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Ad Hoc Committee for the Observation of the Presidential Elections in Armenia

First Round (19 February 2003)

Election observation report

Bureau of the Assembly

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1. Introduction

1. At the invitation of the Minister for Foreign Affairs of Armenia, the Bureau of the Parliamentary Assembly decided, on 9 December 2002, to set up an *ad hoc* committee to observe the presidential elections in Armenia which took place on 19 February 2003. The *ad hoc* committee operated as part of the international election observation mission that was, in addition, composed of the Election Observation Mission of the Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe (OSCE/ODIHR).

2. Based on the proposals of the Assembly's political groups, the *ad hoc* committee was composed as follows:

- Socialist Group (SOC)
 - Ms Jane Griffiths, United Kingdom
 - Mr Jerzy Jaskiernia, Poland
- Group of the European People's Party (EPP)
 - Mr Renzo Gubert, Italy
 - Lord Kilclooney, United Kingdom
- Liberal, Democratic and Reformers' Group (LDR)
 - Mr Rein Voog, Estonia
 - Lord Russell-Johnston, United Kingdom



- European Democratic Group (EDG)
 - Mr Miroslav Ouzký, Czech Republic *Group of the Unified European Left (UEL)* Mr Jirí Mastálka, Czech Republic
- Secretariat of the Council of Europe
 - Mr Vladimir Dronov, Head of the Interparliamentary Co-operation Unit
 - Mr Bastiaan Klein, Administrator

3. The *ad hoc* committee met from Monday 17 till Thursday 20 February 2003. I was elected chairman as well as rapporteur of the *ad hoc* committee.

4. In addition to observing the elections, the members of the *ad hoc* committee held a series of meetings with the candidates and their representatives, including the incumbent President of the Republic, the Minister for Foreign Affairs, the Chairman of the Central Election Commission, the Speaker of the Armenian Parliament and members of the Armenian delegation to the Parliamentary Assembly of the Council of Europe, ambassadors of Council of Europe member states, the Special Representative of the Secretary General of the Council of Europe in Armenia, the head of mission and members of the Election Observation Mission of the OSCE/ ODIHR in Armenia, as well as representatives of the mass media and civil society.

5. On election day the *ad hoc* committee split into five teams in order to observe the actual voting and vote count. Members visited more than fifty polling stations in and around Yerevan. The press statement made at the end of the election observation can be found in Appendix I.

6. The *ad hoc* committee relied heavily on the resources of the OSCE/ODIHR Election Observation Mission in Armenia, headed by Peter Eicher, and would like to record that co-operation was excellent. It also wishes to thank the Armenian Parliament for its ready assistance and Ms Natalia Voutova, Special Representative of the Secretary General of the Council of Europe in Armenia, for her invaluable help.

2. The political context

7. The 2003 presidential elections, as well as the upcoming parliamentary elections in May 2003, are an important test for the consolidation of democracy in Armenia. These presidential elections were the fourth since independence was declared in 1991 and the first since Armenia became a member of the Council of Europe in January 2001. The presidential elections in 1996 and 1998, which were observed by the Parliamentary Assembly, did not meet international standards for democratic elections, with serious irregularities being recorded by international observers. The 1999 parliamentary elections were seen as a step towards meeting international standards; however, serious irregularities were still being noted by international observers.

8. The presidential elections were also the first national elections to take place after the events on 27 October 1999, when five gunmen entered the parliament building and assassinated several leading figures of Armenia's political establishment effectively "beheading" the Armenian Government. Despite the fact that the events were shown on television as they unfolded, the trial of the assassins has been continuing for over two years with many interruptions and no conclusion in sight. The accountability for the events on 27 October 1999 became a campaign issue with the candidacy for the presidency of Stephan Demirchyan, the son of the murdered Speaker of the Parliament, Karen Demirchyan.

3. The pre-election period

3.1. Legal framework

9. These elections were governed by the Election Code which was adopted in 1999 and amended in 2002. The amendments adopted in 2002 reflected some of the recommendations made by the OSCE/ODIHR and the Council of Europe's Venice Commission. The amended Election Code provides a basis upon which the election could be conducted that conforms to international democratic standards.

10. As a result of Armenia's ratification of the European Convention on Human Rights, notably Protocol No. 1, Article 3, election-related complaints can now be appealed to the European Court of Human Rights in Strasbourg.

11. A serious flaw in the Election Code is the lack of a provision that requires the Central Election Commission (CEC) and the territorial election commissions (TECs) to publish worksheets showing the full breakdown of the results of the level of election commissions below them. The lack of such a provision seriously undermines the transparency of the tabulation process. The *ad hoc* committee strongly urged the CEC to publish the breakdown of the results of the TECs and to require the TECs to do the same for the results of the precinct election commissions (PECs) under their jurisdiction.
12. The election was administered by a three-tiered election administration consisting of the Central Election Commission (CEC), fifty-six territorial election commissions and approximately 1 865 precinct election commissions at the level of the polling stations.
13. The election commissions are composed of nine members, three nominated by the president and one by each of the six factions in parliament as established when the parliament was constituted after the last parliamentary elections. As three of the factions were supporting the candidacy of the incumbent president, the CEC and lower level election commissions were composed for two thirds of supporters of the president. While the appointment formula in itself is not problematic, the imbalanced composition of the CEC and other election commissions for these elections resulted in most candidates expressing a lack of confidence in the impartiality of the election administration.
14. Armenian citizens residing abroad had the opportunity to vote for the presidential elections in the diplomatic missions of Armenia. The *ad hoc* committee was informed by the Deputy Foreign Minister that approximately 15 000 Armenian citizens were expected to use their right to vote abroad.
15. The *ad hoc* committee was informed that, on a number of occasions, some of the other international observers saw intimidation in certain PECs.
16. In general, the election administration carried out the technical preparations for these elections in an efficient and satisfactory manner.
17. During its meeting with the chairman of the CEC the *ad hoc* committee was informed that the CEC interpreted the provisions for election observation in the Election Code in such a manner that observers and candidate proxies would only be allowed to observe the vote and vote count from a pre-designated place in the polling stations. The *ad hoc* committee was glad to note that this did not materialise and that in practically all occasions international observers were allowed to move freely in the polling stations during the vote and vote count.

3.2. Voter and candidate registration

18. The CEC registered eleven candidates for the presidency by the registration deadline of 20 January 2003. Two of the candidates later withdrew from the race before the 9 February deadline for candidates' withdrawal. Two candidates, including the incumbent president, Robert Kocharyan, are nominees of citizens' initiatives. The other candidates were opposition political party leaders nominated by their respective parties. The *ad hoc* committee regretted that there were no women among the candidates.
19. The CEC denied the registration of one candidate, former Minister for Foreign Affairs, Raffi Hovhannisyan, on the grounds that he failed the ten-year citizenship requirement as set out in the Election Code. Mr Hovhannisyan filed a series of appeals against the decision of the CEC, but the different courts ruled against him. The Hovhannisyan case revived the controversy during the 1998 presidential elections over whether Robert Kocharyan met the legal citizenship and residency requirements, with six candidates appealing his candidacy for these elections to the CEC.
20. Despite some improvements, voters' lists remain a concern in Armenia. Voters' lists are compiled locally and no central voters' register exists, making it impossible to check the lists for double entries. Despite the fact that the voters' list is updated twice yearly, still a relatively high number of double entries, deceased people and citizens residing abroad remained on the voters list therewith opening a potential for manipulation and illegal voting.
21. In nearly all cases the voters' lists were published by the PECs forty days before the election date, allowing voters an opportunity to correct their individual data. As a result of a decision by the Constitutional Court in October 2002, voters who could not find their names on the voters list during election day were able to appeal to courts to obtain a certificate permitting them to vote.

22. Military personnel were registered to vote in the polling station nearest to their place of stationing. As a result of complaints during former elections, the CEC did not provide for polling stations within military bases itself.

3.3. The election campaign

23. The election campaign started on 21 January 2003 and quickly developed into a vigorous nation-wide campaign with active public participation. The field of nine candidates, with opposition candidates not hesitating to criticise the government, provided the voters with a genuine choice on election day. Campaigning turned out to be more personality based than issue based with a main campaign issue being the support for or opposition against the incumbent president.

24. Regrettably, the election campaign was marred by disturbances, including the stabbing and beating of a member of parliament on 4 February 2003, and patterns of intimidation and alleged election fraud. The cumulative effect of these practices was that the election campaign took place in an atmosphere of insecurity and lack of trust in the democratic process.

25. The *ad hoc* committee was told that the use of public resources in favour of the incumbent was widespread, including public officials being engaged full time in the incumbent's campaign while still performing their official duties. Moreover, several candidates reported difficulties in securing campaign offices or receiving orders to vacate campaign offices in buildings that suddenly were declared unsafe. Observers also verified many allegations that public sector employees, factory workers, teachers, students and others were instructed to attend the incumbent's rallies. Although the Armenian law does not prohibit the use of public buildings for campaign purposes or the participation of some public officials in political campaigns, the unequal treatment by the authorities in favour of the incumbent meant that the playing field was not even for all candidates during the election campaign.

3.4. The media

26. The situation of the media has far from improved in comparison to previous elections. Television, and to a lesser extent radio, are still the most important sources of information and news in Armenia. Newspapers only have a local outreach due to poor circulation and economic problems. Public television did not meet its obligations under the Law on Radio and TV Broadcasting to provide voters with information on all candidates free from bias or prejudice. While public TV met its legal obligation to provide free advertising time to all candidates its news coverage was heavily biased in favour of the incumbent as were its analytical and other programmes. Private broadcasters were even more biased in favour of the incumbent, largely ignoring opposition candidates.

27. Two independent television channels, A1+ and Noyan Tapan, that were expected to have a more independent and diverse editorial line, went off the air several months before the elections after losing their frequencies in a troubled tendering process for broadcasting licences. It is unlikely that either A1+ or Noyan Tapan will be back on the air before the next parliamentary elections in May 2003. The absence of these two channels further contributed to the lack of alternative and pluralistic information available to voters.

28. The unresolved grenade attack on a journalist in October and the assassination of the head of the Public Television Council in December 2002, as well as the lost licences and reports of intimidation of journalists had a chilling effect on the media environment and created an atmosphere of self-censorship among some broadcasters and journalists.

29. The printed media together provided a wide plurality of views but each of them showed a strong bias to one candidate or the other, with the state-funded *Hayastani Hanrapetutyun* clearly favouring the incumbent president. All things together it can be concluded that the media did not provide the voters with the wide range of impartial information necessary to make an informed choice about their political preference.

4. Election day

30. During election day the vote generally took place in a calm and orderly manner. In most polling stations the election procedures were well conducted and transparent for observers and proxies. Unfortunately, a number of serious irregularities took place including ballot box stuffing and multiple voting.

31. While the voting process itself was well conducted, the vote count and tabulation process turned out to be more problematic. Further instances of ballot box stuffing were observed as well as falsification of the election protocols and polling station results. Additionally, preliminary results from some polling stations

showed a striking disparity from an otherwise consistent pattern of results. In this regard, a letter by Peter Eicher, Head of the OSCE/ODIHR Election Observation Mission, to Professor Sahradyan, Chairman of the Central Election Commission, details some of the statistical discrepancies found such as implausibly high voter turnouts in a large number of PECs, including several with a voter turnout higher than 100%; a large number of PECs where more ballots were counted than issued to voters; final results which differ from the protocols issued directly after the counting; and several polling stations where votes reported for one candidate in the preliminary results appear to have been switched to another candidate in the final results. Finally, the letter notes that the total number of voters on the voters' list was 20 080 higher than the total number of eligible voters announced three days before the elections. At the time of writing these OSCE/ODIHR findings are disputed by the CEC.

32. The *ad hoc* committee welcomed the significant number of candidate proxies present in nearly all polling stations. Domestic observers were found to be present in about half of the polling stations. Besides the International Election Observation Mission these elections were also observed by the Commonwealth of Independent States and the International Foundation for Election Systems (IFES).

33. The problematic nature of the voters' list in Armenia was evident during election day. A large number of voters, more than 10 000, applied to the courts to be placed on the voters' list during election day, resulting in relatively long waiting times at the courts to obtain voters permits.

34. The *ad hoc* committee regretted that there are no provisions in the election law for mobile ballot boxes. Moreover, it was noted that most polling stations were difficult, if not downright impossible, to access for disabled people. This effectively disfranchised the disabled as well as sick or otherwise home-bound voters.

5. Preliminary results of the ballot

35. On 20 February the CEC announced that, based on the preliminary results, none of the candidates had passed the 50% plus one vote threshold and that a second round would be organised between the two candidates who had obtained the most votes, incumbent president Robert Kocharyan and Stephan Demirchyan.

36. On the evening of 25 February, six days after the vote, the CEC announced the final results of the ballot. With a 63.18% voters' turnout, Robert Kocharyan obtained 49.48% of the vote, Stephan Demirchyan obtained 28.22% and Arthashes Geghamyan 17.66% of the vote. The other candidates failed to win a significant percentage of the vote. A second round between Robert Kocharyan and Stephan Demirchyan was confirmed for 5 March 2003.

37. With the announcement of the final results the CEC published a detailed breakdown of the results up to the level of the polling stations. While the publication of this breakdown is welcomed, the long delay in announcing the results contributed to the lack of confidence in the results by the opposition candidates and their supporters. On the same day Assembly President, Peter Schieder, issued a statement calling for a free and fair second round of the presidential elections. The full text of the statement is provided in Appendix II.

38. A team of three members of the *ad hoc* committee, Lord Russell-Johnston, Mr Renzo Gubert and Mr Jerzy Jaskiernia, will observe the second round of these elections. Their findings will be presented in a second part to this report.

6. Conclusions and recommendations

39. The capacity of Armenia to organise free and democratic elections according to internationally accepted democratic standards is an inherent obligation of Armenia's membership of the Council of Europe. The *ad hoc* committee therefore regrets that these elections, despite some positive aspects, fell short of international standards in several key aspects. While the extent of the irregularities is hard to assess, their occurrence itself stains the democratic process as a whole. The Assembly strongly urges the Armenian authorities to ensure that the upcoming parliamentary elections in May 2003 are free from irregularities and conform to internationally accepted democratic standards.

40. It is essential that a wide range of pluralistic information is available to the voters to make an informed choice on election day. The *ad hoc* committee therefore expresses its hope that the problematic tendering process for the A1+ and Noyan Tapan television channels will be resolved quickly and resolutely. The *ad hoc* committee also wants to remind the Public Radio and Television Council about its responsibility to ensure that public television provides balanced information free from bias or prejudice.

41. The *ad hoc* committee welcomed the publication of a detailed breakdown of the results of these elections by the CEC. However, in order to ensure the transparency of the tabulation process at all times, the publication of a detailed breakdown of the results by the CEC and TECs should be required by law and not left to the benevolence of the relevant election authorities. The *ad hoc* committee therefore calls upon the Armenian Parliament to adopt such a provision in the Election Code.

42. To avoid the disfranchising of disabled and home-bound voters, the *ad hoc* committee would like to suggest to the Armenian Parliament to adopt provisions in the Election Code to provide for mobile ballot boxes. Moreover, it calls upon the relevant election authorities to ensure better access to the polling stations for disabled voters.

Appendix 1 – Press release

Armenian voting generally smooth, but vote count and overall process fall short in key respects

Yerevan, 20 February 2003 – Voting in yesterday's presidential election in Armenia was generally calm and well-administered, but the counting process was flawed and the long-term election process fell short of international standards in several key respects. This is the conclusion of the 200-strong international election observation mission deployed by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the Parliamentary Assembly of the Council of Europe.

"It is encouraging that election day went reasonably well, but serious irregularities did not enable us to make an overall positive assessment," said Lord Russell-Johnston, head of the Parliamentary Assembly delegation.

"While we were pleased to see an active and vigorous campaign, we are concerned about serious shortcomings that were evident during the run-up to the election," added Peter Eicher, the head of the ODIHR long-term observer mission. "We urge the authorities to use the time before the upcoming parliamentary vote to address these shortcomings."

The international observers noted that the participation of nine candidates provided voters with a genuine choice. There was a vigorous, countrywide campaign with active public participation. The election was administered efficiently within an improved legislative framework. The voting process was generally well-conducted, although there were cases of ballot-box stuffing and intimidation of candidate proxies. Serious irregularities took place during the count in a number of polling stations visited by international observers.

The long-term electoral process was clouded by a number of shortcomings. These included patterns of intimidation and cases of disruption of campaign events, as well as one serious instance of violence. There was widespread use of public resources for the campaign of the incumbent. Public TV failed to meet its obligation to provide balanced and unbiased reporting.

Appendix 2 – Press release

Peter Schieder calls for free and fair second round of Armenian presidential election

Strasbourg, 26 February 2003 – Council of Europe Parliamentary Assembly President Peter Schieder today called on the Armenian authorities and the opposition to calm the political climate in the country in the run-up to the second round of the presidential election.

“It is the duty of the authorities to do their best to overcome tensions without resorting to disproportionate means to maintain public order,” Peter Schieder said, calling for the immediate release of opposition campaigners arrested. The President also called for the opposition to fully respect the constitutional and legal order of the country.

“We are seriously concerned about the shortcomings and irregularities reported by the international election observation mission after the first round. If Armenia wants to live up to its democratic obligations as a member country of the Council of Europe, such irregularities should not be reproduced during the second round,” he stressed.

Peter Schieder also appealed for greater transparency in the counting process and for the rapid publication of voting results. “The Parliamentary Assembly stands ready to observe the second round on 5 March alongside observers from the OSCE/ODIHR,” he announced.

“We expect a free and fair outcome of the presidential election, one which allows for the results to be accepted by all those concerned, thus helping to consolidate democratic stability in the country,” Peter Schieder concluded.

An Assembly delegation chaired by Lord Russell-Johnston (LDR, United Kingdom) observed the presidential election in Armenia on 19 February as part of the international election observation mission. The parliamentarians met the presidential candidates, members of the government, representatives of political parties, election organisers, NGOs and members of the media.