

Report on the constitutional referendum in Armenia observed on 27 November 2005 - CG/BUR (12) 97

Rapporteur: Sean O'Brien (Ireland, L, SOC)

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by the Bureau of the Congress on 10 February 2006*

1. Introduction

Following an invitation by the Armenian Authorities¹, the Congress of Local and Regional Authorities of the Council of Europe decided to send a delegation to observe the Constitutional Referendum of 27th November in Armenia.

The decision to observe the Constitutional Referendum in Armenia was taken by the Bureau of the Congress on 9 November 2005. The delegation appointed to this end included: Sean O'Brien (Ireland, SOC) who acted as head of delegation and Rapporteur, Alain Chénard (France, honorary member of the Congress), Luca Ciriani (Italy, IGLD), Greta Cousins (UK, PPE/CD), Christopher Newbury (UK, PPE/CD- Congress Rapporteur for Armenia), Marja van der Tas (The Netherlands, PPE/CD) and Wim van Gelder (The Netherlands, PPE/CD). Most of those Congress members had taken part in the Congress monitoring of the local elections held in September and October 2005 and were familiar with the political context in Armenia².

A delegation of the Parliamentary Assembly was also invited to observe the Constitutional Referendum³. The Congress and Parliamentary Assembly delegations worked closely together and issued a common press statement presenting the preliminary findings of their election observation mission. The Congress considered this to be of utmost importance given that the Council of Europe was the only international organisation invited to observe the referendum. The joint delegation was co-chaired by Sean O'Brien (Congress) and Tomas Jirsa (PACE).

On 25 and 26 November the Council of Europe delegation took part in a series of preparatory meetings with representatives of political parties (Ruling Coalition and main opposition factions), the Chairman of the Central Election Commission, the President of the National Assembly, the Armenian delegation to the PACE, a number of Ambassadors of Council of Europe member states, the Ambassador of the OSCE mission in Armenia, civil society organisations (media NGOs, human rights NGOs and NGOs acting as domestic observers) and the Special Representative of the Secretary General in Armenia. The Congress delegation also met with the Minister for Co-ordination of territorial administration and development of infrastructures, the President's Advisor on local self-government issues, the Deputy Minister on local self-government, the Head of the Armenian delegation to the Congress and the Head of passport and visa department of the Police Service (see Programme- Appendix I).

The Congress wishes to express its thanks in particular to Ms Bojana Urumova, Special Representative of the Secretary General of the Council of Europe, and her staff for their assistance, help and logistical support. It also wishes to thank all those mentioned in the previous paragraph for providing very useful information about the political situation in Armenia. Finally, it should like to thank the Ambassadors of Council of Europe member states who followed closely the work carried out by the Council of Europe delegation in the field and for the significant input given to its work.

The Council of Europe delegation was composed of seventeen observers (eight teams) who were deployed in Yerevan, Ararat Marz, Armavir-Marz, Aragatsotn Marz, Tavush and Kotayk (as detailed in the Appendix III). The delegation visited around 150 polling stations, including a detention center, out of a total of 1922 polling station (1878 in Armenia and 44 outside the country). The press release issued by the Council of Europe, as shown in the Appendix II, was presented during the Press Conference organised on 28th November, which was attended by a large number of media representatives.

2. Background

2.1 General information about Armenia

The Republic of Armenia achieved its independence from the Soviet Union on 21 September 1991. The country's Constitution was adopted by referendum on 5 July 1995.

Armenia became a member of the Council of Europe on 25 January 2001. After the country's signature of the Charter of Local Self-Government on 11 May 2001, ratification followed on 25 January 2002 and the Charter came into force in Armenia on 1 May 2002.

Geographically, Armenia is located in the southern Caucasus region; it is wholly land-locked and bounded by Georgia, Azerbaijan, Iran and Turkey. Its current total population is estimated at 3 million people⁴, around one third of whom lives in the capital city, Yerevan.

Economically, in the mid-1990s the Government embarked on an overall economic reform programme which brought greater stability and some growth. However, Armenia is, still today, one of the poorest countries in Europe and unemployment and poverty remain widespread. Armenia's economic problems are aggravated by a trade blockade, imposed by neighbouring Turkey and Azerbaijan since the dispute over Nagorno-Karabakh. Armenia has a huge diaspora and has always experienced waves of emigration, but the exodus of recent years has caused real alarm. It is estimated that Armenia has lost up to a quarter of its population since independence, as young families seek what they hope will be a better life abroad.

Politically, the country is currently headed by President Robert Kocharyan re-elected for a five-year term during the last elections of 25 May 2003 (the next election is to be held in the spring of 2007). He runs a "Governing Coalition" gathering the Republican Party, ARF/Dashnaksutyan⁵ and Orinats-Yerkir Parites⁶.

The legal basis of local self-government in Armenia derives from the 1995 Constitution. Chapter 7 makes provision for "Territorial Administration and Local Self-Government". Article 104 provides for the regions and for the urban and rural communities. According to Article 105 "communities shall have local self-government" and a council elected every three years.

Article 108 of the 1995 Constitution provides that the City of Yerevan shall be considered a marz and that the President of the Republic, upon the recommendation of the Prime Minister, shall appoint and remove the Mayor. According to Article 109, in cases prescribed by law, the Government may remove the mayor/chief of a community on the recommendation of the marzpet. An acting mayor/chief is to be appointed by the Prime Minister (urban communities) or Marzpet (rural communities). Election procedures for local self-governing bodies and their powers are to be "determined by the Constitution and the laws" (Art 110).

With regard to territorial organisation, local administration in the Republic of Armenia takes two principal forms. On the one hand, the country is divided into ten Marz (regions or provinces) plus the capital city of Yerevan. A marzpet or governor heads each region. Marzpet's populations vary widely in size ranging from 1,25 million in Yerevan to about 400,000 in the Lori region. All formal powers are vested in the marzpet but there are also provisions for a consultative and advisory *marz* council.

On the other hand, for the purposes of local self-government the regions are divided into communities (in Yerevan, twelve districts) and, including the capital's districts, there are 930 in the country as a whole. Communities are classified as either rural or urban but all communities outside Yerevan are attributed the same legal powers and characteristics. Despite their formal legal equalities, communities also vary enormously in terms of population. Communities consist of a directly elected council of community elders and a directly elected community chief. Within Yerevan, the districts have a modified (and reduced) set of formal powers.

2.2 Background information about the Constitutional Referendum

The Constitutional Referendum was called for by Mr Kocharyan, the President of the Republic of Armenia by a Presidential Decree issued on 5 October 2005. Its aim was to ask citizens whether they agreed with the draft amendments to the Constitution, as approved by the National Assembly between May and September 2005.

These amendments were approved by the National Assembly following recommendations from the Council of Europe's Venice Commission. Their main purpose is to strengthen the separation of powers between the Government, the Parliament and the Judiciary, to improve the independence of the Judiciary, to enact changes in local government and to create the figure of the Ombudsperson.

The Constitutional Referendum of 27th November was organized under the current Constitution, the Electoral Code and the Law on Referenda. Recent amendments to the Electoral Code were adopted following an Opinion of the Venice Commission⁷. The Law on Referenda was subsequently amended on 28 September 2005 in order to comply with the new provisions of the Electoral Code.

According to the 1995 Constitution, legislation submitted to a referendum needs the approval of more than fifty percent of those who vote and not less than one third of registered voters. For the Constitutional Referendum of 27th November, the threshold to approve the amendments to the Constitution was 770000 voters out of the 2252770 officially registered voters⁸. An earlier attempt to amend the Constitution through a referendum in 2003 failed due to insufficient voter turnout.

With regard to local self-government issues, according to the proposed amendments to Chapter 7 of the Constitution on Local Self-Government, the city of Yerevan would become a local-self government entity. According to the new Article 108, the Mayor of Yerevan would be elected. Though the law may provide for an indirect election, this is in compliance with the European Charter of Local Self-Government. Moreover, local self-government entities would be entitled to lodge a case in the Constitutional Court. These amendments are in line with previous Venice Commission's Opinions. They are also in line with Congress Recommendation 140 (2003) on local democracy in Armenia which considered that the Constitution "*creates inflexibility and prevents desirable reform in a number of areas, notably the three-year periods of elective office, the status of Yerevan and the Government's power to remove chiefs of local communities*"⁹. As regards the status of Yerevan, it recommended that "*the Mayor of Yerevan should be democratically elected, instead of being appointed by the President of the Republic of Armenia, and that the structure of local self-government across Yerevan should be reformed, giving consideration to a two-tier structure, within a reasonable time-frame*". With this in mind, the Congress has invited in the past the Armenian authorities, on several occasions, to pay due attention to the status of Yerevan in the course of any future constitutional reform.

Consequently, the constitutional amendments adopted further to the referendum of 27 November can only be welcomed by the Congress as a step forward in the implementation of the European Charter of Local Self-Government. This having been said, it must be underlined that the potential for the full involvement of the population is a pre-condition for the successful achievement of any constitutional reform. In this regard, the Congress would like to draw attention to several of its comments concerning certain operational aspects of the constitutional referendum, a process which has raised doubts about full compliance with democratic standards.

3. The Constitutional Referendum

3.1. Political context

3.1.1 Absence of other international observers

The OSCE Office for Democratic Institutions and Human Rights (ODHIR) carried out a needs assessment mission in October 2005 with the purpose to assess the pre-referendum environment in Armenia and to advise on possible observation modalities.

In its needs assessment report¹⁰, the OSCE/ODHIR underlined that, during the campaign of the referendum, there had been a lack of equal access to the media to the detriment of the opposition. It also emphasized the low overall public confidence in the election process and a political environment in Armenia marked by considerable mistrust between the authorities and the opposition.

Although under Paragraph 8 of the 1990 Copenhagen Document the OSCE participating States are not committed to invite international observers to referenda, the OSCE/ODIHR expressed interest to observe the 27th November Constitutional Referendum. However, the Armenian authorities

decided not to invite ODHIR observers to take part in this process. The main other arguments put forward are that the needs assessment report is unfairly critical towards the government and intends to create a misperception of the referendum campaign, and that the OSCE/ODHIR did not give a positive follow-up to the Armenian authorities' invitation to monitor the 2003 Referendum. Moreover, it is argued that it *"totally disregards the overall positive statement of the Council of Europe observers in the local elections of September- October 2005"*.¹¹

The Council of Europe was the only international organisation invited to observe the Constitutional Referendum. This was regretted by the delegation, in particular since the geographical coverage and the technical capacity of international observation was strongly limited by this decision. The reporting of the Council of Europe's observers is therefore founded on a very limited geographical coverage.

3.1.2 Passports/ Voters register

At the end of October 2005, the Armenian authorities decided to strike off the voters' list those citizens still using the old Soviet passports. These passports had been invalidated a few years ago. However, considering that these passports had been accepted as identification documents for exercising voting rights during the local elections of Autumn 2005, this issue was one of the major concerns of the Congress delegation.

The responsibility for managing and updating of the voters' registry had been transferred to the passport and visa department of the Police since July 2005. According to official figures provided during our meetings by the Head of the passport and visa department of the Armenian Police, around 160,000 people were concerned¹², mostly refugees and people living abroad who were entitled to vote in local elections but did not have the right to do so in referenda. Allegedly, such a measure had been taken to avoid double voting (in particular by those living abroad). The Head of the passport and visa department recalled that all the new Armenian passports for those still holding Soviet passports would be issued free of charge if delivery was requested before the referendum and that around 15 000 people had already taken advantage of this.

The Congress delegation considered that the decision to eventually take pro-active measures to replace invalidated old Soviet passports was not inappropriate. However, it thought that this decision was not taken at the right moment and could be interpreted as a means to influence turnout figures. On the other hand, the Congress expressed doubts about the effective capability of the authorities to deliver a high number of passports, should every citizen entitled to do so have applied for a new passport.

On referendum day, however, the Council of Europe delegation saw very few people intending to vote with an old Soviet passport.

3.1.3 The Referendum campaign

The Constitution of the Republic of Armenia guarantees freedom of speech and access to information. Over the last decade, Armenia has seen a diverse media market developing. Nonetheless, television continues to be the way by which most of the population receive information, with the main public TV channel H1 having the largest coverage in the country. Though State television (which has three national channels) is seeing increasing competition from private networks, overall, the media continue to be to a large extent under State control. Print media appear to have low circulation. Following privatisation, the leading newspaper publisher is still partially government-owned and controls one of the country's modern printing works as well as many newspaper kiosks.

In its needs assessment report, the OSCE/ODHIR pointed out problems regarding how the campaign for the referendum had been carried out. It underlined in particular that the current Law for Referenda does not ensure access of political parties to free campaign-time on public media, and that the rules for financing referendum campaigns are imprecise. According to the needs assessment report, the media campaign mainly focused on the "yes campaign" (supported by the Ruling Coalition) whilst too limited time was devoted to the "no campaign" initially supported by the opposition.

Representatives of the Authorities emphasized during our meetings in Armenia that many efforts had been made in order to raise awareness among the population about the proposed amendments

to the Constitution. Those included the dissemination of a large number of copies of the Constitution and the proposed amendments, TV debates and large newspaper coverage. However, according to non-governmental organisations and opposition representatives as well as to representatives of the international community in Armenia, the campaign focused almost exclusively on the Government's position. Regarding the essence of the constitutional amendments, coverage was generally poor in the media. According to the Yerevan Press Club which conducted monitoring of the coverage of the campaign by the Armenian media, the media did not provide adequate information to the society about the substance of constitutional amendments. Moreover, provisions providing for paid airtime were unclear.¹³

Also according to civil society representatives, there had been a lack of discussion on the content and consequences of the constitutional amendments. Together with the opposition, they pointed to a climate of fear and terror that they illustrated with examples of threats by public administration bodies on their employees to vote in favour of the constitutional amendments.

As pointed out by the Congress in previous observation mission reports, it is also worth mentioning the general apathy and a lack of interest of the Armenian population in the constitutional reform.

3.1.4 Boycott by the opposition

The opposition parties initially supported the "No vote" against the Ruling Coalition. The reasons put forward were that the constitutional amendments are the result of a weak compromise and should have gone far beyond and that they should not be seeking to have all the amendments adopted at once. The opposition also challenged the legitimacy of the Government to put forward constitutional amendments. Moreover, the opposition was drastically opposed to certain amendments proposed eg the amendment granting immunity from prosecution to the President after his term of office and the amendment giving the Parliament the authority to revise the country's borders.

It seems that the Opposition intended to turn the referendum into a vote of confidence in the President and possibly to spark off a peaceful revolution, similar to those having taken place in other countries of the region. However, unlike in other countries, the Opposition in Armenia is divided and weak.

Around two weeks before referendum day, the opposition changed its strategy and decided to boycott the Referendum by asking voters not to vote. There is no doubt that this strategy was intended, amongst others, to reduce participation to below the required quorum for validity of the referendum. This decision also reflected in the opposition's withdrawal from the district and precinct electoral commissions which opened up a bigger space for fraud and manipulations. The opposition also deployed observers entrusted with counting voters in polling stations.

The Council of Europe felt that the strategy of the opposition parties in boycotting the referendum did not add to the opportunity for an inclusive democratic process.

Demonstrations called for by the opposition took place during the days preceding the referendum and on 27th November. Scarce attendance at these gatherings can be interpreted as another sign of the opposition's weakness and division. According to information provided by some of our interlocutors and to independent newspapers, some rallies turned violent and resulted in detentions. This seems to be the case also with rallies having taken place to contest the referendum following the announcement of official results.

3.2. Referendum day

The Council of Europe delegation was composed of seventeen observers (eight teams) who were deployed in Yerevan, Ararat Marz, Armavir-Marz, Aragatsotn Marz, Tavush and Kotayk (as detailed in the Appendix III). The delegation visited around 150 polling stations, including a detention center, out of a total of 1922 polling stations.

On referendum day, the delegation did not observe any evidence of turbulence or disorder in the polling stations they visited. The Congress delegation noted positively that, as compared to other

elections monitored in the past in Armenia, a large number of women were sitting in precinct electoral commissions and that in many cases, women chaired these commissions.

The opposition was almost totally absent from the precinct electoral commissions.

Domestic observers of the opposition and non governmental organisations were present in almost all polling stations on a permanent basis. In particular, the NGO "It's your choice" had deployed a large number of observers throughout Armenia. However, the Council of Europe observers emphasized that the domestic observers' attitude was very passive and that they did not seem to be aware of their role as observers.

As already underlined in its report on local elections in Armenia, it will be compulsory for the members of Precinct Electoral Commissions to be trained as from 1st January 2006. Though this decision is to be welcomed, the Congress observers regretted that training had not been provided to all members of the electoral commissions before the Constitutional Referendum took place. Stamping of the ballot after it had been filled by the voter was seen as a bad practice by the Congress observers, since it potentially gives the possibility to commission members (and possibly also to observers and other people present in the polling station), to see how the voter had voted.

Moreover, the observers noted that the ballot box seal number was not registered in the precinct electoral commission's Registry, contrary to what happened at the last local elections. Though the Election Code does not foresee this registration, it should be recommended to change this practice in order to avoid potential replacement of ballot boxes. In a number of cases, observers noted that the ballot boxes used in local elections were still there in certain polling stations. In another case, the seal of a ballot box was broken.

On referendum day, the turnout noted by the delegation was extremely low in Yerevan and low in the other deployment areas, with the exception of Aragatsotn Marz, a rural area where the team could even report on crowded polling stations.

The Council of Europe observers also noted that in many polling stations the number of voters had suddenly increased hugely. This happened whilst no international observers were present, mostly starting at the beginning of the afternoon. However, whilst international observers were present, voter activity continued to be as low as in the morning. In a number of polling stations, the Council of Europe observers found evidence of ballot stuffing and forged additional signatures on the voters' register. Examination of the voters' register, as requested by the observers, was not always facilitated. In certain cases, the Congress observers thought that a twofold register was kept.

The observers also noted in Yerevan that the military personnel were taken by bus to their corresponding polling stations to vote which raises doubts about respect of their right not to vote, to abstain or to vote against the Government position.

According to the results announced by the Central Electoral Commission on 29 November, the official turnout of the Referendum was of 65,4% (1 514 545 of all registered voters), out of which 93,2% had voted in favour of the constitutional amendments and 5,4% against.

In the evening of 27th November, the Opposition published tabled results on the monitoring and observation showing huge differences between official turnout and participation figures noted by the opposition observers.

Though the Council of Europe observers think that the Referendum generally reflected the free will of those who voted, they also believed that the official figures announced do not correspond to the low participation they could observe.

At a meeting organised on 28th November at the request of the Chairman of the central electoral Commission, the Council of Europe observers had the opportunity to report on irregularities observed in certain polling stations (the Appendix IV shows a list of irregularities noted by the Congress delegation). Most of those irregularities relate to the number of voters officially announced, forged signatures and ballot stuffing.

No application contesting the official results had been presented to the Constitutional Court within the legal deadline.

The constitutional amendments entered into force on 7 December.

4. Recommendations

The Constitutional Referendum and the proposal to amend the Constitution are considered by the Congress as a positive sign of the willingness of the Armenian authorities to move ahead swiftly in the process of democratization. The Congress also regards the reform proposed as a step forward in the implementation of effective local democracy in Armenia.

The Congress wishes to renew, once again, its availability to support and assist Armenia in progressing in this respect, for the general benefit of its population. In this regard, it underlines its willingness to assist the Armenian Authorities to implement the constitutional amendments in particular those regarding local self-government and the status of Yerevan.

It is worth noting that the Referendum day took place in a calm and organised manner. It should be noted as well that, according to the Council of Europe observers, the official outcome of the Referendum reflects the free will of those who voted. In general terms, the Congress should like to emphasize the progress made by Armenia in organising and conducting elections over the last decade.

Notwithstanding these positive remarks, the Congress considers that the Armenian authorities will need to address a number of issues which it considers to be harmful to the path towards democracy in Armenia.

Consequently, the Congress invites the Armenian Authorities to take note of the Recommendations detailed below, to address them as urgently as possible and to keep the Congress informed of any measures taken to give a follow-up to these recommendations.

4.1 Access to media

The Congress considers that, in addition to a sound legal electoral framework, the implementation of certain basic political rights and freedoms, including the freedom of expression, is essential. Moreover, the Congress believes that any process leading to a constitutional reform requires the population's awareness of the reform proposed and of its implications. Therefore, opportunity for the full involvement of the population is a pre-condition for the successful achievement of any constitutional reform.

It regrets that the media have failed to ensure equal coverage of all political approaches to the constitutional referendum. It also regrets that the information provided to the population by the media has not been sufficient to allow the Armenian people to have an in-depth picture of the amendments proposed.

In this regard, it recommends that the Armenian Authorities take all the necessary measures to ensure that:

- in the future, all political parties enjoy equal access to the media during election or referenda campaigns;
- in the future, the population is well informed, through a fair media campaign, of any constitutional or legislation changes whenever they are asked to express their opinion on them.

4.2. Respect of the free will of voting of every citizen

The Congress invites the Armenian authorities to take measures aimed at making sure that the free will of all voters, regardless of their occupation, is respected. In particular, it invites the Authorities to avoid, at future elections, making arrangements for organised voting by military staff.

4.3 Training of polling board members and training of domestic observers

Training of polling board members

In this regard the Congress:

- renews the recommendation made following the monitoring of the 2005 local elections in Armenia in which it called for more progress with regard to the education and training of elected and appointed officials;
- recommends that the Armenian Authorities take measures aiming at training polling board members as from the 1st January 2006;
- recommends that any special education and training programmes be drawn up and organized, *inter alia*, with the assistance of the Council of Europe Venice

Commission;

- recommends that such training be carried-out in co-operation with the Congress, to take advantage, *inter alia*, of the experience of the European Network of Training Organisations for local and regional authorities (ENTO).

Training of domestic observers

The Congress recommends that the Armenian Authorities take all the necessary measures to ensure that domestic observers are trained and made aware of the role they play in ensuring that electoral processes are carried out in accordance with European and International electoral standards.

4.4 Improvements within polling stations

The Congress recommends that the Armenian authorities take measures aiming at ensuring that:

- polling stations be of appropriate size and, where necessary, partitioned into several rooms to ensure an efficient voting process;
- polling stations be accessible to elderly persons and to voters with disabilities.

4.5 Improvement of voting procedures

The Congress recommends that the Armenian Authorities:

- take measures to change the practice according to which the ballot is stamped after it has been filled out by the voter;
- take measures to ensure that the ballot box seal number is registered in the Registry of the Precinct Electoral Commissions before the sealing of the ballot box and that the number is again recorded when the box is being opened for the counting, in order to avoid potential replacement of ballot boxes and seals.

4.6 Investigation of irregularities

Finally, the Congress invites the Armenian Authorities to investigate in an independent and impartial way the allegations brought to their attention in appendix IV of this report.

APPENDIX I

ELECTION OBSERVATION MISSION

CONSTITUTIONAL REFERENDUM ARMENIA, 27th November 2005

PROGRAMME¹⁴

Friday, 25 November 2005

09:00 -10:15 Meeting of the Council of Europe delegation

10:30- 11:30 Mr Emin Yeritsyan,

Head of the Armenian delegation to the Congress

11:30-12:30 Mr Avagyan

President's Advisor on Local Self-Government Affairs

14:00- 14.30 Ms Bojana Urumova

Special Representative of the Secretary General in Armenia

14:30 -15:30 Ambassadors of Council of Europe Member States
15:35 -16:15 OSCE Ambassador

16:00 Meeting of Congress delegation with Mr Abrahamyan

Minister for Co-ordination of Territorial Administration and Development of Infrastructures

16:35 -17:35 Media non-governmental organisations

17:40 -18:25 Human Rights non-governmental organisations

19:00 -19:40 IFES, "It's your choice"

Saturday, 26 November 2005 *

09:15-10:00 Mr. Azaryan

Chairman of the Central Election Commission

10:10-11:30 Mrs. Zakaryan

Head of the Passport and Visa Department, Police Service

12:00-12:50 Meeting with Mr. Baghdasaryan

President of the National Assembly of Armenia

14:15-15:15 Meeting with representatives of Opposition factions

15:20-16:10 Meeting with Coalition Factions of the National Assembly

16:15-17:15 Meeting with National Assembly Delegation to the PACE

17:30-18:30 Meeting with members of Heritage Party

27 November, Sunday- Referendum day

06:00 Deployment of teams

23:00 – 01:00 De-briefing of both Parliamentary Assembly and Congress delegations

28 November, Monday

08:00 - 9:00 Breakfast meeting

10:00 – 11:30 De-briefing meeting and finalisation of Press Release

14:00 – 15:00 Press-Conference (Marriott Hotel)

15:30 - 16:30 Meeting with Ambassadors of Council of Europe Member-States

18:00 – 19:00 Meeting with Mr. Azaryan

Chairman of the Central Election Commission

APPENDIX II

Constitutional Referendum in Armenia: general compliance marred by incidents of serious abuse

Yerevan, 28.11.2005 - The Council of Europe observers to the Constitutional Referendum held on 27 November 2005 in Armenia regret the decision taken by the authorities which precluded the attendance of any other international observers. The transparency of the referendum was further hampered by the decision of the parliamentary opposition to call on their members to withdraw from the electoral commissions. It is also regrettable that political pluralism inside polling stations

was not better assisted by a greater number of domestic observers.

The 14-member delegation from the Parliamentary Assembly and the Congress of Local and Regional Authorities noted that the Referendum generally reflected the free will of those who voted. However, on voting day the observers witnessed serious abuse in several polling stations which cast a shadow over the credibility of the officially announced turn-out.

On 25 and 26 November the delegation had meetings with the authorities, opposition members, NGOs, media representatives and the international community. The observers' impression was that during the campaign leading to the Referendum there was not equal access to the media. This was to the disadvantage of the opposition to the constitutional changes and hampered genuine democratic debate.

The Council of Europe observers visited around 150 polling stations in the capital and across the country on voting day. The general atmosphere was calm and no incidents of public disorder were witnessed. In the majority of the polling stations visited the conduct of the poll was in compliance with international standards.

However, in a significant number of polling stations in Yerevan and other regions this was not so. The extremely low voting activity did not correspond to the high figures provided by the electoral commissions. There were also clear instances of forged additional signatures on the voters register and of ballot stuffing. The electoral regulations, requiring the stamping of the ballot after completion, created numerous situations where the secrecy of the vote was not respected. Military voting appeared to lack the voluntarism which is the hallmark of democratic participation.

In conclusion, the delegation considers that the abuses that marred the referendum were against the intent and interest of the Armenian people. It expects that the Central Electoral Commission investigate thoroughly all the allegations brought to its attention and that all the necessary measures will be taken against those responsible for fraud.

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The delegation, co-headed by Tomas Jirsa (Czech Republic, EDG, Parliamentary Assembly) and Sean O'Brien (Ireland, SOC, Congress), included:

Parliamentary Assembly

Tomas Jirsa (Czech Republic, EDG)
Lord Tomlinson (United Kingdom, SOC)
Georges Colombier (France, EPP/CD)
Jan Rzymelka (Poland, EPP/CD)
Klaus-Jürgen Hedrich (Germany, EPP/CD)
Gabor Szalay (Hungary, ALDE)
Nigel Evans (United Kingdom, EDG)

Congress of Local and Regional Authorities

Sean O'Brien (Ireland, SOC)
Alain Chénard (France, Former President of the Congress)
Luca Ciriani (Italy, ILDG)
Gretta Cousins (United Kingdom, EPP/CD)
Christopher Newbury (United Kingdom, EPP/CD)
Marja Van Der Tas (Netherlands, EPP/CD)
Wim Van Gelder (Netherlands, EPP/CD)

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APPENDIX III

Deployment of Council of Europe observers

NAME	PLACE OF DEPLOYMENT
Tomas JIRSA (CZ, EDG)	YEREVAN
Bonnie THEOPHILOVA	
Jan RZYMELKA (Poland, PPE)	ARARAT MARZ
Nigel EVANS (UK, EDG)	
KLAUS-JÜRGEN HEDRICH (Germany, PPE)	ARMAVIR MARZ, ETCHMIADZIN
Lord TOMLINSON (UK, SOC)	
Georges COLOMBIER (France, PPE)	ARAGATSOTN MARZ, ASHTARAK
Alain CHENARD (Congress)	
Gabor SZALAY (Hungary, ADLE)	YEREVAN
Sean O'BRIEN (Congress)	
Pilar MORALES	
Marja VAN DER TAS	ARMAVIR MARZ
Oscar ALARCON	
Christopher NEWBURY	TAVUSH MARZ
Gretta COUSINS	
Wim VAN GELDER	KOTAYK MARZ
Luca CIRIANI	

APPENDIX IV

CONSTITUTIONAL REFERENDUM -ARMENIA 27 NOVEMBER 2005 IRREGULARITIES OBSERVED BY CONGRESS TEAMS

POLLING STATION	IRREGULARITIE(S) NOTED	FIGURES
YEREVAN DISTRICT		
9/18	The delegation could observe counting discrepancies between precinct electoral commission and the opposition observers	At closing of polling station: 407 voters according to PEC against 235 voters according to opposition
10/31	According to chairperson of electoral commission, there were 1935 registered voters whilst 1883 voters were registered according to list hanging on wall.	
3/30	High military turnout	At 2.15 pm 850 military people had voted and only 14 civilians
11/09	By 5.35 pm, 1110 voters out of 1700 had voted between 5.35 pm and 6 pm, only one voter showed up	11.45 am- 320 voters

	Commission members were reluctant to show voters register, and observer team noticed similar signatures and two different registers	1.50pm- 492 v. 3.30 pm- 733 v. 5pm- 952 v. 5.35pm-6pm – 1 voter
11/10	At 6 pm, according to chairperson, 802 persons had voted. However, the chairperson of polling station 11/09 told the observer that he had informed the CEC that 961 voters had voted in polling station 11/10 by 5 pm	11.45 am- 334 voters 1.50 pm- 520 v 3.30pm-698 voters 5 pm- 961 voters
11/25	740 out of 1989 people had voted at 7 pm observers said most voters came while they were not present	

TAVUSH REGION: IJEVAN

41/22	noted ballot stuffing	1535 out of 1812
41/25	According to Chairperson 132 people had voted Observers counted 184 signatures on voter list Chairperson objected to observers counting signatures	
41/23	According to Chairperson 41 people had voted but observers Could count only 37 signatures	
41/14	Duplicate signatures on voter register Every ballot paper was stamped before people voted	
41/04	The ballot box was not properly sealed	

ARAGASOTN REGION

14/04	The list of military voters was not available at the opening of the polling station The turn-out at closing of the polling station was very low, despite 100% voting of military people	
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ARMAVIR REGION

21/25	1204 voters were registered At 11.30 pm, 550 had voted according to chairperson observers counted 793 signatures At nearest polling station, 328 had voted by that time	
15/17	6.26 pm- 1400 out of 1556 had voted There were 2 ballot boxes: one half empty, the other not properly sealed and full of ballot papers	
21/03	Observers returned for the counting - military voting appeared to exist only at counting - no military registered voter list could be seen -166 military voters did not appear on list hanging on the wall	

¹ Letter addressed by Mr Stepanian, Permanent Representative of Armenia to the Council of Europe to Mr Bohner, Executive Director of the CLRAE.

² CG/CP 12 (13) Report on local elections in Armenia

³ Document 10778, Parliamentary Assembly

⁴ United Nations figures, 2005

⁵ Armenian Revolutionary Federation

6 The Country of Law

7 Opinion 310/2004 Revision of the Electoral Code of the Republic of Armenia

8 Official figures provided by the Head of passport and visa department, Police Service, on 26th November 2005

9 Congress Recommendation 140 (2003) on local democracy in Armenia
CPL (10) 8E, Part II

10 ODIHR.GAL/81/05, 10 November 2005

11 Letter addressed by Armen Baibourtian, Deputy Minister of Foreign Affairs of Armenia to Christian Strohal, Director of OSCE/ODHIR on 17 November 2005

12 Unofficial estimates of the number of voters having been taken off the lists varied between 200,000 and 400,000.

13 Interim Report on the results of monitoring the referendum campaign for the RA constitutional amendments in Armenian media (period between 5 November and 19 November 2005).

14 The meetings on Friday afternoon and meetings on Saturday were held jointly by Congress and PACE delegations.