



## **REPORT**

**on Observation of Parliamentary Elections in Armenia**

**on April 2 2017**

**YEREVAN**



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## LIST OF ABBREVIATIONS

CEC	Central Electoral Commission
COI	“Citizen Observer” Initiative
EC	Electoral Code
NA	National Assembly
NGO	Non-governmental organization
ODIHR	OSCE Office for Democratic Institutions and Humans Rights
OSCE	Organization for Security and Cooperation in Europe
PEC	Precinct Electoral Commission
RA	Republic of Armenia
TIAC	Transparency International Anticorruption Center NGO

## 1. EXECUTIVE SUMMARY

During the parliamentary elections of April 2 2017, the “Citizen Observer” Initiative (COI), which included “Transparency International Anticorruption Center” NGO (TIAC), established a large-scale observation mission, which observed the electoral process on election day. The mission covered all 13 electoral districts (four in Yerevan and nine in the marzes), including all 38 territorial electoral commissions and 1522 polling stations within the area of administration of 37 territorial electoral commissions (about 76% of all precincts).

Observers reported 1618 violations during the observation mission, of which 216 related to the voting preparation phase, 864 to the voting phase, 144 to the summarization of results phase, and 394 were identified as general violations.

The nature, connection and logic of the violations of the voting procedure recorded by the observers indicate their systemized and widespread character; while the feedback from competent bodies or the absence of efficient measures against them by both law enforcement bodies and the judiciary can be considered evidence of the inability of the said institutions to fulfill their duties or their reluctance to do so.

During the observation mission, other systemic issues were also discovered and substantiated, which were partly due to the failure of existing legal regulations being adhered to, with a significant part stemming from the gaps and shortcomings in the legislation. In particular, the existing barriers to the expression of voters’ free will, use of administrative resources, election administration, civil control, and electoral disputes, are all significant obstacles to establishing an effective electoral system that will ensure sound elections and effective protection of rights in these processes. Since the impact of these challenges has a key role from the standpoint of safeguarding the right to vote, it is necessary to take them into consideration while reviewing the electoral legislation and future electoral processes to come.

## 2. INTRODUCTION

The parliamentary elections that took place on April 2 2017 were of crucial importance for the Armenian state since they were the first national elections to take place after the constitutional amendments in 2015, resulting in a change of the governance system to a parliamentary one, thus significantly strengthening the role of the RA National Assembly (parliament). In addition, the elections were conducted according to the procedures prescribed by the new Electoral Code (EC):<sup>1</sup> with application of technical innovations making voter registration and the voting process more public, as well as making the publication of signed voter lists a legal requirement.

This report provides a factual, impartial and independent perspective on the parliamentary election process, detailing observations, violations and fraud noticed during the voting by COI’s observation mission. Based on this, the report presents TIAC’s conclusion on the

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<sup>1</sup> The new Electoral Code adopted on May 25 2016; amendments to the Electoral Code of 30.06.2016 and 20.10.2016, <http://www.parliament.am/legislation.php?sel=show&ID=2020&lang=eng> (non-official translation)

parliamentary elections as well as recommendations that can serve as a basis for addressing the shortcomings in the existing electoral regulations and overcoming the problems revealed.

The key target audience of the report are:

- **The general public**, which, as a matter of fact, is the main “client” of an observation mission in any election and the main beneficiary of its results;
- **NGOs and political units**, which are interested in improving Armenia’s electoral system and are determined to actively participate both in the phase of developing legal regulations and its practical application;
- **State bodies making and implementing political decisions**: the National Assembly and the relevant bodies of the executive authorities, as well as institutions involved in electoral administration - electoral commissions led by the CEC, which have a responsible role to play in the proper implementation of the new electoral regulations and in overcoming the low public confidence in the electoral system;
- **The law enforcement system**, which, within the scope of the powers vested in it by the RA Constitution and legislation, is responsible for the prevention, detection and disclosure of possible offences;
- **International organizations**, which are supporting the development of democratic processes and the protection of human rights and need to get an insight on the situation concerning the Armenian electoral system as well as on the possible ways of improving it.

The report consists of the following main sections:

- The *Electoral Legislation* section briefly describes the legislative context of conducting parliamentary elections, with two main subsections: adoption of the main document regulating elections, the EC, the related legislative amendments and a brief description of the current legal regulations;
- The *Observation Mission* section presents the goals, composition, and the methodology of the observation mission, as well as its results, where violations and election fraud uncovered by observers are identified by their types and subtypes;
- The *Conclusion* section summarizes the general picture of the voting process according to the observation mission and provides an assessment;
- The *Recommendations section* outlines problems that require priority and radical solutions for citizens to properly exercise their electoral right in Armenia and possible steps to be taken to address these problems.

### 3. ELECTORAL LEGISLATION

#### 3.1 The adoption process of the new EC

The constitutional amendments of December 6 2015 set the date of adopting the new Electoral Code by June 1 2016, which would regulate the details of the new electoral system and, accordingly, parliamentary elections were to be held in spring 2017.

According to RA Presidential Decree No NH-170-A of February 10 2016 “On organizing the process of developing a legal framework for constitutional reform,”<sup>2</sup> the list of laws nominally defined by the constitutional amendments, which is subject to adoption, amendment or addition was approved, along with the designated agencies responsible for developing and presenting the drafts and the timeframes.

According to the decree, the RA Ministry of Justice and the Central Electoral Commission are designated as the bodies responsible for developing and presenting the Electoral Code, and the deadline for submitting the draft to the National Assembly was set for March 1 2016, i.e. 18 days following the creation of the professional council adjunct to the RA President. The draft was developed on a non-participatory basis, ignoring the OSCE/ODIHR recommendations,<sup>3</sup> within the narrow framework of the working group, without discussion and publicity. It was made available to the public in violation of the procedures prescribed by the RA legislation,<sup>4</sup> in the scope of the agenda of the RA Government’s session of March 3 2016,<sup>5</sup> two weeks after posting the English version on the website of the Venice Commission. The period between publication and adoption of the draft by parliament was very short, while opportunities to present and discuss concerns and suggestions from civil society were limited. These were mainly public hearings in parliament and discussions including a few specific issues which were conducted in a “4+4+4” format, attended by representatives from the government, non-government parliamentary parties and a few NGOs. The authors of the draft Electoral Code often avoided other discussions organized by civil society. As a result, despite criticism of several provisions of the draft Electoral Code by non-governmental organizations and experts,<sup>6</sup> and specific recommendations on improving the document, the Electoral Code, adopted on May 25 2016, did not consider them. In this regard, the COI-member NGOs made several statements.<sup>7</sup> One of the main recommendations prescribed by the adopted Electoral Code, regarding a solution to the problem of inflated voter lists, was introducing the voter pre-registration system, with the opportunity to match fingerprints and update the list of voters residing in Armenia, eventually failing for different technical reasons.<sup>8</sup>

After the adoption of the EC, discussions over certain provisions of its content continued between political forces as well as international agencies and foreign diplomatic representations, focusing, in particular, on organizational and technical mechanisms in the oversight of the lawfulness of the electoral process expecting foreign and international support. In June 2016, amendments were made to the EC, with the requirement for participants of observation missions to pass a test for accreditation being removed and the requirement for observation missions to adopt code of ethics for observers and organize training being defined, as well as the timeframe for recounting votes and the appeal process being extended by 2.5 hours.

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<sup>2</sup> RA Presidential Decree No NH-170-A of February 10 2016 “On organizing the process of developing a legal framework for constitutional reform”, <http://www.president.am/hy/decrees/item/2566>

<sup>3</sup> OSCE/ODIHR Referendum Expert Team Final Report. RA Constitutional Referendum, 6 December 2015, <http://www.osce.org/odihr/elections/220656?download=true>

<sup>4</sup> TIAC statement on the illegality of the development process of the draft Electoral Code of Armenia, <https://transparency.am/en/news/view/1318>

<sup>5</sup> Agenda of March 3 2016 RA Government session, <https://www.e-gov.am/sessions/archive/2016/03/03>

<sup>6</sup> Opinion on the compliance of the provisions of Draft Electoral Code of the Republic of Armenia with international standards, <https://transparency.am/en/news/view/1439>

<sup>7</sup> “Statement on organizational-technical mechanisms of the control over the legitimacy of electoral process in the new Electoral Code”, June 16 2016, <https://transparency.am/en/news/view/1509> and Statement on the restrictions of the activities of local observers and mass media representatives in the Draft Electoral Code of the Republic of Armenia, March 31 2016, <https://transparency.am/en/news/view/1479>

<sup>8</sup> TIAC Statement on Voting Numbers Electronic Monitoring of 2017 Parliamentary Elections in Armenia, <https://transparency.am/files/publications/1499415188-0-990807.pdf>

In October 2016, the EC was amended again. Political forces reached an agreement over video recording in the precincts on voting day and its online access as well as on publishing the signed voter lists after voting, which is covered by the 20 October 2016 Law of the RA “On making amendments and additions to the Electoral Code of the Republic of Armenia.”<sup>9</sup> Subsequently, the implementation of the mentioned provisions was accompanied with certain shortcomings.<sup>10</sup>

It is necessary to underline that a mutual agreement between political forces was achieved only on a rather narrow range of issues. Organizations representing civil society have always emphasized that these legislative amendments are necessary but are not sufficient for holding free and fair elections, and cannot neutralize the existing essential shortcomings and gaps in the EC, including those related to campaign funding, the appeal process, restriction of the rights of observation missions and media representatives.<sup>11</sup>

### 3.2 Content, innovation and problems of the EC

The EC of 2016 includes a number of provisions that are aimed at reducing electoral violations and enhancing public confidence in the electoral process. Such provisions are:

- Publishing voter lists which are signed by voters in order to exclude instances of voting on behalf of another person residing abroad and those who decide not to participate in elections;
- Online broadcast of live footage from the precincts to ensure control over the voting process;
- Electronic registration of voters to prevent instances of repeat voting;
- Removal of the requirement for observer groups to pass a test, partially expanding the opportunities for observer engagement;
- Extension of the timeframe for appealing, partially expanding the opportunity to appeal.

In addition to the EC, the RA Criminal Code also tightened penalties for violations as well as providing an amnesty period, according to which, citizens having sold their vote are exempted from criminal liability, if they voluntarily inform law enforcement bodies about receiving bribe before the law-enforcement bodies become aware of the committed crime and assist in disclosing the crime, but no later than within a three-day period.

Nonetheless, the new EC still contains some major problems, and despite criticism voiced by civil society and political structures, were largely ignored by the authors of the draft law.

The most significant problems directly or indirectly affecting elections include:

- **Introduction of a “stable majority” system:** According to the regulations provided by the EC, a political party or a bloc having received the majority of the total number

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<sup>9</sup> Law of the RA “On making amendments and additions to the Electoral Code of the Republic of Armenia”, <http://www.arlis.am/DocumentView.aspx?DocID=109028>

<sup>10</sup> The statement of COI-member organizations on publicizing the voter lists, April 4 2017, <https://transparency.am/en/statements/view/253>

<sup>11</sup> Statement of NGOs on the Electoral Code of Armenia and the recent developments related to it, September 9 2016, <https://transparency.am/en/news/view/1600> and the joint statement of NGS, September 12 2016, <https://transparency.am/en/news/view/1602>



of mandates are given 54 percent of seats in parliament and, if necessary, additional bonus seats are provided, thus distorting the political contest and the principal of proportional parliamentary representation.

- **Restriction on the opportunity to form a coalition:** If a maximum of three political parties (blocs of parties) pass the electoral barrier, a political coalition can be formed, meaning that not all parties that pass the threshold and enter parliament are entitled to form or participate in the formation of a coalition.
- **Second round of voting:** If a majority is not reached in parliament after the vote, instead of the common practice of holding fresh elections, there will be a second round of voting between the two candidates with the highest number of votes. This essentially reduces the motivation to cooperate and to govern by consensus and counters the logic of the proportional electoral system.
- **Introducing district electoral lists:** This is, as a matter of fact, the previous majoritarian system supplemented by a rating component, which creates personal motivation for wealthy businessmen to enter parliament and obtain legislative guarantees and privileges that are granted to members of parliament. This system intensively encourages vote-buying, applying pressure on those who are in employment, service and other dependents, which consequently affects the electoral process.
- **Incomplete regulations limiting the use of administrative resources:** The legal regulations provided by the EC related to the use of administrative resources during electoral campaigns are not a sufficient and effective measure to prevent the abuse of administrative resources. In addition, the legal consequences prescribed for it are not harsh or strict enough, which enables candidates with public servant status and the representatives of political forces supporting them to freely use public resources that is provided to them for official use, including state buildings, communication tools, vehicles, materials and human resources.<sup>12</sup>
- **Limitation of general and equal suffrage:** Although the EC ensures that citizens have the right to vote, it excludes the ability to vote on behalf of voters residing outside the Republic of Armenia, unless they are considered as persons of a specific category defined by the EC, including RA citizens who are serving as diplomatic or consular representations and members of their families residing abroad, military servants seconded for a long period of time or those studying in foreign states, as well as employees of representations abroad of legal entities registered in the RA and their family members residing abroad who are allowed to vote and to vote electronically.
- **Electoral precincts shrouded in secrecy:** According to the EC, not only is the number of military personnel registered to vote kept secret but the numbers and locations of the electoral precincts where voters included in voter lists drawn up in military units are also kept secret. This has greatly restricted public control over the procedure of voting by military personnel and increased the risk of the abuse of administrative resources. The issue of organizing electoral campaigns among military personnel is not regulated, which creates unequal opportunities for competing political parties and also creates an unfair advantage for ruling parties.
- **Limitations on the rights of the media:** For the first time in electoral legislation, the new EC addresses accreditation of media to cover elections. For accreditation to be

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<sup>12</sup> TIAC Report on Monitoring of The Misuse of Administrative Resources and Other Electoral Violations During April 2017 Parliamentary Elections in Armenia, <https://transparency.am/files/publications/1499095853-0-442835.pdf>

given, media outlets should be operational for at least one year and not accredit more than 50 representatives, while the total number of precincts in Armenia is 1,997. It should be noted that these requirements do not apply to terrestrial on-air broadcast media, meaning that they are given preferential treatment.

- **Limitations on the rights of observers:** The previous Electoral Code gave observers the right to follow the work of the electoral commission and present their observations and recommendations to the chairperson of the commission. The new EC does not consider the right of an observer to present observations and recommendations regarding the conduct of commissions and also on the overall voting procedure. Only the right of the observer to demand the recording of their assessment on violations of the voting procedure in the registration book of the precinct electoral commission has been defined. This means that even in the case of electoral violations, the observer does not have the right to draw the commission's attention to the violation taking place or to suggest eliminating it, and can only demand its recording after the completed fact. Moreover, an observation or a recommendation addressed to the commission can be qualified by the commission as interference in its activities, with all ensuing negative consequences.
- **Possibility to isolate observers, media representatives and proxies:** Electoral commissions are entitled to remove observers, media representatives and proxies from the session of the commission by a decision adopted by two-thirds of the commission, and – on the day of voting – in the polling station, in the event of EC requirements being violated in a way that essentially hinders the smooth operation of the electoral commission or the smooth running of the voting process. An observer can be removed from a precinct if the observer is seen to clearly support a particular candidate. However, both this and a number of other valuation concepts (for example, “essential hindrance of the commission's smooth activity”) can serve as a basis for discretionary interpretations and abuse of this right by the commission.
- **Limitation on the number of observers and media representatives permitted in the precinct:** The precinct commissions are given the right to limit the number of observers and media representatives present in the voting room, if two-thirds of commission members agree, but they cannot limit the number to less than 15, if the number of observers and media representatives present in the voting room hinders the smooth running of the voting process. However, this provision does not apply to visitors, international observers and representatives of TV and radio companies carrying out terrestrial on-air broadcasting, which is a discriminatory regulation.
- **Unreasonable deadline for appealing:** Simultaneously with the extension of the deadline for appealing until 11:00 on the second day following the day of the vote, limitations on the time of the day for accepting applications have been introduced: before 22:00 on the day of the vote, 12:00-18:00 on the next day and 09:00-11:00 on the third day. In addition, the formal requirements on applications have created artificial technical constraints, such as the requirements for submitting applications to the relevant electoral commission before the deadline and attaching the original letters of attorney and copies of an observer's certificate. Despite the OSCE/ODIHR recommendations, observation organizations do not have the right to contest the results of elections.

In addition to the aforementioned issues with the EC, the RA Criminal Code makes those who give false statements about voting on behalf of another person or those who provide a

statement with a false signature, acting both deliberately and negligently, liable for their actions. In the latter case a fine of AMD 200,000-800,000 or imprisonment for a period of up to two years has been set as punishment (RA Criminal Code, Article 154<sup>8</sup>). This sanction clearly limits the opportunity to submit statements about a particular type of electoral violation disclosed as a result of publicizing the signed voter lists, virtually nullifying the positive impact that publishing the lists can have from a public control standpoint.<sup>13</sup>

## 4. OBSERVATION MISSION

### 4.1 Goals of the observation mission

The goals of the observation mission conducted by COI during the April 2 2017 parliamentary elections were to oversee parliamentary election in order to

- prevent and/or record electoral violations on the day of voting in the precincts observed;
- establish an informed, independent and impartial perspective on the electoral process and the exercise of the right to vote;
- analyze the shortcomings in the electoral process and present recommendations for reform in legislation;
- assess compliance of the elections with national legislation and international criteria;
- appeal electoral violations to administrative and judicial authorities and, as necessary, submit statements to law-enforcement agencies.

COI involved 4,437 observers, of whom 2,127 were accredited by TIAC for the Central Electoral Commission, 1,967 by the Europe in Law Association NGO, and 343 – by the Journalists’ Club “Asparez”.<sup>14</sup> The following NGOs also participated in the COI observation mission of the parliamentary elections:

1. “Khoran Ard” NGO, Gyumri
2. Shirak branch of Sakharov Center, Gyumri
3. Centre for Community Mobilization and Support, Alaverdi
4. “Sose Women’s Issues” NGO, Goris
5. Armavir Development Center NGO, Armavir
6. Vardenik “Community Pulse” Youth NGO, Vardenik
7. “Astghatsolk” NGO for Protection of Interests and Inclusion of Children and Youth with Disabilities, Chambarak.

As well as Armenian citizens, 147 Diaspora Armenians from 22 countries and around 100 foreign interested in the establishment of democracy in Armenia were involved in COI. Observers from Georgia were engaged in the mission through cooperation with the “Multinational Georgia” NGO.

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<sup>13</sup> Statement of NGOs on the draft law “On Amendments and Additions to the RA Law Criminal Code” presented by the RA Government, October 22 2016, <https://transparency.am/en/news/view/1690>

<sup>14</sup> Central Electoral Commission Website, Parliamentary Elections, <http://www.elections.am/parliamentary>

Training concerning electoral legislation and observer behavior was organized for all observers. The scope of the training included the electoral legislation, the electoral process, the voting procedure, and the rights and responsibilities of other participants in the voting, etc.

The observation mission was carried out by 3,010 observers in 1,522 precincts. Below is the number of observed precincts by marz and electoral district:

Administrative region	Electoral District	Territorial Electoral Commission	Number of observed precincts
Yerevan	1-4	1-5, 7-10	342
Aragatsotn	7	17-18	100
Ararat	5	11-13	118
Armavir	6	14-16	118
Gegharkunik	8	19-21	136
Lori	9	22-25	190
Kotayq	10	26-29	116
Shirak	11	30-33	145
Syunik	12	34-35	129
Vayots Dzor	12	36	46
Tavush	13	37-38	82
<b>Total</b>			<b>1,522</b>

The observers worked in pairs in the precincts. In case of identifying electoral violation risks, observers tried to prevent the violations, and when violations actually took place, they demanded that the precinct commissioners record the violations in the registration books of the precinct. Observers sent SMS alerts regarding the particular electoral violation and feedback to the Coordination Center. The alerts received from observers were displayed on the online map and were updated on a regular basis throughout the day of the vote. Personnel at the Coordination Center checked the accuracy of the alerts by directly communicating with observers via telephone and, as necessary, elaborated on the description of the particular violation. As a result, 1,618 violations from 624 precincts were clarified.

## 4.2 Results of the observation mission

Electoral violations revealed by the observation mission and the shortcomings in the voting procedure are grouped by types of violations. Groups of violations are presented according to phases: from the preparation phase to the appeal process. More details of the cases of violations can be found on the electoral violations map at <https://transparency.am/elections/2017-04-02/map>.<sup>15</sup>

### 4.2.1. Voting preparation

In regard to the voting preparation phase, a total of 216 violations were recorded (13.4% of all observed violations) in 179 precincts (11.8% of all observed precincts).

<sup>15</sup> It should be noted that the map reflects the violations recorded both by COI and those recorded by the Armenian Helsinki Committee in the TEC area N6.

#### *Arrangement of the voting room*

During the voting preparation phase, the most frequent violations were related to the incorrect arrangement of the voting room. Overall, 137 such violations were recorded in 121 precincts, of which 87 were related to the voting room's accessibility, in particular, the absence of ramps, which are required for voters with certain physical disabilities to access the voting room. Thirty-one cases of incorrect arrangement of voting rooms were recorded, which did not allow or made it difficult for the observers to follow the voting process and the work of the commission. Problems of the third subgroup, those related to the number and the arrangement of the voting booths, were recorded in 19 precincts. In the case of the vast majority of these problems, at least one of the voting booths had been setup in a way that made it possible to control/follow the person behind the voting booth. In nine of the cases, violations were dismissed after observers informed the commission about the violation. Overall, out of 137 violations recorded, only 24 were dismissed and 58 were recorded in the PEC registration books.

#### *Procedure of the precinct electoral commission*

The next group of violations during the voting preparation phase is related to the procedure of the precinct electoral commissions. In general, 44 such violations were recorded in 42 precincts, of which 18 cases were related to improper preparation of technical devices, 17 related to delayed starting of the sessions of the commission, and the remaining nine cases – to violations of the procedure of drawing lots. Of the 44 recorded violations, only 11 were dismissed and 20 were recorded in the registration book of the PEC's.

#### *Availability of campaign materials in the precinct*

In relation to availability of campaign materials in polling rooms, 18 violations were recorded in 17 precincts, of which, violations were dismissed in only half of the cases after disclosure and another seven cases were recorded in precinct registration books.

#### *Issues related to voting supplies*

Before voting had commenced, six cases related to voting supplies were recorded in six precincts, of which more than half were related to ballot boxes (not properly closed or sealed), and the remaining two cases were related to the fire-resistant safe. In four precincts the observed problems were dismissed, and all six cases were recorded in the registration books.

### 4.2.2. Voting process

Most violations revealed during the observation mission (as is normally the case) were recorded during the voting process. A total of 864 records were made on violations during this process (53.4% of all violations observed) in 423 precincts (27.8% of all precincts observed).

#### *Conduct of the precinct electoral commissions*

Thirty-seven cases of violations related to the conduct of the PECs during the voting procedure were recorded in 34 different precincts, most of which (29 cases) were related to the shift envisaged by drawing lots, while the remaining eight cases were related to the precinct opening earlier or later than prescribed by law. Of these 37 violations, only 12 were recorded in the registration books.

*Issues related to the verification of voters' identity or registration*

Seventy-seven cases of violations during the procedure of verifying voters' identity or registration were observed in 66 precincts. In this case, the most frequent violation was related to the presence of a signature of a different person against the voter's name: a total of 38 cases in 31 different precincts were recorded, of which 26 were recorded in the registration books. In addition, in 36 different precincts various problems with technical devices were observed, such as the absence of a voter's name on the device (20 cases) or errors with ID documents and the data stored in devices (19 cases). Twenty-three of these cases were recorded in the registration books.

*Violation or attempted violation of the right to secret ballot*

Per secrecy of voting, 187 violations were reported in 137 precincts. A considerable number of cases (120 cases) were related to the secrecy of the vote being violated by the voters themselves, with 50 cases being recorded in the registration books. The remaining cases were related to the control of voting on behalf of another person, of which 28 were recorded in the registration books.

*Violation of the voter assistance procedure*

Seventy-five violations related to voter assistance were observed in 63 precincts. Around half of the violations (38 cases) were recorded in the registration books. The most common violations concerned unauthorized personnel assisting voters (27 cases), the same person assisting more than one voter (25 cases) and the failure to record details of the assisting person in the registration books (22 cases). In one case, a person unauthorized to sign, a commission member, violated the procedure.

*Directing voters*

A large number of violations related to directing voters were also recorded. In 112 different precincts, 141 such violations were observed, with 80 being related to prompting or directing voters, while the rest of the cases were related to "accompanying" voters inside the precinct or transporting groups of voters to the precinct. Only 48 of the mentioned 141 cases were recorded in the registration books.

*Issues related to voting supplies*

Fifty-eight cases were observed in 51 precincts, of which 30 were recorded in the registration books. The absolute majority of the recorded cases (55 cases) were related to taking ballots outside the voting room or bringing them in. Two cases were related to taking unused ballots outside of the voting room, and in one case the seal of the ballot box appeared in a precinct's garbage can.

*Electoral bribery and promises*

Observers also succeeded in uncovering six cases of electoral bribes being distributed and promises being made to voters in five precincts, of which four were recorded in the registration books.

*Campaigning or anti-campaigning in precincts*

Seventeen cases of campaigning or anti-campaigning were observed in 16 precincts or their vicinity, of which only one case was recorded in the registration books.

#### *Multiple voting or voting on behalf of another person*

Sixty-one cases related to multiple voting or voting on behalf of another person were observed in 58 precincts, with 50 cases being recorded in the registration books. Most of the observed violations (39 cases) were related to multiple registrations by a voter with another ID document. There were also 12 cases of registration on behalf of another person and 10 cases of signing the voter list on behalf of another person.

#### *Violation of the right to vote*

In 13 different precincts, 13 cases were observed that related to the violation of the right to vote. Citizens were deprived of the right to vote for a number of different reasons. Ten cases were recorded in the registration books.

#### *Other*

In addition to the presented violations, 192 different types of violations related to the voting process were reported in 142 precincts. These included the operational failure of video cameras, making notes with different colored pens, the shutdown of electricity, an observer from another observation mission blatantly supporting a particular political party, unsealed voting slips, the presence of a candidate in the voting room, irregularities between the recorded number of slips and the numbers on the voter list, meals provided in the voting room by PEC members in the presence of voters which voters sometimes joined, commission members conducting duties under the influence of alcohol, etc.

#### 4.2.3 Summarization of results

In regard to the summarization of the results phase, a total of 144 violations were recorded (about 8.9% of all violations) in 106 precincts (about 7% of all precincts observed).

#### *PEC procedure violations*

During the summarization of the results process, 23 violations related to the conduct of the PEC were observed in 17 different precincts. Ten of which were recorded in the registration books. The most frequent violations concerned the interference of unauthorized persons or the counting of results being interrupted.

#### *Violation of the summarization of results and counting procedures*

Forty-six violations were recorded in 35 different precincts, of which only 15 were recorded in the registration books. Violations in this group included five cases of violating the order of result counting actions, five cases of violations related to the procedure of taking out, reading and demonstrating ballots, one case of groundless invalidation of a ballot, seven cases of additional items in envelopes, two cases of technical devices failing to print a certificate, nine cases of counting errors, two cases of the improper recording of baseline data and results in the registration book, 13 cases of the failure to provide those present with an extract from the protocol, and two cases of violating the packaging of voting supplies.

#### *Falsification of voting results*

Two cases in two precincts were observed that related to the falsification of voting results.



### *Other*

In the summarization of the results phase, 73 other types of violations were recorded in 63 different precincts, including: the whereabouts of the PEC's seal was unknown for the duration of two hours (20:00-22:00), electricity was shut down in the precinct's area, providing extracts to observers representing other organizations from the protocol prior to the protocol being drawn up, PEC members leaving before the session was over, filling out an extract before the end of drawing up the protocol, prohibiting extracts from the registration book to be made or prohibiting photography of the registration book, the attempt of an unauthorized person to enter the polling station, inconsistencies between the number of stickers and the number of voting slips, availability of ballots with differentiating marks and their recognition as valid, violation of the procedure of taking out the envelopes from the ballot box, recording the baseline data in the registration book with a pencil, active interference by a proxy in the conduct of the commission's duties, video cameras in the voting room not working, etc. Only 20 of the mentioned 70 cases were recorded in the registration books.

### 4.2.4 General violations

On the day of the vote there were general violations including the following:

#### *Violations of the rights of observers*

Forty-five cases of the rights of observers being violated were recorded in 43 precincts (2.8% of all precincts observed). Observers encountered different types of constraints and violations that prevented them from properly carrying out the duties of a member of an observation mission. In several precincts the right of the observer to participate in the preparation session was violated; limitations were placed on the observers' right to familiarize themselves with the content of the electoral documents available in the precinct and limitations were placed on the observer's right to freely move around the precinct, etc. Only four (8.9%) of these violations were recorded in the registration books.

#### *Pressure and violence*

Although not widespread, pressure and violence towards journalists and observers largely goes unpunished. Thirteen incidents were recorded in 11 different precincts, including a threat made with a knife, physical violence, psychological pressure and general threats against observers. It is remarkable that only one incident was recorded in the registration books.

#### *Presence of unauthorized personnel in the precinct*

Similar to previously observed elections, during the voting and in certain cases during the vote counting, the presence of unauthorized personnel in the precincts was widespread. Observers recorded 82 cases in 69 different precincts (about 4.5% of all observed precincts). The PEC chairperson and the police did not undertake sufficient measures to address the violations related to the presence of unauthorized personnel. Only 26 of the mentioned cases were recorded in PEC registration books.

#### *Overcrowding and vehicles parked in the vicinity of precincts*

Cases of overcrowding and parked vehicles in the vicinity of precincts (within a 50m radius) is a violation of EC requirements. Observers recorded 105 cases in 88 different precincts (about 5.8% of all precincts observed). Like in the case of unauthorized persons in the voting room,



in most cases the PEC chairperson and the police did not take sufficient measures to address violations related to overcrowding and vehicles parked in the vicinity of precincts. Only 25 cases were recorded in the precinct registration books.

#### *Issues related to technical devices*

Cases related to issues with technical devices numbered 149 and were recorded in 130 precincts (about 8.5% of all precincts observed). Ninety-six of these cases were recorded in the registration books. Issues included devices experiencing operational failures and periods where they were defective for a certain period.

On the basis of the violations recorded by observers, 309 applications were submitted to 37 territorial electoral commissions on April 3 and 4 and further processing and results are presented in a report published by the Europe in Law Association NGO.

## **5. CONCLUSION**

On the basis of the observations made by the COI observation mission, TIAC concludes that the parliamentary elections of April 2 2017 failed to ensure an environment that guaranteed the free expression of the will of citizens.

During the parliamentary elections of April 2 2017 there were less electoral violations observed compared to previous national elections in Armenia, such as intimidation and violence directed against voters, observers and media representatives, ballot stuffing, multiple voting, falsification of results during the vote count, etc. Seemingly, the new public control mechanisms set out in the new EC (publication of signed voter lists, registration of voters using technical devices, live footage broadcasted from precincts) have made such violations harder and riskier to commit, therefore having a preventive and positive impact on reducing precinct violations and perhaps eliminating violations altogether.

Nonetheless, the number of cases observed involving directing voters or providing unnecessary assistance to voters, open voting, and openly supervised and controlled voting was unprecedentedly high, which most certainly affected the expression of the free will of voters and, consequently, the final results of the election. To guarantee a desired outcome, even as early as the pre-election period, the widespread use of administrative resources and bribes distributed on behalf of a number of candidates nominated in the district electoral lists and the promises made were combined with directing and control mechanisms, which had already made the outcome of the elections predictable. The district electoral lists, proving the concerns raised by civil society and opposition parties, fulfilled their ulterior “purpose” in ensuring the dominant presence of the ruling Republican Party of Armenia (RPA) in parliament.

It is noteworthy that for directing voters and control over voting, simple tricks were openly used such as voting with different color pens, which is not prohibited by the Electoral Code; putting items in envelopes other than ballots, which still makes the ballot valid; voting booths setup at a low level which makes voting easier to control, etc. In regard to electronic voter registration,

the absence of a legislative requirement of matching fingerprints to voters was a serious shortcoming, which did not dispel doubts surrounding the issue of multiple voting.

A considerable part of electoral violations during the voting process involved active participation by PECs or was at least permitted by them, which proves that the current regulations on the formation of electoral commissions do not guarantee that electoral administration is carried out in an independent, effective and legitimate way. Once again, the low quality of PEC conduct was evident, including the inability to properly fill out the protocols/extracts and the inability to accurately conduct elementary arithmetic operations, and as a result, it is necessary for relevant corrections to be made by higher level commissions, due to the incompetence of PECs.

The parliamentary elections of April 2 2017 was unprecedented both in terms of the number of observation missions accredited by the CEC and the total number of people registered as observers, numbering around 28,000. Many of these organizations showed no previous record of activities relating to human rights protection or promoting democracy, which raises suspicions over the sincerity and impartiality of their observation mission's purpose and agenda. Interestingly, a large number of the so-called "observers" from such organizations successfully carried out their ulterior mission of directing voters and controlling the voting process, without encountering any constraints from PECs, with it being clear that such instructions came from a common center. It is also worth mentioning that the CEC had previously declined to send invitations, as prescribed by the EC, to a number of international observation organizations, including renowned and experienced election observation organizations such as the European Platform for Democratic Elections (EPDE) and the European Network of Elections Monitoring Organizations (ENEMO). This indicates that the authorities were not interested in ensuring impartial public control over the elections.

According to the 2015 Concept on constitutional amendments and recommendations made by international organizations, the amendments made to the electoral legislation aimed to ensure public confidence in elections. Despite certain steps taken by the Armenian authorities and the considerable financial assistance provided by some international and foreign diplomatic organizations, not only was public confidence in elections not improved but also, once again and even more so, the opportunity to make changes to the country's political life became questionable. The April 2 2017 parliamentary elections demonstrated a perpetuation of the essential existing limitations in the electoral system and the overall failure of the electoral system, as a consequence of which, public distrust towards the electoral institute continues to worsen. To ensure free and fair elections, to exercise the electoral right, to protect and to effectively examine the electoral violations, first of all, it is necessary to have the political will, which was clearly not there, and, evidently, the readiness of the ruling party to yield its positions in the political field was clearly unnoticeable.

## **6. RECOMMENDATIONS**

To provide necessary prerequisites and proper electoral processes for the free expression of voters' will on voting day, it is necessary to identify radical solutions to the following issues:

### **6.1 Improvement of the electoral administration**

It is necessary to reconsider the system of forming precinct electoral commissions and their activities, eliminating political and other dependencies, simultaneously clarifying responsibilities. It is preferable that PECs be formed on the principles of TECs on the basis of standards defined by law and be appointed by the CEC. Such a mechanism will contribute to improving the professional quality of commissions and the assurance of integrated application of CEC guidelines.

### **6.2 Ensuring a competitive environment**

The district electoral lists should be terminated and the electoral procedure as a whole should be brought to the format of proportional elections, which will significantly limit or minimize the direct motivation and probability of actions aimed at providing votes in favor of their party by businessmen or those having other levers of influence through vote-buying, pressure and threats.

Regulations limiting the use of administrative resources should be tightened and adequate liability measures defined to prevent distortion of competition due to the misuse of administrative resources. Any case of using public resources by a candidate to serve the interests of a political party or other private interests must be seen as reprehensible, with ensuing legal consequences, revoking the registration of a particular political force or particular candidate in question.

### **6.3 Adjustment of voter lists**

The issues related to voter lists must be resolved fundamentally, once and for all. In particular, it is necessary to review the mechanism of forming the voter register, separating citizens who are living in Armenia and those who are living abroad. As an alternative to this, we consider it appropriate to introduce a mechanism of clearing the lists through a preregistration system, prescribed by the RA law of June 30 2016 "On Making Amendments and Additions to the Electoral Code of the Republic of Armenia", but the law was never implemented, with the excuse of time constraints and technical difficulties given. It is also necessary to ensure the use of the legislative and technical possibility of matching fingerprints collected with the help of technical devices.

### **6.4 Expansion of the rights of observers and media representatives**

Regulations introduced by the new EC related to limitations on the rights of observers and media representatives should be reconsidered, in particular, removing restrictions on the number of media representatives accredited, the right of the PEC to remove an observer or a media representative from the precinct, restriction on the right to present observations on the voting procedure, as well as the discriminatory privileges for terrestrial on-air broadcasting media representatives.

At the same time, to ensure a more effective electoral process, observers and organizations carrying out observation missions, in addition to the opportunity to record their assessments of electoral violations in the registration book of the precinct, should also be entitled to appeal the decisions, actions or inactions of the electoral commissions related to those violations, as well as to dispute the results of the voting in the precinct. Observation organizations that assume responsibility for their observers should also be entitled to protect their violated rights through judicial proceedings.

The right to invite international NGOs should be provided not only to state agencies but also to NGOs. It will eliminate demonstrations of arbitrariness by the CEC and other competent agencies sending invitations and will contribute to enhancing the quality of public oversight, strengthening cooperation with professional observation organizations. The CEC can reject the registration of an international observation organization only if the organization does not meet the specific standards prescribed by law.

## 7. SUMMARY

The electoral process in Armenia, despite some positive developments, even further moves away from the possibility of competitive, free and fair elections. It is necessary to seriously analyze the lessons of the April 2017 elections and continue to reform the electoral legislation and practices.

We do hope that the issues presented in this report will appear in the spotlight of targeted stakeholders. In particular, it is expected that:

- The relevant state agencies will pay proper attention to the electoral violations and cases of electoral fraud detailed in this report, and while reviewing the legislation and practices, will take measures to eliminate the identified systemic problems;
- Political parties will make more of an effort to ensure that their proxies are knowledgeable about the electoral legislation and will properly organize the oversight of electoral processes, as well as to take larger steps in amending the legislation to guarantee a more competitive political environment;
- Citizens will value the role and significance of observation missions, and will participate in shaping public demand for the creation of a free and fair electoral system that meets international standards and will assume certain personal responsibility in the oversight of the electoral process;
- International agencies will reconsider their approaches and substantiate their assessments on the texts of electoral legislation or on elections with objective arguments, abstaining from making ill-timed and opportunistic political statements.