

The Armenian Human Rights Defender's Ad-hoc Report on the RA Parliamentary Elections 2012

AS AN INTRODUCTION

“RPA is satisfied with the results of the elections. In our opinion, society is also satisfied”.

**Eduard Sharmazanov
Republican Party of Armenia**

“The Parliamentary Elections that were held on 6 May continue to be in the center of the public attention. Today, I express my gratitude and thanks to all the citizens who believed in my team and me and gave their vote to the Prosperous Armenia party”.

**Gagik Tsarukyan,
«Prosperous Armenia» party**

“Six of May of 2012, instead of becoming the day of free expression of the will of Armenians and the day of victory for Democracy, it is marked as an unprecedented scale of electoral violations by the state to falsify the Parliamentary Elections”.

«Armenian National Congress» party alliance

“The actual process of the elections in the electoral districts and the comparatively equal conditions of television airtime during the electoral campaign can both be viewed as progress. However, the massive violations that were implemented out of election districts overshadowed the legality and legitimacy of the Elections”.

«Heritage» party

“The elections didn't observe the will of the public and the real percentage of political support. There were massive violations that had been planned and executed out of the electoral districts during 6 May and the preceding days”.

«The Armenian Revolutionary Federation» party

“This is the first time elections took place without ballot stuffing and violence. The counting of the votes was done transparently and under the control of the parties. I am also grateful to the mass media for comprehensively commenting on the campaigns of all participating political forces, which is the most important achievement for this election”.

**Artur Baghdasaryan,
«Rule of Law » party**

“Unfortunately, the Parliamentary elections this year cannot serve as an impetus for the process of democratization of the country and do not demonstrate the political will of authorities to hold legitimate elections”.

Eleven NGOS’ combined statement

“The Parliamentary Elections were held in free, open and competitive accordance with the democratic norms. In regards to election violations, we can mention the fact of stamps disappearing from passports”.

CIS Observation Mission

“The election of the Republic of Armenia on May 2012 was marked as a competitive, active and a general demonstration of a peaceful campaign. However, violations were found both during the pre-election period and on election day. The serious cause for concern is the general skepticism of the majority of society and the parties towards the legitimacy of the electoral process”.

**The OSCE Office for Democratic Institutions and Human Rights
OSCE Parliamentary Assembly and The European Parliament**

“The preconditions for the real elections are the accuracy of the voter lists and the absence of pressure toward the voters. The election of 6 May 2012 failed to guarantee the above preconditions”.

The Council of Europe Parliamentary Assembly

“The 6 May Parliamentary Elections recorded great progress. There are progresses in several key destinations. For example, the situation of the media use was much better than before. Importantly, everything was transparent and in order in the electoral districts, committee members were trained and video cameras were installed in the polling stations. At the same time, several problems continue to remain and OSCE and ODIHR observers clearly noted those. The elections bribes and abuse of administrative resources continue to be serious problems. Therefore, there is a need for improvement before the next elections”.

**John Heffern
U.S. Ambassador of Armenia**

In addition to these and other assessments, below is the assessment of the Human Rights Defender on the election for the National Assembly. During the preparation of this ad-hoc report, the Human Rights Defender’s Staff for first time had an opportunity to receive and accumulate information and facts from the primary sources. Also for the first time, the Human Rights Defender’s Staff had a hot line with the well-known 116 phone number, a number of Rapid Reaction Groups, regional offices, and relevant resources. All of the above came true through financing from the European Union and support of the OSCE Office in Yerevan in the framework of the Project "Support to Two Electoral Cycles in Armenia". The report on HRDO activities under this Project will be presented separately.

Human Rights Defender’s Staff

VOTER LISTS

The Human Rights Defender's Staff has received 25 complaints concerning the accuracy of the voter lists. An examination of the complaints has revealed that the complaints are concerned with the inclusion of deceased people, people who do not reside in the Republic of Armenia, and the previous owners of apartments and homes in the voter lists.

According to the complaint from citizen S.S. addressed to the Human Rights Defender (hereafter the Defender), there are cases where the voter lists contain other false information, specifically there are people included in the list who are minors, people who were deprived of their liberty by a decision of the court or are not eligible to participate in the elections for other reasons. S.S. also stated that in contrast with voter lists of the 2008 Presidential Elections, the Parliamentary Elections 2012 list includes a larger number of voters. The above stated issue was reported to the Prosecutor's Office of RA, which responded in a statement that the difference in the number of voters between the 2008 Presidential Elections and the Parliamentary Elections 2012 corresponds to factual statistics.

Through the Defender's intervention, one of the complaints was positively resolved. Specifically, citizen A.A. addressed a complaint to the Defender on April 13, 2012 that starting from the year 2005 A.A. could not participate in the elections because of not being registered. In response to the Defender's inquiry, The Passport and Visa department of the Police stated that the citizen A.A. had been registered in the voter register. The rest of the complaints addressed to the Defender either were denied by the Passport and Visa department of the Police or were unfounded.

The Passport and Visa Department (PVDP) of the Police is responsible for maintaining the voter register based on state population register data. Voter lists are extracted from the voter register, which is based on citizens' registered place of residence. According to the RA Law on the State Population Register, in cases when the place of registration of the citizen is changed, the citizen must inform the state body officially about it. According to the provisions of the same law, in cases when the death of a person is registered, the competent state body (Ministry of Justice) must inform the PVDP.

The Deputy Chief of the Police made a statement on May 2 that addressed the citizens' complaints about inaccuracies in voter lists. According to the Police, they received 6,411 complaints, the Police examined 3,592 direct complaints and 2819 were from other sources such as NGOs. They also stated that 5668 complaints referred to the inclusion of deceased people in the voter lists, 413 concerned registered people who were not included in the list, 175 concerned people with no registration, and around 155 were about the inclusion of voters at wrong addresses and repeated names. The police investigated and resolved 3818 complaints, 1883 complaints concerning the inclusion of deceased people were denied, 413 complaints concerning registered people who were not included in the list were denied, 5 cases of the inclusion in the voter lists of people with no registration were resolved and corrected, and of the 155 complaints of the inclusion of voters at wrong addresses and repeated names only 18 were resolved and corrected. The Deputy Chief of the Police also stated that the cases of inclusion of deceased

people in the voter lists occur because of not registering those people according to the regulations, and the ineffective administration among government institutions.

Defender's Observations and Assessments

The major reasons for the Armenian society's distrust toward the results of the Elections are the inaccuracies in the voter lists and the retention in the voter lists of persons extensively absent from Armenia. Keeping in the voter lists the data of persons extensively absent from Armenia is the requirement of law. Keeping the names of deceased persons in the voter lists as stated by the Ministry of Justice was the consequence of a software problem, which was emended prior to the day of Elections. Other inaccuracies in the voter lists are the consequence of insufficient work carried out by the Police. The above-mentioned voter list issues do not by themselves testify to existence of electoral frauds; however, these issues offer pretext for political speculations and intensify public distrust towards the electoral processes in the country. At the same time, existence of the issues mentioned above in creation of the voter lists can generate extensive possibilities for electoral fraud.

The expansive work carried out by the Police is very positive. Only a very small number of people who were entitled with the right to vote but whose names were not registered in the voter lists did not get the chance to vote. Furthermore, the Police displayed an unprecedented readiness to react to cases of legitimate requests and valid information with respect to the voter lists. The way the Police publicly conducted themselves is appreciated.

Taking into account the mentioned circumstances, it is necessary to continue positive development tendencies in the work of the Police and initiate public debates about the possibilities for adopting legislative amendments concerning the removal from the voter lists of the names of persons extensively absent from Armenia

NOMINATION AND REGISTRATION OF CANDIDATES

According to Article 105 of the Electoral Code of RA anyone having attained the age of twenty-five, not holding the citizenship of another State, having been a citizen of the Republic of Armenia for the last five years, permanently residing in the Republic for the last five years and having the right of suffrage shall have the right to run for and be elected as a deputy of the National Assembly of the Republic of Armenia. Only in two cases did citizens of The Republic of Armenia who wished to be nominated as a candidate received a rejection from the Constituency electoral commission, which was based on the permanent residence requirement for the last five years in Armenia. Khachatur Sukhiasyan received a rejection from Constituency Electoral Commission no. 10 based on 10 months and 20 days of uninterrupted absence from Armenia. In the other case, Eduard Madatyan received a rejection because the latter did not permanently reside in Armenia for the last five years.

K. Sukhiasyan brought a complaint to the Administrative court to appeal the decision and stated that the legal interpretation of the “place of residence” term should not be based on Article 7(2) of the RA Law on the State Population Register, Governmental Decree no. 1231-N 14 July 2005, but based on the Civil Code of RA, according to which the place of residence is the place where the citizen resides or mostly resides. K. Sukhiasyan also stated that he went abroad not to reside but to relax and become healthier. Based on the above stated reasoning, K. Sukhiasyan ascertains that the violation of the provisions of the RA Law on the State Population Register should not limit his electoral right. However, the Administrative court rejected K. Sukhiasyan’s appeal and left the constituency electoral commission no. 10’s decision unchanged.

Concerning the issue of the registration of a deputy candidate, the Defender received a complaint from the number 19 territorial electoral majoritarian deputy candidate Hakob Hakobyan. In his complaint, H. Hakobyan raised the issue of Sedrak Saroyan’s registration as a deputy candidate because S. Saroyan allegedly has been absent from the country starting from May 15, 2010 until November 30, 2011 and presented false documents to the Territorial Electoral Commission. Based on H. Hakobyan’s complaint, the Defender requested clarifications from the Head of the National Security Service of RA, and from the analysis of the received answer it was revealed that the length of each of S. Saroyan’s absences amount to an uninterrupted absence from Armenia for less than 81 days, which, according to the clarifications received from the Police, is not a basis for the change of the place of registration. Therefore, the permanent residence requirement was not violated.

There have been 18 cases of deputy candidates registering and later withdrawing. The problematic case of those 18, which was widely publicized by the media, was the withdrawal of Merujan Mkhoyan. M. Mkhoyan had been nominated from precinct number 21 situated in Armavir *marz*, however some time later—without any obvious reason or comment—he withdrew from the candidacy. According to publications, the reason behind M. Mkhoyan’s withdrawal was illegal physical and mental pressure conducted towards him.

Defender’s Observations and Assessments

The process of candidate nomination and registration in the present Elections was generally satisfactory and allowed for truly competitive Elections. Nonetheless, two circumstances are worrisome. The residential qualifications of the candidates for MP still need clarification in the legislation. The current legislation interpretation and application by the CEC and Administrative Court is understandable and partially acceptable. However, as the legal interpretation of the term “place of residence” is neither included in the Electoral Code nor is clear who can be considered “a permanent resident of the Republic of Armenia for the last five years”, this requirement of the law is not entirely obvious and predictable for someone considering running for MP.

ELECTION CAMPAIGN

The Electoral Code stipulates that the period of the election campaign shall ensure equal opportunities for the candidates and that the candidates, political parties, alliances of political parties running in elections under the proportional electoral system and other participants in the election are obliged to observe the Code. There were more than 10 cases of hindrances of an election campaign; they are presented below.

A group of young men assaulted ANC members Babken Garoyan, Gayane Arustamyan and Zoya Tadevosyan. The group broke Babken Garoyan's nose. Gayane Arustamyan informed the Human Rights Defender of the incident, and the Defender sent an inquiry letter to the General Prosecutor of RA. In response to the letter, the General Prosecutor informed the Defender that a criminal investigation was started based on the examination of Gayane Arustamyan's complaint on April 16, 2012 demonstrating a violation of Article 117 of the Criminal Code of RA: Infliction of willful light damage to health. Later, on May 21, B. Garoyan presented an application to the Malatya investigation department, according to which B. Garoyan had forgiven the accused Vardan Vardanyan and asked that he not be held responsible. The Police terminated the case on the principle of reconciliation of the injured with the accused.

The Defender received a complaint according to which a deputy candidate Hovhannes Margaryan's poster was placed on a food store GA in Gyumri. In response to the inquiry, the Mayor of Gyumri stated that the poster had been removed.

On April 27, the Erebuni Department of the Police had received a complaint from a deputy candidate ANC member Violeta Petrosyan, who had informed them that on M. Khorenaci Street near street number 229 unknown people hindered their election campaigning. As a result of the rapid actions taken by the Police, the identities of the above stated people were found and written explanations were taken from them. In response to our inquiry, the Police informed us that during preliminary investigation, an explanation was also taken from Violeta Petrosyan, in which she stated that the people who had hindered the campaign did not hit her or any other person, nor did they say abusive words. It was their obscene behavior that hindered the campaign. The conclusion of the investigation was that no one had conducted physical ill treatment towards V. Petrosyan or any other person with her and that no one stopped them from continuing their campaign. Therefore, the criminal case was rejected based on the absence of the criminal act.

According to another complaint addressed to the Defender, on April 26, 2012 there was a meeting with the voters planned for a deputy candidate from precinct number 2, Vladimir Karapetyan. The candidate started his campaign at the planned time. However, a few minutes later "district authorities" started to hinder his campaign. As a result, V. Karapetyan left the area and many citizens did not receive the information they came to receive. In response to the Defender's inquiry, the Police informed us that their rapid actions didn't prove any hindrance and it was decided to reject the case. It is noteworthy that according to the Police during the inquest V. Karapetyan refused to go to the Police station.

In another complaint from April 10, 2012, nominated deputy candidate Anushavan Nikoghosyan from precinct number 32 informed the Defender that the mayor of Tashir had demanded him to stop putting up a poster in the city of Tashir. Based on the complaint, the Defender had sent

inquiries from different state bodies. Based on the received responses, the information stated in the complaint was rejected.

One of the precinct number 30 nominated deputy candidates, complained that a poster in the city of Vanadzor had been torn down by unknown people. The Police sought the perpetrators but couldn't find them. According to another complaint addressed to the Defender, in precinct number 37, the election campaign offices were situated in the municipal buildings. The Central Electoral Committee (Hereafter CEC) responded to an inquiry stating that the information was not true.

According to the information published by media, in precinct number 29 the head of the Lernapat district conducted ill treatment towards Gevor Melkonyan, a majoritarian nominated deputy candidate Vahagn Martirosyan's proxy. In response to the inquiry, the Police informed the Defender that measures were taken to collect evidence concerning the issue, but the ill treatment was not proven and the case was rejected.

Concerning complaints of hindrance of the election campaign that were addressed to the Police, the Police informed the Defender that in all the cases rapid responses were taken to collect evidence and explanations from people who allegedly could have been related to the incidents. However, in all cases, the criminal act and/or the person who had breached the law was not proven, therefore all the cases were rejected.

In addition to the above-mentioned cases relating the hindrance of one's electoral campaign, the Defender also received several other complaints stating that on May 5th the posters of the Republican Party's parliamentary candidates, A. Sargsyan, S. Sukiasyan, G. Tsarukyan, T. Hovhannisyan, R. Sadoyan, and A. Baghdasaryan, were still posted in various streets of Yerevan. Also, a campaign video of the Republican Party was shown on that day on the crossroad of Tumanyan-Abovyan. On May 6, the campaign poster of the majoritarian electoral system candidate A. Stepanyan's pre-electoral poster was posted near the polling stations no. 3/11, 3/18 and 3/29.

According to the letter received from the Central Electoral Committee, the Electoral Code does not define any provision for removal of campaign posters and other printed materials on the voting day and the day before. According to another complaint on May 6, the photo of the candidate of the Republican Party S. Sarkisyan was posted in the polling station no. 34/04. On this issue, the CEC instructed the Constituency electoral commission to inform the Precinct Electoral Commission to move the President's photo to another room on the day of elections.

Defender's Observations and Assessments

The Pre-election campaign was in general free and without significant obstacles which created positive preconditions for the equal competition for all candidates. However, even the few cases registered were not sufficiently investigated by the Police and Prosecutor's Office. This is demonstrated by how the Police was not able to find sufficient evidence to demonstrate the criminal act and/or identify of the perpetrator in each case. Consequently, the Police rejected to initiate a criminal case from any of these complaints. Such results considerably reduce public trust towards the mentioned bodies and electoral processes.

Media Coverage of the Parliamentary Elections

The Human Rights Defender has received no complaints related to the unequal media coverage of the Elections.

On May 6, the TV and Radio Committee (TVRC) of RA announced overall satisfaction with the TV and radio coverage provided for the Elections and the conditions of airtime provision to the parties. Nevertheless, according to the above-mentioned announcement, the TVRC monitored two registered cases on media coverage from the candidates nominated through the majoritarian electoral system. According to the TVRC Committee, in both cases the reaction of the Committee was proactive and not based on the candidates' claims. In both cases, the rights of the candidates have been restored.

According to the media coverage report on the Parliamentary Elections of May 6, 2012 presented by Yerevan Press Club, the pre-election campaign broadcasting largely gave equal conditions for the political parties to present their projects and views to the electorate. According to the report, the voters did not receive equivalent information about all the participants of the process, but this was a result of political parties' willingness or opportunities to organize a campaign. It was also mentioned that the Armenian media broadcasters have registered indisputable progress in comparison to the previous national elections.

Summarizing the results of pre-electoral monitoring, the Committee on Freedom of Speech announced that the mass media maintained media coverage balance.

International organizations also generally commented favorable on the media coverage issue. Particularly, it was mentioned that the mass media monitored by OSCE/ODIHR EMM provided broad coverage for the six large parties and the coalition, granting them an opportunity to be heard by the voters, whereas the media coverage of candidates nominated through majoritarian electoral system was limited.

The political forces did not express negative views about the elections coverage. Positive evaluation was given by "Heritage" and "The Rule of Law" parties, which mentioned that the campaigns of all political forces were comprehensively covered and equal conditions for TV airtime were ensured.

Defender's Observations and Assessments

The most positive evaluation during the election was given to media coverage of the Elections by the interested entities and observer organizations. They state the media's unprecedented progress as compared to all the previous elections in the country. The media gave opportunities to all candidates and political parties to present their views, ideas and programs.

Unfortunately, competing parties did not succeed in using the available opportunities to initiate serious ideological and programmatic discussions. A significant part of the society did not receive alternatives to many worrisome external and internal political issues. This contributed to often apolitical and non-ideological voting choices by the electorate and in its turn creates perfect conditions for guiding the electorate by means of bribes.

During the next Elections, to maintain and further free and equal media coverage, the mass media should compel the candidates and political parties not to limit themselves with outlandish, common, often unsubstantiated, sometimes radical declarations and slogans. Journalists can and should receive viewpoints from competing politicians to provide society with comprehensive, realistic and specific programmatic solutions and recommendations regarding various issues.

ORGANIZATION OF VOTING

On the day of the voting, the Human Rights Defender received 204 complaints. The research and analysis of the complaints is presented below but is not exhaustive.

Five complaints addressed to the Defender were related to the violation of the requirement to ensure the secrecy of voting. The complainants mentioned that voting booths and ballot boxes were placed in violation of the requirements provided in the Electoral Code of Republic of Armenia. Thereby, the Human Rights Defender's Rapid Reaction Group registered and photographed voting booths that were placed close to each other in polling station 11/14, a violation of one-meter distance provided by the Code. A letter with attached photos confirming the above-stated violation was sent to the Central Electoral Committee. The answer received from the CEC stated that after reviewing the Precinct Electoral Commission's register books, 55 proxies were present in the station and there was no corresponding complaint about furnishing in the polling stations. Therefore, the CEC does not believe there was a violation of the voting procedure set forth in the Code.

Four complaints were received concerning open voting in polling stations, particularly where a PEC members required the voter to show them the content of the ballot before the voter could put the ballot into the ballot box. A letter was sent to the CEC, and in response to our inquiry, the CEC stated that a clarification had been requested from the president of the respective polling station and whose oral answer showed that the indicated information was not true. The CEC also mentioned that in the register book of the respective PEC there was no record of a violation of the voting procedure.

Fourteen complaints were received regarding the violation of the procedure of assisting voters who are not able to fill in the ballot by themselves. Particularly, citizen A.A. had a concern that in a particular polling station, voters that were not able to fill in the ballot by themselves were being assisted by the same person, which the president of the PEC refused to record in the register book. According to another complaint in a polling station, assistance to voters that were not able to fill in the ballot by themselves was provided by a person who was selected by the president of the PEC. In response to the inquiry concerning the aforementioned complaints, the CEC stated that they have examined the register books of the respective PEC and did not discover any violations of the procedures set forth in the Code.

According to the responses received from the CEC concerning the above-mentioned cases and from other phone calls, it can be concluded that in cases when corresponding records related to violations have not been done in the register books the CEC did not consider it as a violation.

Based on that justification the CEC does not take any measures to prevent such violations in the future, regardless of the many complaints from citizens that in some polling stations the presidents of the PEC did not record the violations in the register books and also in some other polling stations the PECs were not provided with register books.

The Electoral Code states that the Constituency Electoral Commissions provide Precinct Electoral Commissions with the appropriate register books. Violations on the voting day, actions of the president of the PEC before the voting starts, violations during the organization of voting and while voting, actions related to summarizing the results of the voting, and applications connected with recalculation are recorded in the register books. In cases of violations, members of the commission and proxies have the right to demand to record their assessments in the register books. The Defender has received a complaint concerning cases of not providing register books to some of the polling stations of electoral precinct number 24; however, the CEC stated that the information does not correspond to reality.

According to another complaint in Vardenik village in Gegharqunik marz, a community council member was involved in the Electoral Commission. In response to the inquiry, the CEC stated that the mentioned members of the Electoral Commission had been former members of the community council and they had stopped being members of the community council by the formation day of the Precinct Electoral Commission.

Citizen A. A. addressed a complaint mentioning that there have been cases in polling stations 21/01 and 2/08 where more than one person was voting at the same time in the same voting booth. In response to the inquiry, the CEC stated that in the register books of 21/01 and 2/08 electoral precincts there had been records of cases when a voter was not able to vote by him or herself. After notifying the president of the Electoral Commission, the voter was appropriately assisted by another person.

There has also been a complaint stating that in polling station 28/28 the voter voted openly. The voter filled out his ballot before going to a voting booth and while openly holding his ballot in his hands approached a member of the commission who put a stamp in his passport. The voter then went to the voting booth to put his ballot in the appropriate envelope. The Electoral Commission responded to the incident. The voting procedure was explained to the voter and the violation was eliminated. However, the CEC did not take any measures to bring the person who had done the violation to a corresponding responsibility.

The Electoral code prohibits more than 15 voters being in the polling room at the same time and for groups to congregate within 50 meters of the polling station. There were 18 complaints concerning violation of the rule of prohibiting the presence of more than 15 voters in the polling room. In response to the complaint of the President of the polling station 34/22, the Human Rights Defender's Rapid Reaction Group visited the polling station. The Rapid Reaction Group saw that there were more than 15 voters in the polling room. With the assistance of the Human Rights Defender's Staff members, the Police took measures for ensuring there were no more than 15 voters in the polling room.

According to the complaint of citizen A. A. in polling stations 39/32 and 09/05 the number of voters in the polling stations was more than 15 and people had gathered into groups within 50 meters of the polling station. Letters were sent to the President of the CEC, but he did not mention anything about the above aforementioned case in his response.

According to the Electoral Code for stamping the passports of the voters, the PECs were to be provided with a special ink that should remain in one's passport for at least 12 hours before disappearing. There were 64 complaints of cases where the stamps disappeared sooner than 12 hours. There were also seven complaints stating that stamps were not put in people's passports. The voters had a concern that because of the rapid disappearing of the stamp, some voters could have a chance to vote more than once. According to a public statement of the President of the CEC, the issue arose because the stamps had been used without shaking the ink beforehand. The President of the CEC also mentioned that appropriate measures had been taken to eliminate the issue. Despite the statement, the CEC did not take measures to discipline those people who did not follow the instructions for using the stamp.

There were also cases when the stamp did not disappear from the voters' passports even after 12 hours. The CEC stated that according to the respective articles, the ink of the stamp had to last at least 12 hours and that is the main idea of the provision in the Code. The CEC also mentioned that the relevant provision does not put a limit on the presence of the stamp, thereby the fact that the stamp did not disappear after 12 hours is not a violation of the Electoral Code. On 17 October 2011, the European Commission for Democracy through Law (Venice Commission) and the OSCE/ODIHR in their joint final opinion on the Electoral Code of RA reported concern that the ink of the stamp should disappear approximately after 12 hours to avoid the issue of possible intimidation (persecution, pressure) towards citizens because of the presence of the ink.

The Code defines that the person who is responsible for stamping the voting envelope and the ballot box must first check for the absence of the stamp in the voter's passport before stamping the voting envelope and depositing the vote into the ballot box. If there is a stamp in the passport of the voter, showing the voter already voted, a member of the Electoral Commission with the assistance of the president of the electoral commission informs the Police about the attempted crime of multiple voting. There were about six complaints concerning cases of multiple voting. The Police informed the Defender that measures were taken and testimony was taken from possible witnesses. However, the Police could not find evidence of any violation and did not initiate criminal cases.

Fourteen complaints concerned voters who were not able to visit the polling stations by themselves and were deprived of the opportunity to vote. They were not getting treatment in a medical institution, and thus the Code does not provide them the opportunity to vote by mobile ballot box.

In polling station 27/13, commission members informed a voter that three unknown people already voted from his address. The incident was registered by the Human Rights Defender's Rapid Reaction Group and a reporter for a news website. The Rapid Reaction Group members directed the citizen to contact the Police. Another citizen submitted a complaint to the Defender that the commission members at the polling station 3/1 also informed him that someone else had

already voted instead of him. The Police responded inquires on the above cases stating that they will not initiate criminal investigations due to the absence of a crime.

There have been nine complaints regarding cases where unauthorized people violated the voting process in the polling stations. Particularly A. S. informed that the Mayor of Vardenik village and a few other strangers entered the 24/31 and 23/32 polling stations during the counting of the ballots and interfered with the work of the Electoral Commission. Letters were sent to the Police and CEC concerning these cases. According to their responses, the complaints did not correspond to reality.

Another complaint stated that there was an empty envelope of a majoritarian ballot found in the voting booth in the polling station 05/08, but the president of the Electoral Commission refused to record the incident in the register book. The CEC responded to an inquiry stating that the Electoral Code provides the opportunity to appeal the decision of the PEC to the appropriate Constituency Electoral Commission. Therefore, it is obvious that the CEC did not consider the issue as a violation of the Code.

The Human Rights Defender sent a letter to the CEC to get information concerning the number of violations of the Electoral Code and the respective measures taken but the CEC informed the Defender that they do not keep statistics concerning the violations.

Defender's Observations and Assessments

The moderate number of registered and abovementioned violations testifies to the fact that during the Parliamentary Elections 2012 such previously widely imposed electoral violations as secret ballot, ballot stuffing, voting by other people, withdrawal of ballots from precincts and passing to other voters, etc. have been eliminated or significantly reduced. Even if all the above-mentioned alarms were proved and true, the number of recorded violations could not have a significant impact on the overall positive assessment of the organization of voting. Voting was conducted generally in accordance with the requirements of the law, well organized and without violence.

In the meantime, the violations registered and alarm calls received by the Central Electoral Committee were not sufficiently examined by the Committee, and CEC's approach to incidents and problems addressed to them in many cases can be characterized as legal formalism. Such practice does not promote public confidence in electoral processes and obscures the State and CEC positive progress registered.

CORE VIOLATIONS

Cases of Electoral Bribery

The Criminal Code of RA criminalizes bribing a voter to vote for or against a candidate, whether done personally or via an intermediary. Also, the Code of Administrative Offences of RA provides administrative penalties to candidates, political parties or party alliances that provide or promise voters, personally or through a charity on their behalf, any form of assistance free of charge or preferential terms for a services.

During the pre-election campaign and on the election day itself, the Defender received 16 complaints related to the distribution of bribes by certain political parties in different parts of the Republic. The complaints that the Defender has received refer to giving money, offers to pay utility fees, and food.

Twenty-eight cases were registered with the Police regarding bribery during the electoral campaign. The Police rejected all these claims based on the absence of a crime. Ten of these cases related to the distribution of a bribe by the Republican Party, four cases related to the “Rule of Law” party, three cases related to the “Prosperous Armenia” party, and the other cases were related to distribution of bribes by candidates nominated in the majoritarian electoral system.

On the voting day, the Police received 74 complaints about the distribution of bribes. The Police stated that for 67 of the complaints, an investigation was begun and explanations were taken from possible witnesses, but there was not enough evidence to determine the presence of the crime and/or the identity of the criminal. According to the analysis of the responses regarding to these cases, the Prosecutor has not overturned any of those decisions. An inquiry was sent to the General Prosecutor’s Office regarding the bribery; however, the response came from the Special Investigation Service of RA. According to the response, from the numerous bribery complaints regarding actions on 6 May, eight prosecution cases were launched. Seven of them related to alleged bribery by Martun Grigoryan from “Prosperous Armenia” Party and cases of bribery in Malatia community for votes for “Prosperous Armenia” Party.

Twenty-four complaints were received that related to the transporting of citizens to the polling stations free of charge and compelling them to vote for one of the candidates. A.A. stated that citizens were transferred into the electoral centers and were told to vote for the Republican Party. On this issue, the CEC has clarified that the Electoral Code does not regulate the methods and means of transportation to the polling stations, and concerning compulsion to vote for the Republican Party, the CEC has not received any complaints and advised the citizen’s to contact the competent authorities to confirm the facts.

There have been publications in the media that “Prosperous Armenia” party during its election campaign, had donated free tractor in Koxb village, Tavush Marz. In response to the inquiry concerning this issue the Police had stated that there had not been any donations in Koxb village by the "Prosperous Armenia" party.

According to another citizen's complaint, the "Rule of law" party had promised bribes for voter passport details. In response to the inquiry, the Police informed the Defender that they rejected the case on 19 May 2012 based on the absence of a criminal act. However later on, the Staff of the Defender took the initiative and contacted the citizen and found out that the Police had put pressure on the citizen, a result the citizen was unwilling to repeat the information that he had given.

According to another complaint, in Shengavit district in Yerevan, RPA electoral campaign office workers collected the passport details of citizens and promised to pay each 8 000 drams for their vote. Concerning this case, the Police in response to the inquiry informed the Defender that they rejected the case based on the absence of a criminal act.

A complaint was also received concerning the head of the Dvin village district RPA member Artsrun Abrahamyan, who allegedly had been buying votes at his working place for 10 000 drams. The Police had informed the Defender that the Ararat *marz* department had prepared the materials of the case and explanations were taken from witnesses, however Artsrun Abrahamyan's guilt was not proven and the case was rejected based on the absence of a criminal act.

According to a complaint in the city of Gyumri in Shirak *marz*, vote buying was taking place in front of a governmental building. Concerning this issue the Police stated that explanations were taken from possible witnesses or suspects, but all of them disagreed with the complaint. As a result, the Police rejected the case based on the absence of a criminal act.

According to the statement of ANC electoral campaign office member Husik Melkonyan, RPA representatives in the Liteinu dormitory were buying votes for 15 000 drams. The Police conducted an investigation but did not prove the bribery and rejected the case based on the absence of a criminal act.

From polling station 7/25, A.S. complained that one of the candidate's proxies had been directing citizens to vote for that candidate. The Police stated that the complaint was examined and the above stated information was not proven.

On the day of the elections, citizen B.B. addressed a complaint to the Defender that the head of the Nerkin Getashen district, Karo Gevorgyan, had been giving money to citizens in front of polling station 24/15. In response to the inquiry, the Police stated that they had taken measures but they could not prove the information listed in the complaint and rejected the case on 18 May based on the absence of a criminal act.

Another citizen had complained that Lori marz Vanadzor city's Head of RPA electoral campaign office Vardan Mnatsakanyan had been buying votes for 10 000 drams, also the latter had demanded from people working at the governmental sector to vote for RPA. According to the answer received from the Police, explanations were taken from V. Mnatsakanyan, members of the electoral campaign office and from people who could have been witnesses, and factual

evidences were received which rejected the above stated information, as a result of which a decision to reject the case was made, based on the absence of the criminal act.

In one of the news websites, a video clip was added according to which in front of the 3/22 precinct vote buying was taking place. Concerning this case the Police in answer to the inquiry of the Defender, stated that a decision to expertise the video clip was made by the inquest body, the results of which are unknown.

A complaint was received that Rule of Law party member Ruben Masumyan was paying 5 000 dram for votes to receive 30 votes from every building in precinct number 12. The Police had informed us that on 6 May, explanations were taken from Ruben Masumyan and other people that stated that there was no vote buying. The Police then later rejected the case based on the absence of a criminal act.

According to another complaint from Gekhashen village in Kotayk *marz*, RPA promised a father whose son was deprived of liberty for 9 years his release from prison on 15 May, if the father collected 1000 votes for RPA. The Police revealed that the father was Smbat Khachatryan and the son Sevak Khachatryan and explanations were taken from them and the RPA electoral campaign office members of Gekhashen. All of them stated that the information was not true, and as a result, the Police rejected the case based on the absence of a criminal act.

According to another complaint addressed to the Defender, citizens were taken against their will to precinct number 6 to vote for the RPA. In response to Defender's inquiry, the Police had taken measures based on the above stated information but rejected the case based on the absence of a criminal act.

A complaint was received from a citizen concerning vote buying for the RPA in Yerevan. The Police informed the Defender that on 25 May a decision was made to reject the case based on the absence of a criminal act. However, later on, the Staff of the Defender took the initiative and contacted the citizen and the latter said that he or she had received pressure. As a result, he or she refused to cooperate with the Police and even more had refused to repeat his/her statement concerning the vote buying. Nevertheless, the Citizen did reiterate the information of vote buying to the staff of the Defender in written form while asking for full confidentiality.

Abuse of Administrative Power

Besides the above-mentioned election bribes during the election campaign there were registered complaints about the abuse of administrative resources by state and local government officials and candidates as well. The election code bans state officials and local government bodies, educational institutions, and pedagogical staff to hold an election campaign or spread any kind of election material while fulfilling their functions. The Defender received five urgent notices referring to the abuse of administrative resources. Three of them were rejected by the CEC in written form, and in the other two the violations were resolved.

Citizen A.B. informed the Defender that in Syunik *marz* there was an advertising poster of the Republican Party on the building of the village municipality, which was confirmed by the Rapid

Reaction Group of the Human Rights Defender's Office located in Syunik *marz*. The President of the Central Election Commission informed the Defender that the above-mentioned breach was eliminated by the Head of Syunik community.

The Human Rights Defender received an emergency call according to which in Aygedzor community of Tavush *marz* the activities of schools and medical institutions were stopped for people to participate in the election campaign of the Republican Party of Armenia. The Central Election Commission informed us that the operation of kindergartens, schools and hospitals was never interrupted.

According to publications in mass media, in Mrgavan village in Ararat *marz*, the election headquarters of RPA, the village municipality and the polling station were all within the same building. There was also an election headquarters of RPA in the municipal library of Berd. According to the response received from the Central Election Commission, the above-mentioned information did not correspond to reality.

There were also two emergency calls registered regarding educational institutions used for holding election campaigns. According to the received information, on 18 April, the typical operations of a number of schools (specifically High School N3) in Yeghegnadzor town in Vayots Dzor *marz* were interrupted for engaging in the election campaign of RPA. This fact was also registered by the Rapid Reaction Group of the Human Rights Defender's local office located in Vayots Dzor *marz*. Nevertheless, the person who had produced the information refused to write an application about the case. However, taking into account the importance of the issue, a note was sent to the Minister of Education and Science of RA, which forwarded a demand to ban political activity and election campaigning in education institutions to the Mayor of Yerevan, RA *marz* Governors, and the headmasters under the supervision of the Ministry of Education and Science.

Hindrance of the activities of journalists, observers, proxies

Nearly 12 urgent notices were received about violence against and hindrance of the activities of commission members, observers, proxies and the representatives of mass media. In particular, near the polling station 12/33, a group of young people exercised violence against the reporter of radio station "Liberty" Elina Chilingaryan the moment she tried to report on the polling station.

According to the information obtained from the same source, Elina Chilingaryan was invited to the police station and was questioned about the event. A note was sent to the Police Station about the case to which the Police replied that a criminal case was opened but the results of the investigation will not be known for a month.

According to another piece of information, in Shirak's 34/26 polling station, five or six unknown young men committed violence against the journalist Karen Aleqyan and took his camera. The staff of Human Rights Defender's Office in Shirak recorded this violation. In connection with this case, the RA Special Investigation Service says that the camera was confiscated from K. Aleqyan and was submitted to investigators. The final results of the investigation have not been reported yet.

An urgent notice was also received that the Police exercised violence against the chairman of the commission in polling station 7/09. The staff of Human Rights Defender's office visited the above-mentioned station and found out that the information did not correspond to reality.

In polling station 18/29, the chairman of the commission dismissed the proxy for the candidate Ishkhan Khachatryan because of an argument. The CEC refused the applicant's request for an administrative procedure. It was claimed that according to the Electoral Code complaints about decisions, activities or inactivity of the commission must be submitted to a corresponding Electoral Commission.

The citizen A.A. claimed that in polling station 24/26 of the Zolakar community, the proxies for the PAP party and the members of an observation organization were beaten and forced to leave. The camera of the operator of the PAP party was also taken and broken. A letter was sent to the Police and it was discovered that the Zolakar villager B.B had violated the citizens' right to a secret ballot by filming during the voting process. The police conducted several measures and took explanations from the RPA and PAP party proxies who claimed that no violence was used against them. Their statements were later confirmed by the members of the commission. Based on that, the police dismissed the case because of the lack of a criminal act.

Concerning the alleged breaches in electoral precinct 24, the CEC announced that the members and the head of the constituency electoral commission visited the polling stations and concluded that the information concerning breaches was not true.

According to one of the complaints addressed to the Defender at about 7:45pm the doors of the polling station 28/04 were closed and the observer was not allowed to enter the polling station. In connection with that notice, the CEC reported that no complaint was submitted to the commission.

Defender's observations and assessments

The 2012 elections significantly and positively differed from the previous elections, when mass vote stuffing, fraud during the vote counting, violence, and multiple voting existed. The most concerning of all the violations registered in the 2012 election was distribution of electoral bribes. According to some parts of society, cases of electoral bribes were widespread. Despite this opinion, there is no substantial evidence supporting that view. The majority of the hundreds of registered complaints on electoral bribes was viewed as unreliable by the law enforcement bodies. The law enforcement bodies have the responsibility to reveal the actual volume of distribution of electoral bribes, yet the Police and Prosecutors work in almost all the above-mentioned cases was consistently and extremely inadequate. Such limited enforcement cannot prevent cases of electoral bribes during the next elections and reduces public confidence towards those authorities and the election outcome.

Reports of the misuse of administrative resources during the election were not widespread, and therefore it is not possible to state that misuse of administrative resources had a significant impact on the election outcome.

It is very important to mention that the cases of hindering activities of observers, proxies, journalists and other participants of the electoral process, as well as violence towards them was

considerably less than in the previous election. However, all violence, especially against the two journalists, is strongly condemned, and the guilty must be promptly discovered and strictly punished by law. Slow or limited investigations are unacceptable, especially because of the importance of these cases.

ELECTIONS APPEAL SYSTEMS

The courts of the RA have received over 37 complaints regarding the voting rights violations and the elimination of inaccuracies in the voter lists during the organization and execution of the National Assembly elections. The Administrative court has received 17 complaints, from which eight complaints were rejected, three complaints were returned, the other six complaints were accepted and appropriate judicial acts were taken. The complaints received by the Administrative court were essentially about the appeals regarding the registration and/or non-registration of a deputy candidate by the electoral commissions and disputes related to the election commissions' supervision of election campaigns as provided by law. The Courts of First Instance have received 20 complaints about the removal of voters from the voters' list and adding of voters to the additional lists. Two of those complaints were sustained, two were returned, three were rejected and 13 were accepted into consideration. Six of those 13 complaints have since been rejected, while the other seven complaints were resolved with the complainants being included in the proper voters' additional lists.

According to the information from the Central Electoral Commission, the CEC has received 531 complaint regarding the voters' rights violations, of which 487 were submitted by one person. According to the CEC position, all the complaints have been properly examined and the applicant had the opportunity to bring an appeal to the court regarding the CEC's decisions. The Administrative court has received only seven complaints concerning the electoral process; moreover, the court has not recognized the CEC's decisions as illegal.

“The Armenian National Congress” party alliance on 18 May applied to the Constitutional Court in order to dispute the RA Central Electoral Commission's N265 decision “About the RA deputies' elections to the National Assembly under the proportional electoral system” made on 13 May 2012. The Constitutional Court of the Republic of Armenia took the case into consideration on 19 May 2012 and involved the RA Central Electoral Commission as a respondent. According to the applicant's claims, the order of the elections' procedure had been violated by state officials, in particularly the misuse of administrative resources by the President and the Prime Minister of the RA during their campaign, in violation of the Constitution. The applicant had also noted that the outcome of the elections resulted primarily from the inaccuracies in the voters' lists and the rapid disappearance of the stamps put in the voters' passports. According to the CEC's objections, in case of any misuse of administrative resources the applicant could appeal it in the order provided by law, and raising the issue of constitutionality of the norms is beyond the scope of the subject of the dispute. Regarding the rapid disappearance of the stamps, the CEC said that this violation was partial and technical nature and had been improved by the CEC's intervention. Regarding the applicant's observations on the inaccuracies in voters' lists, the CEC evaluates them as a judgment without argument and

finds that the applicant could have disputed the voters' lists' issue before the Election Day, which was not done. The Constitutional Court of the Republic of Armenia made a decision, DCC-1028, on 31 May to leave in force the CEC's decision N265 "About the RA deputies' elections to the National Assembly under the proportional electoral system" made on 13 May 2012. On 16 May 2012, deputy candidates L. Zurabyan, M. Gasparyan and S. Harutyunyan, who were nominated by the majoritarian electoral system in the electoral districts no. 9, 3 and 37, respectively, have applied to the Constitutional Court to invalidate the decisions no. 23-A, no. 16-A and no. 31-A vis-à-vis "About the deputies' elections to the National Assembly under the majoritarian electoral system" made by the appropriate constituency electoral commissions. The Constitutional Court decided, in cases DCC-1029, DCC-1030 and DCC-1031, to leave in force the constituency electoral commissions' decisions, and decided in case PDCC-35 on 15 June 2012 to suspend the ongoing case regarding "The dispute related to the 7th District electoral commission's decision no. 37-A dated the 11 May 2012 about the RA National Assembly's majoritarian electoral system elections results", which was started based on the RA National Assembly deputy candidate Nikol Pashinyan's complaint.

Defender's observations and assessments

All the entities participating in the elections had a real and affordable possibility to appeal against decisions of the authorities affecting their interests. All the appeals operated in a reasonable timeframe and followed the procedural legal requirements. The absence of complaints and negative assessments concerning violations of procedural and substantive norms in appeal processes demonstrates the effectiveness of the appeals mechanism. Although, the uniform responses of all state bodies to all the incidents and issues is very suspicious.

AS A CONCLUSION

"Immediately after the elections, many people - journalists, partners, friends - were asking for my assessment of the elections. Some might expect a "two word" assessment, the one to which our public consciousness was trained for years by well-known international observer organizations. "Free and fair" or "partly free and partly fair" phrases cannot truly reflect the important and multifaceted issues, developments, gaps, and even feelings that arise after each electoral period. For that very reason, I submit this comprehensive report with my specific assessments and observations of certain problems, which may be useful for thorough analyses of past election and for reaching more progress in the upcoming ones".

*Karen Andreasyan
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