



Office for Democratic Institutions and Human Rights

## REPUBLIC OF ARMENIA

### PRESIDENTIAL ELECTION

19 February 2008

OSCE/ODIHR Election Observation Mission Report



Warsaw  
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**REPUBLIC OF ARMENIA  
PRESIDENTIAL ELECTION  
19 February 2008**

**Final Report of the OSCE/ODIHR Election Observation Mission<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

The presidential election in the Republic of Armenia was held on 19 February 2008. Following an invitation, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 10 January 2008 to assess the election process for compliance with the 1990 OSCE Copenhagen Document and other international standards, as well as with domestic legislation and its implementation.

While the 2008 presidential election mostly met OSCE commitments and international standards in the pre-election period and during voting hours, serious challenges to some commitments did emerge, especially after election day. This displayed an insufficient regard for standards essential to democratic elections and devalued the overall election process. In particular, the vote count demonstrated deficiencies of accountability and transparency, and complaints and appeals procedures were not fully effective.

Prior to election day, many interlocutors raised concerns over possible malfeasance and there was an evident lack of public confidence in the election process. High State officials made statements to reassure the public of their freedom of choice, the secrecy of the vote, and emphasized legal penalties for election violations.

The Election Code provides a sound basis to conduct democratic elections; deficiencies in implementation resulted primarily from a lack of sufficient will to implement legal provisions effectively and impartially.

The Central Election Commission (CEC) organised the election overall transparently. Nine candidates were registered in an inclusive and non-discriminatory manner, offering voters distinct choices. However, the incumbent government, including Prime Minister Serzh Sargsyan, candidate of the governing Republican Party, and the outgoing president Robert Kocharian, had a considerable advantage in the number of appointees to election commission management posts, raising concern for the independence and impartiality of the election administration.

Candidates held numerous campaign events, largely without hindrance. The authorities made efforts to provide a permissive campaign environment. While most rallies were peaceful, occasional infringements of citizens' rights to freely attend political events, and a few acts of violence against campaign activists or party property, raised tensions.

Many local government officials actively campaigned for Prime Minister Sargsyan, some whilst performing official duties. There were accounts of local government employees and public-sector workers being obligated to attend Prime Minister Sargsyan's campaign events. This conflicted with legal provisions, blurred the separation of party and State, challenged

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<sup>1</sup> This report is also available in Armenian. However, the English version remains the only official document.

equal campaign opportunities, and raised concern that citizens could face retribution for their electoral choices.

The CEC and the National Council for Television and Radio (NCTR) did not ensure that media met its obligations, and media bias was evident. Favourable coverage of Prime Minister Sargsyan, including his official duties, granted him an undue advantage. Opposition candidate Levon Ter-Petrossian received a large volume of negative coverage, including on public TV and radio.

Voting was conducted largely in line with established procedures. Observers assessed voting overall positively at 95 per cent of polling stations visited. However, intimidation and attempts to manipulate the process were evident in some areas, and the authorities did not adequately address these issues as they emerged on or after election day. Some Precinct Election Commissions (PECs) were unwilling to register formal complaints.

The vote count was assessed as 'bad' or 'very bad' in some 16 per cent of polling stations observed. Observers witnessed inconsistencies in determining valid votes, unwillingness to show marked ballots, attributing votes for one candidate to another, signing protocols before completing the vote count, signing blank protocols, changing data entered in protocols, and failure to display protocols publicly as required by law.

The tabulation of results at Territorial Election Commissions (TECs) was overall performed well, although a number of shortcomings were observed. This included material arriving in unsealed packages, candidate proxies performing TEC functions, an inconsistent approach to tabulation errors, and not permitting observers to scrutinise protocols. There were many requests made to recount PEC results, some of which were rejected by TECs without good cause. Out of the 159 recount requests accepted, 135 PEC results were recounted. In many cases, discrepancies and mistakes were identified, some of which raised questions of political impartiality.

Most pre-election complaints were filed with the CEC, as were many post-election complaints. The CEC's handling of complaints was not transparent. The CEC considered them mostly in informal meetings to which proxies, observers and the media were not invited, and dismissed them without adequate investigation. Consequently, candidates were not granted an effective means of redress. Stakeholders rarely utilized newly established procedures, introduced in December 2007, to file appeals with the Administrative Court.

On 24 February, the CEC declared that Prime Minister Sargsyan had won the election with some 52.8 per cent of all votes cast; Mr. Ter-Petrossian received some 21.5 per cent of votes. Two CEC members did not sign the official protocol of results. PEC results published by the CEC revealed implausible turnout figures at some 100 polling stations.

From 21 February, Mr. Ter-Petrossian's supporters commenced a peaceful protest in central Yerevan. On 1 March violent clashes occurred between protestors and police. Ten persons lost their lives, and some 200 people were injured, including police officers. President Kocharian declared a state of emergency in Yerevan city, which *inter alia* imposed a ban on rallies and gatherings and *de facto* censorship. Subsequently, some 130 persons were arrested and some 100 criminal cases opened.

The Constitutional Court heard two appeals against the election results filed by Mr. Ter-Petrossian and Mr. Karapetyan, between 4 - 7 March. On 8 March, it confirmed the CEC

decision to declare that Prime Minister Sargsyan was elected president. In issuing its decision, the Court recommended a review of the legal framework for filing election appeals.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation on 19 December 2007 by the Government of the Republic of Armenia to observe the presidential election, the OSCE/ODIHR established an Election Observation Mission (EOM) on 10 January 2008. The EOM was headed by Ambassador Geert-Hinrich Ahrens, and consisted of a 16-member core team based in Yerevan and 28 long-term observers deployed throughout Armenia.<sup>2</sup>

For observation of election day, the OSCE/ODIHR EOM joined efforts with the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) to form the International Election Observation Mission (IEOM). Ms. Anne-Marie Lizin, Head of the OSCE PA delegation, was appointed as Special Co-ordinator by the OSCE Chairman-in-Office to lead the OSCE short-term observers. Mr. John Prescott headed the PACE delegation, and Ms. Marie Anne Isler Béguin headed the EP delegation.

On election day, the IEOM deployed 333 short-term observers from 42 OSCE participating States, including: 250 OSCE/ODIHR observers, 48 OSCE PA observers, 29 PACE observers and 6 EP observers. The IEOM observed voting in 1,010 polling stations, vote counting at 111 polling stations and the tabulation of polling results at all 41 TECs.

The OSCE/ODIHR wishes to express its appreciation to the Armenian State and local authorities, notably the Ministry of Foreign Affairs and the Central Election Commission, for their assistance and co-operation. The OSCE/ODIHR would also like to thank the OSCE Office in Yerevan, civil society organizations, resident embassies of OSCE participating States and international organizations for their co-operation throughout the duration of the mission.

## III. BACKGROUND

The 2008 election was the seventh election observed by the OSCE/ODIHR in the Republic of Armenia according to its standard methodology.<sup>3</sup> The OSCE/ODIHR concluded that the previous presidential election, which was held in 2003, “fell short of international standards for democratic elections”, while the 2007 parliamentary elections “demonstrated improvement and were conducted largely in accordance with OSCE commitments and other international standards for democratic elections. However, the stated intention by the Armenian authorities to conduct an election in line with OSCE commitments and international standards was not fully realized”. Prior to the 2008 presidential election, high State officials again articulated their intention to hold democratic elections in line with their

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<sup>2</sup> The OSCE/ODIHR EOM published two interim reports before election day and one post-election interim report which elaborated on the findings of the OSCE/ODIHR EOM on election day and in the post-election period. All reports are available at: [www.osce.org/odihr-elections/28832.html](http://www.osce.org/odihr-elections/28832.html).

<sup>3</sup> See OSCE/ODIHR Reports on the presidential elections of 1996, 1998 and 2003 and on the parliamentary elections of 1999, 2003 and 2007, available at: [www.osce.org/odihr-elections/14350.html](http://www.osce.org/odihr-elections/14350.html).

commitment as an OSCE participating State. According to the authorities, this was conveyed to lower levels of the State administration.

The Constitution provides that presidential elections are held every five years. The President is elected by an absolute majority in a single country-wide constituency. If no candidate receives an absolute majority of votes, a second election round is held in fourteen days between the first and second placed candidates. In a second round, the candidate with the highest number of votes is elected. The outgoing President, Robert Kocharian, had served two consecutive terms, and under the provisions of the constitution, was ineligible to run in this election.

In the run up to the February 2008 presidential election, five parties were represented in the National Assembly: the ruling Republican Party and its coalition partners Prosperous Armenia and the Armenian Revolutionary Federation (ARF) *Dashnaksutiun*, and two other parties: *Orinats Yerkir* (Rule of Law) and the Heritage Party. All major parties fielded their own presidential candidate or offered political support to another candidate.

#### IV. LEGAL FRAMEWORK

The Constitution guarantees civil and political rights, and fundamental freedoms. The Election Code (hereafter ‘the Code’), adopted in 1999, is the most important piece of primary legislation regulating elections.<sup>4</sup> It has been amended frequently, most recently on 16 November and 18 December 2007. These changes address some recommendations in the OSCE/ODIHR Final Report on the 12 May 2007 parliamentary elections. However, other recommendations made in this and other reports, including in joint opinions on the Election Code by the OSCE/ODIHR and the Council of Europe’s Venice Commission have yet to be addressed. The Law on Television and Radio Broadcasting was amended in 2007 to clarify campaigning in the broadcast media.

The Code provides a good basis to conduct democratic elections; shortcomings in the 2008 electoral process were mostly caused by a lack of will to implement the provisions effectively and impartially. Nevertheless, some weaknesses in the legal framework remain, for example regarding suffrage rights, campaign provisions and complaint procedures, including timeframes for post-election appeals.

#### V. ELECTION ADMINISTRATION

The election was administered by the Central Election Commission (CEC), 41 Territorial Election Commissions (TECs) and 1,923 Precinct Election Commissions (PECs). According to the Election Code<sup>5</sup>, election commissions “shall ensure the exercise and the protection of citizens’ electoral rights [...] be independent [...] and act on the basis of principles of legality, collegiality and openness.” All election commissioners must have undergone training and received a certificate of qualification.<sup>6</sup>

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<sup>4</sup> Other relevant legal acts include: the Constitution, the Law on the Constitutional Court, the Criminal Code, the Administrative Procedures Code, the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations, the Law on Political Parties, and the Law on Television and Radio Broadcasting.

<sup>5</sup> Election Code, Article 32.

<sup>6</sup> According to the CEC Chair, three training cycles were held in 2007 and some 50,000 persons are certified.

The CEC has eight members: the five parliamentary party factions nominated one member each, one member was nominated by the President and two members, who are judicial servants, were nominated by the Council of Chairmen of the Republic of Armenia Courts. Each CEC member nominated one member to each TEC, who in turn nominated one member to each PEC under the respective TEC ('nomination chain').

Each election commission has a Chair, Deputy Chair and Secretary ('the *troika*'), who were elected at each commission's first session. Of the 123 persons elected to TEC *troika* positions, 93 (some 75 per cent) were proposed through the nomination chains of the President, the Republican Party or Prosperous Armenia; 23 (some 19 per cent) were proposed through ARF *Dashnaktsutiun* and only seven (6 per cent) through *Orinats Yerkir* and Heritage Party (taken together). The incumbent government executive also dominated the PEC *troika* positions.<sup>7</sup> This significant level of control over the election process by one political interest raised serious concern over the inclusivity, independence and impartiality of the election administration.

The Heritage Party, which gained parliamentary seats for the first time in 2007, had problems identifying enough eligible persons to appoint as PEC members. It invited 'opposition' candidates to provide names for nomination by the party, a move the CEC Chair described as interference in the activity of the election commissions. While almost all of Heritage's nominations were confirmed, the party did not nominate members to all PECs.

Prior to the election, the CEC and TECs appeared well-organized. The CEC adopted numerous decisions supplementing the Code, including introducing additional measures for the security of the ballot. The commissions' preparations respected legal deadlines, although some TECs did not keep regular working hours. Comprehensive efforts were made to train PEC members including on vote count and protocol completion procedures. Media outlets aired public service announcements (PSAs) prepared by the CEC on voting procedures.

The CEC's technical organisation of the election was overall transparent. For example, it published decisions and information and arranged for the publication of PEC-level results. While the CEC only held a few formal sessions, observers, candidate representatives and media were invited to attend them. On these occasions, little substantive discussion among CEC members took place. Notwithstanding the CEC's transparency in organising the election, its handling of election disputes, while in accordance with provisions of the Code, was not transparent (see below Sections XI and XV.C on complaints and appeals).

## VI. VOTER REGISTRATION

Since 2005, a considerable effort has been made to improve voter registration. The OSCE/ODIHR EOM was not aware of any widespread inaccuracy in voter lists, although certain aspects of the voter registration process were not fully transparent.

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<sup>7</sup> Some 77 per cent of persons elected as PEC Chairs were appointed through the nomination chain of the ruling Republican Party, Prosperous Armenia or the President. More than half the Deputy Chairs and Secretaries were appointed through the same chain. More than 20 per cent of PEC Chairs were nominated through the Council of Court Chairs nomination chain. Members appointed through ARF *Dashnaktsutiun*, Heritage Party and *Orinats Yerkir* were elected as Chair in less than 3 per cent of PECs. In election districts 7, 9 and 10, none of the three parties' nominees were appointed to PEC troikas.

By law, the police are responsible for maintaining the centralised and computerised National Register of Voters, under the auspices of the Government.<sup>8</sup> The voter register should be compiled on the basis of citizens' registered addresses<sup>9</sup> and is updated continually. Separate voter lists are compiled by heads of detention facilities and commanders of military units. In the run up to the election, the police conducted door-to-door verification of the voter register in many communities. Voter lists were made available on the CEC's website, and from 10 January at polling places. Citizens could check their registration through a telephone hotline and voter information was provided through media announcements. If citizens arrived at a polling station to find that their names are not on the voter list, they could apply to a court or to the police requesting a certificate enabling their registration.

OSCE/ODIHR EOM interlocutors often expressed concern that the inclusion of Armenian citizens working abroad in the voter register would permit multiple voting.<sup>10</sup> No reliable information was available on the number of Armenian citizens working abroad.<sup>11</sup> Allegations were also made that many persons were registered at incorrect locations. However, the OSCE/ODIHR EOM is not aware of any verifiable information indicating widespread inaccuracies. According to the CEC, 2,370,781 voters were eligible to vote on election day.<sup>12</sup>

Under an amendment to the Election Code of November 2007, citizens may vote at their place of 'actual' residence (rather than their legally registered residence). The process of re-registering according to 'actual residence' was not sufficiently transparent. Little information on this option was provided to voters and data requested by the OSCE/ODIHR EOM was not given in a timely manner.<sup>13</sup> On 18 February, the police informed the OSCE/ODIHR EOM that 19,024 persons had been re-registered to vote at the place of their actual residence. The OSCE/ODIHR EOM verified that the original register entries (as per data available on the CEC website) had been deleted.

On election day, PECs had to manage up to six voter lists.<sup>14</sup> IEOM observers reported that in some 19 per cent of polling stations visited, voters had been turned away because their name

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<sup>8</sup> Voter registration is conducted by the Passport and Visa Department (known by the acronym 'OVIR').

<sup>9</sup> The CEC informed the OSCE/ODIHR EOM that the data contained in the voter register is based on the State Register of Population, since 2006 also maintained by OVIR.

<sup>10</sup> Armenian citizens abroad retain the right to remain on the voter register if they retain a legal residence in Armenia. This is consistent with international practice. As no voting takes place abroad, all citizens *de facto* resident outside Armenia must return to Armenia to vote.

<sup>11</sup> On 12 February, the OSCE/ODIHR EOM requested OVIR to provide information on the number of citizens included on the voter register who were temporarily outside Armenia. On 18 February, it received a response that OVIR does not keep any data on citizens travelling or resident abroad. According to the 2001 census (available at: <http://docs.armstat.am/census/pdfs/51.pdf>), the '*de jure*' population of Armenia aged 18 and above was 2,238,532, while the '*de facto*' population aged 18 and above was 2,072,206.

<sup>12</sup> This number is the sum of the numbers of registered voters per polling station as published by the CEC with the preliminary results. The final results protocol did not include numbers of registered voters. On 17 February, 2,328,320 persons were registered, excluding those on military voter lists and persons in detention centres. The number of registered voters for the 2008 elections was some 53,000 higher than the 2007 elections (source: <http://www.elections.am/images/docs/masnakeng.pdf>).

<sup>13</sup> On 5 February, the OSCE/ODIHR EOM wrote to OVIR requesting data on the number of persons requesting to vote at their place of actual residence in each TEC. OVIR verbally informed the EOM that this information would be made available only after the legal deadline for applications had passed (12 February). OVIR's formal response of 18 February did not include data on the number of applicants per TEC.

<sup>14</sup> The main voter list for the respective polling station and separate additional lists for: military voters, if applicable; police officers on duty at the polling station; hospitalized persons, if applicable; persons

was not on the voter list – although in most cases this concerned only a few citizens. It is not possible to know how many persons were registered to vote at a polling station or were registered on the day of the election because this data is not recorded in PEC protocols. This procedure, therefore, reduced transparency.<sup>15</sup>

## VII. CANDIDATE REGISTRATION

Presidential candidates must have attained at least 35 years of age, and have been a citizen of Armenia and have permanently resided in Armenia, for the preceding 10 years. Dual citizens may vote if registered as resident in Armenia. However, they are not eligible to seek election as President. The creation of unequal suffrage contradicts the commitment to guarantee equal suffrage to citizens contained in paragraph 7.3 of the 1990 OSCE Copenhagen Document.<sup>16</sup>

The November 2007 amendments to the Election Code allow candidates to self-nominate (i.e. as an individual, non-party candidate), bringing the Code into line with paragraph 7.5 of the 1990 OSCE Copenhagen Document. The procedure for candidate registration was simplified by relieving candidates of the need to gather supporting signatures. The deposit payable by presidential candidates was increased from AMD 5 to AMD 8 million (approximately EUR 17,000).

By the 6 December 2007 deadline, nine nominees had applied to the CEC for registration as candidates: Arthur Baghdasaryan (former Speaker of Parliament and leader of *Orinats Yerkir*); Artashes Geghamyan (leader of the National Unity Party); Tigran Karapetyan (leader of the People's Party); Aram Harutiunyan (leader of the National Accord Party); Vahan Hovhannisyanyan (Vice-speaker of Parliament, nominated by ARF *Dashnaktsutiun*); Vazgen Manukyan (leader of the National Democratic Union); Arman Melikyan (self-nominated candidate); Serzh Sargsyan (incumbent Prime Minister, nominated by the Republican Party); and Levon Ter-Petrosian (former President of Armenia, and self-nominated candidate).

All nominees were registered by the CEC in an inclusive and non-discriminatory manner. The field of candidates permitted a high degree of political competition and offered voters a genuine electoral choice.

The Code permits civil servants, high State officials and persons occupying “political or discretionary positions” to register as candidates. Confusion over the terms and certain articles of the law<sup>17</sup> led to controversy over Prime Minister Sargsyan's continuation in the office of Prime Minister while being a presidential candidate. The CEC formally clarified that candidates who are ‘state servants’ must take leave from their duties, while those holding “political and discretionary positions”, are not ‘state servants’ and consequently can retain their posts.<sup>18</sup> In deciding this matter, the CEC may have exceeded its authority.<sup>19</sup>

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voting at their place of ‘actual’ residence, if applicable; and a list of persons registering to vote on election day (supplementary list), if applicable.

<sup>15</sup> The number of persons registered on election day was known only to the PEC and no specific record is kept.

<sup>16</sup> The Joint Opinion of the OSCE/ODIHR and the Council of Europe's Venice Commission on the 26 February 2007 amendments to the electoral code of Armenia notes that “once the right to dual citizenship has been accepted, citizens with dual citizenship should not have fewer rights than other citizens”. June 2007, (CDL-AD2007)023, available at: [www.osce.org/documents/odihr/2007/06/25345\\_en.pdf](http://www.osce.org/documents/odihr/2007/06/25345_en.pdf).

<sup>17</sup> Election Code, Article 22.1(1) and Article 78.

<sup>18</sup> CEC Decision, 7 January 2008, #N1.

Candidates may appoint proxies, who are entitled to participate in election commission sessions, receive copies of election documents, appeal commission decisions, observe the printing, transporting, storing and counting of ballots, and to observe election day proceedings. Candidates made use of this provision and some registered high numbers of proxies.

## VIII. PRE-ELECTION ENVIRONMENT

The pre-election period was characterized by a continuing lack of confidence in the election process among the general public.<sup>20</sup> The high State authorities made statements seeking to reassure voters: President Kocharian reiterated the intention to conduct elections that would fully meet international standards; the Prosecutor General warned about legal penalties for election offences; the CEC Chair reassured citizens on the secrecy and freedom of the vote; and the Ombudsman criticized vote buying and vote selling.

The Election Code (Art. 18(7)) specifically prohibits candidates (or persons acting on their behalf) to give or promise money, goods or services to citizens during the pre-election campaign. Chapter 31 of the Code provides a list of offences which are punishable, including 'hindering the normal course of the campaign' and 'coercing or hindering the free expression of voters' will'.<sup>21</sup> OSCE/ODIHR EOM interlocutors frequently expressed concerns about the secrecy of the vote, and alleged widespread vote-buying and multiple voting through impersonation of voters. While most allegations could not be substantiated with hard evidence, findings in the run up to the election and on election day added credence to such allegations. OSCE/ODIHR EOM observers on 18 February, for example, verified the existence of vote buying schemes in the villages of Vardablur and Bazum (TEC 31, Lori region). However, other allegations, for example one candidate's repeated claim that 500,000 excess ballots were printed, appeared groundless.

OSCE/ODIHR EOM observers received numerous complaints regarding the (unofficial) collection of citizens' passport data, including some first-hand accounts. In one instance, for example, schoolchildren were requested by teachers to bring their parents' passport details to school. In another case, a sheet for collecting such data contained a column headed 'Republican Party', suggesting that the information gathered was used for party purposes. This created public anxiety about possible election fraud and affected public confidence. OSCE/ODIHR EOM interlocutors variously claimed that the practice was used to exert 'psychological pressure' on citizens in their electoral choices or that the data would be used to facilitate 'voter impersonation' or vote buying.

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<sup>19</sup> The CEC is empowered under Article 41 Election Code to make decisions on working procedures and publish instructions on implementation of the Code.

<sup>20</sup> Research conducted by the Armenian Sociological Association (ASA) for Baltic Surveys/Gallup on behalf of the International Republican Institute (covering the period 13-20 January), released on 15 February 2008, found that 46 per cent of respondents did not believe that the presidential election would be 'free and fair'. In response to the question "are people in Armenia afraid to openly express their views?" 23 per cent answered that the 'majority' are afraid, 37 per cent that 'many' are afraid and 27 per cent that 'some' are afraid. See: [www.iri.org/eurasia/armenia/pdfs/2008%20February%2015%20Survey%20of%20Armenian%20Public%20Opinion,%20January%2013-20,%202008.pdf](http://www.iri.org/eurasia/armenia/pdfs/2008%20February%2015%20Survey%20of%20Armenian%20Public%20Opinion,%20January%2013-20,%202008.pdf).

<sup>21</sup> Other election related offences are set out in the Administrative Procedures Code and the Criminal Code.

By law, all citizens have the right to campaign for or against any candidate. However, the OSCE/ODIHR EOM was concerned about the freedom of political expression and electoral choice of certain citizens, notably public-sector employees. There was a strong perception that this employment group was pressured to support the ruling party candidate and that failure to do so could have consequences for individual livelihoods. OSCE/ODIHR EOM observers received eight first-hand accounts of public employees who had been directed by workplace superiors to attend Prime Minister Sargsyan's campaign events (and post election rallies) or had been told that they were free to leave their post to attend his rallies. A few election commission members nominated by Heritage complained to OSCE/ODIHR EOM observers of having been intimidated which they claimed was linked to their appointment.<sup>22</sup>

## IX. THE ELECTION CAMPAIGN

### A. LEGAL FRAMEWORK FOR CAMPAIGNING

The Election Code requires the State to ensure the free exercise of citizens' right to campaign and provides that the pre-election campaign shall be conducted on the basis of equality.<sup>23</sup> The official campaign period starts one day after candidate registration and ends one day before election day. There are no explicit legal provisions that prohibit election campaigning before the start of the official campaign period.

State bodies are required to provide campaign venues to candidates without charge. The CEC considered that the provision applied only to property owned by the State authorities at national level, not those owned by local-government authorities. Nevertheless, with very few exceptions, candidates were able to secure space to hold campaign events without hindrance.

'Community leaders' (local government officials) are required to designate conveniently accessible places in every precinct for candidates to display campaign material. The Code does not specify whether space is free-of-charge. OSCE/ODIHR EOM observers reported inconsistent implementation of this provision: some mayors did not designate space, some charged fees, and on occasion the designated space was not conveniently accessible.<sup>24</sup>

The Law on Political Parties (LPP) requires State and local self-governing bodies to provide parliamentary parties with offices and communications under equal conditions.<sup>25</sup> The Republican Party has offices located in many community buildings. During the campaign, these offices were converted into campaign offices.<sup>26</sup> This gave the Republican Party (and other parties that had access to such offices, albeit to a much smaller extent) a *de facto* campaign advantage over other candidates, some of whom had to identify and pay for

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<sup>22</sup> For example in TEC 28 (Abovyan) OSCE/ODIHR EOM observers received credible reports of PEC members nominated by Heritage being told not to attend the polling station on election day or they would face negative consequences such as the loss of regular employment or physical harm to family members.

<sup>23</sup> Election Code, Article 18.

<sup>24</sup> For example, the mayor of Ijevan designated space while the mayor of Gyumri initially did not. In Akhuryan (Gyumri region), the mayor informed parties that payment was required.

<sup>25</sup> This right is restricted to parties that won seats through the proportional system. In 2007, five parties won proportional seats: the Republican Party, Prosperous Armenia, AFR *Dashnaksutiun*, *Orinats Yerkir* and Heritage Party.

<sup>26</sup> There is no specific limitation in law preventing campaign offices being located in municipal offices.

campaign offices. Mr. Ter-Petrossian, for example, informed OSCE/ODIHR EOM observers of difficulties in securing office space in some towns and cities.<sup>27</sup>

The CEC and TECs are required under Article 18(8) of the Code to monitor the adherence of candidates to campaign-related provisions. A November 2007 amendment to the Code provides that an election commission is required to formally warn a candidate in case of violations of legal provisions. If the violation is not rectified within three days, the election commission must apply to a court to invalidate the registration of the candidate. However, the CEC and TECs lacked the capacity or willingness to pro-actively fulfil this responsibility. Despite a wide array of actual and alleged campaign violations and a number of formal complaints, no formal warnings were issued to any candidate.

## B. CONDUCT OF THE CAMPAIGN

Prime Minister Sargsyan's campaign was actively supported by the ruling Republican Party. In addition, he received political backing by Prosperous Armenia and some 15 non-parliamentary parties. Shortly before the election, President Kocharian endorsed the Prime Minister's candidacy. Mr. Ter-Petrossian was supported by 15 non-parliamentary political parties, and on 11 February, he was endorsed by the Heritage Party. Other candidates were supported by their nominating parties.

The 28-day official campaign period started on 21 January. As the campaign developed, campaign rhetoric between some candidates became increasingly acrimonious. Mr. Ter-Petrossian frequently directed derogatory comments at Prime Minister Sargsyan and President Kocharian, while the latter and Mr. Geghamyan sharply criticized Mr. Ter-Petrossian.

Prime Minister Sargsyan campaigned countrywide, while Mr. Ter-Petrossian, Mr. Hovhannisyan and Mr. Baghdasaryan campaigned actively in most regions. The campaigns of other candidates were generally much less active. The OSCE/ODIHR EOM observed 71 campaign rallies. Most passed off peacefully. Candidates were overall able to convey their campaign messages without interference. However, public order incidents occurred at two of Mr. Ter-Petrossian's campaign meetings.<sup>28</sup> While citizens' rights to freedom of movement and public assembly were mostly respected, OSCE/ODIHR EOM observers noted some exceptions where citizens were unduly impeded to attend campaign events.<sup>29</sup> These also raised questions over the equal treatment of candidates. A few acts of violence against

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<sup>27</sup> Mr. Ter-Petrossian's campaign claimed for example that it was denied rental of two possible office spaces in Masis (Ararat region) after pressure was exerted on the owner by the local mayor and police. *Orinats Yerkir* informed OSCE/ODIHR EOM observers that it had to close a campaign office in Vanadzor (Lori region) because of threats made against the landlord of the property.

<sup>28</sup> A scuffle occurred at his rally in Talin (Aragatsotn region) on 27 January and stones were thrown indiscriminately in the direction of the event audience in Artashat (Ararat region) on 6 February.

<sup>29</sup> For example, during Mr. Ter-Petrossian's rally in Alaverdi (Lori region) on 2 February, two parts of the town were cut off by stopping transportation services. On 3 February, busses carrying Mr. Baghdasaryan's supporters to a rally in Yerevan were stopped by police ostensibly due to a problem with the license plates. One bus was allowed to continue, a second bus sent back; the police informed the passengers that they did not want too many people present at the rally. In contrast, on 6 February free transportation was available using busses normally serving the public as scheduled services for Prime Minister Sargsyan's rally in Vanadzor.

campaign activists were recorded<sup>30</sup> and campaign offices were damaged on several occasions.<sup>31</sup> These incidents contributed to an increasingly tense pre-election atmosphere.

Prime Minister Sargsyan's campaign was very visible particularly through large advertising billboards and posters in shop windows. Mr. Baghdasaryan's, Mr. Hovhannisyan's and Mr. Ter-Petrosian's campaign material was visible in Yerevan and some regional centres, to a much lesser degree. OSCE/ODIHR EOM observers occasionally saw campaign material for some of the six other candidates. The campaign teams of Mr. Baghdasaryan, Mr. Hovhannisyan, and Mr. Ter-Petrosian informed the OSCE/ODIHR EOM of difficulty accessing commercially-owned billboard space in Yerevan; an allegation the OSCE/ODIHR EOM was unable to verify.

### C. ROLE OF THE STATE AND LOCAL-SELF GOVERNMENT IN THE CAMPAIGN

Participation by State and local self-government officials in Prime Minister Sargsyan's campaign was controversial. The Code provides that candidates holding 'political and discretionary positions' are prohibited from campaigning while performing official duties, from abusing their official position to gain electoral advantage and 'to influence the free expression of citizens will, by showing partiality'.<sup>32</sup> It also prohibits the media from covering the activity of such candidates (with certain exceptions). Candidates holding a discretionary position should conduct their campaigns on general grounds without special privileges, except retaining protection and security arrangements. However, the Code is not entirely clear regarding under what conditions these persons may legitimately campaign on behalf of a candidate, e.g. by taking a formal leave of absence and foregoing the use of all state-owned resources provided in their official capacity. Mr. Ter-Petrosian's campaign team repeatedly claimed that Prime Minister Sargsyan campaigned while performing his official duties, and thus gained undue campaign advantage.

The Minister of Territorial Administration (and Deputy Prime Minister), who was Prime Minister Sargsyan's campaign manager, informed the OSCE/ODIHR EOM that he was taking a leave of absence during the campaign. He also informed the EOM that regional governors (belonging to the Republican Party) had been asked not to campaign for Prime Minister Sargsyan or to do so in non-working hours. However, OSCE/ODIHR EOM observers found that many local government officials actively campaigned for Prime Minister Sargsyan – only some of whom took a leave of absence<sup>33</sup> – and noted occasions where mayors and governors accompanied Prime Minister Sargsyan at campaign events.<sup>34</sup>

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<sup>30</sup> On 7 February, three of Mr. Ter-Petrosian's campaign activists were assaulted by unknown persons in Nor Nork (Yerevan) while distributing campaign material. In another incident a campaign activist was assaulted at the headquarters in Kanaker Zeytun (Yerevan).

<sup>31</sup> For example, *Orinats Yerkir* party offices in Vanadzor (Lori region) were vandalised on 25 January; two of Mr. Ter-Petrosian's campaign offices were damaged in possible arson incidents - in Silikian (Yerevan) on 30 January and in Vanadzor on 1 February; shootings occurred at two Republican Party offices in Nor Nork and Avan Districts (Yerevan) on 1 February.

<sup>32</sup> Election Code, Article 22.1. In addition, Article 18(4) prohibits "campaigning and disseminating of any kind of campaign materials to ... national or local self government bodies and their employees while carrying out their official duties ...".

<sup>33</sup> For example, the mayor of Guymri (Shirak region) performed official duties while active in Serzh Sargsyan's election campaign, the mayor of Goris (Syunik region) informed OSCE/ODIHR EOM observers that he had taken temporary leave from his post, the mayor of Armavir (Armavir region) stated that he only campaigned outside working hours while the mayor of Odzun (Lori region) claimed to split his working day between the two functions.

<sup>34</sup> For example, the Governor of Syunik region accompanied Prime Minister Sargsyan to a campaign event in Kapan held on 24 January. The Yerevan City Mayor took part in several of Prime Minister Sargsyan's

OSCE/ODIHR observers reported numerous instances of state employees and local government officials showing ‘partiality’ towards Prime Minister Sargsyan. At one campaign event<sup>35</sup>, they saw uniformed police handing out Republican Party flags and his police escort was observed displaying similar flags on other occasions. Public sector and local government employees, especially school teachers, attended Prime Minister Sargsyan’s rallies in large numbers, frequently during working hours. His campaign material was posted in and on publicly owned buildings, including local government buildings in Yerevan and eight regions.<sup>36</sup>

Prime Minister Sargsyan also enjoyed a *de facto* campaign advantage over his rivals through the favourable media coverage he received in carrying out his official duties, for example a visit he made to a government working group tasked with ‘reviewing citizens requests and complaints’ which he had established as Prime Minister on 4 December<sup>37</sup> – two days before the deadline for filing presidential nominations papers.<sup>38</sup> The retention of office by Prime Minister Sargsyan also created confusion over his two roles. For example, the United Liberal National Party, which was campaigning for Prime Minister Sargsyan, conducted a door-to-door campaign inviting citizens to complete ‘applications’ notably addressed to “RA Presidential Candidate, RA Prime Minister” and deposited these with the department hosting the government working group.

The favourable treatment afforded to Prime Minister Sargsyan is incompatible with the legal requirements for the State to create equal campaign conditions and for officials to refrain from using authority to influence citizens’ free will. It also led to a significant blurring of the separation between State and political party interests. These factors conflict with Armenia’s commitments under paragraphs 5.4, 7.6, and 7.7 of the 1990 OSCE Copenhagen Document.

#### D. CAMPAIGN FINANCE

Candidates were entitled to spend up to AMD 70,000,000 (approximately EUR 155,000) on their campaigns. The legal provisions on campaign financing were strengthened recently by providing for greater transparency and introducing severe penalties for non-compliance.<sup>39</sup> Paid TV adverts, printed material, and usage of billboards for example should be documented in expenditure accounts. The obligations regarding declaring costs for other items normally

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campaign events. On 6 February, the governor of Lori and the Mayor of Vanadzor were on stage with Prime Minister Sargsyan during a campaign event.

<sup>35</sup> In Artashat on 14 February.

<sup>36</sup> For example, in Odzun (Lori region), Prime Minister Sargsyan’s campaign posters were placed inside the municipal building (where the Mayor’s office is located). In Guymri, large Republican Party posters were displayed over the entrance of some community buildings. In Stepanavan (Lori region), a huge Serzh Sargsyan poster was observed hanging from the museum located in the central square.

<sup>37</sup> The working group was set up in the Government General Staff Department (Decision No. 855-A, of 04-12-07).

<sup>38</sup> The 3 February coverage by *HI* (the public broadcaster) featured citizens who had received ‘assistance’, praising the Prime Minister. Additional comments of the Mayor of Yerevan on action the city authorities had taken to implement solutions regarding citizens’ requests and complaints also received wide media coverage.

<sup>39</sup> Candidates must create a specific bank account for campaign contributions and expenditure. If financial means are used other than these bank deposits, the CEC may request a court to annul the candidate’s registration. The bank holding the account must notify the CEC of deposits and transactions every three days. Candidates were required to disclose to the CEC donation details by 31 January and 25 February.

associated with campaigning (communication, transportation, premises rental, holding campaign events, etc.) however lacked clarity.<sup>40</sup>

While the legislation prohibits candidates from financing campaigns by ‘other financial means’,<sup>41</sup> it does not deal specifically with the donation of ‘goods in kind’, that is any goods or services that are provided to a candidate free of charge.<sup>42</sup> Thus, the scope existed to circumvent the expenditure ceiling, which should serve to create equal campaign conditions.

Candidates’ expenditure declarations posted on the CEC website reveal a wide variation in the financial resources raised and spent.<sup>43</sup> The Code<sup>44</sup> prohibits certain entities from making contributions, including institutions financed from the state budget. Among others, Prime Minister Sargsyan received donations from the State Economic Institute (Gyumri branch) and the Psychiatric Hospital in Sevan. These were returned to the State budget.

## X. THE MEDIA

Television is the most influential information source. The public service broadcaster, *H1*, has countrywide reach and is the most significant media outlet. At least three private channels – *H2*, *Armenia TV* and *ALM TV* – cover most of Armenia’s territory. There are many private print media and two state-funded newspapers, *Hayastani Hanrapetutyun* and *Respublika Armenii*. However, the print media in general lacks significant influence due to low circulation.

Longstanding concerns exist over the independence of the broadcast media.<sup>45</sup> OSCE/ODIHR EOM interlocutors were particularly concerned about the high degree of influence over editorial decisions by political and business interests, financial vulnerability of media outlets, inadequate regulation by and independence of the National Council for Television and Radio (NCTR), as well as actions against journalists and media outlets.<sup>46</sup>

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<sup>40</sup> Prime Minister Sargsyan’s campaign accounts detailed most expenditure on campaign materials for distribution (e.g. calendars, flags, badges, pens, etc), media advertisements, posters and placement of posters. No expenditures for office space, telecommunications, computing equipment, transportation, or staff were included. Mr. Ter-Petrosian’s campaign accounts make no mention of these items either.

<sup>41</sup> Election Code, Articles 79(9) and 79(10).

<sup>42</sup> The CEC informed the OSCE/ODIHR EOM that a supporter could provide campaign office space free of charge but the cost of a large amount of ‘donated’ printed material should be included in campaign accounts.

<sup>43</sup> Prime Minister Sargsyan raised and spent AMD 70,000,000; Mr. Hovhannisyan AMD 60,674,000; Mr. Baghdasaryan AMD 46,465,000; Mr. Ter-Petrosian AMD 36,388,300; Mr. Geghamyan AMD 14,600,000; Mr. Manukyan AMD 7,881,000; Mr. Karapetyan AMD 15,020,000; Mr. Harutiunyan AMD 190,000. Mr. Melikyan had no campaign contributions.

<sup>44</sup> Election Code, Article 25(2).

<sup>45</sup> See for example: The State of Media Freedom in Armenia. Observations and Recommendations. Report by the OSCE Representative on Freedom of the Media (RFoM), 26 July 2006, available at [http://www.osce.org/documents/oy/2007/05/24699\\_en.pdf](http://www.osce.org/documents/oy/2007/05/24699_en.pdf).

<sup>46</sup> For example, in late 2007, the Armenian tax authorities began an investigation of Gyumri-based *Gala TV* after it aired Mr. Ter-Petrosian’s announcement of his intention to run for President. In December 2007, the OSCE RFoM raised his concern that “*recent cases of harassment and violence against independent and opposition media have contributed to an atmosphere of intimidation and fear in the journalistic community*”, see: [http://www.osce.org/fom/item\\_1\\_29104.html](http://www.osce.org/fom/item_1_29104.html).

Despite a relatively high number of outlets, there are no significant alternative sources of information. *AI+*, which lost its broadcast license in 2002, remains off-air.<sup>47</sup> While RFE/RL broadcasts on FM<sup>48</sup> and *AI+*'s web-based service offer alternative political information, these are not accessible to all citizens.

There exists a general lack of diversity in the political viewpoints aired by the main broadcast media.<sup>49</sup> Public opinion is not adequately informed through the exchange of political opinion and debate for example or through journalistic investigation, commentary and analysis. This has implications during electoral periods, when candidates should be able to freely present their views and qualifications, and voters should be able to learn and discuss them, as committed to in paragraph 7.7 of the 1990 OSCE Copenhagen Document.

#### A. LEGAL AND REGULATORY FRAMEWORK

The Constitution provides for freedom of speech and freedom of information. The Law "On Television and Radio Broadcasting" (the Broadcasting Law) forbids censorship and under the Criminal Code libel and insult are punishable by imprisonment. The Election Code requires public and private media to present impartial and non-judgmental information about candidates' campaigns, and guarantees candidates equal conditions for access to mass media.<sup>50</sup>

By law, each presidential candidate is entitled to up to 60 minutes of free airtime on public TV and up to 120 minutes on public radio. Candidates may also purchase up to 120 minutes of time on public TV and up to 180 minutes on public radio. The schedule for broadcasting candidates' free and paid airtime was established by lottery. The public media complied with their legal obligations regarding the provision of free airtime and candidates were able to freely convey their political messages. However, despite criticism voiced during the 2007 parliamentary elections, the slots were again aired mostly outside what is considered to be primetime viewing, thereby potentially reducing voters' ability to learn about candidates' views.<sup>51</sup>

#### B. MEDIA MONITORING

From 11 January 2008 onwards, the OSCE/ODIHR EOM monitored seven TV channels, two radio stations and four newspapers to assess if candidates enjoyed unimpeded media access on equal conditions, whether media afforded candidates balance coverage (time and tone) and covered state authorities impartially.<sup>52</sup>

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<sup>47</sup> *AI+* filed a case on this issue with the European Court of Human Rights. At the time of writing this report, the Court has not issued a ruling.

<sup>48</sup> In August 2007, Public Radio ceased airing re-transmissions of all local and foreign broadcasters on its frequency, including RFE/RL. *De facto*, this reduced the public's access to the station.

<sup>49</sup> See OSCE RFoM Report "The State of Media Freedom in Armenia" (26 July 2006). [http://www.osce.org/documents/oy/2007/05/24699\\_en.pdf](http://www.osce.org/documents/oy/2007/05/24699_en.pdf).

<sup>50</sup> Election Code, Articles 20(3), 20(5) and 18(3).

<sup>51</sup> The CEC has the authority to determine the broadcast schedule for the free slots (Election Code, Article 20(2)). It accepted the proposal of the Council for Public TV and Radio to begin broadcasting at 17.15 hours.

<sup>52</sup> From 11 January to 17 February the OSCE/ODIHR EOM monitored: *H1* (public-service broadcaster), *ALM TV*, *Armenia TV*, *H2* (nationwide channels), *Kentron TV*, *Shant TV*, *Yerkir Media* (TV channels); *Public Radio*, *RFE/Radio Liberty* (radio stations) and *Hayastani Hanrapetutyun* (state-funded newspaper), *Aravot*, *AZG* and *Haykakan Zhamanak* (newspapers). The OSCE/ODIHR EOM monitored TV channels from 18.00-00.00 hours. Public TV *H1* was monitored from 17.15 to 00.00 hours as of the

Between 11 and 20 January (before the official campaign period started), the news broadcasts of four TV stations granted Prime Minister Sargsyan preferential treatment; he was allocated approximately half the time allocated to all candidates and was covered in an almost exclusively positive or neutral manner.<sup>53</sup> In marked contrast, these media frequently portrayed one candidate, Mr. Ter-Petrosian, in negative or neutral terms.

During the official campaign period, media covered election-related events extensively through news coverage of campaign events, spots featuring candidates, and talk-shows. TV channels offered candidates opportunities to appear on their programmes. Mr. Ter-Petrosian did not accept any such offers and Prime Minister Sargsyan accepted only one. Despite efforts of some media outlets, e.g. of *Yerkir Media*, no candidate debates took place, ostensibly due to a lack of interest by candidates.

Most broadcast media monitored by the OSCE/ODIHR EOM were not even-handed in their political coverage during the official campaign period: Mr. Ter-Petrosian received a large volume of negative coverage while Prime Minister Sargsyan, the most covered candidate, was granted overtly positive coverage. Other candidates were presented in a positive or neutral manner. Many media adopted contrasting approaches to covering the campaign events of Mr. Ter-Petrosian on the one hand, and Prime Minister Sargsyan on the other. These factors indicated media bias which granted Prime Minister Sargsyan a campaign advantage.

The public broadcaster, *H1*, allocated reasonably comparable airtime to candidates in its news coverage.<sup>54</sup> However, it did not treat all candidates equally. Even though Mr. Ter-Petrosian was the most-covered candidate (in terms of total time), the majority of his coverage was of a negative tone. *H1* offered the other eight candidates a broadly equal amount of positive or neutral coverage. Public radio adopted a similar approach to *H1*.

Mr. Ter-Petrosian also received extensive negative coverage on *H2*, *ALM*, *Kentron*, and *Yerkir Media*. This arose in part because of the frequency with which President Kocharian and some candidates, in particular Mr. Geghamyan, criticized him. Differential treatment of Mr. Ter-Petrosian was also seen in other aspects of his news coverage. *H1*, for example, regularly aired distorted footage of campaign events<sup>55</sup>, and several media aired one-sided footage of the incidents that occurred at Mr. Ter-Petrosian's campaign rallies in Talin and Artashat. With the exception of RFE/RL, few aired any critical coverage of the governing authorities, notably Mr. Ter-Petrosian's criticism of President Kocharian and the Prime Minister.

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start of the official campaign on 21 January. All broadcasts during these times on the TV channels were monitored with a focus on news and current affairs programmes, interviews/talkshows and advertisements (paid on all channels, free election campaign advertisements on *H1*). Main evening news programmes were monitored on Public Radio from 18.00-19.00 and on RFE/RL from 19.00-20.00 hours.

<sup>53</sup> On *H2* Serzh Sargsyan received 66 per cent of news coverage devoted to all nine contestants, on *Kentron* 56 per cent, on *Shant TV* 53 per cent and on *Armenia TV* 48 per cent.

<sup>54</sup> Mr. Ter-Petrosian (21 per cent); Prime Minister Sargsyan (19) Arthur Baghdasaryan (14); Artashes Geghamyan (13); Vahan Hovhannisyanyan and Vazgen Manukyan (11 each); Aram Harutiunyan and Tigran Karapetyan (4 each); and Arman Melikyan (3).

<sup>55</sup> For example by airing footage that gave an impression of unreceptive and small campaign audiences while footage used by Mr. Ter-Petrosian in his free and paid airtime presented images of enthusiastic support.

Prime Minister Sargsyan was the ‘most-covered’ candidate in five of six monitored private TV channels; primarily in his capacity as a candidate.<sup>56</sup> Most private TV stations monitored displayed partiality by granting Prime Minister Sargsyan a high amount of positive coverage. The TV stations consistently broadcast footage of Prime Minister Sargsyan’s rallies with one day delay and aired similar footage, indicating the possibility of a co-ordinated editorial policy.

The private media’s coverage of the other seven candidates was generally balanced (offering coverage of positive or neutral tone), although it was largely devoid of critical appraisal.

The State-funded newspaper *Hayastani Hanrapetutyun* gave clear preferential treatment to Prime Minister Sargsyan by granting him some 45 per cent of print space devoted to candidates with a generally positive tone. The private paper *Haykakan Zhamanak* showed clear bias in favour of Mr. Ter-Petrosian by offering him 56 per cent of its print space devoted to candidates with mostly positive coverage. More balanced and analytical reporting was observed in *Aravot* daily.

In general, the authorities appeared sensitive to any remarks that could be perceived as critical, and, as during the 2007 parliamentary elections, the media appeared unwilling or unable to broadcast comments criticising incumbents.<sup>57</sup>

### C. MEDIA-RELATED COMPLAINTS AND APPEALS

Neither the CEC, nor the NCTR ensured that the media met their legal obligation to treat candidates equally. The NCTR is required to monitor media’s general compliance with applicable legal provisions.<sup>58</sup> However, it did not systematically monitor media broadcasts. The November 2007 amendments to the Broadcasting Law permit the NCTR to file a court case in the event of non-compliance.<sup>59</sup> The CEC is tasked to ‘oversee that the mass media ensure equal opportunities for campaigning’.<sup>60</sup> Granting two bodies the competences on media-related issues created confusion about jurisdiction.<sup>61</sup> The NCTR received three complaints claiming unequal campaign coverage in the media. All were rejected.<sup>62</sup>

On 11 February, the Constitutional Court issued a ruling on a case brought by Mr. Ter-Petrosian claiming that he faced an “insurmountable obstacle” due to unequal campaign conditions provided by public TV. The Court found that the claim did not constitute an “insurmountable obstacle” in the sense foreseen by the Constitution, but indicated that the complaint should fall within the scope of other authorities and bodies.<sup>63</sup>

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<sup>56</sup> *ALM, Armenia TV, Kentron, H2 and Shant.*

<sup>57</sup> With respect to freedom of expression during elections, the European Court of Human Rights has called for governments to “display restraint” and to accept that even offensive, shocking, and disturbing speech can contribute to pluralism and must usually be tolerated in a democratic society. This is especially true during electoral campaigns and of speech that “targets” government authorities, elected officials, and candidates for office. See “Existing commitments for democratic elections in OSCE participating states”, (pp 69-70), Warsaw, October 2003, available at: [www.osce.org/documents/odihr/2003/10/772\\_en.pdf](http://www.osce.org/documents/odihr/2003/10/772_en.pdf).

<sup>58</sup> Election Code, Article 20(9).

<sup>59</sup> Broadcasting Law, Article 37.2 (g).

<sup>60</sup> Election Code, Article 41(1.5). In addition, Election Code Article 139(29) provides that the state media’s failure to provide equal conditions to all candidates can be prosecuted.

<sup>61</sup> However, notwithstanding apparently clear legal provisions, the CEC informed the OSCE/ODIHR EOM that the NCTR is solely responsible for monitoring the media’s compliance with its legal obligations.

<sup>62</sup> Data provided by the National Commission for TV and Radio on 7 March 2008.

<sup>63</sup> Article 52 of the Constitution (also Article 90(2) of the Election Code) provides that if a candidate faces insurmountable obstacles the election shall be postponed by two weeks. If the obstacle is not eliminated

## XI. PRE-ELECTION COMPLAINTS AND APPEALS

OSCE/ODIHR EOM interlocutors frequently expressed their lack of confidence in judicial independence and the effectiveness of other mechanisms to resolve complaints.

Election offences are listed in the Election Code, the Criminal Code and the Administrative Procedures Act. It is not entirely clear in each case which court has jurisdiction to hear the offences listed in Chapter 31 of Election Code. Decisions, actions and inaction by PECs can be appealed to the TEC. An amendment to the Code adopted in December 2007 establishes that the Administrative Court has jurisdiction to hear most election-related appeals including regarding TEC and CEC decisions. However, stakeholders rarely utilized this possibility and the Court heard only four election-related cases.<sup>64</sup> Prior to the election, the Constitutional Court dealt with two election-related cases.<sup>65</sup>

Election commissions are required to consider complaints from citizens and candidate proxies, although the Code does not require these to be heard in a formal session – a major shortcoming in the legislation. Prior to election day, the CEC received 93 complaints, mostly relating to unequal treatment of candidates by the media, Prime Minister Sargsyan using his position as Prime Minister for campaigning and Mr. Ter-Petrossian facing obstacles in organizing campaign events. Many were considered in informal meetings to which proxies, observers and the media were not invited. In general, complaints were routinely dismissed.<sup>66</sup> On 17 February, the CEC made a single decision to reject as unfounded 25 complaints alleging violations of campaign provisions and on 18 February, it dismissed 30 complaints in one letter. The CEC frequently issued written ‘responses’ rather than formal decisions.

The CEC did not sufficiently seek to establish whether complaints had a factual basis. For example, the CEC received a complaint that Prime Minister Sargsyan was using his position as Prime Minister to campaign through the working group he had established in the Government Staff Department.<sup>67</sup> It decided to formally reject the complaint. The decision was appealed to the Administrative Court, which ruled that the Prime Minister was entitled to create the working group and dismissed the case.<sup>68</sup> Neither the original CEC decision nor the court ruling addressed the substance of the case, namely whether the Prime Minister was campaigning while performing his official duties, which is contrary to Article 22.1(1) of the Code.

The Office of the Prosecutor General established a working group to monitor election-related criminal cases. It opened over 200 case files concerning complaints received from citizens,

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within this period of time, new elections shall be held. Mr. Ter-Petrossian also filed a complaint with the CEC regarding *HI*'s coverage prior to and during the campaign period, and requesting it to ensure equal conditions were provided to all candidates. The CEC passed the complaint to the NCTR, which rejected the complaint, apparently on formal grounds.

<sup>64</sup> Four other cases were returned for lack of jurisdiction or due to technical errors in applications.

<sup>65</sup> In the first, it ruled that Arman Melikyan as a presidential candidate did not have the right to file what amounted to a constitutional challenge to the provision that voting does not take place outside Armenia. The second dealt with Mr. Ter-Petrossian's media complaint mentioned above.

<sup>66</sup> Only one complaint was resolved in favour of an applicant; a PEC member who had been denied access to documents by a TEC.

<sup>67</sup> See above Section IX(C) of this report.

<sup>68</sup> In the same appeal, the applicant complained that the CEC did not issue decisions according to the requirements of the Administrative Procedures Act. In dismissing this part of their application, the Court held that the CEC decisions responding to complaints are not ‘administrative decisions’ and thus need not comply with requirements such as allowing the complainant to be present at the hearing.

the CEC, and parties, incidents at campaign events, and media reports of election irregularities. At the time of writing this report, 38 cases were under criminal investigation. The Ombudsman opened a hotline for citizens to report complaints on election day and deployed a rapid-response team to investigate and refer issues to the appropriate authority.

## **XII. PARTICIPATION OF WOMEN**

Women are not well-represented in Armenian political life; only 12 members of parliament and one minister of the outgoing government are women. None of the presidential candidates was a woman. In the election administration, two of the eight CEC members are women. TECs have only 36 female members (some 18 per cent) and six TECs are all male. Only three TECs were chaired by women (some 7 per cent) and 24 per cent of PEC Chairs were women. The campaign manager for Mr. Baghdasaryan was a woman; other campaigns were notably male dominated. OSCE/ODIHR EOM observers reported that at most candidates' campaign events, women did not participate in large numbers.

## **XIII. DOMESTIC AND INTERNATIONAL OBSERVERS**

The Code provides for international and domestic election observation. The CEC accredited observers from six international organizations and over 14,000 observers from 39 Armenian NGOs, including 'It's Your Choice' (with some 4,000 observers) and the 'Free Society Institute' (with some 1,600 observers). The 'Legal Initiative', an NGO network, provide citizens with free legal advice through a hotline and deployed 40 rapid-response teams to respond to citizens calls for assistance. Notwithstanding the high number of domestic observer organizations, very few issued public statements on their findings.

## **XIV. OBSERVATION OF VOTING AND COUNTING**

### **A. VOTING**

On election day, IEOM observers assessed the opening positively in 97 per cent of reports. Polling stations (PS) opened on time or with only slight delays. During voting (08.00 - 20.00 hours), IEOM observers visited 1,010 of the 1,923 polling stations (PS), completing 1,184 observation forms and over 550 written reports. In general, observers were not hindered in their observation, although six teams reported they had faced some restriction or obstruction.<sup>69</sup>

Candidate proxies were present in almost all polling stations visited<sup>70</sup>, in some polling stations IEOM observers reported the presence of more than one proxy per candidate, which

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<sup>69</sup> For example, at PS 19/13 the PEC Chair and police refused IEOM observers entry on two occasions. At PS 34/21, IEOM observers reported being intimidated by a group of 5-6 young men and their interpreter was told not to translate anything.

<sup>70</sup> For example, Mr. Ter-Petrosian had proxies at some 88 per cent of PSs and Prime Minister Sargsyan at some 78 per cent. Mr. Harutiunyan and Mr. Melikyan each had proxies at 9 per cent of polling stations visited by IEOM observers.

is contrary to the law.<sup>71</sup> Domestic observers were present in 85 per cent of polling stations visited – most frequently observers from ‘It’s Your Choice’ (at some 33 per cent of polling stations visited). In 93 polling stations visited (8 per cent), domestic observers or proxies reported procedural problems and at 16 polling stations they reported restrictions in conducting their work, for example not being permitted to stand close enough to monitor the process effectively.<sup>72</sup>

IEOM observers assessed the voting positively at some 95 per cent of polling stations. This is a similar figure to the 2007 parliamentary elections and a notable improvement over the 2003 presidential election. Regional differences were noted with Tavush, Armavir and Aragatsotn regions assessed most positively. However, significant problems were reported at some polling stations, notably in Lori, Kotayk and specific communities in Yerevan (TECs 1, 4, 5, 7, and 13).

Despite the presence of police officers at polling stations, the OSCE/ODIHR EOM on election day received reports of physical assaults and first-hand testimony from those assaulted.<sup>73</sup> IEOM observers reported tension or unrest in the vicinity of 33 polling stations visited (some 3 per cent) and inside 64 polling stations visited (some 6 per cent), and actions constituting intimidation outside 13 polling stations and inside 22 polling stations visited.<sup>74</sup> On a few occasions PEC members reported being intimidated.<sup>75</sup> In the days after 19 February, the OSCE/ODIHR EOM received more reports from various sources concerning assaults or intimidation of opposition proxies, domestic observers, PEC members, and journalists, in particular in Yerevan.<sup>76</sup>

Overcrowding was a problem at 15 per cent of polling stations visited, which on occasions contributed to tension, disorganization, and a lack of transparency, *de facto* impacting on the secrecy of the vote. Unauthorized persons were frequently noted inside polling stations, including police (in some 6 per cent of polling stations observed) and local government officials. In some 3 per cent of polling stations, interference in the election process by unauthorized persons was noted – mostly by proxies,<sup>77</sup> including interference in citizens’

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<sup>71</sup> For example at PS 34/71 there were five proxies for Prime Minister Sargsyan and two proxies each for Mr. Ter-Petrossian and Mr. Baghdasaryan. Multiple proxies per candidate were also reported by IEOM observers at PSs 1/19, 5/11, and 34/29.

<sup>72</sup> For example at PSs 05/02, 05/10 and 07/05.

<sup>73</sup> For example first-hand testimony was received from proxies who were assaulted at PS 28/07 (Abovyan), at PS 07/20 (Malatia-Sebastia, Yerevan) - where they reported an attempt to stuff the ballot box, and at PS 01/10 in Avan (Yerevan), and from four campaign activists in Abovyan and Davitashen (Yerevan) who bore signs of physical injury. Three PEC members were forcibly ejected from PS 07/05 (Malatia-Sebastia, Yerevan). A report of an assault on two Heritage MPs and a journalist at PS 13/16 (Erebuni, Yerevan) received wide media coverage.

<sup>74</sup> For example at PS 13/25 a proxy of Prime Minister Sargsyan intimidated voters to show their marked ballots.

<sup>75</sup> For example at one PS in TEC 26, a PEC member reported receiving a telephone call telling him not to interfere with a vote buying scheme or it would be unpleasant for him after the election.

<sup>76</sup> For example in Avan (Yerevan), two proxies received threats of possible physical retribution and a PEC member was assaulted. In Arabkir and Davitashen (Yerevan) three proxies were assaulted in a PS or in its vicinity, and in Arabkir, a domestic observer was assaulted and lost consciousness. The OSCE/ODIHR EOM was aware of other formal complaints made by six persons over their forcible ejection from PSs in TEC 28 (Abovyan).

<sup>77</sup> For example at PS 04/02 a proxy of Mr. Ter-Petrossian was actively checking voters’ ID documents. At PSs 29/16 and 34/19 proxies of Prime Minister Sargsyan were observed controlling the voting process. A proxy of Mr. Ter-Petrossian performed all PEC-member functions at a hospital under PS 38/10. At PS 40/10 IEOM observers saw a police officer giving orders to PEC members and providing assistance ‘to help’ some voters vote.

freedom of choice.<sup>78</sup> Despite a legal prohibition on assembling in groups within a 50-metre radius of a polling station on election day, many IEOM observers reported groups loitering at entrances to polling stations or in their vicinity. Their presence contributed to overcrowding, and on occasions they seriously interfered in the election process<sup>79</sup> or were involved in forms of ‘controlled voting’.<sup>80</sup>

The secrecy of the ballot was fully respected in 87 per cent and mostly respected in some 10 per cent of polling stations visited. However, in 23 polling stations (2 per cent) voters were observed showing their marked ballot paper to another person and voting outside the voting booth (13 cases).<sup>81</sup> ‘Group voting’ (more than one person in a voting booth simultaneously) occurred at 9 per cent of polling stations visited. The positioning of voting booths was improved compared to 2007, but still problematic at 7 per cent of polling stations visited. In 25 polling stations visited, IEOM observers saw one or a few individuals assisting numerous voters (ostensibly those who require assistance), despite the recent introduction of a legal prohibition on the practice.<sup>82</sup>

In the large majority of polling stations visited, IEOM observers reported that the technical processing of voters was conducted according to procedures: voters’ ID documents were checked, voters and PEC members signed the voter list upon issuance of a ballot paper, and ballot papers were signed by three PEC members. Generally, ballot envelopes were stamped before voters deposited their ballots in the ballot box and PECs stamped voters’ ID documents (the procedure chosen by the legislator to prevent multiple voting).

However, serious problems regarding the freedom of the vote included observed instances of attempts to influence voters in their electoral choices (18 cases),<sup>83</sup> campaigning outside polling stations (32 cases),<sup>84</sup> and various forms of ‘controlled’ voting.<sup>85</sup> Problems related to the fairness of the vote were also observed, including: voting with a pre-marked ballot (4 cases),<sup>86</sup> a voter receiving or casting more than one ballot (3 cases),<sup>87</sup> and voting on behalf of

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<sup>78</sup> For example at PS 26/29 a proxy of Mr. Ter-Petrosian intruded on voters’ privacy while voting – as did proxies of Prime Minister Sargsyan at PSs 39/14 and 30/11, and a domestic observer at PS 26/09. At PS 12/13 a proxy of Prime Minister Sargsyan assisted ‘numerous’ voters to mark their ballots.

<sup>79</sup> For example at PS 07/06 (Malatia-Sebastia, Yerevan) IEOM observers were informed by a proxy of Mr. Hovhannisyan that prior to their visit approximately 10 men had entered the PS, forced aside all proxies and had stuffed the ballot box. The PEC Chair confirmed to IEOM observers that an incident had taken place.

<sup>80</sup> For example, IEOM observers reported that at PS 12/24 a group was checking whether voters were “certain for whom to vote”. A similar situation was also reported by IEOM observers at PS 31/30.

<sup>81</sup> For example at PS 17/35 a voter was required to show his marked ballot to the community head in the village. At PS 38/63, IEOM observers saw people showing their marked ballots to others and overcrowding of the PS made it impossible to vote in secret. At PS 1/31 some voters were showing their marked ballots and many did not put marked ballots in an envelope – this was done by PEC members.

<sup>82</sup> For example at PS 13/38, 150 elderly persons were assisted by a few individuals.

<sup>83</sup> For example at PSs 32/58 one of Prime Minister Sargsyan’s proxies instructed voters for whom to vote. At PSs 31/30 and 32/42 PEC members directed a voter to vote for Prime Minister Sargsyan.

<sup>84</sup> For example cars with campaign material or Republican Party flags were seen at various PSs and on occasions brought voters to the polls (e.g. at PS 17/04). A campaign bus was parked at PS 17/14 and the perimeter fence of PS 13/08 displayed Republican Party flags. Campaign posters for Prime Minister Sargsyan were displayed on the exterior and interior of a number of polling stations (e.g. PS 12/25).

<sup>85</sup> For example at PS 28/07 a person arrived at the polling station in possession of 16 passports and then ‘assisted’ 16 persons to vote, despite the fact that there was no sign these persons required help to mark their ballots. At several PSs in TEC 12 a proxy of Prime Minister Sargsyan issued voters pens with red ink. At PS 12/23 an IEOM observer noticed that marks on the ballots in favour of Serzh Sargsyan were written in red ink.

<sup>86</sup> For example at PS 17/35 observers reported ‘carousel voting’ – a practice whereby a voter receives a pre-marked ballot outside the polling station to deposit in the ballot box and returns with a blank ballot.

another person – ‘proxy voting’ (11 cases). Apparent voter impersonation<sup>88</sup> or multiple voting schemes<sup>89</sup> were also observed on election day. An isolated case of ‘ballot stuffing’ was observed at polling station 23/24 (Sevan),<sup>90</sup> and other IEOM observers received credible reports that ballot stuffing had taken place prior to their arrival at other polling stations.<sup>91</sup>

Some IEOM observers reported the presence of buses of voters in the vicinity of polling stations<sup>92</sup> and widespread rumours circulated that organised transportation of voters was linked to vote-buying schemes. When IEOM observers sought to clarify the purpose of drivers and passengers, the responses were usually evasive. The arrival of busloads of voters caused problems of overcrowding, and, on occasions, a tense atmosphere.

In the vicinity of a polling station in Shengavit (Yerevan), IEOM observers saw voters receiving money from a man who was ticking entries from a list of names. Three separate credible reports were given to IEOM observers by persons who had personally witnessed vote buying in the vicinity of polling stations 23/09, 29/36 and 34/23. A PEC member at polling station 35/19 informed IEOM observers that voters had complained to him about vote buying outside the polling station<sup>93</sup> and that he had video-recorded the transactions. At one polling station in Erebuni (Yerevan), a PEC member informed IEOM observers that he had been offered money not to be present during the vote count.

Formal complaints were filed at only 24 polling stations visited by IEOM observers. However, some IEOM observers reported that PEC Chairs were unwilling to register formal complaints.<sup>94</sup>

## B. COUNTING

IEOM observers followed the count at 111 polling stations. The conduct of the count was assessed as ‘bad’ or ‘very bad’ in some 16 per cent of polling stations visited.

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<sup>87</sup> For example at PS 32/58 an IEOM observer witnessed a voter presenting two passports and receiving two ballots.

<sup>88</sup> For example at PS 1/16 10 minutes before closing two voters arrived only to find someone had already voted for them. Similar incidents were observed at PSs 1/07, 05/06, 6/20, 09/13, 12/07, 12/23 and 31/11. In PS 14/51 observers saw a PEC member retain some voters’ passports after they had cast a ballot.

<sup>89</sup> For example, outside PS 35/28 the driver of a bus was holding multiple passports, when approached by the observers he left. In PS 34/24 observers reported cases of persons attempting to vote with a passport that had already been stamped (indicating that the voter had already voted).

<sup>90</sup> A candidate proxy put some 15 ballots in the ballot box, after these had been stamped by a PEC member.

<sup>91</sup> For example, reports were received from persons on duty (e.g. a proxy or PEC member) at PSs 07/06, 07/20, 08/21, 11/10 and 17/08. In some cases, the reports were corroborated by other witnesses. Some 18 cases of ballot stuffing were reported on web-based media over the course of election day.

<sup>92</sup> For example busses or minibuses were seen outside PSs 02/18, 04/02, 11/31, 11/32, 12/24, 17/28, 17/29, 26/09, 29/36, 34/03, 34/23, 35/18, 35/19 and 35/28. Groups of persons with passports in their hands were observed being collected from a Yerevan market by mini-busses and large numbers of empty busses were seen outside Republican Party Offices in Malatia-Sebastia (Yerevan) and Gyumri. Observers noted the availability of a free taxi service in TEC 1 (Avan community, Yerevan), taking voters to the polls.

<sup>93</sup> This was also reported to IEOM observers by proxies in PSs 31/30 and 35/18.

<sup>94</sup> IEOM observers reported this for example at PSs 1/16, 05/11, 07/20, 12/07, 13/30, 13/38, 18/30 and 31/27. After the election, a Ter-Petrosian proxy showed the OSCE/ODIHR EOM over 200 complaints that were reportedly not accepted by PECs on election day. One of Mr. Ter-Petrosian’s proxies informed the OSCE/ODIHR EOM that on Saturday 23 February, the CEC Secretary refused to accept 122 complaint protocols (which PECs had also refused to register).

Prior to the opening of ballot boxes, prescribed procedures were mostly respected,<sup>95</sup> although data was not recorded in journals in 8 per cent of polling stations visited and in some cases, PECs were observed making subsequent alterations to this data. Some 17 per cent of IEOM observers reported significant procedural errors, mostly after the opening of the ballot boxes. For example, in 21 per cent of polling stations visited, the number of votes per candidate was not announced and in 10 per cent there were inconsistencies in determining valid votes.<sup>96</sup> Other problems included: not showing marked ballots to those present, placing ballots on the wrong candidate piles, signing protocols before completion of the count, signing blank protocols, indications of ballot box stuffing, and attempts to impede IEOM observers.<sup>97</sup> Some IEOM observers reported that PEC Chairs constantly received phone calls with requests to report the results, specifically the vote tally for Prime Minister Sargsyan.<sup>98</sup> Domestic observers or proxies were not afforded a clear view of the count at some 10 per cent of polling stations visited.

Some 15 per cent of PECs faced difficulties in completing the result protocols, despite additional training. In 8 polling stations, IEOM observers saw deliberate data falsification;<sup>99</sup> in several polling stations the protocols were not completed in ink; in 30 per cent the protocol was not publicly displayed (as required by law), and in 6 per cent a copy of the protocol was not given to all that requested one.

### C. TABULATION AND ANNOUNCEMENT OF PRELIMINARY RESULTS

IEOM observers followed the tabulation of results at all 41 TECs, completing 85 observation report forms. The process of tabulating the results at five TECs was assessed negatively and 7 per cent of reports assessed there was a lack of transparency. Reported shortcomings included cases of material arriving from some PECs in unsealed packages,<sup>100</sup> PEC representatives leaving the TEC with election material,<sup>101</sup> allowing proxies to carry out TEC functions,<sup>102</sup> not accepting complaints from PEC proxies,<sup>103</sup> and not permitting IEOM observers to scrutinise

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<sup>95</sup> For example counting and cancelling unused ballots in 97 per cent of PSs visited, securing unused ballots (in 98 per cent), calculating the number of voters that received ballots (in 98 per cent) and securing voter lists (in 95 per cent).

<sup>96</sup> For example at PS 4/18 where ballots with almost identical 'V' marks were adjudicated differently, and some incorrectly declared invalid. At PS 10/24, observers reported that the rules on invalid ballots were interpreted differently according to the different candidates.

<sup>97</sup> For example at PS 22/15 IEOM observers reported that PEC members were pressured to add votes to Prime Minister Sargsyan's vote total from ballots marked for other candidates. At PS 13/18 the Chair did not show marked ballots, PEC members counted votes while holding pens, ballots were placed on the wrong candidate piles and protocols were signed before the vote count was completed. A blank protocol was signed by PEC members at PS 11/32. At PS 32/58 attempts were made to impede IEOM observers from seeing marks on ballot papers. However, they noticed that ballots marked for Mr. Ter-Petrosian were placed in the pile for Prime Minister Sargsyan and on two occasions saw stacks of 'carefully fitted together' envelopes taken out of the ballot box. These ballots were all marked in favour of Mr. Sargsyan. The results protocol was not signed, the election material not sealed, and unauthorized persons accompanied it to the TEC.

<sup>98</sup> For example at PS 25/04 the Chair was called six times with requests to report on results.

<sup>99</sup> For example at PS 17/01, IEOM observers saw a PEC member add signatures against names of voters.

<sup>100</sup> For example some PECs in TECs 11, 22, 29, 30 and 38.

<sup>101</sup> For example PECs 22/20 and 22/22 disappeared for about four hours after arriving at the TEC. When PEC 22/20 returned it appeared to the observer that the packages containing the voting material had been opened.

<sup>102</sup> For example at TEC 13, IEOM observers reported a proxy for Prime Minister Sargsyan was receiving and checking protocols and then passing these to the TEC Chair, duties that should be carried out by TEC members.

<sup>103</sup> For example at TEC 5.

protocols.<sup>104</sup> IEOM observers were not able to see results being entered into the computer system at 13 TECs.<sup>105</sup> In addition, IEOM observers occasionally reported irregularities during the tabulation of results.<sup>106</sup>

There was a lack of uniformity over TECs' response to PEC protocol figures which did not reconcile. Usually the TECs made alterations to the protocol,<sup>107</sup> but on occasions it sent the PEC away to make changes (e.g. TECs 22 and 27), or took no action (e.g. TEC 26). Confusion existed in Yerevan where TECs were supposed to forward PEC result protocols to the CEC rather than enter these into the networked results system in operation for TECs in the other regions. This was compounded by the lack of a CEC instruction on the matter.

During election night, the CEC announced partial voting results data on its website. On the morning of 20 February, six of the eight CEC members signed a protocol of preliminary results.<sup>108</sup> Preliminary results indicated that Prime Minister Sargsyan had secured some 52.8 per cent of the vote, thereby avoiding a run-off election.

## XV. POST-ELECTION PERIOD

### A. RECOUNTING OF PEC RESULTS

The Code entitles candidates and their PEC-level proxies to file recount requests for specific PECs at the TEC until 14.00 hours on the day after voting (20 February). TECs conducted recounts until the legal deadline (14.00 hours on 24 February). According to the CEC, recount requests were filed in 25 TECs regarding 159 PEC results. TECs rejected other requests on the grounds that the deadline to request recounts had expired and 34 requests were rejected without good cause as being 'baseless'. A number of complaints were filed with the CEC alleging that TECs were not present to receive recount requests or had obstructed their submission.<sup>109</sup>

According to the CEC, Mr. Harutiunyan or his proxies requested 27 recounts, mostly in TECs 1, 4, 8 and 13 (Yerevan). Some were filed shortly after 00.00 hours on 20 February, including

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<sup>104</sup> For example at TEC 37, IEOM observers were prevented by the TEC Chair from seeing 25 PEC protocols.

<sup>105</sup> For example at TEC 38 IEOM observers were refused entry to the computer room.

<sup>106</sup> For example, in TEC 14, a proxy for Mr. Ter-Petrosian demanded a recount after the Chair of PEC 14/32 produced 2 original blank protocols signed by PEC members. PEC 22/30 brought only one copy of the PEC protocol. The Chair was sent back to get the other copies. When the PEC chair returned with the missing protocols, the first protocol was rejected and the missing one accepted. Notable differences included: 260 votes for Mr. Hovhannisyanyan instead of 10 in the original and 602 votes for Prime Minister Sargsyan instead of 902.

<sup>107</sup> For example at TEC 1, a new protocol was drafted for PS 01/19 showing 459 unused ballots; previously it was 634.

<sup>108</sup> The members nominated by *Orinats Yerkir* and Heritage parties were not present. The member nominated by ARF *Dashnaksutiun* signed the protocol with a special opinion concerning serious election violations in TECs 7, 8, 13 and 17.

<sup>109</sup> For example complaints were submitted regarding TEC 32, which denied a request to recount PECs 32/20, 32/30 and 32/46 on the basis that the deadline had passed, while the complainants claimed to have been in the TEC at 13.30 hours. At TEC 8, recount applications for PECs 8/6, 8/16, 8/17, 8/21, 8/23 and 8/24 were presented before 14.00 hours but the TEC refused to register the applications before 14.00 hours. Other requests were denied in TECs 3, 21, 23, 24, and 38.

concerning at least one polling station that was still conducting the vote count.<sup>110</sup> Other candidates requested recounts after Mr. Harutiunyan. As TECs generally recounted results according to the time the request was recorded as submitted, some did not conduct some recounts requested by other candidates as they were occupied with those requested by Mr. Harutiunyan.<sup>111</sup>

OSCE/ODIHR EOM observers followed recounts at all TECs where they took place, although they did not observe recounting for all PECs. The majority of recounts observed showed discrepancies and mistakes in the original count, some of them significant, or other serious problems occurred during the recount. These raise questions over the honesty and political impartiality of PECs and TECs.

TEC 5 (Davitashen, Yerevan), for example, procrastinated over recounting PEC 5/21. Before the recount commenced, unknown persons entered the premises and forced TEC members, candidate proxies, journalists, and an OSCE/ODIHR EOM observer to leave the building while police officers passively stood by. At TEC 13 (Erebuni, Yerevan) an envelope containing valid ballots marked in favour of Mr. Ter-Petrossian disappeared during the recount of PEC 13/10. During the recount of PEC 4/03 (Arabkir, Yerevan), the TEC produced some 34 ballots all with marks for two candidates (Mr. Ter-Petrossian and Mr. Sargsyan) from a pile of votes counted previously as votes for Mr. Ter-Petrossian. Other shortcomings included valid ballot papers being unnecessarily adjudicated as invalid<sup>112</sup> and failure to verify the validity of votes or for which candidate ballots had been cast.<sup>113</sup>

At the expiry of the deadline for conducting recounts, recounts for 24 PECs were outstanding.<sup>114</sup> While the legislation provides that TECs may extend their working hours, the OSCE/ODIHR EOM is not aware of any TEC having done so to complete its work.

The Prosecutor General opened two criminal investigations over the incidents at TECs 5 and 13. On 27 February, the CEC reported that a further 23 cases had been referred to the Prosecutor General. In April, the Chair of TEC 13 was sentenced to two years in prison for committing fraud. It is of concern that a CEC member (nominated by Heritage Party) could face criminal prosecution for opening election materials at TEC 5 without CEC authorisation, while so far no action was taken against the TEC members who appeared to procrastinate over recounting PEC 5/21. Furthermore, no action was taken against police officers for not attempting to maintain order, and no arrests were made by the seemingly illegitimate interference in the process by those who forced entry to the TEC premises.

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<sup>110</sup> IEOM observers present at this PS (4/18) for the vote count reported that the count ended at 03.10 hours and the candidate did not have a proxy present at the PS during the vote count.

<sup>111</sup> For example in TEC 1, two recounts requested by Mr. Baghdasaryan were not conducted. TEC 4 completed only seven of the twelve recounts requested within the time period allocated for recounts and two of the three recounts requested by Mr. Ter-Petrossian were not conducted.

<sup>112</sup> For example PEC 34/26 (Gyumri).

<sup>113</sup> For example PEC 7/20 (Malatia Sebastia, Yerevan).

<sup>114</sup> For example, TEC 4 completed only seven of the twelve recounts requested within the 4-day period allocated for recounts. Recounts for PEC 34/04, 34/07 and 34/30 were not performed. A complaint was filed that the Chair of TEC 35 would not conduct recounts because only five TEC members were present, even though no legal quorum is required. The CEC responded that complaints should be filed with the Administrative Court.

## B. ANNOUNCEMENT OF FINAL RESULTS

On 24 February, the CEC announced final election results in an extraordinary session.<sup>115</sup> The protocol of final results was signed by six of the eight CEC members.<sup>116</sup>

PEC-level results released by the CEC show that voter turnout was lowest in the area of TEC 35 (61.45 per cent) and highest in TEC 28 (84.29 per cent). Some PECs had extraordinarily high turnout. Of the 1,670 polling stations with 300 or more registered voters, 95 had a turnout exceeding 90 per cent, of which 44 had a turnout exceeding 95 per cent – these were concentrated in specific areas.<sup>117</sup> Turnout at some polling stations was implausibly high: PEC 8/23 for example with 1,780 voters registered before election day had a turnout of 1,772 (99.83 per cent) and PEC 37/22 with 838 voters registered before election day had a voter turnout of 841 (100.36 per cent). According to the authorities such high turnout could be explained by the participation of military voters.

The analysis of official PEC results indicates that PECs which reported a higher than average voter participation also had a higher share of the vote for Prime Minister Sargsyan. Even taking into account that the Prime Minister has strong familial links in the Goris area (TEC 37), results from four PECs are striking as he received in excess of 99 per cent of the vote, with a turnout of 97 to 99.5 per cent.

According to the CEC results protocol, there were 35,798 invalid ballots (some 2 per cent). However, there was a wide variation in the number of invalid ballots: 5.81 per cent in TEC 3 and 0.88 per cent in TEC 23. The adjudication of invalid ballots by some PECs in TEC 3 raises serious concern, for example in polling station 3/13 where some 28 per cent (345 votes) of 1,225 votes cast were declared invalid. A further four polling stations in this district had over ten per cent invalid ballots.<sup>118</sup> Other anomalous results included cases where the number of ballots found in the ballot box was either much higher or lower than the number of ballots issued to voters.<sup>119</sup>

## C. POST-ELECTION COMPLAINTS AND APPEALS

In general, the CEC's approach to post-election complaints was not transparent, did not offer candidates an effective remedy, and raised concern about its commitment to fulfil its obligation under Article 32(1) of the Election Code to protect citizens' electoral rights and to ensure the legal integrity of the election process.<sup>120</sup>

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<sup>115</sup> This session took place four hours after the expiry of the deadline to conduct recounts, but before the expiry of the deadline for filing appeals on decisions taken by TECs on PEC recounts. Under the Administrative Procedures Act, a decision, action or inaction of an election commission may be appealed within three days. Thus appeals regarding recounts conducted on 24 February could be filed until 27 February.

<sup>116</sup> CEC members nominated by *Orinats Yerkir* and Heritage did not sign the protocol.

<sup>117</sup> Malatia-Sebastia (TECs 7 and 8), Erebuni (TEC 13), Artashat (TEC 17), Metsamor (TEC 20), Sevan (TEC 23), Martuni (TEC 24), Abovyan (TEC 28), Goris (TEC 37) and Kapan (TEC 38).

<sup>118</sup> PSs 3/06 (10.3 per cent), 3/10 (24 per cent), 3/19 (20.5 per cent), 3/20 (19.7 per cent).

<sup>119</sup> For example in PS 7/21 where the number of votes was 80 more than the number of ballots issued and in PS 9/21 where there were 61 more ballots issued than votes cast.

<sup>120</sup> In addition, Paragraph 5.10 of the 1990 OSCE Copenhagen Document commits participating States to ensure that "everyone will have an effective means of redress against administrative decisions so as to guarantee respect of fundamental rights and ensure legal integrity".

In the post-election period, the CEC received 19 complaints, many of which alleged serious irregularities. A proxy of Mr. Baghdasaryan for example provided details of cases where PEC members were forced to leave several polling stations and claimed that during their absence ballot stuffing had occurred.<sup>121</sup> Complaints were not heard in open session and were routinely dismissed. The CEC's written 'responses' are the only publicly available documents on the complaints and the OSCE/ODIHR EOM is not aware of any meaningful investigation on the substance of the complaints.<sup>122</sup>

A number of the complaints received by the CEC and the Ombudsman were referred to the Office of the Prosecutor General. At the time of writing, 38 election-related criminal investigations had been initiated, some of which relate to election day incidents such as physical assaults,<sup>123</sup> obstructing polling officials and falsifying election results.<sup>124</sup>

The Election Code contains provisions giving both the CEC and the Administrative Court jurisdiction to hear appeals including on TEC decisions concerning recounting of PEC results.<sup>125</sup> Candidate proxies and PEC members filed complaints and appeals with the CEC regarding rejection of recount requests or violation of recount procedures in 16 TECs. In most cases, the CEC responded that these applications should be addressed to the Administrative Court. With regard to ambiguous legal provisions on complaints and appeals and a possible unfamiliarity of stakeholders with the recently established Administrative Court structure and its election-related competences, the CEC could have done more to ensure that these complaints were given a proper hearing, for example by forwarding the complaints to the Court and facilitating the process of effective redress for complaints. Ultimately, no complaints on recounts were filed with the Administrative Court and it played no significant role in resolving election disputes after the election.

On 27 February, Mr. Karapetyan filed an application with the Constitutional Court to invalidate the election results.<sup>126</sup> On 29 February, Mr. Ter-Petrossian also filed an appeal. His legal team argued that violations during the campaign, on election day, and during result

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<sup>121</sup> At PSs 7/05, 7/25, 8/17, 11/6, 13/1, 17/1, 17/2, 17/3, 28/7 and 28/26. The formal CEC response stated simply "the facts indicated in your application are false. The facts indicated were checked with relevant commissions". The CEC attached letters from TEC and PEC Chairs denying that anything untoward had occurred. The results at some of these PSs were unusual e.g. PS 28/26, where 1,961 voters were registered, turnout was over 89 per cent and Prime Minister Sargsyan received over 95 per cent of the vote.

<sup>122</sup> For example, a PEC member at PS 1/09 (Avan, Yerevan) requested the CEC to invalidate the result due to numerous violations during the count, threats made against him after which he signed a blank protocol and was ejected from the PS. The CEC simply responded by advising on the procedure to request a recount but took no action to investigate the claim that he was forced to sign a blank protocol. At this polling station Mr. Ter-Petrossian received 1.8 per cent of the vote compared to an average in the TEC of 25.54 per cent.

<sup>123</sup> For example assaults on PEC members, proxies, journalists, NGO observers at PSs 8/21, 13/16, 28/07, and 36/34.

<sup>124</sup> The Chair of PEC 9/31 pleaded guilty to falsifying election results and was sentenced to two years imprisonment. On 29 February, the Prosecutor General informed the OSCE/ODIHR EOM that the head of Mr. Ter-Petrossian's Shirak campaign office pleaded guilty to making a false report on violations in 10 PSs.

<sup>125</sup> Election Code, Article 40(6) states "requests for a recount of the voting results in a PEC may be submitted only to the appropriate TEC on the day after the voting day, by 14.00 hours". Article 40(5) provides that decisions etc. of electoral commissions may be appealed to the Administrative Court except requests for recounts under Article 40(6) and appeals of final results under article 40(9).

<sup>126</sup> The only documentary evidence filed was the IEOM Statement of Preliminary Findings and Conclusions.

recounts were of a scale to necessitate the invalidation of the overall election result.<sup>127</sup> The Court joined both cases and its hearing took place from 4-7 March. The Court decided not to consider complaints that had not first been filed with the Administrative Court and that had therefore not exhausted legal remedies, and focussed its attention on the PEC protocols submitted by Mr. Ter-Petrosian.

On 8 March, the Court confirmed the CEC decision to declare that Prime Minister Sargsyan was elected president on 19 February. While the Court's decision does not specifically address Mr. Ter-Petrosian's claims regarding the influence of campaign violations on the process, it does criticise the NCTR and the CEC for not respecting their legal obligation to monitor the campaign. However, it found that their inaction did not affect the election outcome. Similarly, although it confirmed inaccuracies in PEC protocols – which were referred to the Prosecutor General – it found that these were insufficient to influence the election result. The Court called for a review regarding the provisions of the Election Code dealing with complaints and appeals.

#### **D. POLITICAL POST-ELECTION DEVELOPMENTS**

Mr. Ter-Petrosian claimed “widespread falsification and violations” during the election, and insisted that he had won the election although without further qualification. Mr. Baghdasaryan also questioned the legitimacy of the election, while Mr. Hovhannisyan<sup>128</sup> and Mr. Manukyan cited election irregularities.

Even before the election took place, Mr. Ter-Petrosian called for supporters to gather on 20 February for a “victory” or a “protest” rally. From 21 February to early morning on 1 March, protesters maintained a peaceful, though not formally sanctioned, assembly (and tent camp) in Freedom Square in Yerevan and conducted numerous peaceful processions.<sup>129</sup> Speakers at the assembly announced that their aim was to annul and repeat the election. Until 1 March, the authorities overall tolerated the protests.

Despite the controversy over the electoral process, the main broadcast media, including public television and radio, largely ignored the views of those who disputed the election results. *HI* continued to present distorted and one-sided coverage of the demonstrations and Mr. Ter-Petrosian's activity and speech. It provided extensive coverage of the authorities' views and positive coverage of Prime Minister Sargsyan's rallies.<sup>130</sup> As such, it did not fulfil its legal obligations under Article 28 of the Broadcasting Law to objectiveness, impartiality and to inform public opinion of issues of importance.

On 23 February, President Kocharian characterised the opposition's activity as an “illegitimate attempt to take over power” and stated that the response “will be determined and sharp”. In the following days, state security bodies detained a number of persons on suspicion

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<sup>127</sup> His application included PEC protocols showing inaccuracies. However, his appeal relied more on alleged campaign violations (e.g. claims that Prime Minister Sargsyan used his official position to campaign and alleged campaigning against Mr. Ter-Petrosian by President Kocharian) than inaccurate PEC results.

<sup>128</sup> However, his party, ARF *Dashnaksutiun* stated later it would not dispute the election results.

<sup>129</sup> Mr. Ter-Petrosian's campaign notified the Yerevan City authority that it would hold a rally on 20 February in Yerevan. However, they did not lodge a notification with the Yerevan City authority on the subsequent assembly in Freedom Square and processions.

<sup>130</sup> *HI* did not cover a well-attended march by supporters of Mr. Ter-Petrosian held after Mr. Sargsyan's 26 February rally in Yerevan, but regularly covered a small demonstration close to Mr. Ter-Petrosian's private residence.

of illegally holding weapons, “actions or physical abuse towards an authority” and “intentional delinquency”.

On 26 February, Prime Minister Sargsyan offered to collaborate with the other presidential candidates. Even before Mr. Sargsyan’s appeal, Mr. Geghamyan had expressed readiness to co-operate. Despite earlier statements criticising the conduct of the election, on 29 February, Mr. Baghdasaryan signed a political co-operation agreement.

Early on 1 March, violence occurred between protestors and the police at Freedom Square and the assembly was dispersed.<sup>131</sup> According to official information, 31 persons (police and protestors) were injured. Later in the day, protestors re-gathered and disturbances took place outside the French Embassy and Yerevan City Hall. In the early afternoon, a large crowd gathered in this area. In the evening, serious unrest occurred: police and security forces clashed with protestors, automatic weapons were fired, explosive devices were detonated, vehicles were set alight, and looting occurred. According to official sources, tragically there were 8 fatalities, later increased to ten, and some 130 injuries. At around 22.30 hours President Kocharian declared a state of emergency covering Yerevan city, which among other restrictions imposed a ban on rallies and gatherings<sup>132</sup> and constrained media reporting to official information, *de facto* imposing censorship.<sup>133</sup> According to official information, as of 19 March 106 persons were detained and formally charged in connection with the events of 1 March.<sup>134</sup>

On 21 March, the state of emergency was lifted, and a ‘silent protest’ by supporters of Mr. Ter-Petrossian took place. On the same day, a coalition government was formed between the Republican Party, Prosperous Armenia, ARF *Dashnaktsutiun* and *Orinats Yerkir*, leaving only the Heritage party as parliamentary opposition. Prime Minister Sargsyan was sworn in as Armenia’s third President on 9 April.

## XVI. RECOMMENDATIONS

The OSCE/ODIHR offers the following recommendations for consideration by the authorities of the Republic of Armenia in order to bring the election process more closely in line with OSCE commitments. These do not repeat all recommendations made in previous

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<sup>131</sup> In a statement released later in the day, the police said they wanted to inspect the area because information had been received that weapons and explosives were to be distributed to demonstrators and that unrest was to occur. The protestors refuted this allegation. See for example the report of the Commissioner for Human Rights of the Council of Europe (CommDH(2008)11, 20 March 2008, available at <https://wcd.coe.int> or the report by the Human Rights Defender of the Republic of Armenia: Ad-Hoc Public Report on the 2008 February 19 Presidential Elections and the Post-Electoral Developments, 25 April 2008, available at <http://ombuds.am/main/en/10/31/1389/>.

<sup>132</sup> On 17 March, the National Assembly adopted amendments to the Law “On Conducting Meetings, Assemblies, Rallies, and Demonstrations”, (Public Assembly Law). These raised serious concern by the OSCE/ODIHR and the Council of Europe’s Venice Commission who did not consider these amendments acceptable. Following consultations in mid-April with the National Assembly of Armenia, agreement was reached to make changes to the law in light of relevant international standards. See Press Release at: [www.osce.org/odihr/item\\_1\\_30491.html](http://www.osce.org/odihr/item_1_30491.html) and Draft Joint Opinion on the Amendments of 17 March at: [www.osce.org/documents/odihr/2008/04/30508\\_en.pdf](http://www.osce.org/documents/odihr/2008/04/30508_en.pdf).

<sup>133</sup> On 4 March, the OSCE Representative on Freedom of the Media issued a statement criticizing the introduced media restrictions. On 13 March President Kocharian altered those provisions by introducing ‘a ban to publish an apparently false information’ instead of publishing only the official information.

<sup>134</sup> See press release by Office of the Prosecutor General: <http://www.genproc.am/main/en/121/3793/>.

OSCE/ODIHR Reports or Assessments, a number of which have not yet been implemented and remain valid.

Overall, the conduct of democratic elections requires genuine political will to implement the respective OSCE commitments and other standards that the Republic of Armenia has freely entered into, at all levels of the process.

**A. GENERAL**

1. The State and electoral authorities need to seriously address the manifest lack of public confidence in the electoral process and introduce measures to ensure that all citizens are able to cast their votes free of coercion or any form of intimidation. Intensifying public information activity and targeted training programmes e.g. for local government structures could help in this regard.
2. The State authorities should not tolerate vote buying and vote selling and implement further measures to eradicate the practice.

**B. SUFFRAGE RIGHTS**

3. The Code should be amended so that dual citizens are granted equal active and passive voting rights. The prohibition on dual citizens seeking election as President should be reconsidered.

**C. ELECTION ADMINISTRATION**

4. The Election Code should guarantee equitable representation in the management positions (Chair, Deputy Chair and Secretary) on TECs and PECs for those parties and institutions eligible to nominate members to election commissions.
5. The status of CEC decisions i.e. whether they are ‘administrative decisions’ should be clarified.
6. The CEC should develop a training manual for candidate proxies setting out their rights and duties.

**D. VOTER REGISTRATION**

7. To enhance transparency, the police should be required to announce periodically the number of persons registering to vote at their place of actual residence.

**E. ELECTION CAMPAIGNING**

8. Action is required to make a clear separation between State structures and the ruling party. In order to reduce the potential emergence of unequal campaign conditions, legislation should:
  - Clarify under what conditions State and local self-government officials may legitimately be involved in a candidate’s campaign. It may be advisable to require Governors, Ministers, State Servants, and local self-government officials to take a

- formal leave of absence if participating in the election campaign on behalf of a candidate or political party;
- Prohibit the use of any party office located in state or local self-government buildings from being used to organize or promote a candidate's campaign;
  - Prohibit the displaying of campaign material on any public property (local-government office, hospital, school etc), except in specially designated areas.
9. The Election Code should offer greater clarity on whether persons who hold 'political discretionary positions' should be required to take a formal leave of absence during the election campaign. If these persons are permitted to retain office after their registration as a candidate, statutory guidelines should be elaborated to clarify what activity constitutes 'campaigning while performing official duties' and 'abuse of official position in order to gain electoral advantage'.
10. Designated space to display campaign posters should be provided 'free of charge' and community leaders should notify the respective TEC of the locations of this space.
11. Halls and other premises under the jurisdiction of local self-government bodies which could serve as appropriate campaign venues could be made available under the same terms as State owned property under Article 18(1) of the Election Code.
12. Having established the principle in law that candidates have the right to equal conditions in media regardless of their form of ownership, consideration should be given to obliging advertising companies that own or manage advertising billboards to make these available to all candidates on equal terms and to inform the CEC of the usage rates.

#### **F. CAMPAIGN FINANCING**

13. The Code should address donation of 'goods in kind'. Candidates should be required to include 'in kind' donations in campaign spending accounts according to their fair market value. The Election Code should detail which types of expenditure must be included in candidates' campaign accounts. Candidates should be required to notify the CEC of the number of campaign posters displayed on billboards, their location and unit cost as well as the number of paid advertisements placed in the media.

#### **G. MEDIA**

14. The freedom and independence of the media should be respected, as objective reporting is crucial during an election campaign. State authorities should always refrain from interfering in activities of media and journalists as it undermines their independence.
15. To enhance inclusiveness, the Law on Television and Radio Broadcasting should provide for a more diverse membership on the NCTR, for example by including media professionals and representatives of civil society.
16. The functioning of the public service broadcaster could be enhanced by:
- Lessening the role of the State in making appointments to its managing board.
  - Broadening the composition of the Council for Public Television and Radio by allowing a broader range of political parties as well as non-partisan groups to nominate members.

- Developing a neutral, objective and informative editorial line in all its programmes, and strictly adhering to the legal requirements.
- Providing voters a broader range of electoral information through a greater variety of formats.

17. The media-related complaints procedures should be enhanced to ensure transparency and improve access to stakeholders and the public. Consideration should be given to unifying relevant provisions in a single legal act. Granting two bodies the competence to rule on media-related complaints created some confusion regarding jurisdiction. Therefore, the NCTR should be the sole body responsible to monitor the media's general compliance with applicable legal provisions.

18. Candidates' campaign slots provided free of charge on public media should be broadcast after the main evening news, thereby enhancing voters' ability to learn about candidates' views.

## **H. ELECTION DAY PROCEDURES**

19. The prohibition on candidates (or persons acting on their behalf) promising money, goods or services to citizens during the pre-election campaign should be extended to include election day and the day before election day.

20. Consideration could be given to institute an alternative mechanism to prevent multiple voting. It is of potential concern that the stamping of voters' identity documents leaves a permanent record of citizens' participation as a voter, and may not be as effective in preventing multiple voting.

21. Currently, with the exception of hospitalized persons, all citizens wishing to vote must present themselves at a polling station and cast a ballot. No provision exists to allow homebound voters an alternative means of voting. A system should be put in place to enable all citizens to exercise their electoral rights and to vote with dignity. Any procedure should guarantee transparency, the secrecy of the vote, and the security of the ballot.

22. The responsibility of police officers on duty at polling stations to enforce provisions of the Election Code should be clarified (e.g. regarding prohibitions on campaigning outside polling stations or groups assembling within a 50-metre radius of a polling station on election day). Training of police officers in fulfilling their election day duties should be initiated.

23. The right of soldiers to choose whether to vote or not should be ensured in practice. In this regard, the CEC could consider conducting an information campaign targeting military voters.

24. To enhance transparency, PEC protocols should include as separate line items: the number of registered voters on the main list, the numbers of voters registered on any additional lists, and the number of voters registered on the day of the election.

25. The Election Code should provide guidance to TECs on the course of action in cases where election material arrives in unsealed packages.

26. All TECs should follow the same procedures for entering results in the networked results system.

#### **I. RECOUNT OF RESULTS**

27. The time for submitting recount requests should be extended to 18.00 hours on the day after the election. It should not be permitted to file a recount request before a PEC has completed the vote count. In the event that a TEC rejects a recount request, a formal decision of the TEC should be taken. To ensure that all recounts requested are conducted, it may be necessary to increase the time available for the task or to delegate it to the courts of general jurisdiction.

#### **J. COMPLAINTS AND APPEALS**

28. The recommendation of the Constitutional Court to review the legal framework for election complaints should be acted upon. Complaints and appeals procedures should be clear and detailed, including a clear demarcation of the respective jurisdiction of election commissions and courts and clarification where a complaint should be lodged in the first place. The right to appeal any decision to a higher level of the election administration or judiciary should be clearly established.

29. The Election Code should oblige the CEC to establish clear factual findings on every complaint; to briefly state what steps and actions have been undertaken to investigate the complaint; and to state their reasons for accepting or rejecting the complaint (in full or in part) and for making other findings and recommendations.

30. The Election Code should be amended so that the CEC does not announce final election results until after the expiry of all appeal deadlines and the hearing of all appeals by the competent court. The timeframe for legal appeals on the election results should be amended so that an appeal submitted after the first round is decided before a possible second round takes place.

31. The Election Code should specify which election offenses are ‘criminal’ and which are ‘administrative’. There should be consistency between the Election Code, the Criminal Code and the Administrative Procedures Act in this regard.

## ANNEX: FINAL RESULTS

The following information is taken from the CEC's protocol of final results:

<b>Item</b>	<b>Number</b>	
Number of voting participants	1.671.027	
Number of distributed ballot papers	2.390.000	
Number of cancelled ballot papers	720.303	
Number of invalid ballot papers	35.798	
Number of used ballot papers	1.669.678	
Number of valid ballot papers	1.632.666	
Number of ballot envelopes in the box	1.667.995	
Number of 'inaccuracies'	6.720	
<b><i>VOTES FOR CANDIDATES</i></b>		<b>Percentage</b>
Artur Baghdasaryan	272.427	16.69%
Artashes Geghamyan	7.524	0.46%
Tigran Karapetyan	9.792	0.60%
Aram Harutiunyan	2.892	0.18%
Vahan Hovhannisyan	100.966	6.18%
Vazgen Manukyan	21.075	1.29%
Arman Melikyan	4.399	0.27%
Serzh Sargsyan	862.369	52.82%
Levon Ter-Petrossian	351.222	21.51%

## 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)).