

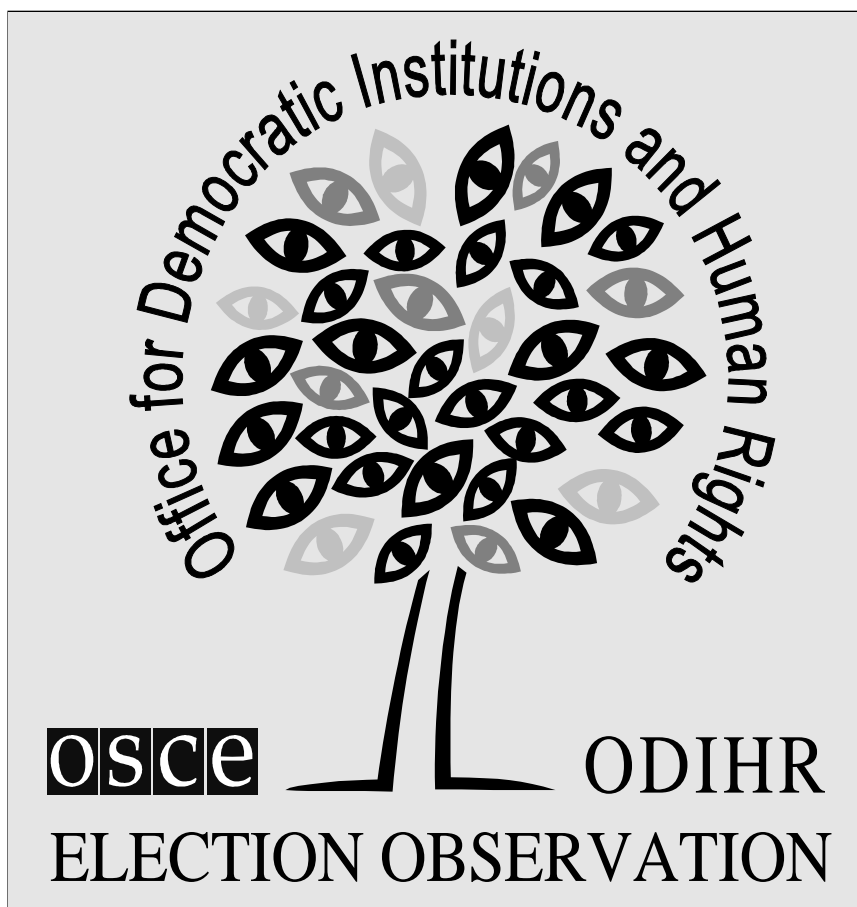


Office for Democratic Institutions and Human Rights

**REPUBLIC OF ARMENIA
PARLIAMENTARY ELECTION**

30 MAY 1999

FINAL REPORT



Warsaw
30 July 1999

TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. EXECUTIVE SUMMARY.....	1
III. LEGAL FRAMEWORK.....	3
A. General Outline	3
B. Election System.....	4
IV. PRE-ELECTION PHASE.....	4
A. Political Parties.....	4
B. Election Administration	6
1. Three-tier Administration.....	6
2. Appointment of new CEC and RECs.....	7
3. International Technical Assistance.....	8
4. Training of Election Officials	9
5. General Assessment of the Performance of Election Administration.....	10
C. Registration of Parties and Candidates.....	11
D. Voter Registration	13
1. Eligibility to vote.....	13
2. Voter Registration	13
E. Media.....	16
F. Election Campaign	16
G. Vano Siradegian’s Case	17
H. Domestic Observers	18
V. ELECTION DAY.....	18
A. General Impressions.....	18
B. Turnout.....	18
C. Voting.....	19
D. Voter Lists	20
E. Military Personnel Vote	21
F. Refugees	21
G. Vote Count	22
H. Tabulation and Publication of Results	23
1. Tabulation of Results in the RECs.....	23
2. Publication of Preliminary Results.....	23
I. Election Complaints and Appeals Process.....	24
VI. THE POST ELECTION PHASE	25
A. Publication of Final Result.....	26
B. Appeals Process.....	26
C. Repeat Elections.....	26
VII. RECOMMENDATIONS	27

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OSCE/ODIHR FINAL REPORT**

I. INTRODUCTION

Upon an invitation from the Ministry of Foreign Affairs of the Republic of Armenia to observe the parliamentary elections on 30 May 1999, the Organisation for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 19 April 1999.

Ms. Tone Tingsgaard, Head of the Swedish Delegation to the OSCE Parliamentary Assembly, was appointed by the OSCE Chairman-in-Office as his Special Representative to lead the OSCE short-term observers with regard to the OSCE observation of 30 May 1999 parliamentary elections in Armenia.

Mr. Nikolai Vulchanov, OSCE/ODIHR Election Advisor, was appointed by the ODIHR as Head of the ODIHR Election Observation Mission and Mr. Eugenio Polizzi as the Deputy Head, upon partial secondment by the Italian Government.

This Report is based on the findings of eight core staff members and twelve long-term observers who remained in the country until 4 June 1999. A follow-up team of two long-term observers remained in Armenia until 22 June 1999 and monitored the repeat elections in one constituency on 20 June 1999. The Report incorporates the observations of 168 short-term observers, led by Ms. Tingsgaard, from 25 OSCE participating States, including 24 Parliamentarians from the OSCE Parliamentary Assembly. On election day, the observers visited nearly 1,000 out of a total of 1,600 precincts in all eleven administrative regions of Armenia. The European Institute for the Media monitored the media during the pre-election campaign.

Ms. Tingsgaard, in conjunction with Mr. Vulchanov, issued an OSCE Preliminary Statement on 31 May 1999.

The Election Observation Mission wishes to thank the Ministry of Foreign Affairs of the Republic of Armenia and the Central Election Commission for their support and cooperation.

II. EXECUTIVE SUMMARY

The 30 May 1999 parliamentary elections in Armenia generally represented a step towards compliance with OSCE Commitments. While improvements were made to the electoral framework and the political environment, serious issues still remain to be addressed and further improvements are necessary. Compliance with a number of recommendations previously issued by the ODIHR and acceptance by election authorities of technical assistance provided by the international community indicated a

political willingness to improve previous electoral practices. However, a number of key electoral improvements were not implemented.

Freedom of association, freedom of assembly and freedom of expression were respected and no cases of political repression were reported to the EOM. Previously banned political parties were readmitted to the political arena and the legal framework was not abused to exclude political parties from the electoral competition. Whether the observed improvement of the election environment is a product of general acceptance of genuine democratic procedures, whereby the competing parties offer the electorate informed alternatives in a transparent political context, must be assessed during the mandate of the new Parliament.

The new Electoral Code (the Code) is an improvement over prior legislation and incorporates a number of OSCE recommendations. However, several concerns raised by the ODIHR well before the elections, were confirmed during the pre-election phase, as well as on election and following days.

The elections were conducted in a generally peaceful and orderly manner, for the most part free of intimidation. The pre-election campaign was calm with no major violations of the rules for campaigning reported to the EOM. The platforms of most political parties competing in these elections were substantially similar, making it difficult for the electorate to choose. Competition was mainly among personalities rather than political platforms.

According to the European Institute for the Media, no major violations of the media regulations occurred during the pre-election period. The coverage of political parties on State TV and other media was generally balanced and largely neutral. The state media fulfilled its obligation to provide political parties with free and low-priced print space and broadcast time.

A number of serious concerns remain to be addressed, including:

- the formation of election commissions and the status of their members;
- the accuracy of voter lists;
- full respect of the election time table;
- all procedures relating to the vote of military personnel;
- the participation of refugees in the electoral process;
- the presence of unauthorised personnel in precincts during polling and counting procedures; and
- the timely, orderly and transparent conduct of the vote count in precincts as well as the tabulation and publication of results by Regional Election Commissions and the Central Election Commission.

The Armenian authorities are urged to address these concerns, so that in the future all Armenian citizens may be able to participate in elections with full confidence.

While the 1999 electoral process in Armenia generally showed an improvement over the flawed elections of 1995, 1996 and 1998, the previous elections are not an adequate

basis for comparison. The only proper criterion to assess the election process is compliance with the OSCE Commitments as formulated in the 1990 Copenhagen Document. In this regard, more improvements must be implemented.

III. LEGAL FRAMEWORK

A. General Outline

The election process was governed by a new Code approved by the National Assembly on 5 February and amended on 23 March 1999. This is a comprehensive legislation covering the presidential, parliamentary and local elections. The first part defines general provisions for all elections. The second part considers in separate sections the election of the President, the deputies to the National Assembly and the local self-government bodies. The third part defines liabilities for violations of the code and includes transitional rules.

With a Memorandum of Understanding signed on 24 November 1998, the Republic of Armenia accepted to seek the OSCE/ODIHR assistance during the drafting of a new election legislation. However, the Armenian authorities did not follow-up on this commitment and, despite formal steps undertaken by the ODIHR to implement the agreed commitment, the draft Code was never submitted to the ODIHR for comments prior to adoption. Nonetheless, the OSCE/ODIHR provided, on its own initiative, initial comments on the Code as signed by the President on 17 February 1999.

The Code is a considerable improvement over the previous election legislation of Armenia. It complies, in part or in whole, with some of the recommendations of the Final Report of the OSCE/ODIHR Election Observation Mission for the March 1998 Extraordinary Presidential Elections. Thus, one of the tiers of election administration (the Community Election Commissions) was abolished and the Code provides for the accreditation of domestic non-partisan observers.

However, some provisions of the Code and its implementation raise considerable concerns, including:

- the composition of election commissions at all levels, the status of commission members, the continuity of the work of the commissions, and the appointment of technical staff to the Central and Regional Election Commissions;
- the lack of transparency in a number of election procedures;
- the presence of unauthorised persons in election commission premises during electoral procedures;
- the registration of and voting by military personnel;
- the complexity of election procedures;
- the vague provisions regarding the filing of complaints and resolution of disputes; and
- the inadequate protection of due process of law.

Additionally, a violation of the constitutional provisions during the adoption of the Code raised serious concerns and was the principal factor resulting in a boycott by

some political forces. The Code, adopted by the National Assembly on 5 February, was signed by the President on 17 February and published in the Official Journal. A number of amendments to edit the text were subsequently published in the Official Journal without a Parliamentary vote or consideration. None of the political parties met by the EOM contested the substance of these modifications, which according to them, aimed at correcting inconsistencies of the Code. Nonetheless, the amendment process contradicted the Constitution.

B. Election System

According to the Electoral Code, 75 seats out of 131 were to be allocated by a first past the post (FPTP) system based upon single mandate constituencies. The successful candidate in each constituency would be the one who received the highest number of votes, provided the number of inaccuracies established during the ballot count was less than the margin of votes cast for the first and second strongest candidates. The Code provides for the possibility of one candidate to contest a single mandate constituency. In this situation, the candidate is elected if he/she receives more than half of the votes cast, that is a number greater than the votes cast “against” and invalid.

Additionally, 56 seats were to be allocated by a proportional system, based upon national party lists, where the whole country was considered as a single electoral area. Seats would be allocated based on a method of the largest remainder. Mandates would be allocated to electoral subjects that received at least 5% of the total of valid votes and inaccuracies. The Code required no minimum voter turnout for the election to be valid.

The 75 constituencies were formed on the basis of 30,000 (+/-15%) electors per constituency. In many cases, constituencies were formed by merging two neighbouring ones from the 1995 National Assembly elections, when out of a total of 190 seats, 150 were contested in single seat constituencies.

Other aspects of the new Code are discussed throughout this report.

IV. PRE-ELECTION PHASE

A. Political Parties

During the pre-election period, freedom of association and freedom of assembly were respected and no cases of political repression were reported to the EOM. Political parties banned from participation in previous elections were readmitted to the political arena. Each party had the possibility to campaign through the printed and broadcast media, as well as through public rallies, assemblies and discussions.

In many cases, political party platforms were not different in substance, making it impossible to draw a clear dividing line between opposition and pro-Government parties. In many cases, the public credibility of a particular political party appeared to depend on the personal credibility of its leaders.

Almost all parties included in their pre-election platforms the stated wish to improve

substantially the election process in Armenia. Shortly before the election, the President of the Republic also issued a statement urging all institutions and political parties to respect the law and to implement properly the election legislation.

Four major groups of political parties could be distinguished in Armenia:

- *Traditional parties* (e.g. the Armenian Revolutionary Federation - Dashnaksutiun, ARF; and the Liberal Democratic Party – Ramkavar). These parties, with historical ideologies, emerged in Armenia at the end of the XIX century and played an important role during the period of pre-Soviet independence of the country (1918-1920). After the inclusion of Armenia in the Soviet Union, the activities of traditional parties were prohibited in the country. However, they continued abroad and after the declaration of independence in 1991 resumed their activities in Armenia.
- *Post-independence parties* (e.g. Armenian National Movement, National Democratic Union, Union of Self-Determination, the Constitutional Rights Union, Mission, etc.). The vast majority of the post-independence (1991) parties in Armenia emerged from human rights and environmentalist, informal and dissident movements, as well as from the “Karabakh Committee” set up in 1988.
- *Splits from the Communist Party of the Armenian Soviet Socialist Republic* (e.g. the Communist Party of Armenia, the Alliance “Union of Communist and Socialist Parties”, etc.). These parties were also set up after independence in 1991 and refer to the Marxist ideology. The CPA views itself as the successor of the Communist Party of the former USSR in Armenia.
- Newly created parties or alliances (e.g. the alliance “Right and Unity”, the “Dignified Future” party, the Alliance “Unity”, the “Rule of Law” party, etc.). All of these parties/alliances were created relatively recently, during the long-term preparations for the 30 May 1999 elections. Some of them were closely linked to members of the outgoing Government, and were openly supported by prominent figures from the political establishment.

According to many local analysts, the Unity Alliance¹ appeared to be the largest

¹ The Unity Alliance was created on 20 March 1999 after a merger between the People’s Party of Karen Demirchian and the Republican Party informally led by then Minister of Defense Vasgen Sarkissian. The People’s Party was created after the 1998 extraordinary presidential election by Mr. Demirchian, former first secretary of the Communist Party of the Armenian Soviet Socialist Republic and former independent candidate in the 1998 presidential elections who was defeated during the second round by the current President of Armenia. The Republican Party was part of the ruling coalition before the 1998 presidential elections. After the 1998 elections, it left this coalition and in March 1999 was joined by a large number of parliamentarians from the Yerkrpah block which held a majority of the outgoing parliament.

According to statements of both parties, the background of the “Unity” Alliance was a common platform supporting democratic society, the rule of law, economic reforms, market economy and privatisation. In addition, they underlined that this alliance was not only created for electoral purposes, but that a strategic political agreement had been reached while overcoming ideological differences.

The members of the Alliance stressed, as well, the importance of the forthcoming elections to be “free and fair”. Some representatives mentioned that the two parties decided to ally in order “to avoid serious competition which would have no other consequences than dividing the Armenian

political force in these elections, followed by the Communist Party of Armenia, the ARF and the “Rule of Law” party.

B. Election Administration

1. Three-tier Administration

The Code established a three-tier election administration including a Central Election Commission (CEC), Regional Election Commissions (REC) and Precinct Election Commissions (PEC).

i. Central Election Commission (CEC)

According to the previous legislation, the CEC consisted of 20 members appointed by parties represented in the National Assembly. The “old” CEC was to stay in office until the completion of the registration of candidates for the 30 May 1999 elections, on 25 April 1999. On 27 April 1999, based on the results of the registration of political subjects contesting the proportional elections, a “new” CEC consisting of 13 members was formed, based to the following rule:

- three members appointed by the Government;
- five members appointed by parties that had parliamentary factions in the outgoing Parliament and had collected at least 30,000 valid signatures;² and
- five members appointed by parties without parliamentary factions that collected the highest number of signatures above the minimum 30,000 in support of the nomination of their party for the 30 May parliamentary election.

The CEC bears overall responsibility for the preparation and conduct of the election process and its decisions are binding for state and local self-government bodies. In particular, it is responsible for the allocation of funds for the elections, for guaranteeing equal opportunity for campaigning through the media, for the formation of the 75 single-seat constituencies, for the design of ballot boxes, stamps, ballots and other election documents, for the issuance of instructions regarding the implementation of the Code, for establishing procedures to verify and correct voter lists, for the accreditation of proxies and observers, for the registration of political subjects for participation in the proportional elections, and for the publication of results in the proportional elections.

ii. Regional Election Commissions (RECs)

Eleven RECs were formed based on the administrative division of the country, which includes ten regions and the city of Yerevan. The number of single-seat constituencies

nation”. Party representatives said that the main reason for this coalition was to unite people through an agreement between two popular leaders for the sake of the nation.

According to other parties, this was an alliance between a popular political figure (K. Demirchian) and a power structure (the Yerkrpah block which joined the Republican Party).

² The number of CEC members appointed under this provision can vary according to the number of factions in the parliament and can be a source of difficulties in the future.

allocated to each REC varied substantially – 25 single-seat constituencies in Yerevan City and only one constituency in Vayots Dzor Region.

The RECs are established following the same procedure and timeframe as the CEC.

RECs are responsible for the registration of candidates for the majority system, as well as for the preparation and the conduct of elections of single-seat constituencies. They serve also as an intermediate tier between the precincts and the CEC for the proportional election. RECs are responsible for summarizing the proportional election results for their area, for forwarding these partial results to the CEC, and for announcing the results of the single-seat constituencies within their territory.

iii. Precinct Election Commissions (PECs)

For the organisation of the vote and the vote count, the territory of each municipality is divided into precincts, numbered consecutively. Over 1,600 precincts were established, each with not more than 3,000 registered voters.

Each precinct is administered by a Precinct Election Commission. The PECs are appointed by the respective RECs. Each REC member is entitled to appoint one member of the PEC in each precinct. For precincts with less than 700 registered voters, the PEC consists of nine members, and for precincts with more than 700 voters, the PEC consists of 11 members.

PECs are responsible for the conduct of the vote, the counting of ballots and the preparation of the PEC protocols for both the proportional and the single-seat constituency elections.

2. Appointment of new CEC and RECs.

All five parties with parliamentary factions succeeded to collect the required minimum of at least 30,000 valid signatures. Their lists were registered by the CEC and the parties were therefore able to appoint each one representative in the CEC and in each of the 11 RECs (see left column below). The five parties without parliamentary factions that collected the highest number of valid signatures and enjoyed the right to appoint a representative in the CEC and the RECs are listed in the right column.

Parties with factions in National Assembly

Armenian National Movement (HHS)
Union of Self-Determination (AIM+)
Women Party (Shamiram)
Communist Party of Armenia (HCK)
National Democratic Union (AZM)

Parties without factions in the National Assembly

Unity Alliance (Miasnutyun Dashink)
Powerful Fatherland (Hzor Hayrenik)
Rule of Law Party (Orinats Yerkir)
Fatherland Alliance (Hayrenik Dashink)
Armenian Revolutionary Federation (ARF)

During the first session of the “new” CEC, Artak Sahradyan, a government appointee, was elected as Chairman, the Communist Party of Armenia representative and member of the “old” CEC Vania Mkrchian was elected Deputy Chairman, and Armenuhi Zohrabyan, also a government appointee and Secretary of the “old” CEC, was re-elected as Secretary.

The RECs were required to elect the executive officers (the Chairperson, the Deputy and Secretary). In two RECs (Kotaik and Tavush Regions), the Chairmen initially elected resigned shortly thereafter. Following a second vote, Government representatives were elected as Chairmen. In a third REC (Siunik Region), the election of the Chairman was ruled invalid by a court and, in accordance with the Code, the Government re-appointed the initially elected Chairman. This REC was the only one chaired by a party representative (USD). The other ten RECs were chaired by Government representatives.

3. International Technical Assistance

Three major projects providing technical assistance to the Armenian authorities in relation to the 30 May elections were implemented before election day.

Based on a Memorandum of Understanding between the Republic of Armenia and the ODIHR, an OSCE/ODIHR Technical Assistance Team was deployed in Yerevan to prepare, together with the CEC, a Guidance Manual for the RECs and to train them. The purpose of this effort was to develop efficient, reliable and transparent procedures for the orderly performance of the RECs after the closure of polls.

The International Foundation for Election Systems (IFES) also provided significant assistance to the election administration in Armenia. The IFES Team concentrated on the preparation of a manual for PECs covering activities on election day and on the training of PECs throughout the country.

The United Nations Development Program (UNDP) implemented a large-scale technical assistance project to help the Armenian authorities to improve the quality of voter lists. The project, implemented in co-operation with the CEC, proposed to enter into a computer database the voter lists, as prepared by local self-government bodies in accordance with the respective provisions of the Electoral Code. Multiple records and other errors were to be identified and submitted through the CEC and RECs to local authorities before they finalised the voter lists. UNDP also provided a software package for the tabulation of election results at regional and central levels. The software was intended to include safeguards against the manipulation of results once entered in the system.

Additionally, voter education programs were implemented by IFES and UNDP, directly or through local NGOs, with posters, TV and newspaper advertisements or spots, as well as seminars for military voters, judges and others with responsibility in the electoral process.

The National Democratic Institute (NDI) focused on proxy training, organising specific seminars and the publication of a booklet outlining the rights and duties of proxies and observers according to the code and CEC regulations.

The NDI and UNDP were also involved in the training of domestic non-partisan observer groups.

4. Training of Election Officials

In general, the preparation of REC personnel was insufficient, mainly due to the late appointment of “new” commissions. While in accordance with the law, these late appointments resulted in a delay of orderly preparations for the election. According to observer reports prior to polling day, except for the Yerevan REC, the other RECs did not raise substantial concerns regarding preparations for their activities on the day of elections. However, technical equipment was either not supplied until 27 May or was supplied in insufficient quantities. The overall level of preparedness of the Yerevan REC raised serious concerns that were shared with high-level Armenian authorities.

The Code required all RECs to have the same number of members, although they had a varying number of precincts and constituencies. In Yerevan City, there were 25 constituencies with 306 precincts, while in Vayots Dzor Region there was only one constituency with 39 precincts. This indicated the potential for serious problems, unless appropriate logistic solutions were worked out, well in advance, *vis a vis* the specific obligations of RECs regarding the tabulation of election results. The capacity of the largest REC in Yerevan City, to supervise the preparation of voting procedures and to conduct an accurate tabulation of the results from polling stations, within legal deadlines, was questioned by the EOM at the earliest possible stage. The EOM communicated potential problems to Armenian authorities. However, attempts to remedy the situation did not lead to substantial results.

The CEC reacted belatedly to attempts by the international community to assist in the preparation of the elections. Initially, the CEC did not respond appropriately to initiatives of the OSCE/ODIHR Technical Assistance Team. Only after a working group of CEC members was appointed to work with the Team did matters start to develop in a satisfactory way. The CEC endorsed formally the OSCE/ODIHR Guidance Manual only 10 days before polling day, thus seriously endangering the training of RECs on the procedures formulated in the Manual. Regardless of the compressed timeframe, all RECs were able to participate in the training. However, the training session in Sissian, for the RECs of Siunik and Vayots Dzor, could not take place as none of the members of these RECs showed up for the training. The session was rescheduled and took place after a direct intervention by the CEC.

The IFES training Manual for the PEC members was not formally endorsed by the CEC. Nevertheless, IFES trainers organised extensive training sessions for the PECs all over the country and succeeded to train over 1,000 PECs with the participation of members of the respective RECs. Only the Yerevan REC refused to organise training sessions for the Yerevan PEC officers. All RECs facilitated the distribution of the IFES Manual to PECs in their regions, including Yerevan.

5. General Assessment of the Performance of Election Administration

In accordance with the provisions of the Code, the staff of the CEC and the RECs, changed on 27 April 1999 from the “old” composition to the “new”. The “old” CEC and RECs were responsible, among others, for the registration of parties and candidates. The “new” CEC, RECs and PECs were formed about a month before election day. The switch from an “old” election administration to a “new”, in the middle of a pre-election period, raised concerns. The “new” election administration could not have the experience and adequate time to properly prepare the election.

Although there was some degree of continuity between the “old” and “new” CEC as seven members of the “old” CEC were re-appointed, precious time was lost until the “new” CEC was in complete control of election preparations. On a number of occasions, technical and organisational shortcomings indeed prevented the election commissions from meeting important deadlines and compromised the uniformity and transparency of the process. Frequently, the CEC issued decisions which merely repeated the legal provisions instead of clarifying relevant aspects for implementation. The late adoption of new regulations, some as late as Friday 28 May, as well as frequent amendments to recently approved decisions, hampered the predictability of the election environment and produced confusion among the electorate and candidates.

However, the CEC adopted a number of positive measures. Twelve domestic non-partisan observer NGOs were accredited by the CEC. The formal endorsement of a training manual for the RECs prepared by the OSCE/ODIHR Technical Assistance Team and the introduction of unique badges to distinguish personnel authorised by the Code to be present in polling stations were positive.

Although without formal endorsement, the CEC adopted also a UNDP software for the computerisation of voter lists and a tabulation software for the RECs, as well as an IFES manual for the training of PECs regarding their activities on election day. The absence of formal endorsement resulted in a non-uniform and frequently non-transparent performance of the RECs and PECs.

In general, the CEC approved a number of positive measures, but in some cases it was reluctant to issue timely and adequate clarifications on the practical implementation of certain legal provisions in order to ensure uniform and transparent election procedures across the country. Examples of positive decisions include the control of campaign expenditures by parties, on the update of voter lists, on the exclusion of refugees from voter lists, and on the timely endorsement of the REC Guidance Manual.

The premises of some election commissions were not selected in accordance with at least the spirit of the Code. Thus, the Yerevan REC was located in a building housing the campaign headquarters of the “Dignified Future” Party. The Ararat REC was located in the Regional Administration building (a local branch of the Central Government).

The formation of precincts was not completed within the legal deadlines. The RECs and the CEC were still updating the list of precincts until the very last moment before election day. The appointment of some PECs was also delayed.

The nominating parties' right to recall PEC members appeared to have taken place on a large scale. Thus, the control of parties on the election administration hampered their professional and independent performance, particularly at the PEC level.

The production of ballot papers and their delivery from the RECs to precincts was difficult to verify as it was conducted in a highly non-transparent manner. Due to problems relating to the preparation of voter lists and consequently the impossibility to determine the number of registered voters, the EOM could not ascertain if the legal requirement to deliver to the precincts a controlled number of ballots were respected (1.05 times the numbers of registered voters). However, according to data released by the CEC, in one precinct (No. 72), contrary to the requirement of the Code, 21 polling stations received ballots equal to the number of registered voters, 11 polling stations received fewer ballots than registered voters, and seven polling stations received more ballots than registered voters.

C. Registration of Parties and Candidates

The registration of parties, alliances and candidates was one of the most important and final responsibility of the "old" CEC.

Parties and electoral blocs had to collect at least 30,000 valid signatures in order to register in the proportional system election. This number was increased from 10,000-12,000 applicable during the previous parliamentary elections. The required number is high also when compared to the 25,000 required for the registration of a candidate for the Presidency under the old legislation. Candidates in the single-seat constituency election require at least 500 valid signatures to be registered. In both cases, an "electoral deposit" is required. The deadline for nominating candidates and parties for the proportional list was 30 March 1999, and for to the single seat constituencies, 5 April.

The collection of signatures is a measure to prevent the participation of frivolous candidates in an election while preserving the open character of an electoral contest. Each voter should sign in support of only one party/alliance or candidate. The implementation of this provision should include a systematic check of signatures collected by the parties and candidates. None of these requirements was respected either by the legislation or in its implementation.

The validation of signatures took place during April 15-25. The "old" CEC was required to verify a 2% "pseudo-random" sample of signatures submitted, through door-to-door visits, interviews with signatories, and controls of ID papers. The sample amounted to approximately 55,000 interviews to be completed in 10 days by 20 CEC members - a huge task, practically impossible to implement. The results of this sample verification were then extrapolated on the complete set of signatures for each of the parties.

The number of signatures collected by the competing parties and the number of valid signatures after the verification procedures are listed in the following table:

N	Party or Alliance	Number of signatures submitted	Number of validated signatures	Number of invalid signatures
1	Unity Alliance (People's Party + Republican Party)	466,174	464,560	32
2	Powerful Fatherland (Hzor Hayrenik) Party (Vardan Vardapetyan)	341,741	341,141	12
3	Rule of Law (Orinats Yerkir) Party (Arthur Baghdasaryan)	332,774	331,594	23
4	Fatherland (Hayrenik) Alliance (Edvard Yegoryan)	295,673	295,173	10
5	Armenian Revolutionary Federation Dashnaksutyun (Vahan Hovhannisyan)	198,526	180,366	360
6	Ramkavar Azatakan Party of Armenia (Harutyun Karapetyan)	190,562	171,812	375
7	Right and Unity Alliance (Artashes Geghamyan)	141,819	140,869	19
8	Azatutyun (Freedom) Party (Hrant Bagratyan)	122,929	121,229	34
9	Democratic Party of Armenia (Aram Sargsyan)	83,993	83,393	13
10	National Democratic Union (Vazgen Manukyan)	70,000	70,000	0
11	Union of Socialistic Powers and Intellectuals Alliance (Loris Kalashyan)	60,008	60,008	0
12	Union of Communist and Socialist Parties» Alliance (Vazgen Safaryan)	54,809	52,059	55
13	Communist Party of Armenia (Sergei Badalyan)	50,637	50,337	6
14	Youth Party of Armenia (Sargis Asatryan)	50,056		10
15	Decent Future Party (Lyudmila Harutyunyan)	48,247	47,947	6
16	National State Party (Samvel Shahinyan)	45,502	45,302	4
17	Azat Hayk Mission (Ruben Mnatsakanyan)	41,016	38,866	43
18	Shamiram Party (Sogher Matevosyan)	39,076	38,626	9
19	SDU +(Paruyr Hayrikyan)	38,099	37,699	8
20	Arakelutyun (Mission) (Arthur Papoyan)	36,728	36,428	5
21	Armenian National Movement (Vano Siradeghyan)	36,191	34,791	8

Source: CEC Decisions of 25 April 1999, Protocol 18, Points 1-21.

The overall registration procedure for parties and candidates was tolerant but not transparent. The lack of transparency in the procedures to collect signatures of supporters and the verification of these signatures raise serious concerns.

Fifteen parties and six blocs of parties, applied to contest the proportional elections by national list, fielding over 1,000 candidates on party lists that varied from just a few to over 150 candidates each. All twenty-one parties and blocs that applied were registered on 25 April 1999 by the CEC.

By 5 April 1999, candidates for deputies of single-seat constituencies had to submit their applications to RECs. The RECs were responsible to verify signatures according to the same procedure as for the proportional system. Only the Unity Alliance fielded candidates in most of the 75 constituencies. Many candidates in the single seat constituencies ran as independent, nominated by initiative groups of citizens. It was possible to stand as candidate both in a single seat constituency and in a proportional list. Overall, 717 candidates were registered by the RECs.

D. Voter Registration

1. Eligibility to vote

According to the Constitution and the Code, citizens of Armenia who attain the age of eighteen years are entitled to participate in the government of the state directly or through freely elected representatives. Citizens found incompetent by a court ruling, or duly convicted for a crime and serving a sentence may not vote or be elected. Elections are held through a universal, equal, and direct suffrage. Any restriction of the right to vote or be elected on account of nationality (ethnic origin), race, gender, language, religion, political affiliation, social origin, property or other status is prohibited by law. Citizens of Armenia who have the right to vote, participate in elections directly, by the expression of free will and on a voluntary basis.

2. Voter Registration

The Code requires that the names of all eligible voters be entered in **precinct voter lists** and appear only on one precinct list. On election day, one could not vote if his/her name were not included in the appropriate voter list. The only exception to this rule was when a voter obtained a court decision to be included on the voter list of a specific precinct. In such case, the voter name was entered in an additional voter list.

The particular precinct where a voter could register was determined by his/her registration of residence, known popularly as the “propiska”, at the local department of OVIR (Department of Visa and Registration at the Ministry of Interior). While formerly the “propiska” was a means to restrict the freedom of movement of citizens of the USSR, the current use of “propiska” merely determines the address where the state can contact the individual citizen, should such a need arise. The “propiska” is also used to determine the right to use certain property.

The “propiska” is a mandatory notice in the passport of citizens of Armenia and the procedures to obtain or change the “propiska” are determined by relevant government regulations. However there are cases when a citizen can be refused registration or “propiska”. To tackle such cases, the Code provides for the registration of voters solely on the basis of his/her permanent or temporary residence (factual residence).

While permanent residence should always be reflected in the passport, the rule for temporary residence is somewhat vague. It is not clear from the regulations whether any temporary residence is ever reflected in the passport.

Draft voter lists were required to be compiled by community heads and displayed on the territory of each precinct 40 days before polling day for inspection by voters. Voters could submit corrections to the voter lists not later than 5 days before election day. After the deadline, voter lists could be amended only following a court decision. Supplementary voter lists are prohibited. The elimination of flexible voter registration on election day based on identification papers, represents a remarkable improvement over previous practice noted in the OSCE/ODIHR Final Report on the 1998 Presidential election.

While in many places the draft voter lists were properly displayed within the legal deadlines, there were numerous observations that the lists were not displayed but kept in safes to prevent damage or were displayed with delay. Some of the lists were hand written, others were typed and still others were computer printouts. There were cases when a voter list was made of xeroxed, hand-written and typed pages. In a number of cases, the lists were not properly signed and stamped by the responsible municipal officials. There were reports by political parties of widespread inaccuracies in the lists. The numbering of names was sometimes sequential and sometimes missing. In Echmiadsin (Armavir Region) each street had its own numbered list. In some precincts, the number of registered voters exceeded the legal limit of 3,000.

In a number of cases, observers established discrepancies between the number of registered voters according to the CEC data and the numbers observed in the field:

Precinct	CEC Data	OSCE/ODIHR Observations
0578/36 (Armavir)	1,376	809
0560/35 (Armavir)	1,914	1,695
0256/21 (Yerevan)	2,821	1,014
0255/21 (Yerevan)	3,030	2,446

The CEC attempted to regulate the procedures for the preparation of voter lists. However, the CEC decision to regulate these activities issued on 16 March 1999 only repeated the provisions of the Code. A later decision on the same issue, reached during the second half of May was challenged in court by the representative of the NDU in the CEC. Before the Court could reach a decision, the CEC cancelled its own regulation. Finally, the only CEC regulation that remained in force, was the 16 March 1999 decision.

There is clear evidence that municipal officials failed to compile accurate voter lists and the election commissions failed to supervise the process effectively. However, the accuracy of voter lists depends not only on the performance of public authorities but also on the degree to which citizens fulfil their obligation to report changes of address and civil status.

Citizens of Armenia **residing out of the country** have the right to vote. In accordance with the procedures set by the Code and by the CEC, diplomatic and consular missions

of the Republic of Armenia guarantee the realisation of the electoral right of Armenian citizens abroad. Out of country polling applies only to the proportional system.

Military personnel are registered in regular voter lists unless the military base is located more than 50 kilometres away from the closest precinct. Commanders have to communicate the number of military personnel to the community heads before they set up a precinct and submit the names of military voters five days before polling day. Permanent military staff, including their families, are not obligated to change their “propiska” when moved from one military base to another. This provides an opportunity for multiple voter registration and inflation of voter lists. If a military unit is located 50 or more kilometres away from the nearest settlement, special voter lists are to be compiled by the chief of the military unit, and submitted to a relevant REC 20 days before voting day. A special precinct is established in such units with a PEC to organise the voting and counting.

Citizens under detention but not yet convicted are entitled to vote, although only in the proportional elections. To this effect, precincts are organised in the detention facility. The Head of the detention institution, together with the relevant REC, compile the voter list 3 days prior to polling day. Two copies of the lists are forwarded to the respective PEC Chairperson no later than two days before polling day.

According to the Armenian Constitution, the Code, and the newly approved law on refugees, **refugees** did not have the right to vote, since they are not citizens of Armenia. However, they could apply to receive Armenian citizenship, which is granted routinely.

The old Soviet passports are still in use, in addition to new Armenian passports that have been issued to more than 1.5 million citizens who have reached the age of 16. The validity of old passports was extended until 1 July 1999. However there were indications that this deadline may be extended further, until the issuance of new passports is completed. Refugees, mainly from Azerbaijan, with old passports could obtain a “propiska” based on their new residence in Armenia. Thus, contrary to the Code, refugees were able to register to vote based on their Soviet passport and current “propiska”.

There were 2,201,452 **registered voters** according to final data released by the CEC. However, the CEC failed to publish the number of registered voters in a timeframe provided by law and prior to the election, denying voters and political parties necessary information on this basic element in an election contest.

The total number of registered voters seems highly inflated as it includes a significant number of refugees and duplicate records. According to data from the UNDP and the Department of Refugees at the Ministry of Social Security, the number of refugees of voting age can be reliably estimated between 200,000 and 250,000. The number of duplicate records, according to a UNDP assessment, should be around 100,000. Many local interlocutors communicated to the EOM concerns that the voter lists included at least 500,000 names of Armenian citizens who reside permanently out of the country. According to UNDP, this figure is even higher. However, the Code requires that the names of voters who have left the country be included in the voter register.

E. Media

The European Institute for the Media (EIM) monitored the media coverage of the 30 May 1999 parliamentary elections in Armenia during the four weeks immediately before the elections. The EIM sought to evaluate whether the media provided impartial and balanced coverage of political parties in the pre-election period and the political choices facing the electorate. It also monitored adherence of authorities and political parties to the existing legislation and recognised international standards concerning the media.

According to the EIM, no major violations of the Electoral Code and relevant CEC regulations occurred during the pre-election period. Minor violations and inadequacies were recorded which did not seem to impact on the overall coverage of the campaign. The level of professionalism in relation to election coverage was assessed as considerably higher than in previous elections.

The coverage of political parties on State TV and other media was generally balanced and largely neutral. Majority system candidates were not entitled to free airtime, but had no restrictions on paid airtime, an opportunity that was used for campaign purposes.

The state media fulfilled their obligation to provide political parties with free and low-priced space and broadcast time. However, there was a tendency on the part of some media to generate income during the election campaign. In particular, the practice of broadcasting special programs and interviews in which candidates paid to participate was misleading to the public, as the distinction between paid and free air-time was not always clear. Contrary to regulations for the funding of political party campaigning, alleged barter deals between certain media and candidates were reported to the EOM.

The ARF, the Unity Alliance, the Rule of Law Party and the Rights and Unity Alliance received overall the most coverage in all broadcast media during the monitored period. The most active advertisers were the Rule of Law party (23 hours), ARF (over 22 hours) and Unity (over 18 hours). News and information programs led with reports on Unity (nearly 4 hours), Rule of Law (3.5 hours) and ARF (nearly 2 hours). Coverage of the Armenian National Movement was particularly intense during the first week of the election campaign when attention was focused on the detention of its leader, former Minister of Interior V. Siradeghian, accused of a high criminal offence (see details below).

F. Election Campaign

Parties and candidates could campaign through the printed and broadcast media, by posters and meetings with electors. The Code stipulated that parties and candidates enjoy equal conditions for campaigning in the media. Candidates and parties could establish election funds under the control of the CEC. Anonymous campaign materials were not allowed. Campaigning in public buildings was prohibited.

All political forces appeared to enjoy an adequate opportunity to represent their points of view through the printed and broadcast media, via posters, rallies and other meetings with the electorate. Freedom of assembly, association and expression were respected. Parties, candidates and citizens were able to campaign openly in an environment generally free of intimidation. Even those few parties and individuals who chose to boycott the elections were able to promote their point of view.

The election campaign of political parties was relatively quiet. Rallies were not attended by the electorate in large numbers. In some cases, municipal authorities organised meetings of several candidates with electors. Isolated but disturbing instances of use of state resources and illegal campaigning were reported. In the Siunik Region, observers reported that public employees were instructed by local authorities to attend a rally of the Unity Alliance. Observers in the Ararat Region reported that school children in uniform with their teachers attended a rally of the Alliance and were allegedly made to participate by local authorities. In the Ararat region, the newspaper of the regional authority openly campaigned in favour of the Unity Alliance.

Campaign posters were seen on public buildings and precinct premises in violation of the Code.

The campaign headquarters of the Dignified Future Party were in the same building as the premises of the Yerevan REC, and the headquarters of the Unity Alliance were in the building of the Chairmanship of the Armenian Academy of Sciences. When questioned by observers on the arrangements to use this building, Unity representatives explained that they rented these premises. Nonetheless, the presence of party campaign headquarters in a state building violated at least the spirit of the Code.

G. Vano Siradegian's Case

Vano Siradeghian, former Interior Minister, Chairman of the Armenian National Movement (ANM) and candidate of this party both on the majority system and on the party ticket, was arrested on 3 May at the Yerevan airport upon arrival from abroad. He was held in custody for 96 hours. No requests from the Office of the Prosecutor General was addressed to the respective election commissions to lift his immunity as candidate, although he was accused of high criminal offence. The CEC, prompted by the ANM, submitted a written request to the General Prosecutor, to shed light on the police action. The General Prosecutor released an interview, claiming that this temporary measure did not violate Siradegian's status as a candidate. After the expiry of the legal period for detention, Siradeghian was released, continued his electoral campaign and was elected as member of the new Parliament.

Siradeghian's arrest infringed upon the immunity enjoyed by candidates who, according to the Code, could not be arrested without prior authorisation of election authorities.

H. Domestic Observers

Party/candidate proxies, media representatives, domestic non-partisan observers and international observers were entitled to monitor all stages of the election process. After receiving accreditation by the CEC not later than 10 days before polling day, they had access to all meetings of any election commission and were entitled to receive copies of all election related documents.

International observers received indications that some of the domestic non-partisan observer groups, accredited by the CEC, were linked to political parties. “It is Your Choice” (IYC) Project had the highest profile. The Project was supported by NDI. According to observer reports, the presence of IYC in the regions varied from high in some of the large towns to very low in other parts of the country. The management team for the Project was experienced and well aware of the Electoral Code. The IYC Project succeeded to field approximately 2,000 observers.

The legal possibility for accreditation of domestic non-partisan observers to monitor the elections, as well as its generally tolerant implementation by the CEC, are important improvements of the election process.

V. ELECTION DAY

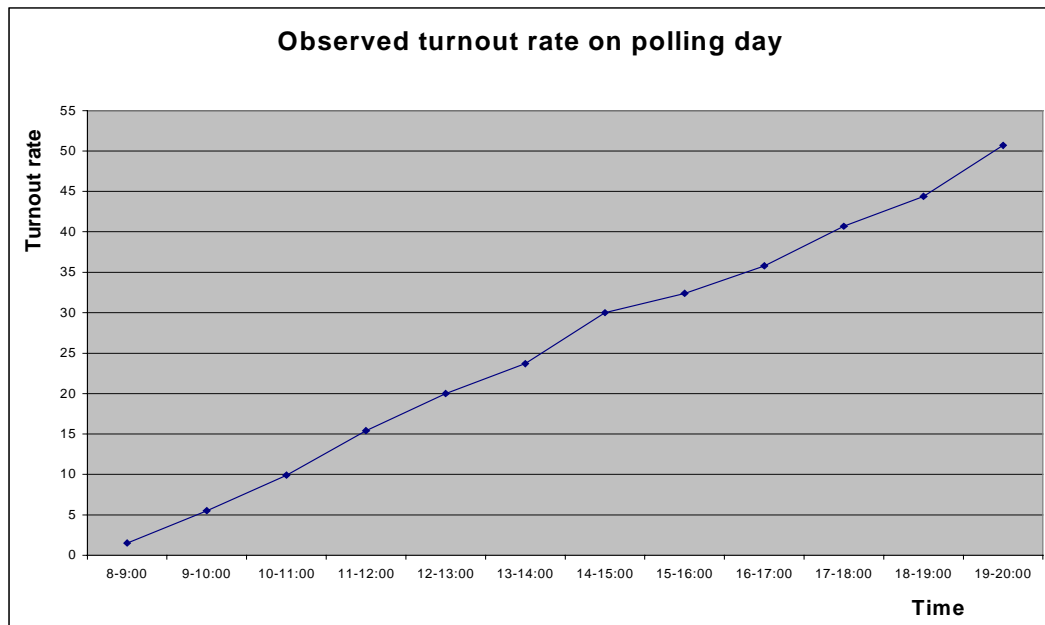
A. General Impressions

International observers filed 1,053 polling day observation report forms, covering nearly 1,000 out of the 1,610 polling stations. In 87% of the forms, the overall opinion of observers was “good” or “very good”. While this assessment is a summary of observers’ overall impressions during polling station visits of 20-40 minutes, serious problems were also observed and noted during the polling process, discussed later in this report. In addition, in some 10% of the observation forms, the overall impression was “bad” or “very bad”.

B. Turnout

The turnout figure of approximately 1,150,000 votes cast or 55% of registered voters, released by the CEC with delay, may need cautious interpretation. The percentage may well be underestimated when considering the number of voters who have left the country, whose names still appear on the voter list and who did not take part in the elections in large numbers.

The graph below on Observed Turnout Rate indicates a smooth progression of votes cast throughout the election day. If any significant level of ballot box stuffing had taken place, the graph would have indicated sharp jumps. As such, the EOM concluded that ballot box stuffing in any significant level did not appear to have taken place during the 30 May 1999 elections.



C. Voting

Voting was organised by precinct and conducted during the hours from 08.00 until 20.00 on election day. Voters cast two separate ballots for the majority and proportional elections. Voters could cast ballots for a candidate/party or against all candidates/parties. The number of ballots allocated to each precinct by the relevant REC could not exceed 1.05 times the number of registered voters. The ballots were validated by the signatures of three PEC members on the day before polling, stamped before being given to the voter on polling day and were cast in the same ballot box for both type elections. The ballot boxes were sealed before the voting process begun. Military personnel voted following the same procedures.

In general, the PECs performed their duties under difficult conditions. Inadequate precinct premises were reported in 8% of the observations, and agitation and unrest were reported in 8% of observations. For Yerevan, this figure was 11%. Conditions in precincts were deemed as “bad” or “very bad” in 10% of the observations.

Overall adherence by PECs to prescribed legal procedures were deemed “bad” in 7% of observations. The presence of unauthorised persons in precincts during voting hours remains a serious concern. Observers reported the presence of unauthorised persons in 23% of the forms and intimidation in 12% of observations where unauthorised persons were present. Also agitation and unrest was reported in 18% of polling stations where unauthorised persons were noted. Overall, in 4% of observations, voter intimidation were noted.

These cases of intimidation, agitation and unrest, already in relatively high numbers, were noted when international observers were present in polling stations. The EOM is

concerned that when international observers were not present, the level of intimidation, agitation and unrest was even higher.

Although the CEC introduced special badges for authorized personnel in precincts, as noted by observers, such badges were prominently worn by authorized personnel in only 25% of observations. In many cases, although the authorized personnel in precincts had received the badges, they kept them in their pockets.

Family/collective voting was reported in 17% of observations. The EOM received isolated reports of voting outside the precinct (the so-called “carousel” procedure)³ in two cases, and of manipulation with voting material from three precincts.

Party proxies were noted in all observations, and domestic observers in 77%. According to information obtained from party proxies, Unity Alliance proxies were present in 80% of observations, the Communist Party in 70%, the ARF in 64%, the Rule of Law in 58%, and NDU in 51%. In 3% of observations, the EOM received reports about independent candidate proxies attempting to influence voters entering polling stations.

D. Voter Lists

The poor quality of voter lists was one of the severest problems during these elections. According to observer reports, in 23% (29% in Yerevan and 19% elsewhere) of precincts observed, voters were denied the right to vote. In 17% (20% in Yerevan and 15% elsewhere) of observations, voters were added to the lists following court orders.

Thus, thousands of voters were not able to cast ballots because their names were not included on voter lists. Some voters claimed that their names were on the draft voter lists but disappeared from the finalized voter lists on computer print-outs. The EOM received complaints that the addresses of entire buildings were missing from the voter lists in some precincts in Yerevan. Other voters complained, that they were visited by municipal officials during the pre-election phase in connection with the update of voter lists, but when they went to cast their ballots, their names were not on the lists. Some 22,157 citizens appealed in all 17 courts of first instance for inclusion in voter lists. While many cases were solved positively, an undue burden was placed on both for the courts and voters.

Moreover, observers received many reports of names of the deceased found on voter list. Duplicate records were reported in several precincts, and incorrectly spelled names were reported in other precincts. In one precinct in Yerevan, all registered voters were marked with a date of birth of 1 January, for which the computer operator in the REC was blamed.

³ “Carousel voting” is a method of illegally influencing the vote of an individual. A ballot form is illegally procured and marked with the desirable candidate’s name or the party. The marked ballot is given to a voter. The voter obtains a regular ballot in the precinct where he/she is registered and proceeds to cast his ballot. Instead of casting the regular ballot, the voter casts the marked ballot provided illegally. The voter then returns the unmarked regular ballot to the person providing the marked ballot and the process is repeated with another voter.

The difficulties encountered with the voter lists made it obvious that accurate voter lists cannot be produced, solely during the course of a pre-election phase, even with the utmost effort and modern technology. In order to produce accurate voter lists, the country registers must be updated regularly and continuously with the active participation of municipal/state officials and the population.

E. Military Personnel Vote

The procedures for military personnel to participate in the vote were finalised shortly before the elections at the end of May, in line with legal provisions. The procedures incorporated recommendations proposed by the international community in order to safeguard the free will of voters enlisted in the army. In particular, mobile ballot boxes in the military bases, which raised considerable concerns during the 1998 presidential elections, were prohibited. Military commanders were instructed to transport conscripts to the respective polling stations, to let them out of the transport not closer than 50 meters to the polling stations, and to set them free for two hours in order to allow them to exercise the right to vote without supervision.

However despite the adopted procedures, a large number of observers witnessed soldiers closely supervised by their commanding officers and left alone only for a few minutes to cast ballots. Additionally, observers reported that, in some cases, conscripts were instructed to vote for the Unity Alliance.

Thus, the voting of military personnel did not comply with the regulations and the recommendations contained in the ODIHR Final Report for the 1998 Presidential Election. The procedures for the vote of military personnel continue to be of concern and must be addressed before future elections.

F. Refugees

Clear legal provisions stipulated that refugees, mainly ethnic Armenians from Azerbaijan and still holding Soviet passports, were not entitled to participate in the elections. However, in violation of these provisions, refugees were registered as voters in large numbers by local authorities on the basis of their old soviet passports with Armenian “propiska”.

In some villages with a 90% refugee population, refugees were even appointed as PEC members. The refugee registration problem was raised by the EOM with the authorities at an early stage of the electoral process. However, the CEC issued instructions on the issue only on 28 May 1999, merely stating that refugees should be removed from voter lists and prevented from voting.

The 28 May 1999 CEC instructions (N 106 and 107) caused considerable dissatisfaction among refugees, in particular in regions where election authorities tried to implement it. In some regions, authorities did not implement the instructions at all and refugees were allowed to vote.

Refugee voting has been a long-standing problem in Armenia and once again authorities failed to address the issue effectively. The EOM urges Armenian authorities to solve this problem once and for all according to the provisions of accepted international practice.

G. Vote Count

Ballots were counted in the precinct after the closure of polls. The count was conducted by the Chairperson of the PEC who picked ballots from the ballot box one at a time and declared their validity. If there was disagreement on the validity of a ballot, a decision was made by simple majority vote of PEC members. After the count was completed, the PEC filled a summarisation protocol and two separate protocols on the inaccuracies: (a) the difference between ballots supplied to the PEC and the sum of ballots found in the ballot box, plus unused ballots; and (b) the absolute value of the difference between the number of signatures on the voter list and the number of ballots found in the ballot box.

After the vote count was completed, election materials were to be transported by the PEC chairperson, with a police escort in a separate car, to the relevant REC.

The EOM monitored the counting procedures in 88 precincts. In large precincts, the counting was a long process, in some cases completed only after 04.00 on 31 May 1999 (Monday).

The overall assessment of the vote count was more negative than the assessment of voting procedures: in 22% of observations, the counting was characterized as “bad” or “very bad”. While comprehension of counting instructions on the part of PEC members was assessed negatively in 14% of observations, the organization of the process was assessed negatively in 28% of the observations. The major problems appeared to be the presence of unauthorized personnel in 31% of the observations and the fact that the PECs did not count the number of registered voters on the voter lists before opening the ballot boxes in 14% of the observations.

However, according to reports received, the vote count at the polling station level was generally accurate, but procedures prescribed by law were not always respected. Legal safeguards to ensure transparency of the process, including displaying copies of protocols after completion of the vote count and submitting copies of protocols to party and candidate proxies, were not uniformly implemented. Inaccuracy protocols were prepared in only 65% of the observations. In 40% of observations, copies of summarization and inaccuracy protocols were not displayed at the precincts. There were several reports that proxies and domestic observers were seen to advise the PECs on procedures in polling stations.

Moreover, observers reported a number of cases of obtrusive behaviour by proxies and law enforcement officers were observed collecting results.

H. Tabulation and Publication of Results

The tabulation and publication of results for the majority system was conducted by RECs. Preliminary results were required to be announced not later than 22 hours after the closure of polls.

The tabulation and publication of preliminary results for the proportional system is conducted by RECs in conjunction with the CEC. The CEC was required to announce preliminary results based on the summarisation protocols prepared by RECs for the proportional system, and not later than 28 hours after the closure of polls.

The final results for the proportional system should have been published by the CEC not later than 72 hours after the closure of polls.

1. Tabulation of Results in the RECs

Eight out of 11 RECs were closely monitored by international observers during the night after the closure of polls and on the next day, before the expiry of the deadline to publish preliminary results (18.00 on 31 May 1999). The performance of the RECs observed was assessed as unsatisfactory in nine RECs. Positive reports came from two RECs only. None of the RECs strictly followed the OSCE/ODIHR Guidelines incorporated in the Manual and endorsed formally by the CEC. In some cases these Guidelines were completely neglected. In most cases, the REC premises were not appropriately selected and equipped to ensure an efficient and transparent processing of the PEC election materials, in particular the protocols from the vote count and inaccuracies. The supply of technical equipment was inadequate, further impacting the efficiency and transparency of REC operations. The poor performance of a number of RECs nearly compromised the election.

2. Publication of Preliminary Results

The publication of preliminary results did not meet the standard set in the Code.

The CEC succeeded to release some turnout figures during polling day, which were broadcast by State Television. The Code required the turnout data to be delivered from the PECs to the CEC via RECs. However, a number of observations indicated that there were parallel channels to collect and transfer this information. Observers reported cases where police collected turnout figures and communicated this information to their superiors every three hours.

The CEC and RECs were not able to publish concise preliminary results in the timeframe established by the Code. Although on 1 June 1999, the CEC published some information on the election outcome, the information released was incomplete and could not be considered as preliminary results. For example, no information on the number of inaccuracies was published, both for the majority and proportional elections, which cast a shadow on the validity of “preliminary results” released by the CEC. The information released on the outcome of the proportional election did not include any

data about overall turnout figures, number of ballots delivered, invalid votes, and votes “against all”. The results published included only a list of 62 names without the requisite figures. Had the CEC and RECs followed the recommendations in the Guidance Manual prepared by the OSCE/ODIHR Technical Assistance Team, such serious shortcoming, potentially compromising the confidence of voters, could have been avoided.

Nonetheless, the EOM received no evidence of tampering with protocols.

I. Election Complaints and Appeals Process

The norms for election related complaints and appeals are found in the Constitution, the Code, the Civil Legal Proceedings Code and the Law on Constitutional Court. General jurisdiction for all actions, inaction (when a specific action is required by law) or decisions of electoral commissions is vested in the Courts of first instance.

During the pre-election phase and on election day, any interested party (candidates, parties, proxies and citizens) whose rights were infringed by an action or inaction of an election commission, could appeal to a higher election commission or a court. These included the registration of candidates/parties, the right of citizens to register on voter lists, election campaign violation of rules and regulations adopted by any commission during the whole period, the voting process and the summarization of results.

REC decisions on summarization of results by proportional system could be appealed to the CEC. All decisions of the CEC, except those on the final results of proportional elections, could be appealed to the courts.

The claimant could choose to appeal to a higher commission or to a court. If the claimant chose to appeal to the superior election commission, the latter’s decision could still be challenged in court. After the summarization of final results, only the courts could consider appeals.

In both cases, an appeal could be filed, as a general rule, within two days after the publication of a decision, or an action, or the disclosure of a violation caused by an omission. However, PEC decisions on voting results could be appealed only on the day following election, until 14.00. A decision was required within five days after the appeal was filed. But appeals filed during the five days immediately before voting were required to be considered and adjudicated immediately. Decisions of courts of first instance were final and came into force after publication.

Decisions on the registration of candidates or parties or cancellation of such registration can be appealed to a second instance court (Review Court) and to the third instance court (Cassation Court). In such cases, the Review Court must decide within three days, while the Cassation Court within two days.

Final results announced by RECs for the majority system and by the CEC for the proportional system, once published, could be appealed to the Constitutional Court. According to the Law on the Constitutional Court, if an investigation were necessary,

such an investigation could only be performed by a court of first instance, though the Constitutional Court still retained jurisdiction over the case.

While all parties and alliances that applied to the CEC to contest the elections were registered, a few candidates in single seat constituencies were denied registration by the relevant RECs. Some of these parties challenged the REC decisions in court and their appeals were generally upheld.

The election of the Siunik REC chairman, who was the USD representative in this REC, was challenged in the Syunik District Court by another REC member and the court annulled the election. Subsequently, the government appointed the same person as chairman, drawing on a specific legal provision that empowered it to appoint the executive officers, when they could not be elected during the first session.

At least in two cases, the Yerevan court of first instance overruled a CEC decision relating to the formation of a constituency: a village of roughly 300 voters had been assigned to an apparently nearby precinct, but it would take a long road to reach it, thus making it difficult for the villagers to exercise their right to vote. In another case, the allocation of a village to a given constituency was contrary to the principle of equal number of voters per each constituency.

The legitimacy of a CEC regulation relating to the possibility of registering in the voter list of a region where the voter had established a temporary residence, was challenged in court by the NDU representative on the CEC. The Court postponed the hearing a number of times, overstepping the legal deadlines, until the CEC withdrew its own regulation.

On elections day, when the voter lists proved highly inaccurate and thousands of voters could not find their names on the lists, the courts responded rapidly to numerous requests to include such names in additional lists in accordance with the Code.

Official figures indicate that 22,157 citizens appealed to the courts of first instance to correct the voter lists. Thousands of court decisions were issued, but not always in a transparent way – obviously there was no way to scrutinize even briefly the claimant's right. Voting certificates were issued in such a way that additional lists, banned by the law, were *de facto* reintroduced through the judiciary.

While in past elections challenges to election commission decisions had been consistently rejected, there was no evidence to suggest that the courts ruled based on political motivation during the 30 May elections. The overall impression was that the courts practiced a limited and previously unknown degree of independence. The courts were, to a certain extent, an independent player in the election process.

VI. THE POST ELECTION PHASE

The ODIHR EOM left in Armenia a post-election team to follow-up on the publication of final results, the appeals process and the repeat elections in a number of

constituencies. The post-election team of two election experts remained in Armenia until 22 June 1999.

A. Publication of Final Result

On 3 June 1999 the CEC issued to the EOM the official final results of the 30 May 1999 elections. The results in the database concerning the majority vote proved inconclusive, incomplete and largely not corresponding to results on the summarisation protocols prepared by RECs. The EOM Post-Election Team scrutinised the 75 summarisation protocols in the database and concluded that, in 22 constituencies, the elections should have been cancelled due to an excessive level of inaccuracies. However, the official summarisation protocols issued by RECs, showed different figures that did not justify a cancellation of results. The tabulated results in the electronic database regarding the proportional vote suffered from similar defects.

Although, according to the Code, the majority election results are the sole responsibility of respective RECs and not the CEC, the production by the CEC of unreliable results did not contribute to the transparency of the process. The election authorities must take appropriate measures to guarantee a transparent and accurate centralised publication of the results, down to the polling station level, in an acceptable timeframe. This would allow political parties, candidates and the electorate to verify the results in each polling station and accept the results in confidence.

B. Appeals Process

According to articles 115.8 and 116.8 of the Code, the Constitutional Court is responsible for adjudicating disputes on the final results of the proportional and majority elections. Ten such cases were filed with the Constitutional Court, challenging the results in nine constituencies for the majority elections, and one case was filed challenging the results of the proportional election.

In three of these cases, the Constitutional Court confirmed the respective decisions of the RECs. The Court refused to invalidate the results of the proportional vote, thus confirming the CEC decision regarding the outcome of the proportional election.

The Constitutional Court invalidated the results in two constituencies, referring one of these cases to the prosecutor for further investigation. The Chairman of one of the RECs involved blamed the summarization software for compiling the summarization protocols. Finally, the results of one constituency, initially declared invalid by the CEC, were validated by the Constitutional Court.

In general, the Constitutional Court addressed the electoral appeals appropriately.

C. Repeat Elections

In only one constituency the results were declared invalid by the relevant REC on the basis of inaccuracies. The decision was accepted by all candidates and parties and a repeat election was held on 20 June. The EOM Follow-up Team organised an

observation of this repeat election. The voting took place in an orderly manner without major incidents. However, in a number of polling stations, the commission members had been replaced as requested by the two finalist candidates. Although the replacement was in accordance with the Code, the practice does not contribute to strengthening the professionalism and independence of the election administration.

The vote in two others constituencies where the results were invalidated was scheduled for 11 July when the Election Observation Mission's Follow-up Team had already left the country.

VII. RECOMMENDATIONS

Based on an observation of the whole election process, the OSCE/ODIHR Election Observation Mission wishes to suggest the following recommendations:

1. A revision of the Electoral Code should be undertaken, in particular in sections referring to the composition of election commissions, the status of members of election commissions, their recall by appointing parties, and the timeframe of CEC and REC mandates. Additionally, revisions are necessary to clarify:
 - the eligibility for voter registration in relation to the “propiska” and the responsibilities of different institutions engaged in the formation of precincts and preparation of voter lists;
 - the possibility of conscripts to vote only in the proportional system should be explored; and
 - other recommendations found in a report submitted by the ODIHR to Armenian authorities on 22 March 1999 must be considered.
2. Election authorities must take appropriate measures to guarantee a transparent and accurate centralised publication of the results, down to the polling station level, in an acceptable timeframe.
3. The procedures for the vote count, and the verification and aggregation of results must be improved in order to facilitate and accelerate these aspects of election administration, at the same time increasing the efficiency and transparency of the process.
4. The possibility of political parties to recall election officials should be eliminated or at the very least regulated more strictly in order to strengthen the professionalism and independence of election administration.
5. Election administration at all levels, in particular the CEC, must assume full responsibility to regulate the election process. It is useless to merely issue regulations repeating legal provisions. Clear regulations must be issued well in advance of elections to detail the implementation of legal provisions.
6. Standardised training must be introduced for election officials at all levels well in advance of polling day.

7. A full review of technical procedures to compile voter lists, including a credible and ongoing update of the lists, must be undertaken to ensure integrity.
 - A preliminary update of the voter lists, within the existing legal framework, must be initiated urgently in preparation for the anticipated municipal elections in fall 1999. Community heads, in conjunction with other relevant authorities, must be instructed to remove from existing voter lists the names of deceased persons, and to add to the lists the names of citizens who will reach voting age by the date of the 1999 municipal elections.
 - A review of the procedures, a time consuming process requiring considerable care and attention to detail, must be finalised after the 1999 municipal elections. After the review process is completed and appropriate recommendations developed, authorities must amend the legislative framework where appropriate and establish a computerised national civil registry. A computerised national civil registry will enable the authorities to provide accurate voter lists whenever required.
8. Refugees must be removed from voter lists. A public awareness campaign must explain to the population that only citizens are entitled to vote.
9. The maximum number of registered voters per precinct must be reduced in order to accelerate precinct procedures during the polling and the vote count.
10. The military voting should be addressed in order to guarantee that military personnel are able to make their choice at the ballot box free from undue supervision, pressure or any other influence from commanding officers.
11. Unauthorised persons in precincts, during the polls and the vote count are a source of considerable concern. Persons authorized in precincts on election day must wear their badges. The presence of individuals loitering in the immediate vicinity of or within precinct must be ruled out.
12. The presence and possibly the intervention of representatives of the Ministry of the Interior and other security forces must be clearly regulated during the election process.
13. The role of candidate proxies and domestic non-partisan observers must be further regulated and explained in order to eliminate any possibility of influence on voters or commission members.
14. The “against all” voting option must be eliminated.

Warsaw, 30 July 1999