

**POST-ELECTION INTERIM REPORT
20 February – 3 March 2008**

On 20 February, the International Election Observation Mission (IEOM), comprising the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP), issued a joint Statement of Preliminary Findings and Conclusions. This statement reported that the 19 February presidential election “*was administered mostly in line with OSCE and Council of Europe commitments and standards. The high-State authorities made genuine efforts to address shortcomings noted in previous elections, including the legal framework, and repeatedly stated their intention to conduct democratic elections. However, further improvements and commensurate political will are required to address remaining challenges such as: the absence of a clear separation between State and party functions, the lack of public confidence in the electoral process and ensuring equal treatment of election contestants. The conduct of the count did not contribute to reducing an existing suspicion amongst election stakeholders.*”

The statement signalled that the final assessment of the election depends, in part, on the conduct of the remaining stages of the election process, including the tabulation and announcement of final results and the handling of possible post-election day complaints or appeals. From 20 February, the OSCE/ODIHR Election Observation Mission (EOM) has continued its observation of the post-election process.

This interim report should be read in conjunction with pre-election interim reports, as well as the statement of preliminary findings and conclusions. The OSCE/ODIHR will issue a comprehensive final report, including recommendations, approximately two months after full completion of the election process.

I. SUMMARY

- On 20 February, the Central Election Commission (CEC) announced preliminary results indicating that Prime Minister Serzh Sargsyan had won the election. The second placed candidate, Levon Ter-Petrossian, made accusations of widespread election falsification and claimed that he had won the election.
- Demonstrations against the conduct of the election were held repeatedly and remained peaceful until 1 March when police dispersed the demonstrators. Subsequent clashes between demonstrators and the police and military turned violent resulting in fatalities and injuries, and President Kocharian declared a state of emergency. On 26 February, Serzh Sargsyan offered to collaborate with the other presidential candidates.
- Results from 135 Precinct Election Commissions (PECs) were recounted by Territorial Election Commissions (TECs). OSCE/ODIHR observers noted shortcomings in the recount process, including discrepancies and mistakes, some of which raise questions over the impartiality of the PECs and TECs concerned.

- On 24 February, the CEC declared that Mr. Sargsyan had won the election with 52.8 per cent of the vote; Mr. Ter-Petrosian received 21.5 per cent and Arthur Baghdasaryan 16.7 per cent. Two of the eight CEC members did not sign the official protocol of results.
- Results data published for all PECs on the CEC website revealed some anomalies at specific PECs, including implausibly high voter turnout; results for Mr. Sargsyan in excess of 99 per cent of the vote; and a very high incidence of invalid ballots in some PECs, especially in Yerevan.
- The OSCE/ODIHR EOM received information that complaints had not been accepted by PECs on election day. In the post election period, the CEC received several complaints; its handling of these did not provide complainants with an effective remedy and raises concern about its commitment to ensure the protection of citizens' electoral rights.
- During the post-election period, the main broadcast media, including public television and radio, provided extensive coverage of the views of the authorities but rarely aired the views of those who raised concerns regarding the conduct of the 19 February poll.

II. BACKGROUND

In the Statement of Preliminary Findings and Conclusions, the IEOM noted tension or unrest in over 6 per cent of Polling Stations [PS] visited and “a few isolated violent incidents” despite “a relatively calm atmosphere”. Since then, the OSCE/ODIHR EOM received information from various sources about assaults and intimidation directed towards proxies, domestic observers, PEC members, and some journalists; particularly in specific communities in Yerevan.¹

Counting was observed by the IEOM at 111 PSs. The conduct of the vote count was assessed as ‘bad’ or ‘very bad’ in 17 PSs (some 16 per cent of PSs visited).² Some IEOM observers reported ‘significant procedural errors’, such as: not showing marked ballots to all present; placing ballots on the wrong candidate piles; signing protocols before completion of the count or signing blank protocols; indications of ballot box stuffing; carelessness with handling of election materials; and attempts to impede IEOM observers in their activity.³ Upon further analysis of election day findings, some IEOM observers reported that PEC Chairs constantly received

¹ In two cases in TEC 1 (Avan, Yerevan) candidate proxies received threats of possible physical retribution. In TECs 4 (Arabkir, Yerevan) and 5 (Davitashen, Yerevan) three candidate proxies were physically assaulted, on two occasions inside the PS and once in the vicinity of the PS. A domestic observer in TEC 4 was physically assaulted and lost consciousness. A PEC member in TEC 1 was hit by an unknown person, and a PEC member in TEC 28 (Abovyan, Kotayk) was violently taken out of the PEC during election day and never returned. The OSCE/ODIHR EOM has also viewed complaints at TEC 28 submitted by two PEC members, three proxies and one citizen about their forced removal from PSs in the respective TEC.

² For example in PECs 13/18, 13/30, 17/01, and 32/58.

³ For example, at PS 22/15 IEOM observers reported that PEC members were pressured to add votes to Serzh Sargsyan's total from ballots marked for other candidates. At PS 13/18 the Chair did not show marked ballots, PEC members counted votes while holding pens, ballots were placed on the wrong candidate piles and protocols were signed before the vote count was completed. A blank protocol was signed by PEC members at PS 11/32. At PS 32/58 attempts were made to impede IEOM observers from seeing marks on ballot papers. However, they noticed that ballots marked for Mr Ter-Petrosian were placed in the pile for Mr Sargsyan. On two occasions, stacks of ‘carefully fitted together’ envelopes came out of the ballot box. These ballots were all marked in favour of Mr. Sargsyan. The results protocol was not signed, the election material not sealed, and unauthorized persons accompanied it to the TEC.

phone calls with requests to report the results, specifically the vote percentage for Mr. Sargsyan.⁴

Tabulation was followed by IEOM observers at all 41 TECs, completing 85 observation report forms. Some 10 per cent of these assessed the process negatively, and 7 per cent assessed there was a lack of transparency in the TECs' work. Shortcomings reported included instances of voting material arriving from some PECs in unsealed packages⁵; data in PEC result protocols that did not reconcile;⁶ PECs leaving the TEC with election material;⁷ and not permitting IEOM observers to scrutinise protocols.⁸ In some instances, IEOM observers reported irregularities in the tabulation of results.⁹

On 20 February, the CEC released preliminary results which indicated that Mr. Sargsyan had secured 52.86 per cent of the vote, thereby making a run-off election unnecessary. According to this data, Mr. Ter-Petrosian gained 21.50 per cent of the vote and Arthur Baghdasaryan 16.67 per cent. Final results were announced on 24 February and did not differ significantly from the preliminary results.

III. POST-ELECTION POLITICAL CONTEXT

Levon Ter-Petrosian claimed “widespread falsification and violations” during the election and insisted that he had won the election.¹⁰ Arthur Baghdasaryan stated that the legitimacy of the election was put in question by many irregularities. Fourth-placed candidate Vahan Hovhannisyan stepped down as Deputy Speaker of Parliament citing election irregularities, although his party stated later it would not dispute the results. Fifth-placed candidate Vazgen Manukian also claimed election violations had occurred, while sixth placed Tigran Karapetyan was first to file a legal challenge with the Constitutional Court.

Already prior to election day Mr. Ter-Petrosian called upon supporters to gather in Yerevan 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 in Freedom Square. They also held numerous peaceful processions.¹¹ On 21 February 2008, speakers announced that their intention was to reach annulment and repetition of the election. The authorities overall accommodated the protest actions.

⁴ For example, at PEC 25/04 the Chair was called six times with requests to report on results.

⁵ For example some PECs in TEC 11, 22, 29 and 30.

⁶ IEOM observers reported that changes were made to protocols when figures did not reconcile (39 per cent of observations).

⁷ For example the members of PEC 22/20 disappeared for about four hours after arriving at the TEC. When they returned the balloting material had apparently been opened.

⁸ For example at TEC 37 (Goris) IEOM observers were prevented by the TEC Chair from seeing 25 protocols.

⁹ For example in TEC 14 (Ashtarak), a proxy for Mr. Ter-Petrosian demanded a recount after the Chair of PEC 14/32 produced 2 original blank protocols signed by PEC members. In TEC 22 (Gavar) PEC 22/30 brought only one copy of the protocol. The Chair was sent back to get the other copies. Upon return with the missing protocols, the first protocol was rejected and the missing one accepted. Notable differences included: 260 votes for Vahan Hovhannisyan instead of 10 in the original and 602 votes for Serzh Sargsyan instead of 902.

¹⁰ Mr. Ter-Petrosian also made a number of general statements challenging the IEOM assessment of the election, claiming that “observers are also responsible for these disgraceful elections held in Armenia.”

¹¹ Mr. Ter-Petrosian's campaign notified the Yerevan City authority that it would hold a rally on 20 February in Yerevan. However, they did not lodge a notification with the Yerevan City authority on the subsequent assembly in Freedom Square and processions.

On 23 February, President Kocharian held meetings with the leadership of the armed forces, the police and the National Security Service, in which he spoke of an “illegitimate attempt to take over power” and announced “determined and sharp” actions directed at preserving stability and constitutional order in the country. In the following days, persons were detained on suspicion of ‘illegally possessing weapons’, ‘actions or physical abuse towards an authority’, and ‘intentional delinquency’.¹² The Office of the Human Rights Defender (Ombudsman) visited persons arrested to ensure they had access to legal counsel and were not being ill-treated.

On 26 February, Serzh Sargsyan offered to collaborate with the other presidential candidates. On 29 February, despite his earlier statements on the conduct of the election, Arthur Baghdasaryan signed a political co-operation agreement. The seventh-placed candidate Artashes Geghamyan had expressed readiness to co-operate already before Mr. Sargsyan’s appeal. ARF *Dashnaktsutiun*, which had nominated fourth-placed Vahan Hovhanissyan, announced that “our proposal to stop the co-operation [with the governing coalition] should be discussed”. On 1 March, Foreign Minister Vartan Oskanian, on behalf of President Kocharian, said that Levon Ter-Petrossian had refused the co-operation offer.

According to the police, in the early morning of 1 March, they attempted to carry out an inspection of the protest area in Freedom Square. In an official statement, the police indicated they had received information that weapons and explosives were going to be distributed to demonstrators and that unrest was to occur. Violence ensued, and the assembly was dispersed. According to official information, 31 persons were injured. Mr. Ter-Petrossian was taken by police to his home where he remained, although the authorities denied that he was under house arrest.

Later in the day, protesters re-gathered and disturbances took place outside the French Embassy and Yerevan City Hall. In the early afternoon, a crowd of about 7,000 (according to official estimates)¹³ congregated in this area. In the early evening, serious unrest occurred that led to violence, looting and vandalism. According to official sources this resulted in 8 fatalities and some 130 injuries. At around 22.30 hours a state of emergency¹⁴ was declared for the city of Yerevan, which imposed a ban on rallies and gatherings and constrained media reporting to official information.

¹² According to information announced by the Foreign Minister on 29 February, 25 persons were arrested, 15 were detained pending charges and 6 had been charged. According to Levon Ter-Petrossian’s office, as of 28 February 21 persons remained in detention on various charges and 17 had been released.

¹³ Estimations on the numbers vary, including estimates of up to 30,000.

¹⁴ In accordance with OSCE Commitments, the Armenian authorities notified the OSCE/ODIHR of the Decree of the President of the Republic of Armenia on Declaration of State of Emergency, dated 1 March 2008, for 20 days: 1) banning meetings, rallies, demonstrations, marches and other mass events; 2) Banning strikes and other actions that could stop or suspend the activities of organizations; 3) Limiting the movement of individuals and the means for transportation and carrying out inspections by the law enforcement bodies, as necessary 4) Mass media outlets can provide information on state and internal affairs exclusively within the perimeters of official information provided by state bodies; 5) Banning political propaganda through leaflets or other means without due permission from relevant state bodies; 6) Temporary suspension of the activity of political parties and other public organizations that impede the elimination of the circumstances that served as the grounds for declaring a state of emergency; 7) Removing from a given area those who violate the legal state of emergency regime and do not reside there, doing so at their own expense, or, in case of absence of these means, using the state budget resources to be refunded afterwards.

Television coverage of the IEOM's statement of 20 February presented mostly the positive points and generally omitted to report on shortcomings mentioned. Notwithstanding considerable public controversy regarding the conduct of the process, the main broadcast media, including public television and radio, provided extensive coverage of the views of the authorities but rarely aired the views of those who raised concerns regarding the conduct of the 19 February poll.

IV. RECOUNTS OF VOTING RESULTS

Article 40.2 of the Election Code provides that candidate proxies registered at PECs and candidates may file requests for recounts of votes for specific PECs with the respective TEC until 14.00 hours on the day after voting (20 February). TECs conduct recounts within five days, i.e. from 21 February until the legal deadline – 14.00 hours on 24 February.

According to the CEC, recount requests were filed in 25 TECs regarding 159 PEC results. Other requests were rejected by TECs on the grounds that the deadline to request a recount had expired. TECs rejected 34 requests for being 'baseless'. Some complaints were filed with the CEC alleging that TECs were either not functioning continually in the period before 14.00 hours on 20 February or otherwise obstructed the submission of recount requests¹⁵ (see Section VI. Complaints and Appeals).

Requests for recounts were filed by several candidates. According to the CEC, Aram Harutiunyan or his proxies requested 27 recounts, mostly in TECs 1, 4, 8 and 13 (all in Yerevan).¹⁶ Some of these requests were filed shortly after 00.00 hours on 20 February, including in at least one instance concerning a PEC that was still conducting the vote count.¹⁷ Other candidates requested recounts after those submitted by Mr. Harutiunyan. TECs generally recounted PEC results according to the time the request was recorded as having been filed. On some occasions, i.e. TEC 1, 4 and 13, the TEC did not conduct recounts requested by some other candidates because it was occupied with those requested by Mr. Harutiunyan.¹⁸

OSCE/ODIHR EOM observers followed recounts at all TECs where recounts took place, although they did not observe recounting for all PECs. The majority of recounts observed showed discrepancies and mistakes in the original count, some of which were significant and raise questions over the political impartiality of PECs and TECs. TEC 5 (Davitashen, Yerevan), for example, remained inactive regarding the recounting of PEC 5/21 and the storming of the

¹⁵ For example, complaints were submitted to the CEC regarding TEC 32, which denied a request to recount PECs 32/20, 32/30 and 32/46 on the basis that time had expired. The complainants claimed to have been in TEC at 13.30 hours; at TEC 8, recount applications for PECs 8/6, 8/16, 8/17, 8/21, 8/23 and 8/24 were presented before 14.00 hours but the TEC refused to register the applications before the expiry of the 14.00 hours deadline. Recounts for PEC 34/04, 34/07 and 34/30 were not performed. A complaint was filed that the Chair of TEC 35 would not conduct recounts because only five TEC members were present, even though there is no legal quorum required. Other requests for recounts were denied in TECs 3, 21, 23, 24, and 38. The CEC responded that such complaints should be addressed to the Administrative Court.

¹⁶ There is some confusion for which PECs Mr Harutiunyan requested a recount as a list he supplied to the OSCE/ODIHR EOM differs from one provided by the CEC.

¹⁷ IEOM observers present at PEC 4/18 for the vote count reported that the count ended at 03.10 hrs and the candidate did not have a proxy present at the PS during the vote count.

¹⁸ In TEC 1, two recounts requested by Arthur Baghdasaryan were not conducted. According to TEC 4's Official Journal, Mr. Harutiunyan requested a recount for nine PECs at 00.01 hours on 20 February. TEC 4 completed only seven of the twelve recounts requested within the time period allocated for recounts. Two of the three recounts requested by Mr Ter-Petrosian were not conducted.

TEC on 23 February by unknown persons who forced TEC members and other authorised persons including candidate proxies, journalists, and an OSCE/ODIHR observer to leave the TEC premises, while police officers passively stood by. An envelope containing valid ballots marked in favour of Levon Ter-Petrossian disappeared from TEC 13 (Erebuni, Yerevan) during the recount of PEC 13/10 on 23 February. In another case at TEC 4 (Arabkir, Yerevan), an OSCE/ODIHR observer saw how the TEC produced some 34 ballots with marks for both Mr. Ter-Petrossian and Mr. Sargsyan from a pile of ballots counted previously by PEC 4/03 as valid ballots for Mr. Ter-Petrossian. Other shortcomings included valid ballot papers being unnecessarily adjudicated as invalid¹⁹ and failure to scrutinise the marks on ballot papers or their validity.²⁰

The Office of the Prosecutor opened two criminal investigations in respect of the incidents at TECs 5 and 13. On 27 February, the CEC reported that a further 23 cases were referred to the Prosecutor. It is of concern that a CEC member (nominated by Heritage Party) could face criminal prosecution for opening election materials at TEC 5 without CEC authorisation,²¹ while no action has been yet taken against the TEC members who appeared unwilling to conduct a recount of the results for PEC 5/21, or against police officers for not attempting to maintain order, and that no arrests have been made in connection with the ‘storming’ of the TEC premises.

At the time of the expiry of the deadline for conducting recounts, recounts for 24 PECs were outstanding. While the legislation provides that TECs may extend their working hours, the OSCE/ODIHR EOM is not aware of any TEC having done so to complete its work.

V. ANNOUNCEMENT OF FINAL RESULTS

On 24 February, the CEC announced final election results in an extraordinary session.²² Serzh Sargsyan (862,369 votes), Levon Ter-Petrossian (351,222), Arthur Baghdasaryan (272,427), Vahan Hovhannisyanyan (100,966), Vazgen Manukyan (21,075), Tigran Karapetyan (9,792), Artashes Geghamyan (7,524), Arman Melikyan (4,399), and Aram Harutiunyan (2,892). According to the CEC protocol, voter participation was 1,671,027 (some 70.5 per cent turnout).²³

The protocol of final results was signed by six of the eight CEC members. The members nominated by Orinats Yerkir and Heritage parties did not sign the protocol. The CEC protocol

¹⁹ For example PEC 34/26 (Gyumri).

²⁰ For example PEC 7/20 (Malatia Sebastia, Yerevan).

²¹ The Prosecutor has opened an investigation with regard to a CEC member obstructing the normal work of the TEC by opening a sealed bag of ballots for PEC 5/21 and disregarding the instructions of the TEC. An OSCE/ODIHR observer present reported that only two TEC members were present at the time the CEC member opened the material and that they did not object to her actions.

²² This session took place four hours after the expiry of the deadline for conducting recounts, but before the expiry of the deadline for filing appeals on decisions taken by TECs on PEC recounts. Under the Administrative Procedures Act, a decision, action or inaction of an election commission may be appealed within three days. Thus appeals regarding recounts conducted on 24 February could be filed until 27 February. The last recount appeal was filed on 23 February. However, the law provides conflicting deadlines as it allows more time for appeals to be filed than for final results to be announced.

²³ Based on the number of registered voters announced by the CEC in the preliminary results; the number of registered voters was not announced again with the final results.

contains a discrepancy regarding the number of participating voters (i.e. those that signed the voter lists) which is 1,349 higher than the number of ballot counterfoils (i.e. ballots issued).

Voter turnout was lowest in TEC 35 (61.45 per cent) and highest in TEC 28 (84.29 per cent). The polling data for all PECs released by the CEC contains a number of anomalous results. There are 1,923 PECs in Armenia of which 1,670 have 300 or more registered voters. Of these, 95 had a turnout exceeding 90 per cent, and of these 44 had a turnout exceeding 95 per cent.

Implausibly high turnout was noted at specific PECs in Yerevan, e.g. Malatia Sebastia and Erebuni areas (TECs 7, 8 and 13), and the regions, e.g. Artashat in Ararat Region (TEC 17), Metsamor in Armavir Region (TEC 20), Sevan and Martuni in Gegharkunik Region (TECs 23 and 24), Abovyan in Kotayk Region (TEC 28), and Goris and Kapan in Syunik Region (TECs 37 and 38).²⁴ For example, PEC 8/23 with 1,780 voters registered before election day had a turnout of 1,772 (99.83 per cent) and PEC 37/22 with 838 voters registered before election day had a voter turnout of 841 (100.36 per cent). Even taking into account that Serzh Sargsyan has strong familial links to the Goris area (TEC 37) results from four PECs are striking as he received in excess of 99 per cent of the vote, with a turnout of 97 to 99.5 per cent.²⁵ An analysis of official results by the OSCE/ODIHR EOM indicates that PECs which reported a higher than average voter participation also had a higher share of the vote for Serzh Sargsyan.

According to the CEC results protocol, there were 35,798 invalid ballots (some 2 per cent of all votes cast). There was a wide variation in the number of invalid votes: 5.81 per cent in TEC 3 and 0.88 per cent in TEC 23. The adjudication of invalid ballots by some PECs in TEC 3 raises concern, for example in PEC 3/13 some 28 per cent (345 votes) of 1,225 votes cast were invalid. A further four PECs in this district had over ten per cent invalid ballots.²⁶

Other anomalous PEC results included some instances where more ballots were found in the ballot box than issued to voters, i.e. PEC 7/21 where the number of votes (valid and invalid) was 80 more than the number of ballots issued. Conversely, in some polling stations the number of ballots found in the ballot box was considerably lower than the number issued i.e. PEC 9/21 where there were 61 more ballots issued than votes cast (valid and invalid). In ten PECs, there were ten or more votes than ballots issued. In 23 PECs, the number of ballots found in the ballot box was ten or more ballots less than the number of ballots issued.

VI. COMPLAINTS AND APPEALS

Information received by IEOM observers on election day indicated that relatively few formal complaints were registered by PECs and TECs. A representative of Mr. Ter-Petrossian informed the OSCE/ODIHR EOM that the candidate's proxies had attempted to file more complaints, but had encountered obstruction from PECs. To support the claim he produced 103 complaint protocols that were not registered by PECs. He stated that he had attempted to submit a further 122 complaint protocols that the CEC Secretary had refused to accept on Saturday, 23 February

²⁴ According to the CEC Chairman the high turnout in these polling stations could be explained by military voting.

²⁵ PECs 37/18, 37/29, 37/38 and 37/39.

²⁶ PECs 3/06 (10.3%), 3/10 (24%), 3/19 (20.5%), 3/20 (19.7%).

which the latter considered “not a working day”. Some IEOM observers reported instances where a PEC refused to record complaints in their journals or to receive an official complaint.²⁷

In the post-election period, the CEC received 19 complaints. These were not heard in open session. The CEC’s written responses are the only publicly available documents related to the complaints and the OSCE/ODIHR EOM is not aware of any meaningful investigation undertaken by the CEC on the substance of complaints it received.²⁸ In general, the CEC’s handling of complaints and appeals did not provide complainants with effective remedy, nor did it enhance public confidence in the impartiality of the election administration, and raises concern about its commitment to fulfil its obligation under Article 32(1) of the Election Code to ensure the protection of citizens’ electoral rights.

For example, a proxy of Arthur Baghdasaryan claimed in a detailed complaint that PEC members were forced to leave several PECs and that after they had left ballot stuffing had occurred.²⁹ The CEC responded to the complaint by letter, stating that the “facts indicated in your application are false. The facts indicated were checked with relevant commissions”. Attached to the CEC’s letter were letters from the relevant TEC and PEC Chairs denying that anything untoward had occurred. It is noteworthy that the results at some of these polling stations had unusual results e.g. PEC 28/26, where 1,961 voters were registered, turnout was over 89 per cent and Serzh Sargsyan received over 95 per cent of the vote and PECs 17/2 and 17/3 where turnout was also higher than the national average (88 and 87 per cent respectively).

A number of the complaints received by the CEC and the Ombudsman were referred to the Office of the Prosecutor. As of 1 March, the Prosecutor’s Office has advised that they have initiated 35 criminal investigations in relation to election violations. Some of these relate to election day incidents such as assaults on the person at polling stations, obstructing polling officials and falsifying election results.³⁰ The Chair of PEC 9/31 pleaded guilty to falsifying election results and was sentenced to two years imprisonment. On 29 February the Prosecutor’s Office advised that the head of Mr. Ter-Petrosian’s campaign office in Shirak pleaded guilty to making a false report on grave election violations in a number of PECs.³¹

The Election Code is ambiguous regarding avenues of legal appeal. Article 40(2) of the Election Code provides that “complaints about decisions or actions or inactions of TECs shall be submitted to the Administrative Court” while Article 41.1(11) empowers the CEC to “discuss

²⁷ For example PEC 05/11 (regarding the simultaneous presence of two of Serzh Sargsyan’s proxies) and PECs 31/27 and 23/03. At PEC 30/23, the Chair allowed the proxy to file a complaint regarding a voter being issued two ballots only after the vote count was finished and the protocol completed.

²⁸ For example, in PEC 5/04, there were 117 invalid ballots following the original PEC vote count. A recount was requested which revealed that some of these ballots were valid votes cast for Mr. Ter-Petrosian. A complaint was filed with the CEC requesting it to conduct an “expert examination of the ballot papers”. The CEC declined to look into the matter.

²⁹ PECs 7/05, 7/25, 8/17, 11/6, 13/1, 17/1, 17/2, 17/3, 28/7, 28/26.

³⁰ For example: an assault on a proxy and his forced removal from PEC 28/07; an assault on a PEC chairperson and a PEC member at PEC 8/21; an assault causing bodily harm at PEC 36/34; an assault on a domestic observer and a journalist at PEC 13/16. The President of “Democratic Motherland” Party, Petros Makeyan, was arrested and detained following a complaint that he obstructed the work of PEC 34/06.

³¹ PECs 33/63, 33/64, 33/65, 33/71, 33/72, 33/75, 33/76, 33/77, 33/78, 33/79.

applications and complaints about the decisions and actions of electoral commissions, review or overturn decisions of electoral commissions that contradict [the] Code”.³²

On this basis, candidate proxies and PEC members filed complaints and appeals with the CEC regarding rejection of recount requests or violation of recount procedures in 16 TECs. In most cases, the CEC responded that these applications should be addressed to the Administrative Court.³³ In light of ambiguous legal provisions including with regard to the newly created Administrative Court structure and its election related competences,³⁴ the CEC did not facilitate the process of effective redress for complaints, hence *de facto* obstructing the realisation of complainants’ rights. Ultimately, no complaints were filed with the Administrative Court; it played no significant role in resolving election complaints in the post-election period.

Election results can be appealed to the Constitutional Court. On 27 February, Tigran Karapetyan filed an appeal with the Constitutional Court seeking to invalidate the election results. On 29 February a case was also filed by Levon Ter-Petrossian. The Court agreed to start hearing the cases on 4 March. The legal deadline for a decision is 10 March. Deadlines for all other complaints procedures have passed.

³² Article 40(6) which states “requests for a recount of the voting results in a PEC may be submitted only to the appropriate TEC on the day after the voting day, by 14.00 hrs”. Article 40(5) provides that decisions etc. of electoral commissions may be appealed to the Administrative Court except requests for recounts under Article 40(6) and appeals of final results under article 40(9).

³³ There is no legal obligation for the CEC to forward these cases on its own initiative to the Court.

³⁴ Administrative Courts were recently created as part of the ongoing judicial reform process and amendments to the Election Code vested them with jurisdiction over election-related appeals in December 2007. This contributed to confusion over which body would be competent to address appeals with respect to recounts.