



Statement on the illegality of the development process of the draft Electoral Code of Armenia

In view of the real need to reform the electoral system and to improve the Electoral Code of Armenia, Transparency International Anticorruption Center (TIAC) NGO expresses its concern about the illegality of the development process of the new draft Electoral Code of Armenia and its inclusion into the agenda of the forthcoming government session of the Republic of Armenia.

It is directly provided by the constitutional amendments or the new Constitution of Armenia adopted on December 6, 2015 that the Electoral Code should be brought into compliance with the Constitution of Armenia up to June 1, 2016 (part 1, article 201).

By RA Presidential decree PD-170-A of February 10, 2016 on “The organization of the legal provision process of constitutional amendments” the list of laws that should be adopted, amended or added, nominally defined by constitutional amendments was approved, and the bodies responsible for the development and presentation of the draft and the time-frame were set up. According to the above-mentioned decree the Ministry of Justice and the Central Electoral Commission are the set up bodies responsible for the development and submission of the Electoral Code, and the deadline to submit the document to the National Assembly for the discussion is March 1, 2016.

The draft was not submitted in the due time and was not published, the fact that the draft was ready was kept in secret by the responsible state bodies. In particular, in reply to the inquiry of the Union of Informed Citizens NGO, the Ministry of Justice informed in a written form on February 23 that the draft Electoral Code was in the process of development and would be put to public discussion and be accessible on website as soon as the work was finalized. Whereas the English version of [the draft Electoral Code](#) was posted by European Commission for Democracy through Law (Venice Commission) on its official website the previous day, on February 22. Meanwhile the institutions responsible for the development of the draft and the officials refrained to take part in the public discussion on “[Drafting of the New Electoral Code of the Republic of Armenia](#),” organized by “Partnership for Open Society” on February 29 and to inform on the development process of the draft law.

It was only on March 2, 2016 that the public gained access to the Draft Electoral Code of the Republic of Armenia, to be included in the agenda of the government’s March 3 session. It was implied to be approved and submitted to the National

Assembly¹. According to RA Law on Legal Acts the body developing drafts should organize regulatory impact assessment of legal acts[2]², however the justifications and references attached to the draft do not include regulatory impact assessment of the legal act, which implies that the draft Electoral Code was not submitted to the respective bodies of executive branch for carrying out the mandatory regulatory impact assessment in the fields prescribed by law. The justification document contains a reference only on essential increase or decrease of costs and incomes in the state budget regarding adoption of the draft.

Moreover, the legislative requirement to publicize and organize public discussions in the manner prescribed by the [RA Law on Legal Acts](#) was also violated. According to it the body developing the draft shall organize public discussions on the project by posting it on its website[3]³. However, upon inclusion of the draft into the government session it was posted neither on the website of the Ministry of Justice, nor on that of the Central Electoral Commission.

The authors of the draft violated the procedures prescribed by law and the right of the public to be informed, by failing to publicize the draft and avoiding to hold public discussions. As a result the public had no information on the development of the Electoral Code or the working group drafting it though civil society representatives spoke out on their readiness to participate in the development of the draft and to publicize their recommendations.

By this statement we express our dissatisfaction and protest on the conduct of the working group that developed the new Electoral Code in secret and submitted it to the government in violation of RA Law on Legal Acts and demand that the due procedures and public discussions be ensured.

¹ <https://www.e-gov.am/sessions/>

² Pursuant to the Law of the Republic of Armenia on Legal Acts, article 27.1, part 2 a body elaborating a draft shall submit the draft for carrying out the mandatory regulatory impact assessment in the field of costs – connected with administrative action – arising for natural and legal persons, as well as in environmental, social, health, economic, including small and medium-sized entrepreneurship, competition, anti-corruption, and budgetary fields

³ Law of the Republic of Armenia on Legal Acts, article 27.1, part 4