



## **INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Armenia – Early Parliamentary Elections, 9 December 2018**

### **STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS**

#### **PRELIMINARY CONCLUSIONS**

The 9 December early parliamentary elections were held with respect for fundamental freedoms and enjoyed broad public trust that needs to be preserved through further electoral reforms. Open political debate, including in the media, contributed to a vibrant campaign, although cases of inflammatory rhetoric online were of concern. The general absence of electoral malfeasance, including of vote-buying and pressure on voters, allowed for genuine competition. The integrity of campaign finance was undermined by a lack of regulation, accountability and transparency. Despite the shortened timeframe, the elections were well administered. Election day proceeded calmly and peacefully with all stages assessed positively by almost all IEOM observers, indicating general adherence to the procedures.

The elections were held following anti-government protests in April 2018, which resulted in the resignation of Serzh Sargsyan as the prime minister and a change of power, with a new government formed in May by Nikol Pashinyan. Draft amendments to significantly change the electoral system and transform it to a fully proportional one were submitted by the new government but ultimately did not receive a required three-fifths' majority in parliament three days before the elections were called.

The elections are comprehensively regulated by the Constitution and the 2016 Electoral Code. The latest amendments from May 2018 expanded the list of those prohibited from campaigning, lifted restrictions for media observers and increased sanctions and penalties for electoral offenses, in line with previous ODIHR and Council of Europe's Venice Commission recommendations. Criminal liability was introduced for forcing individuals to campaign and for the facilitation of vote-buying. Remaining ODIHR and Venice Commission recommendations should be addressed, including those related to campaign finance regulations, limitations on legal standing for submitting electoral complaints, citizenship requirements for candidates and electoral threshold for alliances to enter parliament.

The Central Election Commission (CEC) conducted its work professionally and transparently and met all legal deadlines, despite the shortened timeframe. The CEC and the Territorial Election Commissions (TECs) enjoyed confidence among electoral stakeholders in the run up to the elections and held open sessions. The CEC conducted a comprehensive voter education campaign to encourage voting, explain voting procedures and warn against vote-buying. The Precinct Election Commissions (PECs) were formed and their members trained within deadlines. The trainings were generally assessed positively.

Final voter lists included a total of 2,573,779 voters, including a high number of citizens residing abroad. Most IEOM interlocutors expressed overall confidence in the accuracy of voter lists. The Passport and Visa Department of the Police undertook continuous efforts to update voter data. Those declared incapacitated by a court are not entitled to vote, despite international standards on removing all unreasonable restrictions on political rights of persons with disabilities.

Voters were identified on election day through the use of Voter Authentication Devices (VADs) which contain an electronic copy of the voter lists. Voter IDs were scanned through VADs to control whether voters were registered at the polling station and to prevent multiple voting. As an important measure to address instances of impersonation, and despite data privacy concerns, the CEC has an obligation to scan and publish online the voter lists containing personal data and signatures of voters who voted.

In an inclusive process, the CEC registered candidate lists of all nine political parties and two party alliances that applied. The law provides four seats for each of the largest national minorities, and three parties and one alliance nominated minority candidates for these elections. Existing restrictions on persons with more than one citizenship to stand for elections are at odds with OSCE commitments and the case law of the European Court of Human Rights.

Contestants were able to conduct their campaigns freely; fundamental freedoms of association, assembly, expression and movement were fully respected during the campaign. The official campaign period was very short, but campaigning started earlier, which is not prohibited by law. Disinformation, as well as inflammatory exchanges between some contestants, on social networks, were noted during the campaign. To prevent misuse of administrative resources and pressure on public employees, authorities raised awareness about relevant prohibitions among local officials, school principals, health workers and others. Many IEOM interlocutors noted the political will expressed by authorities, electoral contestants and voters themselves to discourage the selling and buying of votes. Positively, electoral stakeholders did not report any systematic efforts of vote-buying and other electoral malfeasance. Several IEOM interlocutors alleged, however, that short-term contracting of a number of campaign workers and citizen observers was done, mainly by one contestant, possibly for the purpose of buying their votes.

All candidate lists met the 25 per cent gender quota requirement and women accounted for 32 per cent of the total of 1,444 candidates. This quota, however, does not ensure the same proportion of representation of women in the parliament, notably as half of the seats are distributed according to preferential votes. Parties rarely featured women candidates in their campaign – women only occasionally campaigned on their own and rarely appeared as speakers in rallies observed. Some women candidates were a target of disparaging rhetoric because of their gender.

Campaign funds may include contributions from voters, candidates and political parties, with limits set for both contributions and expenses. Reporting requirements for contributions received and expenses made before the start of the official campaign are ambiguous. In addition, some candidates confirmed to the ODIHR EOM that they were directly financing their campaigns, which bypasses official party campaign funds in contravention of the law. Contrary to previous ODIHR and Venice Commission recommendations, organizational expenses such as for office space, communication, transportation and staff, are not considered as election related and may therefore remain unreported, undermining the transparency of campaign finance.

The media environment is diverse and the freedom of expression, guaranteed by the Constitution, was respected. Television is the primary source of political information, and the use of online media and social networks is significant. The ODIHR EOM media monitoring showed that the broadcasters made a visible effort to cover all electoral contestants, contributing to the diversity of information available for voters to make an informed choice. Many private outlets appear to be strongly associated with political parties, with some demonstrating clear preference. The public television provided a reasonably balanced coverage. Positively, a number of media, including the public television, organized genuine debates, bringing together candidates from all the contestants.

While no concerns about access to the complaint and appeal system were raised, only a limited number of complaints were filed with the election administration and the courts before election day. Contrary to previous ODIHR and Venice Commission recommendations and international good practice, the legal standing to file complaints with regards to electoral process is largely limited to party proxies and commission members. The deadlines for submission of complaints are generally reasonable.

The law provides for observation in polling stations by international and citizens observers, media, as well as proxies of contestants. The CEC registered a total of 17,813 citizen observers from 22 organizations. Though there was a general effort by established and experienced civil society

organizations to observe these elections, a number of IEOM interlocutors raised concerns about direct, including contractual, connections of some accredited citizen observers to political parties, which could compromise their impartiality. The relatively low number of citizen observers in polling stations, as compared to those accredited, indicated lack of genuine interest or intention by some to observe election-day proceedings.

Election day proceeded calmly, peacefully, free of pressure on or intimidation of voters, and was assessed positively by almost all IEOM observers. The opening of polling stations was assessed positively in all IEOM observations and polls generally opened on time. Voting was assessed positively in 99 per cent of observations reflecting the adherence of the PECs to procedures. The vote count was assessed positively in all but two polling stations observed, indicating that the counting process was conducted without significant procedural violations. Tabulation procedures were assessed positively in almost all TECs observed, despite a few organizational shortcomings.

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## PRELIMINARY FINDINGS

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### Background

The last parliamentary elections in Armenia took place on 2 April 2017. They were the first parliamentary elections held following the 2015 constitutional amendments, which reduced the powers of the president in favour of the prime minister and the parliament. Following those elections, a government was formed by a coalition between the Republican Party of Armenia (RPA) with 58 seats and the Armenian Revolutionary Federation (ARF) with 7 seats, while the Tsarukyan Alliance (31 seats) and Way Out Alliance “*YELK*” (9 seats) comprised the opposition.

Anti-government protests in April 2018, which organizers described as a non-violent ‘velvet revolution’, resulted in the resignation of Prime Minister Serzh Sargsyan and a change of power. On 8 May, the parliament, in a second attempt, elected opposition leader Nikol Pashinyan as the new prime minister. The government formed by Prime Minister Pashinyan committed to electoral reform and holding new parliamentary elections within one year.

On 17 October, the government submitted draft amendments to the Electoral Code to the parliament in an attempt to introduce significant changes to the electoral system and other aspects of elections. These included removal of open district lists, a switch to a purely proportional system with a 30 per cent gender quota and lower thresholds for seat allocation.<sup>1</sup> The proposed amendments failed to receive the required three-fifths majority in the parliament in a final vote held three days before the call for early elections.<sup>2</sup>

On 1 November, the President announced early elections to be held on 9 December. These elections are the result of a tactical resignation by Prime Minister Pashinyan on 16 October aimed at dissolving the parliament. A majority of members of parliament (MP) agreed, in advance, not to elect a new prime minister so as to allow early elections.<sup>3</sup>

Women are underrepresented in public office, holding 19 per cent of seats in the last convocation of parliament, 1 of the 21 acting ministerial posts, none of the 10 governor positions, and only 1 out of 49 mayoral posts.

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<sup>1</sup> Section II.2.b of the 2002 Council of Europe’s Venice Commission Code of Good Practice in Electoral Matters recommends that “fundamental elements of electoral law, in particular the electoral system, ... should not be open to amendment less than one year before an election...”.

<sup>2</sup> The parliament voted down the draft amendments on 22 October (56 votes for and 3 against) and on 29 October (62 votes for and 2 against). The amendments to the Electoral Code required a minimum of 63 votes in support.

<sup>3</sup> According to the law, the parliament is dissolved after a second failed attempt to elect a prime minister.

## Legal Framework and Electoral System

The legal framework for parliamentary elections is comprehensive. The elections are primarily regulated by the Constitution and the Electoral Code adopted in 2016 and last amended in relation to parliamentary elections in May 2018. The legal framework encompasses a number of other laws, including the Law on Political Parties, Law on Freedom of Assembly, Criminal Code and Code of Administrative Offences, as well as decisions of the Central Election Commission (CEC).

The May 2018 amendments to the Electoral Code and other legislation expanded the list of public officials and employees prohibited from campaigning and lifted restrictions on accreditation of media representatives, in line with previous ODIHR and Council of Europe's Venice Commission recommendations. In addition, greater sanctions and penalties were set for electoral offences, and criminal liability was introduced for forcing an individual to conduct a political campaign, for facilitation of vote-buying and for charity organized for the purpose of influencing voters. In addition to the election commissions, now political parties, candidates and observers also have the right to initiate investigations of administrative offences.

Some prior ODIHR and Venice Commission recommendations remain unaddressed, including those related to the exemption of organizational expenditures from campaign finance reporting requirements, narrow rules on legal standing for submitting electoral complaints; citizenship and residency requirements for candidates, as contained in the Constitution;<sup>4</sup> electoral thresholds for alliances to enter parliament; restrictions on the number of participants in coalitions to be formed after the first round of elections.

The Electoral Code prescribes that a minimum of 101 MPs be elected through a two-tier proportional system, with candidates elected from a closed national list and 13 open district lists. The ballot paper includes both the national list and relevant district list (in an alphabetic order), and a voter can mark a preference for one district candidate.<sup>5</sup>

To qualify for the distribution of seats, political parties must pass a threshold of five per cent (seven per cent for alliances). Seats are first distributed among parties and alliances according to the number of votes received nationwide. Then, half of the seats are distributed to the national list according to the order of candidates and half to the district candidates according to the number of preferential votes received.<sup>6</sup>

The system provides for a total of up to four reserved seats, one for each of the four largest national minorities according to the most recent census (in 2011, Yezidis, Russians, Assyrians and Kurds). Each party or alliance may include a sub-part on their national list, with a candidate from each of the minorities. For these elections, only Bright Armenia, My Step Alliance, Prosperous Armenia and Rule of Law registered lists of national minority candidates.

In line with the Constitution, a stable parliamentary majority (defined as 54 per cent of seats) is needed to form a government. Should the winning list obtain a simple majority but less than 54 per cent of seats, it will be assigned additional seats in order to obtain the required stable majority.<sup>7</sup> If a majority is not achieved as a result of the elections, or by forming a political coalition within six days after the results are finalized, a second round is held between the top two candidate lists 28 days after election day.<sup>8</sup>

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<sup>4</sup> Section I.1.1.c.iii of the 2002 Venice Commission Code of Good Practice in Electoral Matters says that "a length of residence requirement may be imposed on nationals solely for local or regional elections".

<sup>5</sup> District candidates must also be included in the national list.

<sup>6</sup> The number of seats allocated to each district list is based on votes won by contestants in all districts using the *D'Hondt* calculation formula. The district seats are allocated according to the number of preferential votes.

<sup>7</sup> Should the winning contestant receive more than two-thirds of the total seats, smaller parties or alliances that won seats will be assigned additional seats to collectively reach a one-third minority.

<sup>8</sup> These contestants can form new alliances, which may include other parties that ran in the first round.

## Election Administration

Elections were administered by a three-tiered system comprising the CEC, 38 Territorial Election Commissions (TECs) and 2,010 Precinct Election Commissions (PECs). The CEC is a permanent and professional body composed of seven members elected for a six-year term by at least three-fifths of all MPs. All four male and three female CEC members were re-appointed in October 2016.

The CEC is responsible for the conduct of elections and has extensive powers and responsibilities. The CEC enjoyed confidence among election stakeholders that the ODIHR EOM met with. All CEC decisions were taken unanimously at regularly held public sessions that were streamed online. The CEC observed all legal deadlines and generally published its decisions in a timely manner.

From 19 November, the CEC conducted a comprehensive campaign to encourage voting, educate voters on election-day procedures and warn against vote-buying, including through media and social networks (also in sign language). It also produced printed materials on how to vote, including for the military, but faced difficulties in distributing them in remote areas.

The TECs are permanent professional bodies composed of seven members appointed by the CEC for a six-year term based on a merit-based public competition.<sup>9</sup> The TECs supervise PEC activities, handle complaints against them, organize recounts and tabulate the results. Most of the TEC members had election experience, and the ODIHR EOM generally assessed that lower-level commissions operated effectively in preparing for elections.

All parliamentary parties and alliances submitted nominations to the CEC for PEC membership by the legal deadline of 21 November.<sup>10</sup> The CEC conducted a lottery to distribute positions of PEC chairpersons and secretaries in proportion to their parliamentary representation. With international assistance, the CEC provided training for PEC members on voting and counting procedures. The quality of the training sessions was overall positively evaluated by the ODIHR EOM.

The Electoral Code provides for the use of web cameras in all polling stations in order to increase transparency by allowing online observation. For these elections, the CEC applied its 2016 decision to equip only the 1,500 largest polling stations with web cameras.<sup>11</sup> No problems with their functionality was noted on election day; however the IEOM observers assessed that cameras were not properly positioned in 4 per cent of observations.

## Voter Registration

Voter registration is passive and based on the state population register maintained by the Police Passport and Visa Department (PVD). The voter register includes all citizens over the age of 18 on election day with an official permanent residence in Armenia, including those *de facto* residing abroad.<sup>12</sup> Those imprisoned for serious crimes do not have the right to vote. Those declared incapacitated by a court are also disenfranchised, despite international standards on removing all unreasonable restrictions on political rights of persons with disabilities.<sup>13</sup> Special voter lists are maintained for military voters and

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<sup>9</sup> Women make up 32 per cent of all TEC members; 2 women are TEC chairpersons and 11 are TEC secretaries.

<sup>10</sup> On election day, IEOM observers noted that some 61 per cent of members of PECs observed were women as were 49 per cent of PEC chairpersons.

<sup>11</sup> According to the CEC, the coverage remained limited due to Internet connectivity.

<sup>12</sup> Despite several requests, the authorities did not provide the ODIHR EOM with any credible data on how many citizens reside temporarily or permanently abroad.

<sup>13</sup> See articles 12 and 29 of the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD). See also paragraph 9.4 of the 2013 CRPD Committee's Communication No. 4/2011, which states that "Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities".

those imprisoned or in temporary detention and for in-patients of healthcare facilities.<sup>14</sup> Diplomatic and military staff and their families posted abroad may vote via the Internet. In total, 729 such voters applied to the CEC by the deadline of 17 November.

In line with the law, the preliminary voter lists were posted for public scrutiny in polling stations and on the CEC website. The law provides sufficient opportunity for voters to request corrections. According to the PVD, by the legal deadline of 29 November, a total of 12,549 voters requested to register to vote according to their temporary residence, and no indications of misusing the system were reported.

The PVD described to the ODIHR EOM its continuous efforts to improve the accuracy of the voter lists through crosschecks of data against registries of civil registry offices. Despite these efforts, the voter register still includes addresses where a significant number of voters are registered, which remains a concern.<sup>15</sup> Final voter lists with a total of 2,573,779 voters were published by the PVD on 8 December.<sup>16</sup> As required by law, and with the aim of deterring election-day fraud through impersonation, the CEC intends to scan and post on its website signed voter lists from all PECs on 10 December.<sup>17</sup> Most of the IEOM stakeholders expressed overall confidence in the accuracy of the voter lists despite some concern about privacy of citizens' data. The public and systematic disclosure of personal data of voters is at odds with international good practice.<sup>18</sup>

Voters in polling stations were first identified through the use of Voter Authentication Devices (VADs) that contain an electronic copy of the relevant voter list, and then also marked on the printed voter list. Voters' IDs were routinely scanned to control whether voters were registered and if the voter had already been marked in the system as having voted in this polling station. The CEC, with international assistance, trained all VAD operators through interactive trainings assessed positively by the ODIHR EOM. On 5 December, the CEC demonstrated the use of VADs during a public event, contributing to the transparency of the system. On election day, the VADs were operational and functioned properly in all but three polling stations observed.

## Candidate Registration

Candidates are required to be eligible voters, at least 25 years old, residing in and being citizens only of Armenia for the preceding four years, with a proven command of the Armenian language. Restriction for those with more than one citizenship to stand for election is at odds with OSCE commitments and case law of the European Court of Human Rights (ECtHR).<sup>19</sup> Judges, prosecutors, military personnel, police officers, other categories of civil servants and election commissioners may not stand as candidates. Candidate lists could include non-party members, and the law does not allow to stand individually.<sup>20</sup>

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<sup>14</sup> By law, information on military serving voters is not public. The PVD did not disclose the number of confined persons with the right to vote.

<sup>15</sup> According to the [statement](#) of Transparency International-Anticorruption Center, there are 855 and 13 addresses containing more than 20 and 100 voters, respectively.

<sup>16</sup> Published information included voters' names, dates of birth and home addresses, listed by polling stations.

<sup>17</sup> This stipulation of the Electoral Code was first implemented in 2017.

<sup>18</sup> Paragraph III of the 2016 Venice Commission's Interpretative Declaration to the Code of Good Practice in Electoral Matters on the Publication of Lists of Voters Having Participated in Elections highlights that "A balance needs to be struck between data protection and secrecy of the vote on the one hand and stakeholders' interest in consulting the signed (or stamped) voter lists on the other".

<sup>19</sup> Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens", while paragraph 24 provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law". In the case of *Tanase v. Moldova*, 27 April 2010, Application No. 7/08, the ECtHR ruled that the exclusion of double nationals from eligibility to be elected is contrary to Article 3 of the First Protocol to the European Convention on Human Rights.

<sup>20</sup> According to the CEC, 26 per cent of nominated candidates were not members of the nominating party.

Each contestant submitted a single national list with a minimum of 80 candidates and district lists corresponding to the 13 electoral districts. All contestants submitted a required financial deposit, which is returned if the national list receives more than 4 per cent of valid votes.<sup>21</sup> All lists met the 25 per cent gender representation threshold prescribed by the law, by which at least one candidate in every group of four must be of the less represented gender.<sup>22</sup> This quota, however, does not ensure the same proportion of representation of women in the parliament, as half of the seats are distributed according to preferential votes. IEOM interlocutors did not express concerns with the candidate registration process.

In an inclusive and professionally conducted process, the CEC registered the candidate lists of all nine parties and two alliances that had submitted candidacies, with a total of 1,444 candidates of whom 464 were women.<sup>23</sup> The CEC published the candidate lists in a timely manner, thus contributing to public awareness about the contestants. Within the legal deadline of 29 November, the CEC approved 39 requests for candidate withdrawal.

## Electoral Campaign

Fundamental freedoms of expression, association, assembly and movement were fully respected during the campaign. The campaign officially started on 26 November and ended at midnight on 7 December. Campaigning beforehand is neither regulated nor prohibited by law.<sup>24</sup> Soon after elections were called, parties and prospective candidates reached out to voters, mainly through Facebook, and later through rallies, canvassing, posters and media.<sup>25</sup> Some IEOM interlocutors said that the short campaign period favoured established contestants with more resources.

The campaign largely focused on affirmative elaboration of party programmes, visions of Armenia's future and, in the regions, on issues affecting local communities,<sup>26</sup> although most contestants also engaged in some negative campaigning. While the campaign was marked to a certain degree by inflammatory exchanges in media between some contestants, the tone and civility of the ways parties and alliances addressed voters and each other generally improved as the campaign progressed.<sup>27</sup>

The campaign culminated in a three-hour, live genuine debate on 5 December on the public television (TV) channel, during which the leaders of all national lists discussed, in a mutually respectful and generally congenial manner, issues such as national security, anti-corruption, independence of the judiciary, transitional justice and economic development. Inflammatory rhetoric was, however, noted

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<sup>21</sup> The deposit is AMD 10 million (some EUR 18,180; EUR 1 is approximately AMD 550 (Armenian *Dram*)).

<sup>22</sup> With the exception of the National Progress party, ODIHR EOM party interlocutors noted the difficulty in recruiting experienced female candidates to meet the 25 per cent quota. Several acknowledged that their lists contained women who are "not real" candidates.

<sup>23</sup> Political parties registered are: ARF, Bright Armenia, Christian-Popular Renaissance Party (CPR), Citizen's Decision Social Democratic Party (CD), National Progress Party (NPP), Prosperous Armenia, RPA, Rule of Law, *Sasna Tsrer* Pan-Armenian Party. Registered alliances are: My Step Alliance and We Alliance.

<sup>24</sup> On 23 November, the CEC issued a [statement](#) that campaigning before the official campaign period is not a violation of the Electoral Code.

<sup>25</sup> In early November, political parties and alliances began announcing in media who would be heading their national lists and outlining their programme priorities. During 24-25 November, some contestants organized "walks" through towns in the regions and Yerevan, and campaign billboards began appearing in the capital for BA, MSA, and Prosperous Armenia.

<sup>26</sup> The ODIHR EOM observed a total of 63 rallies that took place in a positive atmosphere of exchanges between candidates and voters. No serious incidents were reported.

<sup>27</sup> Exchanges between the MSA and RPA were sharply polemical, especially on the issue of security policy. Several high-ranked MSA candidates, including the acting Prime Minister, accused the previous RPA-led government and its current candidates of corruption, theft of army supplies, and abuse of power. Several prominent RPA candidates accused the current government of treason, abuse of power and political persecution. On 5 December, the National Security Service summoned a high-ranking RPA candidate to clarify his accusations of treason; the candidate refused the summons.

during the campaign in comment sections of online media.<sup>28</sup> Some IEOM interlocutors also indicated that ‘fake’ Facebook accounts were sources of provocation, disinformation, and insults directed at individual candidates.<sup>29</sup>

The law prohibits public officials from campaigning while performing their official duties, as well as the use of public premises, official transport or material resources for campaigning.<sup>30</sup> To prevent misuse of administrative resources and pressure on public employees, authorities issued public warnings and briefed school principals, health workers, local officials and others about relevant prohibitions.<sup>31</sup>

Many IEOM interlocutors noted the political will expressed by authorities, electoral contestants and voters themselves to discourage the selling and buying of votes and other electoral malpractice. Nevertheless, several interlocutors claimed that one of the contestants engaged a large number of campaign workers and citizen observers on short-term contracts in order to indirectly buy their votes, without violating the law.

Parties rarely featured women candidates in their campaign – women candidates only occasionally campaigned on their own and rarely appeared as speakers in campaign rallies observed. The audience for rallies observed was predominantly male, with only 15 per cent of women participating in the rallies in the regions, and some 30 per cent in Yerevan. Some women candidates were a target of disparaging rhetoric because of their gender.<sup>32</sup>

## Campaign Finance

Campaign funds may include monetary and in-kind contributions from voters, candidates and political parties.<sup>33</sup> Contributions from legal entities, foreign or anonymous sources are not allowed. The law limits campaign expenses to AMD 500 million (approximately EUR 910,000) per contestant and most ODIHR EOM interlocutors perceived this limit as reasonable.

Expenses on campaigning through media, public events and printed materials must be paid from the campaign fund. There are no explicit legal provisions for reporting on campaign finance received and

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<sup>28</sup> Referencing a remark made by the MSA candidate during the September 2018 Yerevan city elections, several ODIHR EOM interlocutors drew attention to the public discourse that sharply juxtaposed political forces into “black” and “white”, or that referenced the “old” and the “new” Armenia. Commenters on online media often elaborated upon divisive rhetoric with personal attacks and vulgarities.

<sup>29</sup> Individual candidates, as well as parties and alliances informed the ODIHR EOM that they moderate their own Facebook pages and delete critical or insulting comments directed at themselves. The ODIHR EOM observed, however, that contestants did not always delete from their Facebook pages comments criticizing their electoral opponents. The ODIHR EOM noted credible allegations that ‘fake’ accounts were recently established to comment on the Facebook pages of news outlets.

<sup>30</sup> On 19 and 21 November, during visits to Gegharkunik and Aragatsotn, the acting Prime Minister called on rallies of supporters, to support him in the upcoming elections. He took leave in order to campaign from 26 November to 5 December. The governors of Aragatsotn, Ararat, Gegharkunik, Kotayk, Lori, Shirak and Tavush, who were also candidates, took leave or resigned to campaign.

<sup>31</sup> The ODIHR EOM received such information from the mayor of Yerevan and governors of Armavir, Aragatsotn, Kotayk, Lori and Tavush. On 19 November, the acting Prime Minister, [during his visit](#) in Gegharkunik, informed school principals and local officials of the restrictions on their involvement in campaigning. At [a 15 November cabinet meeting](#), the acting Prime Minister reminded the members of the government of the prohibitions against misuse of administrative resources in the campaign. On 3 December, during a meeting with nearly 100 candidates standing in Kotayk region, Valery Osipyanyan, Head of Police, reiterated prohibition of vote-buying.

<sup>32</sup> Although several candidates, both men and women, positioned high on party lists told the ODIHR EOM that they face harsh and derogatory language online, women candidates often received gender-based negative comments. According to a civil society organization focusing on the experience of women in the campaign, three high-profile women candidates, Lena Nazaryan (MSA), Naira Zohrabyan (Prosperous Armenia) and Arpine Hovhannisyanyan (RPA), were targeted by especially abusive language online.

<sup>33</sup> Respectively, up to AMD 500,000, AMD 5 million, and AMD 100 million. In-kind contributions should be reported based on their market price.



spent before the start of the official campaign period.<sup>34</sup> In addition, the organizational expenditures such as for office space, transportation, communication as well campaign staff may be paid from other sources and left unreported as campaign expenditures.<sup>35</sup> This limits the credibility of the reporting system and the transparency of information available to election stakeholders.<sup>36</sup>

As required by law, all contestants opened dedicated bank accounts for campaign-related transactions by 23 November. Every three working days the Central Bank submitted data on these transactions from all campaign funds to the CEC's Oversight and Audit Service (OAS), which is in charge of campaign finance oversight. The OAS then regularly published summarized data on total amounts of contributions and expenditures per contestant.<sup>37</sup> Nevertheless, the ODIHR EOM received multiple reports and confirmations from various stakeholders, including candidates themselves, that some candidates were directly financing their campaigns, especially in their districts, bypassing the contestants' bank accounts, in contravention of the law.<sup>38</sup>

To facilitate the campaign finance reporting process, the OAS provided guidelines and discussed regulations with most contestants. All contestants submitted an interim report to the OAS on campaign finance contributions and expenditures on 5 December and have to submit the final campaign finance report by 13 December.<sup>39</sup> The OAS published the interim reports on 6 December.

The OAS only checks whether the contributions and expenses are within the legal limits, and whether the estimation of in-kind contributions is correct. According to the OAS, it does not routinely audit the campaign finance on its own initiative but can request additional information from the contestants if it receives signals on potential violations of the law. The OAS noted to the ODIHR EOM that an increase in the number of its staff would improve its capacity for oversight.<sup>40</sup> While most ODIHR EOM interlocutors expressed their satisfaction with the campaign finance system, they also acknowledged that existing gaps can be abused for circumventing the principles of financial transparency with the danger of impeding equal conditions for the campaign.

## Media

The media environment is diverse with more than 160 traditional media outlets and more than 200 online news portals operating in the country.<sup>41</sup> TV is the primary source of political information, especially outside the capital. Online media and social networks, Facebook in particular, are a significant platform for political information and debate. Freedom of expression is guaranteed by the Constitution and was respected during the campaign.

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<sup>34</sup> According to the OAS, the contestants should report on all campaign-related incomes and expenses, as stipulated in the law. At the same time, several contestants informed the ODIHR EOM that they have to report only expenses incurred during the official campaign period.

<sup>35</sup> Even if reported, such expenditures during the campaign period are not included within campaign expense limit.

<sup>36</sup> According to Article 10 of the 2003 Council of Europe Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and electoral campaigns, "states should require particular records to be kept of all expenditure, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate".

<sup>37</sup> Summarized data was published five times during the campaign. According to the OAS, the My Step Alliance collected largest funds (around AMD 273 million), followed by RPA (AMD 128 million) and Prosperous Armenia (around AMD 104 million). As of 8 December, these contestants spent respectively some AMD 268 million, 127 million and 104 million. The other contestants collectively spent some AMD 173 million.

<sup>38</sup> The ODIHR EOM received such information in Gegharkunik, Kotayk, Masis, Shirak, Vayots Dzor and Yerevan.

<sup>39</sup> Contestants are obliged to report on the amount of contributions, campaign and other expenses and unused funds. The CEC must publish the reports on its website within three days.

<sup>40</sup> In addition to three permanent staff, the parliamentary factions nominated four auditors to the OAS for these elections.

<sup>41</sup> According to the Commission for Television and Radio, there are 103 TV channels, including 8 with nationwide coverage, and 24 radio stations. There are some 40 print publications.

Most of ODIHR EOM interlocutors noted improvements in media freedom and plurality of opinions. However, some of them also described the public discourse as not conducive to criticism of the government, in particular, the acting Prime Minister. The advertising market is limited, and only a few media are self-sustaining. At the same time, many private outlets appear to be strongly associated with political parties, including financially.

On 20 November, the CEC allocated, through a lottery, 30 minutes of free prime airtime on public TV and 60 minutes on public radio to each contestant. The public broadcasters provided this free airtime, in line with the law. All parties and alliances, except for the NPP, also utilized their right to purchase time for political advertising on both public and private media. As for the news programmes aired by all broadcasters, the Electoral Code stipulates that they must provide “impartial and non-judgmental information” on contestants’ campaigns.

By law, the Commission for Television and Radio (CTR) oversees all broadcasters during the official campaign. In a welcome development, the CTR interpreted the provision concerning news coverage to oblige broadcasters to provide equal opportunity rather than equal amount of coverage to each contestant. The CTR conducted its own media monitoring and issued one monitoring report on 5 December, in which it did not detect any violations of the law.<sup>42</sup>

On 19 November, the ODIHR EOM began its media monitoring with quantitative and qualitative analysis.<sup>43</sup> There were discernible differences in media coverage of political developments before and after the start of the official campaign, with all monitored broadcasters significantly decreasing the coverage of the current government’s and acting Prime Minister. For example, the share of coverage dedicated to the government at the public *HI* fell from 79 to 18 per cent, remaining exclusively positive or neutral in tone. Positively, the public broadcaster aired 10 debates, including the final live one with participation of leaders of all parties and alliances.<sup>44</sup>

During the official campaign, most of the monitored channels showed a visible effort to cover all electoral contestants in a largely impartial manner, contributing to the diversity of information available for voters to make an informed choice. Public *HI* covered all contestants in a balanced manner, providing each of them between 6 and 7 per cent of coverage in exclusively positive and neutral tone. The private *Armenia TV* dedicated between 6 and 9 per cent to the RPA, CD, Rule of Law, NPP, CPR and MSA, and between 1 and 3 per cent to other contestants. *Shant TV* dedicated 13 per cent of coverage to RPA in a balanced tone, giving seven other contestants (Bright Armenia, MSA, Prosperous Armenia, WE Alliance, Rule of Law, CD and ARF) between 7 and 9 per cent. On both private channels the tone of coverage was largely positive or neutral, although RPA and MSA also received some critical remarks on *Shant TV*.

Channels that are affiliated with specific parties did, however, demonstrate preferential treatment of those contestants. For example, *Yerkir Media* dedicated 23 per cent of coverage in exclusively positive or neutral tone to ARF, giving between 10 and 13 per cent to MSA, RPA and Bright Armenia in a mostly neutral tone. Similarly, *Kentron TV* provided Prosperous Armenia with 15 per cent of overwhelmingly positive coverage, giving MSA, *Sasna Tsrer* and Bright Armenia between 10 and 11 per cent of mostly neutral coverage.

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<sup>42</sup> CTR’s monitoring focused on allocation of free and paid airtime, and quantitative analysis of the newscasts and other programmes of eight broadcasters on a daily rotational basis, without assessing the tone.

<sup>43</sup> The monitoring of five TV channels, *HI* (public), *Armenia TV*, *Kentron TV*, *Shant TV*, and *Yerkir Media* (private TV channels) was conducted daily from 18:00 until 24:00. Politics-relevant articles of three daily newspapers *Hayastani Hayrapetutyun* (state-funded), *Aravot* and *Haykakan Zhamanak* (private), as well as of three online media sources [www.aztutyun.am](http://www.aztutyun.am), [www.news.am](http://www.news.am) and [www.lin.am](http://www.lin.am), were also monitored.

<sup>44</sup> Also, *Azatutyun* online TV (part of Armenian branch of the RFE/RL), *Iin.am*, Channel 5, as well as some regional media organized debates. Some debates featured different categories of candidates, such as youth and women.

Similarly, MSA received 45 per cent of mostly positive coverage in the newspaper *Haykakan Zhamanak* with which it is affiliated, while RPA received 21 per cent in a mostly negative tone. In *Hayastani Hayrapetutyun*, the coverage of campaign was rather limited but neutral in tone and balanced in terms of space.<sup>45</sup> *Aravot* reflected the vibrant pace of the campaign and focused on two opposing contestants, giving MSA and RPA 17 and 16 per cent, respectively, with a more critical portrayal of the latter. Online media gave more attention to MSA in their written reporting, covering them in mostly positive or neutral tone but also with some critical remarks, while second most-covered contestants varied between different outlets.<sup>46</sup>

## Complaints and Appeals

Complaints against the PECs and TECs can be submitted to the TECs and CEC, respectively, while those against the CEC are under the jurisdiction of the Administrative Court.<sup>47</sup> Complaints regarding voter lists can be filed with the PVD and appealed to a general court of first instance.<sup>48</sup> Contrary to previous ODIHR and Venice Commission recommendations and international good practice, complaints may only be filed by voters, media representatives and observers with respect to violations of their individual rights, and by proxies and PEC members with respect to violations of their rights and those of other stakeholders.<sup>49</sup>

Contestants, candidates, party proxies (if present during the vote count) and members of the PEC in question, who expressed a dissenting opinion, may challenge precinct voting results at the TEC and further appeal to the CEC. Final election results can be appealed to the Constitutional Court only by contestants, contrary to international requirements.<sup>50</sup>

While the timelines for filing and resolving complaints are generally reasonable, there is an overlap of deadlines for consideration of the complaints by the TECs and the CEC before the finalization of the results. This may potentially leave such grievances without effective remedy.<sup>51</sup>

A limited number of complaints were filed with the CEC and courts before election day.<sup>52</sup> As of the day before election day, the ODIHR EOM was not aware of any complaints filed to the TECs. As of 8 December, the Prosecutor General's working group on election-related offences identified some 76 cases and initiated 19 investigations related to alleged irregularities, including vote-buying and obstruction or forcing to campaign. On election day, the prosecutor's office reported 32 cases under their investigation

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<sup>45</sup> State-funded *Hayastani Hanrapetutyun* dedicated most of the coverage to the authorities. The MSA was the most covered contestant with 9 per cent, the WE Alliance received 5 per cent and all the others between 4 and 2 per cent. The coverage was overwhelmingly neutral.

<sup>46</sup> MSA received 27 per cent on [www.lin.am](http://www.lin.am) and 24 and 20 per cent on [www.news.am](http://www.news.am) and [www.aztutyun.am](http://www.aztutyun.am). On [www.lin.am](http://www.lin.am), BA was second most-covered contestant and received no negative coverage. On [www.news.am](http://www.news.am) and [www.aztutyun.am](http://www.aztutyun.am), RPA was second most-covered party and received substantial criticism. On [www.aztutyun.am](http://www.aztutyun.am), Bright Armenia and Prosperous Armenia were covered as much as RPA but in a rather neutral tone.

<sup>47</sup> All election-related complaints can also be filed with courts. The commissions should not consider complaints that are also submitted to a court.

<sup>48</sup> According to the PVD, no official complaints were submitted in relation to the accuracy of the voter lists.

<sup>49</sup> Section 99 of the Explanatory Report to the 2002 Venice Commission Code of Good Practice states that "Standing in [electoral] appeals must be granted as widely as possible. It must be open to every elector in the constituency ... to lodge an appeal".

<sup>50</sup> Section II.3.3.f of the 2002 Venice Commission Code of Good Practice recommends that "All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may, however, be imposed for appeals by voters on the results of elections".

<sup>51</sup> A complaint or appeal related to election day or post-election irregularities must be received by TEC or CEC no later than two days before the CEC finalizes the results. TECs have a right to decide on such complaints no later than one day before finalization the results, potentially leaving no possibility to appeal such a decision to the CEC within the legal deadline of two days before the finalization results.

<sup>52</sup> The CEC received two complaints about illegal campaigning, a number of requests to remove illegal campaign materials as well as some requests for information. The Administrative court received and rejected one complaint against a PVD decision not to issue a citizenship certificate to a prospective candidate with double citizenship.

and the police reported 17 election-day-related violations, including arrest of an individual allegedly engaged with vote-buying. IEOM interlocutors did not raise any concerns related to access to the complaint and appeal system in the election administration, courts or law enforcement bodies.

Positively, the September 2018 amendments to the Code of Administrative Offences allowed political parties and citizen observers to initiate the administrative proceedings on election-related offences in the court. At the same time, potential appellants must pay court fees in order to start an administrative proceeding. Several IEOM interlocutors opined that such legal costs and inconsistent application of these fees may constitute an obstacle to effective legal remedy.<sup>53</sup>

### Citizen and International Observers

The law provides for both international and citizen observers in polling stations.<sup>54</sup> Positively, the May 2018 amendments to the Electoral Code removed the limitation on the number of journalists a media outlet may accredit to report on polling. Despite prior ODIHR and Venice Commission recommendations, the Electoral Code requires citizen observer groups to include an explicit reference to democracy and human rights protection in their charter for at least one year preceding the call of elections, thereby narrowing the opportunity to observe.

By the deadline of 24 November, the CEC had received 25 applications for accreditation of citizen observer organizations. It accredited 22 of them with a total of 17,813 observers.<sup>55</sup> Though there was a genuine effort by the established and experienced civil society organizations to observe elections, a number of IEOM interlocutors raised concerns about direct, including contractual, connections between a significant portion of accredited organizations and political parties.<sup>56</sup> IEOM interlocutors noted that this could indicate a deliberate attempt to disguise disbursement of funds outside the electoral expenditures framework.<sup>57</sup> The relatively low number of citizen observers present in the polling stations observed by the IEOM (52 per cent), when compared to the number of citizen observers accredited, indicated lack of genuine interest or intention to observe election-day proceedings. The CEC also accredited eight international organizations with 509 international observers.

### Election Day

Election day proceeded calmly, peacefully, free of pressure on or intimidation of voters, and was assessed positively by the majority of IEOM observers. The observers noted, however, that a significant number of polling stations (71 per cent) were inaccessible to voters requiring mobility assistance, which may have led to difficulties for some to express their vote. After closing of the polling stations, the CEC reported the turnout at 48.6 per cent.

The opening of polling stations was assessed positively in all IEOM observations, and polls generally opened on time. Voting was assessed positively in 99 per cent of observations reflecting adherence of

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<sup>53</sup> The fee to initiate the case in the Administrative Court is AMD 4,000, in the Court of Appeal - AMD 10,000, in the Court of Cassation - AMD 20,000. The fee is not paid if the the case relates to individual rights of the complainant. ODIHR EOM interlocutors claimed that some judges are applying the fee per each official complaint, others per each issue raised in the complaint.

<sup>54</sup> Citizen observer organisations are required to adopt an internal code of conduct for their observers and to hold their own trainings in order to be accredited by the CEC.

<sup>55</sup> The CEC rejected the application of the NGO “Pan Armenian Youth Network” which submitted a list of 5,406 observers, due to non-compliance with the legal requirements for registration. Moreover, the CEC sent the case to the Prosecutor Office for alleged forgery of documents. The NGOs “*Iravazor*” and “Proportional Development”, with 5,504 and 5,410 observer nominations respectively, withdrew their applications.

<sup>56</sup> See the [statement](#) of the Transparency International Anticorruption Center from 26 November.

<sup>57</sup> See Paragraph 8 of the [Declaration of Global Principles for Non-partisan Election Observation and Monitoring by Citizen Organizations](#).

the PECs to procedures. Presence of party proxies (in 93 per cent of observations) and citizen observers (53 per cent) in polling stations safeguarded the transparency of the election process. However, in a limited number of cases (3 per cent of observations) proxies and observers interfered in the process. Unauthorized people, mainly police (when not voting), were present in 5 per cent of polling stations observed. Some instances of campaign materials in close vicinity of polling stations were noted.

Election materials were generally available and the procedures were generally followed, but the lists of candidates running were not posted in 10 per cent of polling stations observed. Voters generally, but not always, marked their ballots in secrecy. Notably, overcrowding was observed in 11 per cent of polling stations and the voting process was not conducted smoothly in 7 per cent of cases, which occurred partly due to poor queue control (3 per cent) and inadequate layout of polling stations (2 per cent).

IEOM observers were generally permitted to observe without restrictions, but were not allowed to scrutinize the voter lists in 4 per cent of polling stations observed. Cases of group and family voting were observed in 4 per cent of polling stations, which raises some concerns.

The vote count was assessed positively in all but two polling stations observed, indicating that the counting process was conducted without significant procedural violations. Minor violations of note include envelopes containing marked ballots not being shown, one by one, to all present (11 observations) and votes for district candidates not being counted one by one (12 cases). IEOM observers noted a few cases in which votes for district candidates were invalidated per legal provisions even though the intent of the voter was clear, indicating a need to review procedures. The observers assessed that counting was disorganized in four cases.

Some PECs (in 11 observations) had difficulties filling in the results protocols, mainly due to some figures not adding up, such as the number of signatures on the voter list not matching the number of confirmation slips issued to voters (in nine polling stations). Although in three polling stations the PEC members pre-signed the results protocols, there was no recorded instance of any deliberate falsification of results. As during voting, some police were present in polling stations (seven cases) but did not interfere. Contestants' proxies directly participated in the counting process in eight polling stations observed.

Tabulation procedures were observed in all 38 TECs and assessed positively in 34 of them. While the process was generally conducted well, the IEOM observers noted bad organization of handover of PEC protocols in five TECs, inadequate conditions for tabulation of results at some TECs, insufficient space in 11 TECs and tension or unrest at 4 TECs. The IEOM observers noted some instances of PECs completing or correcting protocols before submitting them to the TEC; however, no deliberate falsification of results was observed. The TECs have 24 hours after the close of the polls to send a protocol of summarized results to the CEC.

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**MISSION INFORMATION & ACKNOWLEDGEMENTS**

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Yerevan, 10 December 2018 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of Council of Europe (PACE), and the European Parliament (EP). The assessment was made to determine whether the election complied with OSCE commitments, Council of Europe’s and other international obligations and standards for democratic elections and with national legislation.

Mr. Peter Osuský was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and leader of the OSCE short-term observer mission. Ms. Nahima Lanjri headed the OSCE PA delegation. Mr. Aleksander Pocij, headed the PACE delegation. Ms. Heidi Hautala headed the EP delegation. Ambassador Urszula Gacek is the Head of the ODIHR EOM, deployed from 12 November.

Each of the institutions involved in this International Election Observation Mission has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The OSCE PA will present its report at its Standing Committee meeting in Vienna in February 2019. The PACE will present its report during the part-session of January 2019 in Strasbourg. The EP will present its report at the meeting of its Committee on Foreign Affairs in January 2019.

The ODIHR EOM includes 14 experts in the capital and 24 long-term observers deployed throughout the country. On election day, 317 observers from 39 countries were deployed, including 246 long-term and short-term observers deployed by ODIHR, as well as a 46-member delegation from the OSCE PA, a 12-member delegation from the PACE, and a 10-member delegation from the EP. Opening was observed in 79 polling stations and voting was observed in 975 polling stations across the country. Counting was observed in 100 polling stations, and the tabulation in all 38 TECs.

The IEOM wishes to thank the authorities for their invitation to observe the elections, and the Central Election Commission and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties, media and civil society organizations, and the international community representatives for their co-operation.

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*The English version of this report is the only official document.  
An unofficial translation is available in Armenian.*