the Code requires fair and equal conditions in the media treatment of candidates. However, Article 20 does not state clear guidelines for ensuring the implementation of this principle.<sup>8</sup> More broadly, the Code should provide more guarantees regarding a fair and balanced access to the media during electoral campaign by all political parties.

### Voting Rights of Members of the Military

42. An amendment (Article 6) to Paragraph 5 of Article 10 of the Code introduces the phrase “with the exception of local government elections” as a condition upon the voting rights of a member of the military who has been temporarily released from service. This amendment appears to restrict the right to vote in local government elections for such a person. Thus, a “temporarily released from service” member of the military has the right to vote in his or her place of permanent residence for a parliamentary election contest but not for a local government election contest. The voting rights of members of the military require clarification. Any restriction on the right to suffrage must be strictly necessary in a democratic society and proportionate to the goal sought to be achieved.

### Correction of Voters Lists

43. An amendment (Article 10) to Paragraph 1 of Article 14 of the Code grants the right to apply for correction in voters lists to “parties”. Although this amendment is likely intended to extend this right to registered political parties, the word “parties” could be applied much more broadly. This text should be clarified when the Code is again amended.

## **IV. Concluding remarks**

44. After an extensive process of amending the Republic of Armenia Electoral Code, the final amendments were passed by Parliament on 22 December 2006 in their second reading. It is unfortunate that they were not approved earlier as the next parliamentary elections will be held on 12 May 2007.

45. The amended Code contains a number of improvements, including the improved status of proxies, additional safeguards for the integrity of the vote and election materials such as signature requirements and clarification on distribution of tasks among members of election commissions; issues which could have been problematic had they not been addressed in the amended legislation. In welcome developments, provisions foreseen in the previous draft amendments, like video recording of the voting, recall of election commission members and complex voting and counting procedures have not been included in the final code.

46. Some amendments may need further clarification, for example the presidential role in approving the composition of the Central Election Commission, the stamping of ballot envelopes, the approval of preparation and printing of ballots and the complaints and appeals procedures. The late introduction of new provisions changing the quorum and voting requirements for an election commission to adopt a decision raises concerns and needs to be proven in practice.

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<sup>8</sup> See Committee of Ministers of the Council of Europe, Recommendation no. R(99)15 to Member States on Measures concerning Media coverage of Election Campaigns (Adopted by the Committee of Ministers on 9 September 1999 at the 678<sup>th</sup> meeting of the Ministers' Deputies).

47. The Electoral Code is a lengthy and detailed law that regulates many aspects of the electoral process. However, legal detail is not an substitute for a culture committed to democratic values and the rule of law. The Electoral Code provides a good basis for the organisation of genuinely democratic elections, in spite of the fact that some Venice Commission and OSCE/ODIHR recommendations have not been addressed in the revised text. Thus, the key challenge for the conduct of genuinely democratic elections remains the exercise of political will by all stakeholders, and a good faith implementation of the electoral legislation.