

November 2008

**Public Investigation Commission on March 1 events**

**INTERNATIONAL COMMUNITY AND THE EVENTS OF  
MARCH 1**

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## **1. CONTACTS BETWEEN THE ARMENIAN AUTHORITIES AND THE ELECTION OBSERVATION MISSION PRIOR TO THE PRESIDENTIAL ELECTIONS OF FEBRUARY 19, 2008: POSSIBLE DEAL**

The brutal outrage that took place in Yerevan on March 1, 2008 shocked the international community. The international community was staggered by the decision of the police forces to resort to coercive force against the peaceful demonstrators resulting in bloodshed.

Nevertheless, the international reaction to the bloody events was quite cautious in the immediate aftermath of the events. That wasn't something unexpected, since the Armenian authorities have done and still are doing everything in their power to obscure the reality. It took quite a long time to generalize the full picture of the occurrences in order to create ground for due assessment of the situation. Within the scope of the current research we will try to present and illustrate the activities of the international organizations and their representatives to prevent the unruly actions of the authorities, as well as the relevancy and efficiency of their efforts in post-1 March period.

It doesn't seem proper to speak about direct connection between the tragic events of March 1 and the role of the international community, nonetheless we would try to examine how the regime of Robert Kocharyan exploited the inconsequent and contradictory messages, judgments and comments from the West to severely suppress the post-election protests of the opposition by means of firearms and combat bullets.

A few months before the elections certain agitation occurred between the authorities of Armenia and the most competent election monitoring body -- OSCE/ODIHR -- after Armenia joined the Russian led initiative of the OSCE seven countries (who are also members of the Organization of the Collective Security Agreement) aimed at basic reforms in ODIHR. This approach of Armenia was a surprise for many of the OSCE member countries, since ODIHR adopted quite favorable attitude to the parliamentary elections of May 2007, stating in its Report that the elections for the National Assembly demonstrated improvement and were conducted largely in accordance with OSCE commitments and other international standards.

The model of the reforms suggested by the Collective Security Agreement countries caused strong discontent of the EU countries and the USA. In order to understand their anxiety we should take into account their unconditional support to ODIHR and their tough and firm opposition to the Russian recommended reforms.

Nevertheless, Armenia became the co-author of the Russian initiative, meanwhile trying to gain additional dividends on the threshold of its presidential elections. The Russian led initiative voiced doubt about the independence of ODIHR and was targeted at discrediting the election observation mission of ODIHR. The factual refusal to invite the

OSCE/ODIHR observers to monitor the 2007 parliamentary elections in Russia was only a part of the attacks against OSCE/ODIHR. The Armenian authorities, while attempting to derive benefit from the situation, played up a brilliant scheme. They threatened to follow the Russia's example thereby further discrediting OSCE/ODIHR. In a situation when everybody was expecting from Armenia rejection of the ODIHR observation mission 'services', Yerevan, at strong request of the West, invited an impressive delegation to observe the presidential elections. Prior to the invitation, the Armenian authorities embarked extensive and intensive diplomatic activities intended to persuade the ODIHR observers to take a more delicate stand while assessing the elections.

As a matter of fact, the actions taken by the Armenian authorities were quite efficient. First, they assumed an attitude towards ODIHR quite concordant with the moods existing in the Organization of the Collective Security Agreement region. Afterwards, despite its criticism of the ODIHR, Armenia invited the observers to monitor elections, thereby adopting 'constructive' attitude in the eyes of the West. It goes without saying that the 'prudence' of ODIHR while assessing the elections was predictable, in particular, given the fact that ODIHR had little time for the preparation of its February 20 first report.

We, nevertheless, insist, that the primary assessment of ODIHR was far from being impartial, and as compelling evidence we can cite the election irregularities described on almost twenty pages of the OSCE/ODIHR Election Observation Mission Final Report of March 30, 2008. It appears absurd to register the large-scale violations that took place during the elections, and meanwhile, disregard them and write in the report that 'the 2008 presidential election mostly met OSCE commitments and international standards in the pre-election period and during voting hours.'

If in case of ODIHR we deal with an influential institution in charge of observation mission, the other three organizations with similar mission were parliamentary, with all disadvantages peculiar to parliamentarism. While the ODIHR observers must visit around ten polling stations, fill in questionnaires about each polling station, make reports to the long-term observers on regular basis within the bounds of their duties, the delegations from the OSCE and CoE Parliamentary Assemblies and the European Parliament have a more light schedule and their mission is less institutional. It is worth mentioning that the total number of the parliamentary observers was thrice less than that of the ODIHR observers. The observers from the parliamentary assemblies, as a rule, rely on the experience and authority of their ODIHR colleagues while making their assessments. This election wasn't exception to the rule. Despite the fact that parliamentary observers have witnessed numerous violations (Swedish delegate and member of CoE observation mission Marietta de Pourbaix-Lundin during the PACE spring session emphasized the awful situation during the vote count, and PACE Vice President, Hungarian Zsolt Nemet declared that he cast doubt the confirmation that the Armenian elections were 'mostly in line with the CE standards'<sup>1</sup>) their statements were consonant with the ODIHR statement. It was not until PACE Resolution 1609 was released that the representatives of the international structures spoke about the failure of the elections, the state institutions and

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<sup>1</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/04/2BE7E6A3-E607-4AD2-B1CA-CEAF1A9AB83B.asp>

the Armenian events in sharper terms. While on February 20 the situation was different for the European parliamentarians, so they made an assessment that paved the ground for the authorities to restore to brutal force.

## **2. OSCE/ODIHR AND INTERNATIONAL OBSERVER MISSIONS' REPORTS ON ELECTION: CONTRADICTIONS OR POLITICAL ASSESSMENTS?**

The OSCE/ODIHR International Election Observation Mission (IEOM) opened its election observation mission in Yerevan on January 10, 2008 and issued its final report on May 30.

OSCE/ODIHR 16 experts were deployed in Yerevan, and 28 long-term observers around the country. Later on, close to the election day, they were joined by 206 ODIHR and 83 OSCE PA, PACE and EU short-term observers. In total, there were 333 short-term observers from 42 OSCE participating States. Thus, the International Election Observation Mission (IEOM) was formed from OSCE/ODIHR, OSCE Parliamentary Assembly (OSCE PA), Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP).

The OSCE/ODIHR EOM prepared and released 5 reports: two interim reports before election day (January 26 and February 9, 2008), preliminary findings and conclusions (next day after the voting), one post-election interim report (2 days after the events of March 1), and the final report (May 30, 2008). The only report where OSCE was co-author was the Joint Statement of Preliminary Findings and Conclusions. And, unfortunately, this particular joint statement of preliminary findings and conclusions didn't elaborate the findings instead it made an assessment based on mere political expediency.

The International Election Observation Mission was comprised of parliamentary and OSCE observers, whereas only OSCE, i.e. ODIHR, is specialized in election observation with high qualification of expertise. The final report of ODIHR observers gives a more complete and relatively unbiased picture of the elections in Armenia. We call it 'relatively unbiased' since the authors of the Report were restricted by the preliminary conclusions of February 20 issued jointly with their European colleagues.

### **Expertise or Political Assessment?**

It is worth mentioning that during the election period there was certain mistrust toward the European structures among the population after the presidential elections of Georgia in January (the mistrust of the population toward ODIHR even enhanced due to experience citizens of Armenia had after significantly flawed 2003 Presidential Elections and 2005 Constitutional Referendum). Despite the numerous evidence of falsifications, the use of excessive force against the peaceful demonstrators in November, the preliminary assessment was favorable enough for Georgia (the final assessment of the Georgian elections was more negative than the preliminary one). There was certain

anxiety among the public that the same scenario would be implied to Armenia, and, in fact, it happened.

The 20 February preliminary conclusions of the IEOM were subsequently edited in the final Report of the ODIHR, but it was released three months after the tragic events of 1 March. A tragedy that took lives of ten people, left behind hundreds of injured, more than hundred of opposition activists were sent to jail or went into hiding.

The authors of the preliminary conclusions by their ‘mostly’ positive assessment of the outcome of the elections, unwittingly, gave the green light to the Armenian authorities to go on with falsifications, total one-sided propaganda, threats, intimidation and assault which resulted in the outrage of March 1. **“When we say that presidential election in the Republic of Armenia was administered mostly in line with OSCE and Council of Europe commitments and standards this is not a compliment. We conduct observation in many countries, and allow me to say that we have witnessed much worse cases. In some of the countries we have seen police beating the people: Nothing of the kind happened in Armenia.”**<sup>2</sup>, said Ambassador Geert Ahrens (Germany), head of the OSCE/ODIHR long-term observer mission. The next day he witnessed not only assault but killing.

#### **Positive or Negative Assessment?**

In the same interview Ambassador Ahrens noticed, **“The mission’s preliminary assessment of the election conduct given on February 20 was not as positive as has been widely construed in and outside the country. It is unfair”**<sup>3</sup>. It is not the first time that the observation missions advise us not to read only the first page or the first paragraph, but the whole report, since the main criticism is in the ‘core’ of the report, while what we see ‘on the surface’, i.e. in the first paragraph or page, is more a political assessment, a message conveyed to the authorities.

In 20 February ‘Statement of Preliminary Findings and Conclusions’ the international observers registered, **“The 19 February presidential election in the Republic of Armenia was administered mostly in line with OSCE and Council of Europe commitments and standards.”**<sup>4</sup>

Ambassador Ahrens explicated, **“The presidential ballot was more flawed than last May’s Armenian parliamentary elections which the OSCE described as “largely” democratic. I would say ‘largely’ is 80 percent to 90 percent, while ‘mostly’ can be 51 percent or 75 percent but not more. This preliminary statement clearly says that the overall quality of these elections was not as good as the one held a year ago”**<sup>5</sup>.

<sup>2</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/02/DBBB4D0D-40B1-4DEC-994F-4E1C7437A84D.asp>

<sup>3</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/02/DBBB4D0D-40B1-4DEC-994F-4E1C7437A84D.asp>

<sup>4</sup> IEOM “Preliminary Findings and Conclusions”, p. 1, Yerevan, February 20, 2008

<sup>5</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/02/DBBB4D0D-40B1-4DEC-994F-4E1C7437A84D.asp>

Meanwhile, the Head of the Mission warned, that the assessment could change depending on the findings of thorough analyze of the results of the elections. Ahrens added that **“the OSCE observers are “analyzing” the highly uneven distribution of votes. We have of course seen that there is a number of polling stations with improbable results, and that the mission will raise the issue in its next post-election report due next week.**

We would like to remind that there was a similar warning in the preliminary conclusions, **“The final assessment of the election will depend, in part, on the conduct of the remaining stages of the election process<sup>6</sup>.”** This is an important circumstance, taking into account the numerous references of the authorities to the positive assessments of the February 20 report and the “action plan” elaborated on that assessment.

While giving ‘mostly’ positive assessment and drawing the “preliminary conclusions”, The IEOM experts, didn’t have in view that in their own countries, e.g. in Austria, it is possible to force the member of the election commission under a gun to sign the empty blank of protocol and leave the polling station. They were referring to the legislative changes introduced by the National Assembly in November-December 2007 upon the recommendations of the OSCE and Venice Commission, as well as the statements of the authorities with regard to their intention to conduct ‘free, fair and transparent’ elections.

However, in the preliminary conclusions, as well as in the interim reports and the final report there is not a single example of a positive assessment which is not preceded by the words **“nevertheless”, “notwithstanding”, “although”, “however”**. Moreover, the OSCE Final Report starts with the word **“While”**.

**“While...”**

**“While the 2008 presidential election mostly met OSCE commitments and international standards in the pre-election period and during voting hours, serious challenges to some commitments did emerge, especially after election day. This displayed an insufficient regard for standards essential to democratic elections and devalued the overall election process. In particular, the vote count demonstrated deficiencies of accountability and transparency, and complaints and appeals procedures were not fully effective<sup>7</sup>.”**

As we can see in its final report issued on 30 May, the OSCE/ODIHR observation mission starts its assessment by mentioning shortcomings that **“devaluated the overall election process”**. This sounds like a verdict, and therefore it immediately raises the question of how could this election process meet “OSCE commitments and international standards?”

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<sup>6</sup> IEOM “Preliminary Findings and Conclusions”, p. 1, Yerevan, February 20, 2008

<sup>7</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. 1. Summary.

The authors of the report impute/ascribe the “devaluation” to the post-election period, i.e. after 8 p.m. of February 19. Before touching upon their criticism of the pre-election period, we would like to make one remark. The observers were forced to use the assessment that “the elections mostly met the standards” due to their preliminary conclusion.

Aside from the phrase that “**the elections mostly met the OSCE standards**” the final conclusion is completely negative. Only few positive developments are mentioned, while the enumeration of multiple and significant violations take pages.

While giving their political assessment the ODIHR observers contradicted themselves. If until 1 March 51 to 70 per cent of the positive assessments of the OSCE observers referred to the improvement of legal framework and election administration, then in the final report they confess that, “**The Election Code provides a sound basis to conduct democratic elections; deficiencies in implementation resulted primarily from a lack of sufficient will to implement legal provisions effectively and impartially**”<sup>8</sup>. In another paragraph they clarify, “**However, the incumbent government, including Prime Minister Serge Sargsyan, candidate of the governing Republican Party, and the outgoing president Robert Kocharyan, had a considerable advantage in the number of appointees to election commission management posts, raising concern for the independence and impartiality of the election administration**”<sup>9</sup>.

The power was in the hands of the same persons mentioned in the paragraph above, therefore the basis for the OSCE observers’ optimism, i.e. the statements of the authorities of their intention to conduct ‘democratic elections’ - is beneath criticism, as well as the optimism regarding the improvement of the election administration.

### **What were the ‘Grounds’ for Preliminary Conclusions?**

There is another very important detail in the Final Report. When ‘editing’ the report of February 20, the observers have reduced the period of the election process that ‘mostly met OSCE commitments and international Standards’ to **‘the pre-election period and during voting hours.’** While, that very particular period was subjected to criticism by the OSCE/ODIHR observers.

Here are several extracts from the executive summary of 30 March Final Report: “**Many local government officials actively campaigned for Prime Minister Sargsyan, some whilst performing official duties. There were accounts of local government employees and public-sector workers being obligated to attend Prime Minister Sargsyan’s campaign events. This conflicted with legal provisions, blurred the separation of party and State, challenged equal campaign opportunities, and raised concern that citizens could face retribution for their electoral choices.**

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<sup>8</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. 1. Summary.

<sup>9</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. 1. Summary

**The CEC and the National Council for Television and Radio (NCTR) did not ensure that media met its obligations, and media bias was evident. Favorable coverage of Prime Minister Sargsyan, including his official duties, granted him an undue advantage. Opposition candidate Levon Ter-Petrossian received a large volume of negative coverage, including on public TV and radio<sup>10</sup>.”**

During voting hours the observers have registered violations only in 5 per cent of polling stations visited. The question is what kind of violations? **“However, intimidation and attempts to manipulate the process were evident in some areas, and the authorities did not adequately address these issues as they emerged on or after election day. Some Precinct Election Commissions (PECs) were unwilling to register formal complaints<sup>11</sup>.”**

With regard to the vote count the report states that though only in some 16 per cent of polling stations the vote count was assessed as ‘bad’ or ‘very bad’, the observers still **“witnessed inconsistencies in determining valid votes, unwillingness to show marked ballots, attributing votes for one candidate to another, signing protocols before completing the vote count, signing blank protocols, changing data entered in protocols, and failure to display protocols publicly as required by law<sup>12</sup>.”**

The international observers have observed a number of shortcomings during the tabulation of the results at Territorial Election Commissions (TECs), **“This included material arriving in unsealed packages, candidate proxies performing TEC functions, an inconsistent approach to tabulation errors, and not permitting observers to scrutinize protocols. There were many requests made to recount PEC results, some of which were rejected by TECs without good cause. Out of the 159 recount requests accepted, 135 PEC results were recounted. In many cases, discrepancies and mistakes were identified, some of which raised questions of political impartiality<sup>13</sup>.”**

The observers have noticed **“implausible”** turnout figures at some 100 polling stations and registered, **“The CEC’s handling of complaints was not transparent. The CEC considered them mostly in informal meetings to which proxies, observers and the media were not invited, and dismissed them without adequate investigation. Consequently, candidates were not granted an effective means of redress<sup>14</sup>.”** Hence,

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<sup>10</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. 1. Executive Summary.

<sup>11</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. 1. Executive Summary.

<sup>12</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. 1. Executive Summary.

<sup>13</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. 1. Executive Summary.

<sup>14</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. “PEC results published by the CEC revealed implausible turnout figures at some 100 polling stations.” See also XV. Post-Election Period. B. Announcement of Final Results. “The analysis of official PEC results indicates that PECs which reported a higher than average voter participation also had a higher share of the vote for Prime Minister Sargsyan.”

the observers “**raise questions over the honesty and political impartiality of PECs and TECs**”<sup>15</sup>.”

### **The Political Assessment of the OSCE is Equivocal.**

**“The favorable treatment afforded to Prime Minister Sargsyan is incompatible with the legal requirements for the State to create equal campaign conditions and for officials to refrain from using authority to influence citizens’ free will. It also led to a significant blurring of the separation between State and political party interests. These factors conflict with Armenia’s commitments under paragraphs 5.4, 7.6, and 7.7 of the 1990 OSCE Copenhagen Document**”<sup>16</sup>.” This is another extract from the Final Report.

The observers reported the campaign and media coverage advantage and the activities of the Working group of the revision of the complaints of the citizens under Government. They also mentioned that the Constitutional Court found Mr. Ter-Petrossian’s claim that he faced an “insurmountable obstacle” due to unequal campaign did not constitute an “insurmountable obstacle” in the sense foreseen by the Constitution, while indicating that the complaint should fall within the scope of other authorities and bodies. Though ODIHR didn’t dispute the Armenian judicial independence in the report, but in Chapter 11 it contested the investigation of one of the complaints that Prime Minister Sargsyan was using his position as Prime Minister to campaign through the working group he had established in the Government Staff Department in CEC and Administrative Court: **“Neither the original CEC decision nor the court ruling addressed the substance of the case, namely whether the Prime Minister was campaigning while performing his official duties, which is contrary to Article 22.1(1) of the Code**”<sup>17</sup>” emphasized the observers.

On 30 May the ODIHR eventually displayed courage to register that even during the campaigning period there were certain occasions of taking measures against one or more candidates right up to invalidation of the registration of the candidate, in case the CEC and TECs demonstrated willingness to perform their duties instead of turning a blind eye. The report says, **“The CEC and TECs are required under Article 18(8) of the Code to monitor the adherence of candidates to campaign-related provisions. A November 2007 amendment to the Code provides that an election commission is required to formally warn a candidate in case of violations of legal provisions. If the violation is not rectified within three days, the election commission must apply to a court to invalidate the registration of the candidate. However, the CEC and TECs lacked the capacity or willingness to pro-actively fulfill this responsibility. Despite a wide array**

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<sup>15</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. XV. Post-Election Period. A. Recounting of PEC Results.

<sup>16</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. IX. The Election Campaign. C. Role of the State and Local-Self Government in the Campaign.

<sup>17</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. XI. The Pre-Election Complaints and Appeals.

**of actual and alleged campaign violations and a number of formal complaints, no formal warnings were issued to any candidate<sup>18</sup>.”**

In the last clause of the paragraph the observers confirmed the existence of numerous violations that could cause the invalidation of the registration of one of the candidates or at least the issuance of formal warnings. Since there were complaints of legal violations against Prime Minister Sargsyan and not against Levon Ter-Petrossian, it wouldn't be hard to presume who the observers alluded to.

Actually, they accepted the fact of existence of **'actual and alleged campaign violations.'** This means that either Serghe Sargsyan should have refrained from committing violations or he had to be removed from the campaign in legal form, i.e. he shouldn't have become president while proceeding with violations.

In their 20 February Preliminary Conclusions the international observers have registered similar violations, though with less details and critic. They just noted that, **“Mr. Sargsyan gained additional publicity and campaign advantages through his official position<sup>19</sup>.”**

This means, that on February 20 the OSCE observers were well aware of the factual state of affairs, and that if the campaigning rules were observed there was real possibility to invalidate the registration of candidate Serge Sargsyan, and to satisfy Levon Ter-Petrossian's claim in the Constitutional Court. That would have meant two weeks delay of the election and would have changed on the whole the scenario of the elections. Regretfully, only after the tragic developments of the political events the OSCE admitted its responsibility and the expediency to articulate the real situation in its Final Report. As we have already mentioned, the overwhelming majority of the violations are related to the pre-election period, which surprisingly wasn't included in the report of 20 February.

Considering the aforementioned criticism, the elections in Armenia could not on any account assessed as 'mostly' or even '51 per cent' in line with international commitments and standards not even **'in the pre-election period and during voting hours'**, and by no means 'in the pre-election period and during voting hours'. The vote count distortion, the outrage against the peaceful protesters were the outcome of total manipulation and perversion of the election process.

We stress, that the OSCE was restrained with the Preliminary Conclusion dictated by the political expediency of that very instant and, therefore, was forced to assess the pre-election period as 'mostly' in line.

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<sup>18</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. IX. The Election Campaign A. Legal Framework For Campaigning.

<sup>19</sup> IEOM “Preliminary Findings and Conclusions”, p. 6, Yerevan, February 20, 2008

## Post Scriptum

We ought to note that though the preliminary conclusion was rather favorable for the Armenian authorities, however, it warned the authorities to refrain from further complication of the situation mentioning that the final assessment of the election will depend, in part, on the conduct of the remaining stages of the election process, as well as registered numerous violations, especially the campaign advantage for the candidate of authorities over other candidates, as well as for all the candidates over the opposition candidate.

It is extremely important that the Final Report highlights the peaceful nature of the demonstrations. **“Even before the election took place, Mr. Ter-Petrossian called for supporters to gather on 20 February for a ‘victory’ or a ‘protest’ rally. From 21 February to early morning on 1 March, protesters maintained a peaceful, though not formally sanctioned, assembly (and tent camp) in Freedom Square in Yerevan and conducted numerous peaceful processions<sup>20</sup>.”**

Head of the Long-Term Election Observation Mission Ambassador Geert Ahrens in his abovementioned interview urged the authorities to show respect to the protest actions, **“I am not in power to offer advice to anybody but from my personal observation I have to state that people in the square were peaceful and we don’t believe these people are scum, hooligan or so. And particularly the young people are anxious about democratic elections. The political figures should treat this movement with great responsibility.<sup>21</sup>”**

Though the OSCE/ODIHR Final Report constituted progress in terms of impartiality it, still, was cautious to draw the whole objective reality. In its third post-election interim report the OSCE mission registered, **“Demonstrations against the conduct of the election were held repeatedly and remained peaceful until 1 March when police dispersed the demonstrators<sup>22</sup>.”** By this wording the observers accepted that the police was the initiator of the coercion. However the wording was changed in the Final Report, **“Early on 1 March, violence occurred between protestors and the police at Freedom Square and the assembly was dispersed<sup>23</sup>.”**

Nonetheless, in its Final Report the OSCE was resolute in its stand that the future of the political developments mainly depends on the handling of the elections. That’s why while describing the 1 March events and the state of emergency it stated, **“Subsequently, some 130 persons were arrested and some 100 criminal cases opened. The Constitutional Court heard two appeals against the election results**

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<sup>20</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. XV. Post-Election Period. D. Political Post-Election Developments.

<sup>21</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/02/DBBB4D0D-40B1-4DEC-994F-4E1C7437A84D.asp>

<sup>22</sup> OSCE/ODIHR Post-Election Interim Report 3, I. Summary.

<sup>23</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. XV. Post-Election Period. D. Political Post-Election Developments.

filed by Mr. Ter-Petrosian and Mr. Karapetyan, between 4 - 7 March<sup>24</sup>.” Even this plain wording made apparent that the OSCE observers comprehended the real reason for introduction of the state of emergency, as well as the political arrests.

### 3. THE ASSESSMENTS OF INTERNATIONAL STRUCTURES TO THE POST-ELECTION SITUATION IN ARMENIA

#### February 20 – March 1, post-election period

In the aftermath of the February 19, 2008 presidential elections hundreds of thousands of citizens of Armenia rejected the results of the elections due to the enormous and large-scale violations occurred, and, thus, gathered in peaceful demonstration not to allow another violation of their basic rights. The national movement led by the first President of Armenia and presidential candidate Levon Ter-Petrosian, has adopted purely constitutional way to express its protest in order to reinstate the constitutional order in the framework of the existing legislation. The non-stop rallies and processions held in the Liberty Square of Yerevan from February 20 to March 1 were absolutely peaceful, and the representatives of the international organizations mentioned that on several occasions. Edgar Vasquez, US State Department Spokesman stated on February 21, “***We are aware of the mass protests of the opposition and we welcome the authorities and the opposition for providing the peaceful conduct of the demonstrations. We also call on the Armenian government and the opposition to maintain this peaceful situation and to refrain from any acts of illegality or violence***”<sup>25</sup>. On February 26 OSCE Chairman-in-office, Foreign Minister of Finland Ilkka Kanerva stated, “**I trust that the authorities will continue to respect the right of citizens to assemble freely and ensure that public gatherings can take place without hindrance. Though such demonstrations are part of any vibrant democracy, political progress can only come through negotiations that involve all sides.**”<sup>26</sup>

Notwithstanding numerous claims and appeals by the international community not to impede the peaceful demonstrations of the opposition, the Armenian authorities nevertheless arrested prominent opposition figures (Gagik Jahangiryan, Smbat Aivazyan, Aram Karapetyan, Petros Makeyan, Suren Surenyants and others) on false accusations. On February 27 PACE Chairman-in-office Goran Lenmarker in an interview with Radio Liberty marked, “**According to the explanations of the Government the reason for the arrests is the weapon. I can’t state what is right and what is wrong, I’ve been told this and as a foreigner it is difficult for me to evaluate the real situation. I hope to witness a peaceful solution of the events and that violence will not take place**”<sup>27</sup>.”

<sup>24</sup> Presidential Election, 19 February, 2008. Final Report of OSCE/ODIHR Election Observation Mission. I. Executive Summary.

<sup>25</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/02/CDC672C8-AD91-4AAC-B71B-2324A0ECD6C5.asp>

<sup>26</sup> <http://www.osce.org/item/29860.html>

<sup>27</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/02/F23EB6EE-9FA3-4CD6-B34D-20854E38CB39.asp>

As it was later revealed, the accusations of illegal possession of weapons were false and the charges were dropped. In spite of all the arrests, the movement led by Levon Ter-Petrossian was resolute to continue the peaceful protests.

In its statement of 28 February on the Elections in Armenia the United States Mission to the OSCE indicated, **“This peaceful exercise of the freedom of assembly, coupled with effective, non-violent crowd management, is a notable achievement and a sign of democratic progress. We call on all sides to ensure that this peaceful situation continues. We are very concerned about the post-election arrests of opposition politicians, as well as reports that authorities have forcibly closed opposition offices. These kinds of actions are not consistent with democratic principles, and we urge the Government of Armenia to uphold the rule of law and international democratic standards in proceeding on these cases. Because of such real and perceived irregularities, we remain concerned that the level of trust among the Armenian electorate in their election process remains dangerously low<sup>28</sup>.”**

Head of the ODIHR Long-Term Observation Mission Geert Ahrens in his interview with RFE/RL of February 29 while speaking of the demonstrations of the National Movement stressed the peaceful nature of the protests and urged the authorities ‘to handle the movement with high responsibility and correctness<sup>29</sup>.’

Besides OSCE/ODIHR, representatives of various international structures addressed the issue of election violations. In its statement of February 20 Javier Solana, EU High Representative for the Common Foreign and Security Policy (CFSP), stated in particular. **“Complaints should be thoroughly investigated and all shortcomings as identified by International Election Observation Mission should be addressed. Any differences should be resolved through dialogue<sup>30</sup>.”**

US State Department Spokesman Edgar Vasquez stated on February 21, **“We are concerned by some elements of the report, including a description of the vote-count as 'bad' or 'very bad' in 15 per cent of the polling stations observed<sup>31</sup>.”**

On February 23 the State Department issued another statement indicating, **“We note that international monitors identified significant problems with electoral procedures. Armenian election authorities have responded with the positive step of recounts in a number of jurisdictions. We urge the Government of Armenia to ensure these recounts are conducted comprehensively and transparently, investigate all allegations of irregularities, and implement steps to improve future elections<sup>32</sup>.”**

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<sup>28</sup> [http://osce.usmission.gov/archive/2008/02/ArmenianElections\\_02\\_28\\_08.pdf](http://osce.usmission.gov/archive/2008/02/ArmenianElections_02_28_08.pdf)

<sup>29</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/02/DBBB4D0D-40B1-4DEC-994F-4E1C7437A84D.asp>

<sup>30</sup> [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/en/declarations/98840.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/declarations/98840.pdf)

<sup>31</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/02/CDC672C8-AD91-4AAC-B71B-2324A0ECD6C5.asp>

<sup>32</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/02/A5048C66-2B69-462F-8693-674D0F9DB93A.asp>

The violations that took place during the elections was also mentioned in the EU Presidency statements<sup>33</sup> of February 22 and February 25.

On 26 February OSCE Chairman-in-office, Foreign Minister of Finland Ilkka Kanerva<sup>34</sup> and on February 28 the United States Mission to the OSCE<sup>35</sup> also addressed the issue of the election conduct and the violations.

Summing up the international reaction to the post-election developments in Armenia we can confirm, that the international structures and single countries have particularly emphasized in their assessments:

- the mass activities conducted by the National movement were exclusively peaceful;
- they urged the authorities not to impede and respect the right of people to peaceful assembly and to adhere to the rule of law and international standards of democracy;
- the public confidence in the electoral process is threateningly low in Armenia,
- only through negotiations of the all parties involved it is possible to overcome the current political crisis and ensure progress;
- numerous violations were registered during the elections, and, that with time, the number of the registered violations has increased.

Interestingly, following the elections the international structures preferred to congratulate the people of Armenia for conducting competitive elections rather than the candidate who was declared winner (EU High Representative for the CFSP Javier Solana, EU Presidency, NATO, USA).

Day after day the rallies of the opposition grew more powerful, while public more organized as vibrant civil society that was committed to safeguarding its rights and restoring the constitutional order. Some of the state officials unable to endure the ongoing unlawfulness in the country stood up for the people. While presidential candidate Levon Ter-Petrossian filed an appeal with the Constitutional Court demanding the repeal of the results of the election, the authorities decided to restore to force against the protestors.

### **March 1 – March 20, the period of the state of emergency**

On March 1, 2008, at around 6:20 a.m. the police forces surrounded the Liberty Square, and without any warning or announcement, thus defying the law, stormed the peaceful few thousand protestors camped out overnight in Liberty Square. The police forces took down the tents, beat and injured the people. Moreover, they pursued and battered the demonstrators and by-passing civilians (including children) far beyond the Liberty Square. They captured Levon Ter-Petrossian and put him under house arrest, thus

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<sup>33</sup> [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/en/cfsp/98863.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/cfsp/98863.pdf) ..  
[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/en/cfsp/98928.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/cfsp/98928.pdf)

<sup>34</sup> <http://www.osce.org/item/29860.html>

<sup>35</sup> [http://osce.usmission.gov/archive/2008/02/ArmenianElections\\_02\\_28\\_08.pdf](http://osce.usmission.gov/archive/2008/02/ArmenianElections_02_28_08.pdf)

depriving him of freedom of movement. This fact was confirmed by numerous statements of some international organizations.

Later in the evening, when the protestors were gathered in the square adjacent to the French Embassy to express their indignation about the exercised violence, the Armenian authorities decided to use military force against the protestors in order to punish them and to disperse the assembled. It was for the first time in the history of independent Armenia that arms were used against the unarmed population and right after that President Kocharyan declared state of emergency for 20 days. 10 people were killed, more than two hundreds were injured, hundreds were arrested thus marking the beginning of the persecution of the members of the opposition.

Even the legal specifications given by the law enforcement structures testify the illegality of the operation of the morning of 1 March. For instance the 1 March Statement of the Office of the Prosecutor General of the Republic of Armenia stated that the objective of the Police was the compulsory termination of the gathering in Liberty Square, while the Police issued another 'official version' of the morning clashes, asserting that the Police went to the square to perform a locality inspection, since the Police got credible information about the distribution of firearms and grenades. Later on it was confirmed that the Special Investigation Service of RA has instigated a criminal case clearly stating that the Police went to Liberty Square to compulsory terminate the unlawfully conducted public event and that the operation started on March 1, 2008, at 6 a.m. . The Decision stated that the Special Investigation Service has initiated a criminal case against Levon Ter-Petrossian and his supporters for organizing public events by violating existing laws and showing resistance to the representatives of the power constituting documentary proof that presidential candidate Levon Ter-Petrossian and his supporters were subjected to persecution on state level.

The international structures echoed the police crackdown against the peaceful protestors of the morning of March 1 without delay.

The OSCE Chairman-in-office, Foreign Minister of Finland Ilkka Kanerva issued a statement on March 1 '**condemning the use of force against peaceful demonstrations**' and added, "**I urge the authorities to use maximum restraint. I am troubled that are reports of casualties. I urge the authorities to release those detained, and I again call on the government and the opposition to engage in dialogue**<sup>36</sup>."

The same day Council of Europe Secretary General Terry Davis reacted to the developments in Yerevan, "**I am very concerned about reports of injuries during the security forces operation to disperse protestors in Yerevan this morning. If these reports are confirmed, all allegations of excessive force should be properly investigated. It is also vital to prevent any further violence. I am also alarmed by the reports that the runner-up in the recent presidential elections, former President Levon Ter-Petrossin, has been put under house arrest. If he is accused of committing a crime, he should be properly charged and prosecuted in a court of law**

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<sup>36</sup> <http://www.osce.org/item/29961.html>

like anyone else. In a democracy you cannot arbitrarily detain political opponents<sup>37</sup>.”

In its Statement of 1 March the Presidency of the European Union stated, **“The Presidency of the EU is concerned about the situation in Armenia, and especially about the use of force of Armenian authorities against the demonstrators. The Presidency is also very troubled by the reports of physical injuries incurred to the demonstrators. The Presidency is deeply concerned about the curtailment of freedom of movement of the opposition leader and former presidential candidate Levon Ter-Petrosian and about the detention of demonstrators. The Presidency calls for their immediate release. The Presidency calls upon the authorities and the opposition to revert only to the use of peaceful and democratic measures and to reengage in political dialogue immediately in order to restore stability in the country and avoid further use of violence<sup>38</sup>.”**

There was a Statement from the US State Department saying, **“The U.S. deeply regrets today’s unrest in Yerevan, Armenia, and calls on all sides to avoid further violence, act fully within the law, exercise maximum restraint, and resume political dialogue. Both sides are responsible for helping to re-establish order and return to political dialogue. Political dialogue is the best way for all concerned Armenians to demonstrate responsible leadership and support for the future of Armenia and democracy<sup>39</sup>.”**

All these statements were issued after the morning events of 1 March, before the use of weapons against the protestors and the declaration of the state of emergency. The next day, after the armed dispersal of the protests in the square adjacent to the French Embassy and the reported victims the Council of Europe Secretary General Terry Davis issued his second Statement, **“I am very concerned about the latest developments in Yerevan and the declaration of the state of emergency. I am shocked to learn that at least 8 people have been killed, and I call on the authorities to investigate all these deaths and the allegations of excessive use of force. Obviously, the investigations should focus on finding the perpetrators of crimes and should not be used to harass political opponents. Both the authorities and the opposition should do anything they can to prevent any further violence. I hope that the state of emergency will be lifted very soon. Meanwhile, I call on the authorities to review the justification for the restrictions imposed – especially on media, political parties and non-governmental organizations. These restrictions are an obstacle to political dialogue, which is the only way to find a political solution to the present situation. The state of emergency suspends the application of several rights and freedoms protected by the European Convention on Human Rights. Under Article 15 of the Convention the Armenian**

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<sup>37</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Press release - 148(2008) )

<sup>38</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Press release - 148(2008) )

<sup>39</sup> <http://www.state.gov/r/pa/prs/ps/2008/mar/101591.htm>

**Government must inform me of the measures which it has taken and the reasons therefore<sup>40</sup>.”**

PACE President Luis Maria de Puig also reacted to the events in Yerevan, **“I call on all sides to do everything in their power to prevent further violence. I deeply regret the deaths and injuries that have already occurred, and repeat that the authorities must show the utmost restraint and respect the principle of proportionality. The state of emergency that has been declared is an extreme measure and should be lifted as soon as possible: round-ups of peaceful demonstrators and gagging the media is not the respond of real democrats to different views. Whatever disagreements there are over the fairness of the election, they should be worked out through the election appeals process and the Constitutional Court and not through clashes on the streets. Talking, not shooting, is the way forward<sup>41</sup>.”**

The OSCE Chairman-in-office, Finnish Foreign Minister Ilkka Kanerva sent his Special Envoy, Ambassador Heikki Talvitie to Yerevan to seek ways to defuse the crisis. Minister Kanerva said, **“I have sent my Special Envoy to try to bring both sides to the negotiating table and to find a way out of this crisis through political dialogue. The OCSE considers dialogue central to stability, and stability is vital in the South Caucasus<sup>42</sup>.”**

The United Nations High Commissioner for Human Rights Louse Arbor also expressed her concern and issued a statement on 2 March, **“I am deeply troubled following reports of eight deaths and numerous injuries on Saturday during demonstrations in the Armenian capital Yerevan where a state of emergency has been declared. I am particularly concerned by reports that force has been used against peaceful demonstrators and that opposition protestors have been detained. I call upon the authorities to exercise the utmost restraint and to ensure that due process is followed in the case of any detentions. Armenia is party to the International Covenant on Civil and Political Rights which stipulates that, even during states of emergency, fundamental rights – such as the right to life and the prohibition of torture and cruel, inhumane and degrading treatment – cannot be suspended. <sup>43</sup>”**

On March 3, UN Secretary-General Ban Ki-moon addressed the authorities on riots in Yerevan, **“I am deeply concerned about the violent clashes between police forces and demonstrators in Armenia over the weekend. I hope that these events, during which eight people died, will be thoroughly investigated. I call on all parties to exercise full restraint and to find a way out of the current crisis. I also urge the Armenian**

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<sup>40</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Press release - 151(2008) )

<sup>41</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Press release - 151(2008) )

<sup>42</sup> <http://www.osce.org/item/29962.html>

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<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/A1B086787D61D9AAC1257400007F9420?opendocument>

**authorities to take all necessary steps to ensure a return to normalcy, including through a speedy lifting of the state of emergency.<sup>44</sup>**

On March 4 European Union External Relations Commissioner Benita Ferrero-Waldner issued a statement saying, **“I am concerned about the serious clashes between the police and opposition protesters in Yerevan, Armenia, on March 1. I deplore the tragic loss of human lives. I urge the Armenian government to lift the state of emergency declared on March 1. I call on all parties to refrain from using force and to engage in dialogue in order to overcome political differences. I also call on the Armenian authorities to lift any restrictions on free movement for former presidential candidate Levon Ter-Petrossian and to release any citizens detained for exercising their right to peaceful assembly<sup>45</sup>.”**

The same day the Special Envoy for the OSCE Chairman-in-office, Ambassador Heikki Talvitie issued a statement in Yerevan, emphasizing, **“I note that demonstrations were held peacefully for 10 days following the February 19 election. However, the events of on Saturday 1 March, which led to the declaration of a state of emergency, were very serious and tragic. We need political dialogue to find a way forward, and such a dialogue is not possible as long as the state of emergency remains in place. Political dialogue can only be meaningful if it is an inclusive process that involves all political forces. I urge the authorities to thoroughly investigate what happened on March 1. Anyone guilty of committing crimes need to be held responsible, but cautioned against making arrests on political grounds. I hope that the state of emergency will be lifted soon so that normal political life can resume<sup>46</sup>.”**

The OSCE Representative on Freedom of the Media, Miklos Haraszti, voiced his anxiety for the restriction on media under the state of emergency, **“The state of emergency should not be used by the government to take away the public’s rights to news from diverse sources. Pluralistic reporting helps ensure transparency of governmental action even in dire times”**. He was referring to President Robert Kocharyan’s state of emergency decree of March 1, under which the media may cite only official sources when reporting on national politics. As a result, the public is presented with one view of events only. The non-state broadcast media has been limited to re-airing official news and programs. Several independent and opposition websites have been blocked, and foreign radio and television coverage on Armenia has been restricted. In protest against the restrictions, some major Armenian newspapers did not publish. **“Notwithstanding the wave of unsanctioned demonstrations and even violence, independent reporting on the events is the legitimate right of the media, to which Armenia has committed itself in the OSCE. The existing legal provisions against incitement to violence**

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<sup>44</sup> <http://www.un.org/apps/sg/sgstats.asp?nid=3030>

<sup>45</sup> [http://ec.europa.eu/commission\\_barroso/ferrero-waldner/speeches/index\\_en.htm](http://ec.europa.eu/commission_barroso/ferrero-waldner/speeches/index_en.htm)

<sup>46</sup> <http://www.osce.org/item/29993.html>

**should be sufficient to tackle any potential misuse of speech rights, and should not be replaced by pre-emptive censorship.<sup>47</sup>”**

EU’s special representative to the South Caucasus, Peter Semneby while in Yerevan gave an interview to RFE/RL expressing the EU’s deep concern about the blatant developments: **“We hope that full media freedoms will be restored soon and that the state of emergency can be lifted. It is the responsibility of both the government and the opposition to make sure that the society draws the right lessons from this situation, that it emerges stronger from this serious test of democracy and that it does not emerge as a more divided nation<sup>48</sup>.”**

Chairman of the Council of Europe’s Committee of Ministers, Slovak Foreign Minister Jan Kubis voiced his alarm on March 4: **“I am deeply concerned following the very serious events which took place over the weekend in Armenia and I warn against any further escalation of violence. I urge to strictly respect the principles of the rule law laid down by the European Convention on Human Rights. I hope that the state of emergency will soon be lifted, together with all restrictions and measures that have followed its imposition. I call upon all parties concerned to show restraint and find a way forward towards dialogue<sup>49</sup>.”**

On March 4, Maxime Bernier, Minister of Foreign Affairs of Canada, issued a statement regarding the situation in Armenia: **“Canada has been following the recent events in Armenia with great concern and urges all of the parties involved to show restraint in their actions. It is the democratic right of people everywhere to gather and express their views so long as this is done in a peaceful manner. We urge the government of Armenia to respect these fundamental freedoms by lifting the state of emergency as soon as possible. Canada urges Armenians of all political affiliations to seek solutions to their current differences within the framework of their democratic institutions<sup>50</sup>.”**

On March 5 the EU Presidency once again issued a declaration on the situation after the presidential elections in Armenia stating, **“The European Union is deeply concerned about the situation in the Republic of Armenia after the presidential elections. The EU condemns the acts of violence committed during the events of 1 March, which resulted in the loss of life and numerous injuries. The EU calls upon the Armenian authorities to release any citizens detained for exercising their right to peaceful assembly and to lift the state of emergency, which imposes restrictions on media freedom, the freedom to assembly, and on political parties. The EU recommends Armenia to conduct an independent investigation of the events of 1 March and what led to them. The EU urges all political forces to refrain from unlawful acts and**

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<sup>47</sup> <http://www.osce.org/item/29995.html>

<sup>48</sup> <http://www.osce.org/item/29995.html>

<sup>49</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Press release - 153(2008) )

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**reengage in political dialogue as it is the only way forward. The constructive dialogue between authorities and the opposition is very important for the consolidation of peace and stability in the country<sup>51</sup>.”**

The United States Mission to the OSCE once again touched upon the situation in Armenia on March 6: **“The United States laments the injuries and loss of life in Yerevan over the weekend. We urge the Government of Armenia to lift the state of emergency, restore civil liberties, ensure a free press, and move to political dialogue to resolve the political issues that Armenia faces. We call on all parties to maintain calm, show restraint and respect the rule of law. Violence is unacceptable. We are concerned at reports of harassment of journalists, and the shutting down of independent media, including RFE/RL. Immediately restoring freedom of the press is particularly critical so that opposition voices can be heard and legal channels for expressing dissent become available<sup>52</sup>.”**

Broadcasting Board of Governors<sup>53</sup> and US State Department Deputy Spokesman Tom Casey<sup>54</sup> denounced the censorship and harassment of the free media.

Deputy Assistant Secretary of State Department Matthew Bryza, PACE delegation headed by John Prescott, and EU’s special representative to the South Caucasus Peter Semneby visited Armenia to assess the post-electoral situation in the country and explore possibilities for defusing the current political crisis and promoting dialogue. They held meetings with the representatives of the authorities and opposition and discussed the current situation. We would like to touch upon several aspects of the meetings. Tigran Torosyan, Speaker of the National Assembly during his meeting with John Prescott stated in particular, that **‘the occurrence had nothing to do with the elections, it was manifestation of hate and vengeance, which, unfortunately caused victims and that Levon Ter-Petrossian is responsible for that, since despite his political views he had to calm down his supporters<sup>55</sup>.’** The observation of the Speaker of the National Assembly was concordant to the official hypothesis. Torosyan was purposely distorting the reality that the people were protesting the falsified results of the elections. The NA Speaker forgot to acknowledge that Levon Ter-Petrossian was under house arrest since 1 March, a fact that was confirmed by the representatives of international organizations. The Speaker of the National Assembly was well aware that Levon Ter-Petrossian during the whole day of 1 March tried to negotiate with Robert Kocharyan through the heads of the EU diplomatic missions, to be granted the opportunity to go out to the people and calm them down. His request was refused by Robert Kocharian. The Speaker of the

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<sup>51</sup><http://europa.eu/rapid/pressReleasesAction.do?reference=PESC/08/30&format=HTML&aged=1&language=EN&guiLanguage=en>

<sup>52</sup> [http://osce.usmission.gov/archive/2008/03/Armenia\\_03\\_06\\_08.pdf](http://osce.usmission.gov/archive/2008/03/Armenia_03_06_08.pdf)

<sup>53</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/2E79CAEF-CCC9-4E1B-98E8-142F6730CED9.asp>

<sup>54</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/0EBECDED-D021-48CB-BE92-C4C2E3D7F941.asp>

<sup>55</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/1578CA27-36B5-4BE5-A9B4-1917F189BEBA.asp>

National Assembly was cognizant that the demonstration was stopped only after Levon Ter-Petrosian's appeal to the protestors.

On March 7 John Prescott held several meetings with the parliamentary factions. The leader of 'Orinats Yerkir' faction Arthur Baghdasaryan, who had signed a protocol with the authorities a couple of hours prior to the events of 1 March, and was appointed Secretary of the Security Council later on, told John Prescott, that **'the authorities were decisive to wait until the Constitutional Court Decision, but since they received information that the protestors are getting armed decided to carry out search of the location.'**<sup>56</sup> Later, during the official investigation, no charge has been brought of possession of the arms against any protester.

The Speaker of the National Assembly Tigran Torosyan during the meeting with Peter Semneby also mentioned about the presence and use of arms. He expressed his disagreement with the opinion voiced by international organizations that the authorities used force against the peaceful protestors and added that **'peaceful demonstrators don't set up barricades and use arms'**<sup>57</sup>.

Apparently, in order to justify their illegal actions, the authorities allegedly blamed the opposition for possessing and using firearms.

After his visit John Prescott, PACE rapporteur on Armenia, issued a statement on March 10, **"We urge to remove the state of emergency and the restoration of individual human rights and freedoms, including political rights, as well as the establishment of an independent inquiry into the circumstances of the events of March 1 that tragically led to the death of 8 individuals and left many injured is required"**<sup>58</sup>.

US Charge d'affaires in Armenia Joseph Pennington and the Associated Press news agency covered the visit of the Deputy Assistant Secretary of the State Department Matthew Bryza to Armenia. In an interview with RFE/RL Pennington stated, **"Matthew Bryza urged the authorities to lift the state of emergency. Bryza also warned the Armenian authorities that their investigation into the bloody post-election unrest in Yerevan should not turn into "persecution of political opponents"**<sup>59</sup>. The Associated Press stated, **"U.S. Deputy Assistant Secretary of State Matthew Bryza sharply 'condemned' a government crackdown on protests following last month's presidential election and said that the violence really was deplorable and it seemed clear that the reaction by the government was harsh and brutal. It is not only frustrating that the government has imposed restrictions on independent media and left in place a state of emergency, but also that it has stepped up arrests of**

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<sup>56</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/FB108ADD-1134-44CE-BD85-4B82DB6C8190.asp>

<sup>57</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/087BA589-AB03-4039-936B-489F13AB017E.asp>

<sup>58</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Press release - 172(2008) )

<sup>59</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/44BF1018-5C27-42F0-A406-E4D8AB27A909.asp>

**opposition leaders close to former president Levon Ter-Petrosian. It is crucial that the arrest of opposition figures stops<sup>60</sup>.”**

On March 10 Kurt Walker, Acting Assistant Secretary for European and Eurasian Affairs in an interview to RFE/RL spoke on the situation in Armenia, **“We have been working to urge both sides in Armenia. The government, which has implemented a harsh crack-down now, suspending freedom of the media, imposing a state of emergency, threatening arrests, just as you’ve talked about, as well as the opposition, which had engaged in large scale demonstrations. We’ve been working with both sides to try to urge a process of political dialogue domestically in Armenia, a roundtable set of discussions with government and opposition figures so that they can begin to unwind some of the political standoff and tension that has developed. We don’t believe that further crack down, further arrests, are the right way to go. We think that what needs to be done is to move toward lifting the state of emergency, assuring freedom of the media, assuring freedom of assembly, assuring the operation of political parties so that Armenia can walk back from this political crisis<sup>61</sup>.”**

The same day Matthew Bryza in an interview to RFE/RL once again touched upon the developments in Armenia stating, **“The European Union’s Presidency calls to allow an ‘independent investigation’ into the March 1 clashes. We support the idea of an independent investigation, and consider it useful. We call on the government of Armenia to cease arrests of political leaders and to restore the democratic momentum that was what had characterized Armenia’s political development until the period just after this last election<sup>62</sup>.”**

Another statement on situation in Armenia was issued by the EU’s Presidency on March 12: **“The Presidency of the EU is concerned about the situation in Armenia, and calls on the Armenian authorities to lift the State of Emergency. The Presidency is particularly concerned about reports of continuing arrests. The Presidency calls again upon the Armenian authorities to release citizens detained in connection with their political activities and to refrain from further arrests of opposition leaders. The Presidency reiterates its recommendation to conduct an independent investigation of the events of 1 March and what led to them. It welcomes the statement of the Human Rights Defender of the Republic of Armenia on the events of 1 March and calls upon the Armenian authorities to respond. The Presidency reiterates its call to all political parties to engage faithfully in political dialogue based on mutual understanding and trust, which is the only way to arrive at a political solution to the present situation<sup>63</sup>.”**

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<sup>60</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/FFCFCF2A-9DF2-414B-8122-A82658064E9A.asp>

<sup>61</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/FFCFCF2A-9DF2-414B-8122-A82658064E9A.asp>

<http://www.state.gov/p/eur/rls/rm/102508.htm>

<sup>62</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/FAF9E03C-1331-41B7-AF93-0F213D209F00.asp>

<sup>63</sup> [http://www.eu2008.si/en/News\\_and\\_Documents/CFSP\\_Statements/March/0312MZZarmenia.html](http://www.eu2008.si/en/News_and_Documents/CFSP_Statements/March/0312MZZarmenia.html)

On March 13 the Special Envoy for the OSCE Chairman-in-office, Ambassador Heikki Talvitie briefed the OSCE Permanent Council, and said in particular, **“It is in the interest of the government of Armenia to act now to resolve the crisis. The inauguration of the elected president is approaching. In this situation, I think that the government should get rid of its state of emergency and start a real political dialogue with the opposition<sup>64</sup>.”**

United States Mission to the OSCE issued another statement in response to CIO Special Envoy’s Report on Armenia: **“Armenia stands at a crossroads. We deplore the tragic violence of March 1 that resulted in at least 8 deaths. We call for the prosecution of all those who committed unlawful acts of violence and violated election laws. At the same time, arrests of opposition political leaders only jeopardize Armenia’s reputation as a country that shares the OSCE fundamental principles of freedom, democracy, and human rights. The state of emergency should be lifted, a free press and all civil liberties should be restored, and a genuine political dialogue should be launched between the government and opposition<sup>65</sup>.”**

The European Union also reacted Ambassador Heikki Talvitie’s Report by releasing another statement on 13 March: **“The EU believes there can be no solution to the crisis without the restoration of political rights and therefore calls upon the Armenian authorities to lift fully the state of emergency as soon as possible, to remove the restrictions on media freedom, and to release citizens detained for exercising their right to peaceful assembly. We support EU Special Representative for the Southern Caucasus, Ambassador Peter Semneby's call for an independent investigation of the events of 1 March, when the dispersal of demonstrations led to deaths and injuries.<sup>66</sup>”**

On March 13 the European Parliament adopted a Resolution on Armenia (60 for, 1 against and 2 abstained) stating that, **“Whereas opposition supporters began peaceful rallies on 20 February 2008 in Yerevan to protest against the election result and demand a rerun; whereas on the evening of 1 March 2008, after eleven days of protest by opposition supporters, violence erupted when police moved into Freedom Square in central Yerevan to disperse the protesters camped out in tents, leaving eight people dead, including one police officer, and dozens injured; whereas a state of emergency was declared on 1 March 2008, which imposed restrictions on the freedom of the media, freedom of assembly and political parties. European Parliament expresses its concern at recent developments in Armenia, with the violent police crackdown on opposition demonstrations, and calls on all parties to show openness and restraint and to engage in a constructive and fruitful dialogue, calls for a prompt, thorough, transparent, independent and impartial investigation**

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<sup>64</sup> <http://www.osce.org/item/30233.html>

<sup>65</sup> [http://osce.usmission.gov/archive/2008/03/Talvitie\\_03\\_13\\_08.pdf](http://osce.usmission.gov/archive/2008/03/Talvitie_03_13_08.pdf)

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[http://www.eu2008.si/en/News\\_and\\_Documents/Statements\\_in\\_International\\_Organisations/March/0313MZZosceTalvitie.html](http://www.eu2008.si/en/News_and_Documents/Statements_in_International_Organisations/March/0313MZZosceTalvitie.html)

**of the events of 1 March 2008, including an independent investigation of the police intervention during the dispersal of the demonstration, and calls on the Armenian authorities to lift the state of emergency, to restore media freedom and to release citizens detained for having exercised their right of peaceful assembly<sup>67</sup>.”**

On 14 March the White House also reacted on the situation in Armenia. A spokesman for the White House, Tony Fratto, pointed in particular, **“The government of Armenia needs to uphold the rule of law, lift the state of emergency and restore press freedoms. We urge a political dialogue between the government and opposition to resolve the situation quickly. The United States condemned the clashes of March 1 and 2 resulting in deaths and the following actions of the authorities, including the mass arrests of opposition activists, restriction of freedom of media and the right of assembly<sup>68</sup>.”**

The Council of Europe’s Commissioner for Human Rights Thomas Hammarberg visited Armenia on March 12-15. He shared his views on the events of March 1 with RFE/RL on March 14: **“It is important now to avoid any tendency towards bringing in people because of their political positions. I urged President Robert Kocharyan and Prime Minister Serge Sargsyan to limit the ongoing prosecutions only to those cases where there is real proof that people have committed violent crimes. I really think that there is a need for a professional, independent and impartial inquiry into what happened and it should be conducted by special commission made up of individuals trusted by the public<sup>69</sup>.”**

On March 14 in interview with the Russian service of “Voice of America” Deputy Assistant Secretary of State Department Matthew Bryza, once again touched upon the events in Armenia: **“What happened in Armenia is a tragedy since people died. It is a serious blow to democracy. It can be viewed as a revolution or a serious public collision. The elections went beyond the bounds of a normal process, and in the big picture, it doesn’t matter what we call this<sup>70</sup>.”**

The Council of Europe’s Commissioner for Human Rights Thomas Hammarberg after his three day visit to Armenia and before introduction of his report spread the following statement, **“The State of Emergency should be lifted in Armenia and an independent, impartial and transparent inquiry initiated to clarify what actually happened during the confrontations in Yerevan between the police and opposition demonstrators on March 1. The censorship which was introduced with the state of**

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<sup>67</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0104+0+DOC+XML+V0//EN&language=EN>

<sup>68</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/D444E9CA-FD99-445E-B713-A25D215A469A.asp>

<sup>69</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/E44F3B8C-6C51-4F53-B615-293048F5BFE4.asp>

<sup>70</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/03/8FF37FAA-4571-41DB-9A33-B5513E7E285C.asp>

emergency has contributed to rumors and anxiety among the population what was happening at a time when measures to rebuild trust should have been promoted. The fact that some pro-government media tended to demonize the opposition while opposition papers were out of circulation did not contribute to a constructive atmosphere. There is a need to clarify what actually happened and what provoked the outbreak of violence. The two sides describe the events very differently and it is important, also in a human rights perspective, to establish the basic facts. This can only be done through comprehensive inquiry which is independent, impartial and transparent and perceived as credible by the whole population. The establishment of an inquiry of this kind will not be easy in the present polarized climate in Armenia. The international community has expressed its willingness to offer participation or other assistance to such a comprehensive investigation into the 1 March events in order to contribute experience, professionalism and credibility. Demonstrators who committed violent acts should be held accountable, as should policemen who used excessive force. However, the arrests and prosecutions should not target people for having merely been present at the demonstrations or expressed anti-government opinions. The commissioner also calls for the release of all apprehended children under 18 years in this connection<sup>71</sup>.”

On 18 March PACE Monitoring Committee voiced its concern about ongoing arrests in Armenia: **“Meeting in Paris on 18 March 2008, the Monitoring Committee of the Parliamentary Assembly of the Council of Europe (PACE) expressed its deep concern about the arrest of more than one hundred people in Armenia and the conditions in which such arrests took place. In the opinion of the committee, the arrest of large numbers of opposition leaders and of three Members of Parliament is inevitably perceived as a crack-down on the opposition by the authorities and will do nothing to ease the tensions in Armenia. The committee called on all sides to refrain from any action that would increase the tensions and to commit themselves to a genuine dialogue to resolve the current crisis. The committee was informed by its envoy John Prescott of the main conclusions arising from his fact-finding mission to Yerevan, on 7 and 8 March 2008, and called on all sides to accept Mr. Prescott’s proposals aimed at resolving the current crisis, in particular: the lifting of the state of emergency and the restoring of individual human rights and freedoms; the release of all jailed activists who have not committed violent crimes; the establishment of an independent inquiry into the circumstances that led to the events on 1 March 2008 and the monitoring of the on-going investigation process<sup>72</sup>.”**

On 20 March in an interview with Radio Liberty U.S. Assistant Secretary of State for European and Eurasian Affairs Daniel Fried reiterated once again, **“We welcome the lifting of the state of emergency, but there are other problems and these need to be addressed. People who have been arrested for rioting and violent actions, that's one thing. But people who have been arrested for more questionable reasons need to be**

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<sup>71</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Press release - 197(2008) )

<sup>72</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Press release - 199(2008) )

let go, there needs to be normalization, there needs to be a dialogue with the opposition. This is a troubling situation for all of Armenia's friends.”<sup>73</sup>

On 20 March the Council of Europe's Commissioner for Human Rights Thomas Hammarberg issued his Report on the situation in Armenia<sup>74</sup>. The Government of Armenia expressed its disagreement with certain observations placed in the report and gave explanations about them, which unlike the responses given to the Armenian Human Rights Defender's Report by the Ministry of Justice and the Office of the Prosecutor-General, weren't public. Let's touch upon several interesting observations. Thus, Hammarberg in his report indicated that **'after nine days of peaceful demonstrations on the Opera Square, the national police and military forces** (in the 29 April final version of the report the words 'military forces' were replaced by 'security forces') **tried to disperse the protestors on March 1.'** The Armenian Government disagreed with this wording on the grounds that: **"It is hard to call the 'protestors' peaceful, when the National Security Service and the Police had information that the organizers and coordinators of the demonstrations possess firearms and explosives. Prior to March 1 the police has confiscated weapons, machine-guns, grenades, explosives and have notified the public about that."** Apparently, the Government referred to the detentions of G. Jahangiryan, S. Aivazyanyan and others on false accusations of possessing weapons. As we all know, these accusations were false and they have been dropped. While describing the events of 1 March Hammarberg wrote, **'the Head of Police explained to the Commissioner that the police had received information that the demonstrators were arming themselves with weapons and ammunition, an allegation that is refuted by the demonstrators themselves.'** The Armenian Government opposed to that and explicates, that **'in this part there is no mentioning on the fact, that the police has already successfully proved, that the organizers of the demonstrations illegally possessed weapons and explosives. Many of the weapons have been already confiscated and several organizers of the demonstrations have arrested on the charge of illegal possession of weapons.'** As they say 'no explanation required.'

It is worth mentioning that in his report Hammarberg indicated that **'the search operation reportedly started early Saturday morning at approximately 6:30.'** This was violation of law while the Armenian Government failed short to include it in its list of disagreements.

Summarizing his Report Commissioner Hammarberg urged **'to lift of the state of emergency, release of the detainees who have not committed concrete actions of criminal violence, not to initiate charges and judicial procedures against persons only on the basis of their expressed anti-government opinions, to investigate the cases of excessive force by the police and hold those responsible to account, to**

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<sup>73</sup><http://www.azatutyun.am/armeniareport/report/en/2008/03/13050659-C938-4598-BA8F-50427D050AE7.asp>

<sup>74</sup><https://wcd.coe.int/com.instranet.InstraServlet?Index=no&command=com.instranet.CmdBlobGet&InstranetImage=414106&SecMode=1&DocId=1248604&Usage=2>

**establish a comprehensive, independent, impartial, transparent and perceived as credible by the whole population inquiry into the events of 1 March, etc..’**

Thus, during the period of 1 March to 20 March, i.e. in the course of the state of emergency, the international structures and different countries 34 times voiced their assessments, views, concerns and claims. Summing up we can register that the international structures stated and urged the Armenian authorities:

- 6 times -- that the protests of the opposition were peaceful;
- 13 times -- that it is necessary to conduct an independent, impartial, transparent inquiry of the events of 1 March and the reasons that led to them perceived as credible by the public;
- 20 times -- called for a dialogue between the confronting parties;
- 16 times -- urged to release the arrested persons in the post-election period, since it is unacceptable to arrest people for freely assembling and expressing their views;
- 23 times -- urged to lift the state of emergency, since the majority of the restrictions foreseen by the state of emergency contradicts the international conventions;
- 4 times -- asserted that Levon Ter-Petrossian was under house arrest<sup>75</sup>.

The Armenian authorities have actually ignored all the appeals and requests voiced not only during the state of emergency but long after that. Today, almost nine months past after the events of 1 March, in fact, the authorities haven't made not a single step to meet the appeals and the requests. More than seventy representatives of opposition are still illegally held in prisons as hostages. The activity of the interim commission established in the National Assembly lacks any confidence. Only positive step made by authorities is the establishment of the fact-finding commission, which, however, does not fully meet the criteria of the independence, impartiality and transparency, demanded by the international community. The fact-finding commission continues to operate under constant pressure of the government. The authorities have denied more than ninety appeals of the opposition to conduct rallies, the arrests and persecutions of the representatives of the opposition continue.

Given the fact that the Armenian authorities ignored the claims and the requests, the international structures hardened their assessments on Armenia (sometimes neglecting diplomatic vocabulary<sup>76</sup> and threatening Armenia with sanctions and isolation). Nevertheless, the international community, contrary to its principles, refrained from being consistent.

Thus, here is a striking example of the indifference of the functionaries from the international structures. As we have already mentioned during their meetings with the

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<sup>75</sup> Besides abovementioned, the fact Levon Ter-Petrossian's house arrest is confirmed by PACE Co-rapporteurs Georges Colombier and John Prescott in their report 11579 presented to PACE spring session.

<sup>76</sup> CE Human Rights Commissioner on November 22 labeled the persecutions by the government as "political vendetta". PACE President on July 25 warned about "catastrophic consequences" for Armenia and "scandals" if the government of Armenia continues to ignore International Community's demands.

representatives of international structures the Armenian authorities were justifying the attack of the morning of 1 March by appealing to the fact that the opposition figures possessed and kept firearms and used them. In the immediate aftermath of the 1 March events the officials of the international organizations couldn't exclude that such an assertion was possible, though they have mentioned many times that the demonstrations were peaceful. But now, several months after the events, when not a single case was initiated on the ground of illegal possession and use of arms, we can insist that the operation of 1 March was elaborated by the authorities with the sole aim to hold the power by force. This should have been obvious for the representatives of the international organizations, since they have met with the Armenian officials and listened to the assurances of that blatant lie. Nevertheless, while evaluating the facts, none of them ever articulated the truth about the real state of affairs, thus tolerating the disregard of the authorities towards its commitments.

### **March 21, 2008 – November 2008**

After the lift of the state of emergency on 20 March the international organizations were closely following the situation in Armenia, since their appeals and claims didn't produce any positive result. Moreover, the National Assembly of Armenia, under the state of emergency introduced changes in the Law on conducting meetings, assemblies, rallies and demonstrations of the Republic of Armenia, restricting the right of assembly in a significant fashion.

In this part of the Report we will briefly touch upon the viewpoint voiced by the international institutions, mainly placing the stress on the recommendations addressed to the Armenian authorities.

On March 31, 2008, after his meeting with the Armenian Foreign Minister, Per Sjogren, head of the Council of Europe Ago Group monitoring delegation, said in a press conference, **“We join the claims by a number of international organizations to release those detained for their political activities. We subscribe to the appeal to carry out an independent and impartial investigation into the post-election violence in Yerevan”<sup>77</sup>.**

With regard to the amendments introduced in the Law on conducting meetings, assemblies, rallies and demonstrations Per Sjogren stated, **“I regret that the authorities didn't consult the Council of Europe about the amendments introduced in the law. The Venice Commission has published its assessment on the amendments and there are certain observations with regard of the amendments. This is about freedom of assembly - a right that is engraved in the European Convention on Human Rights and that rights are indisputable.”**

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<sup>77</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/04/4D11FB83-A582-4946-A912-93CD9909DC4D.asp>

The Council of Europe's Venice Commission voiced its concern on the amendments introduced to the Armenian Law on conducting meetings, assemblies, rallies and demonstrations. The Venice Commission issued a legal opinion on 2 April<sup>78</sup>.

On April 8 the International Crisis Group (ICG) issued its report on the situation in Armenia. The report said in particular, **“Armenia’s flawed presidential election, the subsequent lethal crackdown against a peaceful protest rally, the introduction of a state of emergency and extensive arrests of opposition supporters have brought the country to its deepest crisis since the war against Azerbaijan over Nagorno-Karabakh ended in 1994. On 1 March 2008, the police and security troops broke up a peaceful demonstration that had been going on continuously in Yerevan’s Liberty Square<sup>79</sup>.”** The report also stressed that **‘the reaction of the EU and US to the flawed election and lethal crackdown, however, has been inadequate.’** ICG urged the international community to send a stronger message to the Armenian authorities and apply certain actions, **as to suspend foreign aid to Armenia, consider suspending Armenia’s membership to the Council of Europe, consider an initiating a diplomatic embargo on visits by President Sargsyan and senior officials of the security services.**

On 9 April in an interview with Radio Liberty Deputy Assistant Secretary of State Department Matthew Bryza once again touched upon the situation in Armenia, **“The events of 1 March were unprecedented, and drastic steps are needed to restore a sense of confidence that the country is moving in the right direction. What happened on March 1 is unprecedented in the latest and, of course, permanent phase of an independent Armenia -- or in the South Caucasus. After an election, despite all of the turbulence in Georgia and Azerbaijan and Armenia over the course of the last 18 years, or 17 years, something like this has never happened, with people being killed -- at least eight people killed. I call on the authorities to release opposition figures who were arrested before and during the state of emergency that was declared after the violence. It is important to release all those people detained for any political charges. Therefore it is important that there be an impartial investigation and prosecution of anyone who violated election law and used violence, on either side, whether they're in the opposition or whether they're in the government. That is why the restoration of confidence for judicial system is a priority. I think you will see the response from the highest level in Washington reflecting the course of events here. As the people of Armenia demonstrate that they are increasingly comfortable with the direction in which the country is moving, you'll hear the same sort of statements from Washington as well<sup>80</sup>.”** It is important to mention, that in his observation he called on citizens of Armenia to assess the activities of the government, in other words the assessments of the international organizations highly depend on the citizens of Armenia. This thesis was stressed by the Chairman of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe (Helsinki Commission) Alcee Hastings. While summing up the results of the Hearing on

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<sup>78</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Note to Editors - 057(2008) )

<sup>79</sup> <http://www.crisisgroup.org/home/index.cfm?id=5385&l=3>

<sup>80</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/04/07F28890-A177-4B69-B90B-F62AB2EDD359.asp>

the situation in post-election Armenia Chairman Hastings pointed, **“Now, all of you all need to get grown up and make Armenia whole. That's what needs to happen. It doesn't need American intervention or European intervention. What it needs is - Armenian citizens to come to terms with their own reality and to move your nation forward<sup>81</sup>.”**

John Prescott, Head of the PACE Monitoring Mission, expressed similar idea in his interview with RFE/RL on 18 April, **“You should know one thing that we don't dictate anything to Armenia. We can only state our viewpoint on what is needed to be done in order to ensure progress in democracy, since it was Armenia's choice in 2001 while signing the Council of Europe membership documents. The people of Armenia and the political elite should decide whether Armenia should move forward, restore the trust in electoral system and use the opportunity to advance democracy<sup>82</sup>.”**

On April 14 John Prescott introduced his report on the presidential elections in Armenia held on February 19 in the PACE plenary session. During the further discussions several assembly delegates criticized the presidential elections. In particular the Swedish delegate and member of CoE observation mission Marietta de Pourbaix-Lundin said in her speech that she had been included in different monitoring groups but the situation in Armenia was the worst. **“The situation was mostly worst during counting of votes where I was included. The most awful thing was that the head of the polling station was aware that ballots voted in favor Levon Ter-Petrossian are put on Serge Sargsyan's ballots. It was surprising that even the observer's presence didn't make them stop frauds. Do we help the people of Armenia, this way? I think we do not<sup>83</sup>.”**

While PACE Vice President, Hungarian Zsolt Nemet declared that he cast doubt on the confirmation that the Armenian elections were ‘mostly in line with the CE standards.’ He addressed several questions to John Prescott, **“Do you know that there were 9 victims because of those “fair” elections? Do you know that there are more than 100 political prisoners today? And do you know that when the state of emergency was removed, the laws which limited freedoms were still in force, in particular a law was adopted, which indeed limits the freedom of meetings, and this was done without discussing with the CE? Do you know that the opposition do not recognize the legitimacy of the president and demands to hold special presidential elections. Current mechanism is very dangerous. The Council of Europe legitimizes anti-democratic deeds of the Armenian authorities. If we can't change anything let's stop sending observers. We need fundamental assessment of monitoring missions. The European People's Party proposes the Armenian authorities to conduct independent investigation, and the opposition should be involved in it. If the Armenian**

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<sup>81</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/04/9E3E1D3F-5E3F-4646-AB40-F8475036A89E.asp>

<sup>82</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/04/BB316A5D-C186-404D-B7EF-D4519947F505.asp>

<sup>83</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/04/2BE7E6A3-E607-4AD2-B1CA-CEAF1A9AB83B.asp>

**authorities do not agree to conduct such investigation, the CE, PACE is obliged to conduct it<sup>84</sup>.”**

On April 15 the PACE Monitoring Committee adopted a draft Resolution on the Functioning of Democratic Institutions in Armenia<sup>85</sup>. The Draft Resolution, with several essential amendments proposed by the PACE Armenian delegation, was adopted on April 17 in the PACE plenary session as PACE 1609 Resolution<sup>86</sup>. We would touch upon several key provisions of the Resolution. The second paragraph of 1609 Resolution states, **“The Parliamentary Assembly regrets that the violations and shortcomings observed did nothing to restore the currently lacking public confidence in the electoral process and raised questions among a part of the Armenian public with regard to the credibility of the outcome of the election. This lack of public confidence was the basis for the peaceful protests – held without prior official notification – that ensued after the announcement of the preliminary results, and which were tolerated by the authorities for ten days.”**

This extract of the Resolution essentially differs from the extract in the Draft Resolution. The adopted Resolution stated that **‘raised questions among a part of the Armenian public with regard to the credibility of the outcome of the election’**, while the Draft Resolution stated **‘raised questions among the Armenian public with regard to the legitimacy of the outcome of the election.’** It is apparent from this transformation that the Western countries were fully aware that the legitimacy and not the credibility of the elections raised questions among the Armenian public and not among a part of the Armenian public. The main accent in this paragraph and the Resolution on the whole, was that the Western countries pointed explicitly that the main reason for the peaceful demonstrations was the overall lack of confidence in the results of the election among the public. Therefore, the post-election rallies and the following tragedy of March 1 were part of the whole electoral process.

The 4<sup>th</sup> paragraph of 1609 Resolution states, **“The Assembly condemns the arrest and continuing detention of scores of persons, including more than 100 opposition supporters and three members of parliament, some of them on seemingly artificial and politically motivated charges. This constitutes a de facto crackdown on the opposition by the authorities.”** After the publication of the March 1 Decision by the Investigator of Special Cases of the Special Investigation Service of Armenia Vahagn Harutiunyan, we can unequivocally affirm that the crackdown on the opposition was not only ‘de facto’ but also ‘de jure.’

As regards the cause and effect connection to the peaceful demonstrations the 6<sup>th</sup> paragraph of 1609 Resolution states, **“While the outbreak of public resentment culminating in the tragic events of 1 March 2008 may have been unexpected, the**

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<sup>84</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/04/2BE7E6A3-E607-4AD2-B1CA-CEAF1A9AB83B.asp>

<sup>85</sup> <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc08/EDOC11579.htm>

<sup>86</sup> <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta08/ERES1609.htm>

**Assembly believes that the underlying causes of the crisis are deeply rooted in the failure of the key institutions of the state to perform their functions in full compliance with democratic standards and the principles of the rule of law and the protection of human rights.”** It is obvious from this extract that PACE is confident that the public resentment was conditioned by the undemocratic activities of the authorities during the elections, the violation of the rule of law and human rights. That is to say the public was outraged by the blatant violation of its rights and advocated its voting rights, to which the authorities answered by brutal force.

Unfortunately, PACE, while highlighting the realities, didn't realize, or deliberately passed over the fact, that the inadequate assessment of the elections by the international organizations contributed to the current state of affairs. Prescott, while possessing a huge list of violations (that was confirmed in the OSCE Final Report) rushed to praise the authorities on February 20.

1609 Resolution sets the requirements for the authorities to fulfill, and the process demands transparent and constructive dialogue with all the political forces. Paragraph 12 of the Resolution states to that end, **“However, the Assembly considers that, for such a dialogue to start and be successful, a number of conditions need to be met as a matter of priority, in order to build confidence vis-à-vis the opposition and provide proof that the ruling majority is seriously committed to pursuing further reforms.”**

Then the requirements come: **“An independent, transparent and credible inquiry into the events of 1 March and the circumstances that led to them, including the alleged excessive use of force by the police and violence by the protesters, should be carried out immediately. The international community should be ready to monitor and assist such an inquiry.**

**The persons detained on seemingly artificial and politically motivated charges or who did not personally commit any violent acts or serious offences in connection with them should be released as a matter of urgency.**

**The amendments recently adopted by the National Assembly to the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations should be revoked in line with the recommendations of the Venice Commission with immediate effect.”**

It is important to focus on the second part of these preconditions regarding the release of the detained persons. In the Draft Resolution this extract was as follows: **“The charges against all opposition supporters and members of parliament arrested after the Presidential election who did not personally commit any violent acts should be dropped and the detained persons - who are alleged political prisoners - should be freed at once.”**

While commenting the differences we can state that in the initial version of the resolution arrests and persecution of the opposition representatives were related to the presidential elections and therefore were alleged as result of the post-election process and, therefore, they were alleged political prisoners. After the interference of the Armenian part of government coalition delegates, the wording was changed. It is worth noting that as a result of that change the demand to urgently and immediately release the arrested

opposition representatives vanished. Therefore we can affirm that only due to the efforts of the PACE Armenian delegation the law enforcement bodies continue to keep in captivity the opposition figures. The delegates of other countries to PACE relied on their Armenian colleagues and didn't display consistency and concernment. Hence, there are more than 70 political prisoners in a COE member country.

Paragraph 13 of 1609 Resolution states, **“Unless these conditions are met and an open dialogue on the reforms mentioned in paragraph 8 above is seriously engaged between the political forces in Armenia, the credibility of Armenia as a member of the Council of Europe will be put into doubt. The Assembly should therefore consider the possibility of suspending the voting rights of the Armenian delegation to the Assembly at the opening of its June 2008 part-session, if no considerable progress has been made on these requirements by then.”**

After the adoption of 1609 Resolution until PACE June session the international structures were closely following the situation in Armenia. At a hearing of the US Helsinki Commission of April 17 Matthew Bryza, US Deputy Assistant Secretary, with regard to the responsibility of the events of 1 March said, **“Number one, I think it should be clear how sharply the United States government has condemned the March violence, by whoever committed that violence. It's difficult to tell, as I said before, who started it. And we would roundly criticize and condemn anybody who would use violence for political gain. But at the same time, the burden of responsibility in such situations rests on the shoulders of elected governments. Therefore, it's important that there be an impartial investigation and prosecution of anyone who used violence on March 1st, on either side, whether they're in the opposition or whether they're in the government<sup>87</sup>.”**

EU's special representative to the South Caucasus, Peter Semneby in an interview with RFE/RL on May 14 while speaking about the 1609 Resolution said in particular, **“We will follow fulfillment of the agenda of the resolution very closely, and this will also be the basis for any decisions that we will make in terms of our future relations with Armenia. There are essential requirements, e.g. the restoration of all fundamental rights that were restricted during the state of emergency. In particular, the freedom of assembly, the release of the persons detained for their political activities. I think that Ter-Petrosian made clear in his last speech that he will concentrate on future elections and move into ‘mainstream politics.’ There has been concern on the part of the government that former President Levon Ter-Petrosian and his allies would engage in illegal street demonstrations. I can not talk, of course, on behalf of anybody else, but I do get the impression that the limits of the law, in terms of political activities, are very present in the mind of the first president and his supporters<sup>88</sup>.”**

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<sup>87</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/04/C3C6044A-8D90-41F7-A6C2-A19785E835DD.asp>

<sup>88</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/05/F7DBA088-D157-416E-A300-9AD990DDA002.asp>

Javier Solana, EU High Representative for the Common Foreign and Security Policy (CFSP), during his meeting with the Armenian Foreign Minister on June 18 particularly stressed the importance of the implementation of the PACE requirements, from the standpoint of EU-Armenia further cooperation.

In its “Advancing Freedom and Democracy Report” released on May 23, 2008, the US State Department announced, **“The February 2008 presidential elections were significantly flawed. Problems included favorable treatment of the government's candidate, instances of ballot stuffing, vote-buying, multiple voting, voter intimidation, violence against opposition commission members and proxies, and suspiciously high turnout figures. On March 1, 2008, the government imposed a state of emergency and used force to disperse large crowds of protesters, restricting media freedoms and the right of assembly and arresting scores of protesters. The clashes between protesters and security services resulted in the deaths of at least 10 people. The state of emergency was lifted March 20, 2008, but restrictions on civil liberties remain in force due to a strict new law on public gatherings, pressure on opposition media, and continuing arrests and intimidation of government opponents. The government's human rights record remained poor. Citizens were not able to freely change their government; authorities beat pretrial detainees; the National Security Service and the national police force acted with impunity; authorities engaged in arbitrary arrest and detention; courts remained subject to political pressure from the executive branch; prison conditions were cramped and unhealthy, although slowly improving; and authorities imposed restrictions on citizens' privacy, freedom of press, and freedom of assembly.”**<sup>89</sup>

US Congressman Adam Schiff in his interview with RFE/RL on May 26 reiterated, **“We raise concern about the detention of anyone who was detained for political reasons, for expressing their opinion at the rallies. No one is advocating that people who committed violent crimes be released or not be subject to trial. But people should not be detained or put to trial for merely expressing their views, since as far as I know the right of freedom of expression is engraved in the Constitution of Armenia”**<sup>90</sup>.

The Monitoring Committee of the Parliamentary Assembly of the Council of Europe (PACE) in its statement of May 28, 2008, noted, **“The committee is seriously concerned about the lack of any noticeable progress on the opening of an independent and credible enquiry. The format envisaged of a parliamentary ad hoc committee to carry out the inquiry into the events on, and leading to, 1 March will lack the requisite independence and credibility demanded by the Assembly, unless the participation of extra-parliamentary opposition, civil society and international experts is guaranteed. The committee also regrets that no progress has been made regarding the release of persons detained on seemingly artificial and politically**

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<sup>89</sup> <http://www.state.gov/g/drl/rls/afdr/2008/104789.htm>

<sup>90</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/05/1E69F2C3-69D6-422F-BA83-03C695BBB3B5.asp>

**motivated charges. The committee is convinced that, although time is limited, it is still possible for the Armenian authorities to address the requirements of the Assembly in time for the visit of the co-rapporteurs of the committee in the week before the June part-session. Therefore, the committee instructed its Chair to ask on its behalf for a debate under urgent procedure during the June 2008 part-session of the Assembly if the co-rapporteurs, following their visit to Armenia on 16 and 17 June, conclude that insufficient progress has been achieved by then<sup>91</sup>.”**

Georges Colombier (France) and John Prescott (United Kingdom), co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) on the monitoring of Armenia’s obligations and commitments, made a fact-finding visit to Armenia on 16 and 17 June, in order to assess the implementation of PACE 1609 Resolution. According to the letter addressed to the Assembly’s President on June 19 by the Chair of the Monitoring Committee Serhiy Holovaty **“an urgent debate on Armenia at the plenary session of the Parliamentary Assembly of the Council of Europe (PACE) is warranted. Progress made so far by the Armenian authorities in meeting the Assembly’s demands following the February 2008 post-election violence has been judged insufficient by the committee’s co-rapporteurs Georges Colombier and John Prescott<sup>92</sup>.”**

Notwithstanding the tough position of the European organizations, the policy applied towards Armenia can be estimated nothing but application of double standards. Prior to the plenary session of PACE Georges Colombier in an interview with RFE/RL stated, **“Since April the Armenian authorities made big progress in meeting the PACE demands, particularly in terms of legislative changes. We urge a prompt reaction to the issue political prisoners. Only those who committed criminal acts must stay in prison. A Council of Europe recourse to sanctions against Armenia would not automatically free prisoners. We shouldn’t forget that Armenia’s democracy has only 16 years of experience<sup>93</sup>.”** This assertion certainly arises the question then who has judged the progress in meeting the Assembly’s demands ‘insufficient’, and why Mr. Colombier, who enjoys personal friendly relations with different Armenian officials, ignores the neglectful attitude of the Armenian authorities to the most important demand of the Assembly on starting dialogue with the opposition? Due to the efforts of PACE co-rapporteurs to please the Armenian authorities in their assessments during the plenary session of PACE, the implementation period for the demands was extended for another six months. Colombier and Prescott were well aware that the delay paved the ground for the plans of the authorities to keep the political prisoners in jail and not to disclose the crime of 1 March for another six months.

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<sup>91</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Press release - 382(2008) )

<sup>92</sup> [http://www.coe.int/t/dc/av/allreleases\\_en.asp](http://www.coe.int/t/dc/av/allreleases_en.asp) (Note to editors - 109(2008) )

<sup>93</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/06/49EF8656-2FE0-4A45-912C-C3C334172291.asp>

During June 25 PACE summer session a new Resolution was adopted on Armenia, known as 1620 Resolution<sup>94</sup>. At first sight it reiterates the demands of Resolution 1609, but certain statements jeopardize the implementation of the requirements and manifest inconsistency of the Assembly.

Though 1620 Resolution states that the progress is at present insufficient to meet the requirements outlined in the resolution, nevertheless the Assembly “welcomes the fact that, the President of the Republic and the Speaker of the National Assembly, publicly expressed their political will and their intention to comply with the requirements of the Assembly” (1620 Resolution, Paragraph 3).

Given the facts that there was no progress in advancement of democracy, more than 70 opposition representatives were still under arrest, and not a single policeman was arrested for killing of more than 10 persons, conducting demonstrations was still prohibited, political persecutions were enduring, the expressing “satisfaction about the readiness of the authorities” was beyond belief.

In paragraph 4.3 of 1620 Resolution, the Assembly welcomed the constitution, albeit at a very late stage, of an ad hoc committee within the National Assembly of Armenia “to conduct an inquiry into the events of 1 and 2 March 2008, as well as the causes that lead to them.” In paragraph 4.5 of the same resolution the Assembly delegates noted that the format and composition of the inquiry committee do not per se guarantee its independence and impartiality, and therefore its credibility, in the eyes of the Armenian public.

Paragraph 4.1. welcomed the adoption of the Law on Amending and Supplementing the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations in line with Council of Europe standards, while paragraph 4.2. reiterated the demand that freedom of assembly should also be guaranteed in practice in Armenia. It therefore insisted that the Armenian authorities should ensure that no undue restrictions are placed on rallies organized by the opposition. In this respect, the Assembly welcomed the fact that the opposition rally of 20 June 2008 took place unimpeded, disregarding the fact that the authorities have rejected it.

The Resolution stated that progress on the issue of release of persons seemingly detained on artificial and politically motivated charges, was not sufficient to ensure that the requirements of the Assembly were fully met.

While paragraph 4 of Resolution 1609 stated that **“the Assembly condemns the arrest and continuing detention of scores of persons, including more than 100 opposition supporters and three members of parliament, some of them on seemingly artificial and politically motivated charges. This constitutes a de facto crackdown on the opposition by the authorities.”** And paragraph 12.2 stated that **“the persons detained on seemingly artificial and politically motivated charges or who did not personally commit any violent acts or serious offences in connection with them should be**

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<sup>94</sup> <http://assembly.coe.int/documents/adoptedtext/ta08/eres1620.htm>

**released as a matter of urgency.”** Due to the Assembly’s Armenian coalition delegates’ editing, the requirements set in Resolution 1620 offered the authorities the opportunity to disregard the requirements of Resolution 1609. To be more persuasive we should refer to the initial version of Resolution 1620. Whereas paragraph 4.7.2. of the Draft Resolution 1620<sup>95</sup> stated, that **‘the cases against those principally accused of crimes under Articles 300 and 225 of the Criminal Code should be dropped unless there is strong evidence that these persons have personally committed acts of violence or serious other criminal offences,’** then the same paragraph in Resolution 1620 stated **‘the cases under Articles 300 and 225 of the Criminal Code should be dropped unless there is strong evidence that the accused have personally committed acts of violence or ordered, abetted or assisted the committing of such acts.’** The word **‘assisted’** was deliberately introduced in the final Resolution by the Armenian delegation and it afforded possibility to continue to keep under arrest under speculative and unfounded accusation of **‘assisting’.**”

If an influential European organization as Council of Europe tolerates the inclusion of such a wording that leaves space for maneuvering, registers requirements and meanwhile praises the authorities that didn’t comply with the requirements, we can only arrive at a conclusion that the organization displays inconsistency and is untrue to its principles at least with respect to Armenia.

The paragraph 8 of Resolution 1620 stated that **‘While regretting the delay in implementing the concrete measures to comply with its demands, the Assembly acknowledges that the time given to the Armenian authorities was short.’** This statement is at least surprising given the fact that even two weeks were sufficient for the implementation of the requirements set in Resolution 1609. Due to the efforts of the Assembly’s co-rapporteurs Georges Colombier and John Prescott PACE paved the way for the authorities to continue persecutions of the opposition representatives, to keep in captivity the opposition jailed members and to refuse the opposition rallies. A1+ TV channel also was fallen a victim to the unscrupulous attitude of the Assembly since the issue of its reopening was legally delayed till 2011.

Despite the time-serving attitude of the co-rapporteurs, The Council of Europe’s Commissioner for Human Rights Thomas Hammarberg and Luís Maria de Puig, President of the Parliamentary Assembly of the Council of Europe (PACE), after their visit to Armenia in July issued stark warnings indicating that failure to meet PACE requirements by September could lead to the suspension of the voting rights of its Armenian members during the autumn session of the Assembly. During his visit the Council of Europe’s Commissioner for Human Rights Thomas Hammarberg proposed a new, compromise format for an independent and accepted as credible inquiry into Armenia’s deadly post-election violence. In a statement issued after his visit to Armenia Commissioner Hammarberg pointed, **“The response to our recommendations is still unsatisfactory. The parliamentary commission would be unable to establish facts**

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<sup>95</sup> <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc08/EDOC11656.htm>

**about the events 1-2 March in a manner that would be accepted as credible. There is a need to ensure total impartiality<sup>96</sup>.”**

Lluís Maria de Puig, President of the Parliamentary Assembly of the Council of Europe (PACE) during his visit to Yerevan stated in an interview with RFE/RL of July 24, **“The Armenian authorities will risk catastrophic consequences if they fail to meet the Council of Europe demands by next October. PACE could impose political sanctions on Yerevan at its next session due in October if it finds no major progress has been made in Armenia, there will be a very scandalous situation. Failure to report major progress would create a situation that can be catastrophic for the country. Armenia can not wait until January because things will perhaps be decided before January. That is why it is important that Armenia shows very quickly that it is complying with the PACE resolutions<sup>97</sup>.”**

Lluís Maria de Puig, President of the Parliamentary Assembly of the Council of Europe (PACE) released the following statement on July 15 after his visit to Armenia, **“It should be clear that the detention of people in relation to those events, other than those who committed grave violent crimes, is unacceptable to the Assembly. I therefore urge the authorities to use every means available to them to release these people as soon as possible. Only in this way can the process of reconciliation and dialogue be assured. In relation to the independent inquiry, it is clear that without the participation of the opposition that supports Mr Ter Petrossian in the Commission set up by the National Assembly, its work and findings will not meet the standards of impartiality and credibility demanded by the Assembly. I fully support the proposals of Human Rights Commissioner Thomas Hammerberg to constitute a separate commission, based on parity and consensus and with the involvement of international experts, to establish the facts with regard to the events of 1 and 2 March. The Armenian authorities should not wait until January to achieve tangible results on these two issues. It is important that the authorities send a clear signal to the Assembly of marked and irreversible progress before the next meeting of the Monitoring Committee in September; otherwise there is a serious risk of repercussions during the autumn session of the Assembly.<sup>98</sup>”**

Despite this strict language, the Monitoring Committee of the Parliamentary Assembly as well as the Bureau of the Assembly carried out insignificant discussions on the events in Armenia, proving once again the lack of inconsistency and unscrupulousness of the international officials.

Summing up the third part of the report we can state the following:

- The Western countries indicate explicitly that the main reason for the peaceful demonstrations was the public distrust about the results of the elections. Therefore

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<sup>96</sup> [http://www.coe.int/t/commissioner/News/2008/080715Armenia\\_en.asp](http://www.coe.int/t/commissioner/News/2008/080715Armenia_en.asp)

<sup>97</sup> <http://www.azatutyun.am/armeniareport/report/ar/2008/07/AD151CE5-C69B-4BD3-9FB0-B52869200B01.asp>

<sup>98</sup> [http://assembly.coe.int/ASP/NewsManager/EMB\\_NewsManagerView.asp?ID=3977](http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=3977)

the post-election protests and the tragic events of 1-2 March are part of the electoral process.

- PACE is confident that the public resentment was conditioned by the post-election undemocratic activities of the authorities, disregard of the rule of law and violation of human rights. That is, the public stood up to restore its violated rights and voting rights, while the authorities hit back with brutal force.
- PACE wasn't the only international structure that set requirements for the Armenian authorities in post-March period. These demands are collective demands of the international community. This equally refers to the assessments given to Armenia and the Armenian state institutions.
- Notwithstanding the strict assessments, the Western countries obviously apply double-standards toward Armenia and are inconsistent in their commitment to follow the implementation of their requirements.

And we think that the most important observation is the following:

- There is an explicit appeal to the citizens of Armenia, that the citizens of Armenia should assess the activities of their Government. In other words, the assessments given to Armenia by the international organizations as well as their attitude toward Armenia depend on the citizens of Armenia.

Given the Russia-Georgia recent confrontation, the Armenian events faded into the background of the interests of the international community. The international community can anytime draw its attention on other urgent matters. Therefore, the democratic future of Armenia, as well as the consistency of the international community mainly depend on the spirit, will, ambition and commitment of the people of Armenia.

Public Investigation Commission on March 1 events  
November 2008