

OSCE/ODIHR
Election Observation Mission
Republic of Armenia
Parliamentary Elections 2007

17/2 Ervand Kochar St., Yerevan, Armenia
Tel.: +374 (0)10 552399/552499/554399
Fax: +374 (0)10 554299
e-mail: office@odihr.am



INTERIM REPORT No.1
21 – 28 March 2007

I. EXECUTIVE SUMMARY

- Elections to the National Assembly of the Republic of Armenia are scheduled for 12 May 2007. Ninety seats are to be elected in a national proportional list contest, and 41 seats in majoritarian single-mandate constituencies.
- The authorities have stated their determination to hold democratic elections free of violations and in line with OSCE commitments. The Election Code has been considerably amended and improved since the last parliamentary elections and provides a solid foundation for the conduct of democratic elections.
- The untimely death on 25 March of Prime Minister Andranik Margaryan, leader of the Republican Party (the dominant partner in the government), has necessitated a change in the government and party leadership close to the elections.
- Nominations and registration applications for both the proportional and majoritarian contests have been submitted to the relevant electoral bodies. Twenty-four parties and one bloc have applied for registration in the proportional contest, and there are 141 applicants to be candidates in the majoritarian contests. Candidate registration for both contests is scheduled to take place between 2 and 7 April, with the official campaign to start on 8 April.
- The OSCE/ODIHR Election Observation Mission (EOM) to the parliamentary elections formally opened on 21 March, and 29 long-term observers were deployed countrywide on 25 March.

II. INTRODUCTION

Elections for the 131 seats in the National Assembly (parliament) of the Republic of Armenia will take place on 12 May 2007. On the basis of a Needs Assessment Mission (NAM)¹ and following an invitation by the Ministry of Foreign Affairs (MFA), the OSCE/ODIHR established an Election Observation Mission (EOM) on 21 March. The Mission, headed by Ambassador Boris Frlec, consists of a 13-member core team based in Yerevan, the capital, as well as 29 long-term observers deployed in 11 locations around the country on 25 March. Citizens from 24 OSCE participating States are represented.

On the basis of amendments to the Election Code of the Republic of Armenia, members of the National Assembly are elected for five-year terms (increased from four years). Ninety seats are elected on the basis of a national proportional contest of party/bloc lists, and 41 by majoritarian contest in single-

¹ See OSCE/ODIHR Needs Assessment Mission Report:
http://www.osce.org/documents/odihr/2007/02/23307_en.pdf

mandate constituencies. Persons seeking nomination and registration as candidates must have had Armenian citizenship and residency for at least the past five years, and must be at least 25 years old.

In the proportional contest, to win election a party list must pass a threshold of 5 per cent of the valid vote, while a bloc must pass a threshold of 7 per cent. In the majoritarian contests the candidate polling the highest number of votes is the winner (first past the post).²

The NAM concluded that while the election code provides a solid foundation for the conduct of democratic elections, the upcoming elections will primarily require greater political will and good faith implementation of the legislation in order to be conducted in line with OSCE commitments.

III. POLITICAL CONTEXT

Political parties are positioning themselves for the 12 May parliamentary elections with a view to the presidential election due in early 2008. The constitutional limit of two consecutive presidential terms means that the incumbent, President Robert Kocharyan, is precluded from running in 2008.

The configuration of the parliamentary political parties and bloc elected to the National Assembly in 2003 has changed somewhat within the past year, and the changes affect the forthcoming electoral competition. The Republican Party and the Armenian Revolutionary Federation (ARF) Dashnaktsutiun continue as partners in government. However, in May 2006, Orinats Yerkir (Law-based State Party) left the government coalition, in which it had participated since the coalition's formation in 2003, and went into opposition; the Orinats Yerkir leader Artur Baghdasaryan resigned as chairman (speaker) of the National Assembly at the same time. The Justice Alliance bloc, the largest of the opposition forces to gain parliamentary representation in 2003, is not continuing beyond the end of the current parliament and its constituent parties intend either to compete separately or not at all in the elections.

There continues to be a degree of fluidity in the broader political party landscape, with new political forces emerging while others have apparently disbanded or fallen into abeyance since 2003. Notable in this regard has been the recent rapid rise of the party Prosperous Armenia, active since March 2006.

Prime Minister Andranik Margaryan, leader of the Republican Party, died suddenly on 25 March, his death being attributed to heart failure. The subsequent related events, including his funeral on 28 March, were extensively covered by all media outlets. As required by the constitution the government resigned, and a new prime minister must be named within 10 days; the outgoing government has been retained in a caretaker capacity. Mr. Margaryan's untimely death necessitated a change in the Republican Party leadership very close to the start of the election campaign, Serge Sargsyan (the Minister of Defence) being named on 26 March to take on the party leadership functions.

IV. LEGAL FRAMEWORK

A. GENERAL

The legal framework for elections in the Republic of Armenia comprises mainly the Constitution and Election Code. The Constitution was amended in 2005, and the Election Code has been amended several times in recent years, mainly in 2005 and 2006 and most recently in February 2007.

After the previous parliamentary elections the OSCE/ODIHR concluded that the Election Code was a substantial law that could provide a sound foundation for a successful electoral process, but contained

² In cases where there is only one candidate, he or she must win more than 50 per cent of the valid vote.

some ambiguities and was subject to deficiencies in implementation. The OSCE/ODIHR and the Venice Commission of the Council of Europe provided comments on subsequent amendments to the Election Code, and generally concluded that the amendments resulted in a number of improvements.³ Since then, the National Assembly has enacted further amendments, many of which also responded to issues raised by these organizations. The current version of the Election Code represents a substantial and improved legislative basis for the upcoming parliamentary elections.

The electoral provisions of the Constitution, and the Election Code, are supplemented by other legal instruments such as the Law on Political Parties, the Civil Code, the Criminal Code and other statutes, as well as judicial decisions. In addition, Central Election Commission (CEC) instructions are mandatory for election commissions and electoral participants.⁴

B. ELECTION CAMPAIGN AND PRE-CAMPAIGN PERIOD

The formal election campaign period will begin on 8 April, immediately following certification of candidacies (see below).

One development regarding freedom of speech and assembly during the pre-campaign period involves a prohibition by the city authorities in Yerevan on demonstrations in Liberty Square. A civic organization, “Alternative”, on 22 March lost a court challenge to this prohibition. The EOM is in the process of obtaining and reviewing the official documentation related to this case, which was communicated only to the parties of the court case.

The Constitution protects freedom of expression, association and assembly,⁵ but reasonable restrictions on pre-campaign political activities can be justified based on certain grounds, including the need to assure fairness of the elections, preserve public order, or ensure the effectiveness of campaign regulations (such as on campaign finances). The law does not contain a definition of what constitutes “campaigning”. Public action or communication that calls for, or opposes, the election of a particular candidate or list of candidates could normally be viewed as campaigning. Other activities, such as seeking public support for policies associated with certain political groups or figures, are not necessarily campaigning.⁶

C. VOTING BY CITIZENS RESIDING ABROAD

The February 2007 amendments to the Election Code mainly addressed out-of-country voting (OCV) and voting by persons with dual citizenship. While previously OCV was conducted in Armenian embassies and consulates for citizens who were residing or travelling abroad, all references to such activities (with one minor exception⁷) were removed from the Election Code. The amendments provided that persons with dual citizenship would not be able to seek office in national elections, and would be able to vote only if they are “registered” in Armenia. It is not clear to the EOM at present how it could be determined whether an individual holds dual citizenship.

Some confusion appears to exist with respect to implementation of these amendments. The EOM has been informed by a senior parliamentary official that it was the intent of the National Assembly that voting will not be conducted outside of Armenia. Dual citizens residing abroad would be able to vote,

³ OSCE/ODIHR and CoE/VC, Joint Opinion on Amendments to the Electoral Code of the Republic of Armenia (Strasbourg, 15 June 2006), Opinion No. 378/2006.

⁴ Election Code, art. 41.

⁵ Constitution, as amended 19 May 2005, arts. 27-29.

⁶ An exception may be made when such actions are undertaken in order to avoid legitimate financial or other campaign regulations, including regarding third-party support.

⁷ Election Code, art. 33.9 (regarding salaries of polling officials at embassies and consulates, which may have been inadvertently retained).

after demonstrating their eligibility by showing that they own property or other assets in Armenia. The EOM notes that the basis for inclusion in the voter list under the Election Code is registered residence.⁸

The relatively late enactment of the amendments on OCV and voting by dual citizens could pose issues of notification to voters, and also with respect to consistent implementation. The EOM will enquire further with the relevant agencies (including the CEC and MFA) regarding voting by members of the diplomatic and consular service and by dual citizens, as well as other aspects of this issue.

V. ELECTORAL ADMINISTRATION

The election administration for the parliamentary elections comprises the Central Election Commission (CEC), 41 Territorial Election Commissions (TECs, corresponding to the 41 majoritarian constituencies), and approximately 2,000 Precinct Election Commissions (PECs).⁹ The CEC and the TECs are permanent bodies, while the PECs for these elections are due to be formed from 23-26 April. The amended Election Code provides for a more balanced composition of election commissions at all levels: one member nominated by the president, one by each of the six factions in parliament, one by the “people’s deputy” parliamentary group (deputies elected as non-partisan), and one “judicial servant”. There is a hierarchy of appointment, each representative on the CEC nominating one member to each of the 41 TECs, who in turn nominates a member to each of the PECs under that TEC.

One of the recent Election Code amendments suspends for the duration of the electoral period (from announcement of the elections until final determination of the results) the quorum requirement for commissions to take action.¹⁰ While this could be a necessary anti-boycott measure, the absence of a quorum requirement creates conditions whereby actions and decisions could be taken by an election commission chairperson alone, or with a small number of other commissioners. A particular concern is the provision permitting a chairperson to review a complaint, or refer it to another member for review and recommendations.¹¹ In this regard, it will be important for commissions to operate under the principles of “legality, collegiality and openness”¹².

On 28 March, the Orinats Yerkir parliamentary faction replaced its CEC member. The sitting member is a prospective candidate on the Orinats Yerkir list, and was therefore withdrawn from the CEC. He was replaced by a woman, raising the proportion of women in the CEC to one-third.

During the period covered by this report the CEC has held one session, on 27 March. In the absence of accreditation the EOM was not able to observe it. The EOM received accreditation later that day, having applied on 20 March, the CEC then having had a legal seven-day deadline to accredit.

The CEC has a website that is intended to be its main information outlet. It is also the portal to the internet-hosted national voter list, which voters are encouraged to check to verify their data. The EOM has learned from a CEC official that the voter list is hosted on the same server as the rest of the CEC web material. It is unclear whether the server can cope adequately with high numbers of visitors to the website arising from voter list checking; the EOM has found the CEC website to be inaccessible in its entirety for long periods.

⁸ Election Code, art. 11.1

⁹ The exact number of PECs under each TEC was to be set by the TECs on 28 March, and is pending announcement by the CEC at this writing.

¹⁰ Election Code, art. 39.7.

¹¹ Election Code, art. 40¹.3.

¹² Election Code, art. 32. 2.

Despite 28 March being the official day of mourning for Prime Minister Margaryan, key deadlines on that day necessitated the full functioning of the electoral administration, including submission of candidate registration documents (see below) and, for the TECs, the setting of electoral precincts and polling stations. The CEC and almost all TECs remained open; however, TEC 19 (Vagharshapat) was observed by the EOM to be closed that day during working hours. The EOM is following up on whether any part of the electoral process in that TEC was compromised by this.

VI. NOMINATION AND REGISTRATION OF CANDIDATES

The first stage of the electoral process, submission of nomination documents by parties and blocs for the proportional contest and by individual candidates for the majoritarian contest, closed on 3 March. Only those parties/blocs and candidates that submitted nomination documents could then proceed to the next stage of submitting registration documents, by 28 March.

For the proportional list contest, 27 parties and one electoral bloc submitted nomination documents to the CEC. By 28 March, 24 parties and one bloc submitted registration documents. The largest lists submitted for registration were those of Orinats Yerkir (131 names), the ARF Dashnaktsutun (117), the Republican Party (112) and Prosperous Armenia (112).

According to the CEC, a total of 173 persons were nominated for the majoritarian contests.¹³ Of those, 141 had submitted registration documents by 28 March, an average of fewer than four per constituency. The highest number of applicants for registration in a single constituency is seven,¹⁴ but in five constituencies there is only one applicant.¹⁵ Fifty-one applications are on the basis of “civic initiative” nominations - officially non-partisan; the others are party nominees. Only the Republican Party is attempting to field anything close to an extensive countrywide presence, with 26 applications, followed by Prosperous Armenia and Orinats Yerkir, with 13 each, and the Alliance (*Dashink*) Party with eight; all others have five or fewer applicants. In all, 14 of the parties seeking registration to compete in the proportional contest, and six that are not, have sought to register at least one candidate for the majoritarian contests.

If only one candidate is registered in a single-mandate constituency, the voters are given a “vote against” option. In line with international recommendations, the former “against all” option has been dropped for majoritarian contests involving two or more candidates, and for the proportional contest.

Registration of candidates is due to take place from 2-7 April. The registration of party and bloc lists for the proportional list contest will be done by the CEC, and registration in the majoritarian contests by the 41 TECs.

According to the Election Code, women shall now make up at least 15 per cent of a party’s or bloc’s list in the proportional election and hold at least every tenth position on the list. This is an improvement from the 2003 parliamentary elections. Representation of women in the outgoing National Assembly is low: only seven of the 131 seats.

VII. MEDIA ENVIRONMENT

A relatively high number of media outlets operate in Armenia. Broadcast media are the main source of information, including about the election process. A lack of diversity in viewpoints presented by

¹³ Statement by the CEC Chairman at CEC session, 28 March 2007, 1900 hrs.

¹⁴ TECs 4 and 14.

¹⁵ TECs 7, 20, 27, 28 and 32.

broadcast media has been criticized by international organizations dealing with freedom of expression, including the OSCE Representative on Freedom of the Media within the past year.¹⁶

The Constitution provides for both freedom of speech and freedom of information. The Law on Television and Radio Broadcasting forbids censorship and stipulates some rules for the election campaign. The Election Code, however, remains the main legal basis for conducting an election campaign in the media. It governs in some details performance of the broadcast media: news programs on both public and private media are required to present impartial and non-judgmental information about contestants' election campaigns, and to ensure equal and fair conditions. The code also provides for free and paid time to all candidates based on an "equal conditions" principle. Each registered party/bloc is entitled to receive on public television and public radio a maximum 60 and 120 minutes of free airtime respectively; and no more than 120 and 180 minutes of paid airtime respectively. The schedule of free airtime is to be established by the CEC the day after candidate registration closes.

The CEC oversees the mass media to ensure equal campaign opportunities. It has the right to make a court complaint in the event of a violation.¹⁷ The broadcast media's compliance with legal procedures is also monitored by the National Commission for Radio and Television, which may similarly apply to court in the event of a violation, and with the CEC also having a right to submit to the court its opinion on such a violation.¹⁸

There are ongoing local media monitoring activities by the Yerevan Press Club and the Caucasus Media Institute. The Yerevan Press Club also was the initiator of a Code of Conduct adopted on 10 March by at least 18 media outlets, both nationwide and regional. The Code of Conduct signatories also committed to a Declaration on Election Coverage Principles, and elected an oversight body including various media professionals.

VIII. OSCE/ODIHR EOM ACTIVITIES

The EOM formally started its activities on 21 March. It began a series of meetings with parliamentary and government officials, the media, and representatives of the resident international community, and expects shortly to begin regular meetings with the CEC. The EOM core team will also take up contacts with political parties, nominees and their representatives, and civil society actors. Monitoring of the media, an important component of OSCE/ODIHR election observation, commenced on 22 March, based on qualitative and quantitative analyses of seven TV channels, two radio stations and four daily newspapers.¹⁹

Fourteen long-term observer teams (totalling 29 members), including two long-term observers provided through the Fund for Diversifying the Participation of Election Experts in OSCE/ODIHR Observation Missions, were deployed on 25 March to 11 locations around Armenia, covering the whole country. They will establish contacts with lower-level election commissions and other electoral actors in the regions.

For election day observation the OSCE/ODIHR is requesting 300 short-term observers from OSCE participating States.

¹⁶ OSCE Representative on Freedom of the Media, "The State of Media Freedom in Armenia", 26 July 2006, <http://www.osce.org/fom/documents.html?lsi=true&grp=297&limit=10&pos=10>.

¹⁷ Election Code, arts. 41.1, 45.

¹⁸ Election Code, art. 20.9.

¹⁹ TV: *H1 (public-service broadcaster), ALM TV, Armenia TV, H2, Kentron TV, Shant TV, Yerkir Media*; Radio: *Public Radio, RFE/Radio Liberty*; Newspapers: *Hayastani Hanrapetutyun (state-funded), Aravot, AZG, Haykakan Zhamanak*.