

**REPORT OF THE  
OBSERVATION MISSION**

**DURING YEREVAN  
ELDERS' COUNCIL  
ELECTIONS ON MAY 14, 2017**

**YEREVAN**

**MAY 2018**



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***The Citizen Observer Initiative was founded in 2013 with a view to overseeing national and local elections and referenda in Armenia and their compliance with domestic law and the international standards of democracy. The website of the Citizen Observer Initiative is <https://www.citizenobserver.am>.***

## LIST OF ABBREVIATIONS

CC	Constitutional Court
CEC	Central Electoral Commission
COI	Citizen Observer Initiative
EC	Electoral Code
ELA	Europe in Law Association NGO
HRD	Human Rights Defender
NA	National Assembly
NGO	Non-Governmental Organization
ODHIR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
PEC	Precinct Electoral Commission
RA	The Republic of Armenia
RPA	The Republican Party of Armenia
TEC	Territorial electoral Commission

## 1. OVERVIEW

On May 14, 2017, the elections of Yerevan Elders' Council were held in the capital of the Republic of Armenia, Yerevan, as a result of which Yerevan Mayor was to be elected. The whole territory of Yerevan was divided into 4 electoral districts, which, in their turn, were divided into 10 Territorial Electoral Commissions having 474 electoral precincts formed in their service areas.<sup>1</sup> Alliance (Way Out Alliance) and 2 parties (the Republican Party of Armenia and the Yerkir Tsirani Party) participated in the elections. 17 observer organizations conducted an observation mission with 5138 accredited observers.<sup>1</sup> The results of the elections were disputed by the Yerkir Tsirani Party in the Administrative Court,<sup>2</sup> which rejected the party's claim on May 31, 2017.

“Europe in Law Association” NGO carried out observation within the framework of the Citizen Observer Initiative (COI) during the elections of Yerevan City Elders' Council on May 14, 2017.

Within the framework of the Citizen Observer Initiative (COI), “Europe in Law Association” NGO involved 37 observers in the monitoring activities of Yerevan City Elders' Council elections.

During the observation mission 69 reports were submitted by the observers, 11 of which referring to the preparation phase of the poll, 42 referring to the phase of voting and 5 referring to summarizing the results. Only 29 considerations by observers were recorded in electoral precinct log-books. These reports included both recurrent and continuous violations.

<sup>1</sup> <http://res.elections.am/images/doc/dit14.05.17.pdf>

<sup>2</sup> <https://www.azatutyun.am/a/28506512.html>

All in all 19 complaints were submitted to 10 TECs by the organization carrying out the observation mission and its observers on the violations recorded by them, including the violations of observers' rights (subjective) and general (objective) electoral rights: 15 applications were submitted to the Central Electoral Commission (CEC) and 13 lawsuits to the Administrative Court.

The nature, chain links and logic of the above-mentioned violations testify their well-structured and universal/widespread nature. And the reaction to them or, to be more precise, the failure to take effective measures against them by the electoral administrative bodies, namely, electoral commissions, law enforcement bodies and the judicial system could testify to the inability or the lack of will (lack of independence) of the mentioned state institutions in implementing their constitutional-legal functions.

Within the framework of the observation mission, systematic issues and breaches of electoral process were observed, the impact of which is essential for the realization of free and fair electoral right and the protection of that right. These include issues related to the free formation and expression of voters' will, ensuring the secrecy of voting, the use of administrative resources (abuse), the effective performance of the electoral commissions' system implementing electoral administration, their availability, the institution of public control and guarantees, electoral disputes, including the issues of accessibility and effectiveness of the court with electoral disputes. Besides, issues were raised that related to the electoral legislation and the enforcement of existing legislation.

The above-mentioned issues are serious obstacles to the implementation of Article 2 of the RA Constitution, the realization of the right to free elections and ensuring the principles of the electoral right provided in Article 7 of the RA Constitution, which undermines the free realization of the voters' electoral right through the elections of Yerevan City Elders' Council in 2017, forming distrust towards elections and the body being elected.

## 2. INTRODUCTION

The elections were being held under procedures set out in the new Electoral Code<sup>3</sup> (EC) with the application of technical innovations to voter registration.

This report provides a factual, impartial and independent view on the election processes of Yerevan City Elders' Council, reflecting the main outcomes of the observation mission, the violations and falsifications observed and recorded in the electoral process. Based on all these, the report presents the conclusions of "Europe in Law Association" NGO on Yerevan City Elders' Council Elections, its recommendations that can serve as a basis for improving the law enforcement practice and the shortcomings of the electoral legislation regulations, as well as overcoming the issues revealed.

The main target audience of the report is as follows:

- **Citizens enjoying suffrage:**
  - **The public**, in general, which is the principal "customer" of the observation mission (public oversight) of any election and the main beneficiary of its results.
  - **The public and political entities** interested in improving the electoral system in Armenia aiming at active participation in the development of both legal regulations and their application stages.
- **State bodies:**
  - **Election administration bodies** in charge of the proper organization of the electoral process and ensuring electoral rights, effective investigation of electoral violations and, as a consequence, raising public trust in electoral processes,

<sup>3</sup> The New Electoral Code, adopted on May 25, 2016. 30.06.2016 and 20.10.2016 Amendments to the Electoral Code, which among other things, also required the publication of signed voter lists.

- **Legislative and executive bodies** in the name of the National Assembly and the Government,
- **Law enforcement bodies** responsible for the prevention, detection and disclosure of possible offenses as well as effective investigation and inevitability of liability within the scope of their authority under the Constitution and the legislation of the Republic of Armenia.
- **Judicial bodies**, which are responsible for implementing justice in accordance with the Constitution and laws.
- **International organizations** that support democratic processes and human rights protection and need to have a complete picture of the electoral processes in Armenia as well as possible ways of improving them.

The report consists of the following main sections:

- The *Legislative Framework of Elections* section briefly describes the legislative reforms preceding the Yerevan City Elders' Council elections,
- The *Description of Observation Mission* section presents details about the mission, including mission objectives, composition and methodology, as well as the barriers in its organization process,
- The *Observation Mission Results* section is the main part of this report where the electoral violations, raised during the observation mission and the appeal process, are presented according to types and sub-types.
- The *Conclusions and Recommendations* section outlines the core issues that require immediate and radical solution for the proper implementation of the electoral right. These issues supplement the proposals presented in the report on the National Assembly elections on May 2, 2017.

### 3. ELECTORAL LEGISLATION

With the constitutional amendments of November 25, 2005, Yerevan was granted a community status (previously it had a status of a province). These amendments also provided for a possibility of establishing the Yerevan local self-governance characteristics legislatively (the RA Constitution (edition 2005), Article 187). The RA Law on “Making Amendments and Addenda to the RA Electoral Code”, adopted by the RA National Assembly on December 26, 2008, defined indirect elections of the Mayor of Yerevan through the method of forming Yerevan City Elders’ Council through direct elections every 4 years. Yerevan City Elders’ Council Elections in 2009 as well as in 2013 were implemented based on these reforms.

The process of elaboration, discussion and adoption of the Electoral Code, as envisaged by the constitutional amendments made on December 6, 2015, were described in detail in a report released as a result of the observation mission during the National Assembly elections held on April 2, 2017.<sup>4</sup>

The new Electoral Code envisages almost the same provisions as the previous one on the Yerevan City Elders’ Council Elections. The peculiarity of local self-government elections is that in case of Yerevan and two other RA towns - Vanadzor and Gyumri, the Electoral Code envisages a special procedure different from that of other LSG bodies.

<sup>4</sup>. <https://citizenobserver.am/en/elections/reports>

## 4. OBSERVATION MISSION

### 4.1. Observation Mission Objectives:

Within the framework of the CO initiative, “Europe in Law Association” NGO conducted an observation mission during the Yerevan City Elders’ Council Elections on May 14, 2017.

The purpose of the observation mission was to control the legitimacy of these elections.

- Disclose violations of electoral rights in the electoral process by making them public, to ensure those rights are exercised, guaranteed and protected,
- Make public complaints regarding the violations noticed to ensure their effective investigation,
- Carry out the subjective and objective protection of the electoral right by initiating a complaint proceeding referring to electoral fraud in the electoral administration bodies and in the courts, as well as reporting to the law enforcement agencies, if necessary,
- Form a competent, independent and impartial view of the electoral process, the realization of the right to vote and the effectiveness of protecting it,
- Analyze the problems existing in the electoral process, formulate and submit proposals for the legislative and electoral process reform in terms of legislation and law enforcement practices,
- Evaluate the quality compliance of the elections with the domestic legislation and international standards.

## 4.2. The Observation Mission and Its Methodology

The elections of Yerevan City Elders’ Council almost immediately followed the parliamentary elections held on April 2, 2017, during which the COI conducted a large-scale observation mission with nearly 3,000 observers. Because of the lack of sufficient human and financial resources, the “Citizen Observer” initiative’s opportunity of acting as an observer in Yerevan City Elders’ Council elections was questioned.

However, “Europe in Law Association” NGO, considering it necessary to keep such a publicly important event under the control of public observers and continue the efforts within the framework of electoral processes, decided to implement a relatively small number of observation missions on a voluntary basis (envisaging only incentives for observers).

Taking into account the fact that the lawyers’ team and the observers had already been trained to observe the NA elections shortly before, ELA organized only two training sessions for 40 observers of Yerevan City Elders’ Council elections to convey the peculiarities of those elections. The methodology, procedures and volumes of these trainings were described in detail in the report released as a result of observation mission carried out during the National Assembly elections held on April 2, 2017.<sup>5</sup>

To provide the observation mission with legal support, a team of 10 trained and experienced lawyers was formed, which also provided the observers with consultations during the observation mission in the National Assembly and Yerevan City Elders’ Council (this time on voluntary bases already) election processes, as well as it has also implemented the appeal process.

Within the framework of the observation mission, an analytical group was also engaged, which analyzed the received data, identifying possible election fraud and risks thereof.

<sup>5</sup> <https://citizenobserver.am/en/elections/reports>

59 observers were involved in the observation mission, being accredited by the ELA in the Central Electoral Commission. 37 of them were involved in the observation mission on the day of the poll. Within the framework of the observation mission, besides ELA NGO, the Union of Lorians NGO also participated.

The observation mission was carried out in 10 territorial election commissions and in 27 precincts in the territory of 10 territorial electoral commissions. The precincts were selected based on the number of registered voters. Larger precincts were selected, considering the fact that in larger precincts there would be a larger number of violations. Below is the number of observed precincts according to electoral districts:

Administrative District	Constituency	Territorial Commission	Number of monitored precincts
Yerevan (Avan, Nor-Nork, Kanaker-Zeytun)	1	1-3	8
Yerevan (Arabkir, Ajapnyak, Davtashen)	2	4-6	7
Yerevan (Malatia-Sebastia, Shengavit)	3	7-8	6
Yerevan (Kentron, Nork-Marash, Erebuni, Nubarashen)	4	9-10	6
Total			27

Observers were engaged after “an observer per precinct” principle. When observing violations of the electoral legislation, observers reported to the coordination center at the same time demanding to make the respective records in the log-books of the precinct commissions and take measures to prevent or stop them, if possible. The observers have alerted the coordination center (about 70 alarms) with short messages on election violations and reactions to them. Based on the alarms received from the observers, complaints were filed to the relevant electoral commissions.

### 4.3. Observation Mission Results

The violations and shortcomings revealed during the observation mission are grouped according to the types of violations. Violations are classified chronologically, ranging from the preparation of the voting process to appeal. The report presents only the violations revealed by the observers and the analytical group operating within the framework of the COI describing their general nature and presenting statistics. A more detailed description of the violations is presented in the appendices to this report. Both the report and its appendices are available on the COI and ELA websites.<sup>6</sup>

#### 4.3.1. Pre-Election Campaign (problems and violations noted in the pre-voting period)

- **Use of administrative resources in favor of one party**

The involvement of state officials and community means in the pre-election campaign had a significant impact on the expression of the will of the electorate, taking into account the influential position of the campaign participants, but this question was not properly examined and evaluated by the election administration bodies, in particular the CEC.

- **Election bribe: mass distribution, the reaction of officials and, particularly, law enforcement bodies**

<sup>6</sup> <https://citizenobserver.am/en/elections/reports>

During the Yerevan Elders' Council elections held on May 14, 2017, mass media reports on various manifestations of election bribe distribution, promises to give election bribes and/or cases of similar attempts, as well as reports on the distribution of election bribes were registered in Yerevan.

Only on the day of voting, a journalist for Radio Liberty found two cases of bulk money distribution from the headquarters of the Republican Party of Armenia (RPA)<sup>7</sup>. In one of the mentioned offices, the journalist encountered with violence<sup>8</sup>. A reporter from the Armenian Times daily also witnessed a case of handing ballot papers and election bribes to the citizens in the pre-electoral headquarters of the Republican Party of Armenia (RPA), he filmed the process, as a result of which the staff of the headquarters seized his phone and returned it only after the footage was deleted.<sup>9</sup>

The Way Out Alliance disclosed a rather sensational case of mass distribution of election bribe, some members of the alliance found some documents (about 30 pages) from the trash can near Taron Margaryan's headquarters located at 56 Komitas Street, which, according to the alliance representatives, contained evidence of mass, systematic and centralized distribution of election bribes.<sup>10</sup> Particularly, in one of the revealed documents the names of people responsible for distributing electoral bribes to the voters registered in each electoral precinct located in the territory of the Territorial Election Commission number 4 were mentioned, along with the amount of money allocated to each of them.<sup>11</sup> Another document, in fact, was a detailed guide to election bribery.<sup>12</sup> One of the found documents, according to the Way Out Alliance, was evidence to the fact that the police were also involved in the process of electoral bribery. The mentioned document was sent to the RPA headquarters from the Police fax number with the names of police officers, titles and posts. In this case, it was about the list of the PSS officers' names, which contained the number of voters each policeman should provide for the Yerevan City Elders' Council elections for the RPA. At the head of the RA Police Vladimir Gasparyan's order, an official investigation was

<sup>7</sup> <https://www.azatutyun.am/a/28487012.html>

<sup>8</sup> <https://www.azatutyun.am/a/28487234.html>

<sup>9</sup> <http://armtimes.com/hy/article/112191>

<sup>10</sup> This case later was called "Zibileaks".

<sup>11</sup> <http://www.lragir.am/index/arm/0/country/home/153401>

<sup>12</sup> <http://www.armtimes.com/hy/article/111888>

set for the staff of the Patrol Sentry Service, but after some time it was suspended.<sup>13</sup> On the same day, May 12, 2017 the RPA pre-election headquarters issued a statement which completely refuted its affiliation with the documents found by the Way Out Alliance and called the Way Out Alliance allegations of distributing bribery disinformation.<sup>14</sup> Taron Margaryan, the RPA candidate for Mayor, also made reference to the incident, noting that the central headquarters of the Republican Party of Armenia (RPA) had already issued a statement on the mentioned incident, which presented their position.<sup>15</sup>

No effective steps were taken on the mentioned disclosures, and no effective investigation was carried out by any state body, thus showing sponsorship: encouraging and forming an atmosphere of impunity.

In connection with the above-mentioned case, the Way Out Alliance turned to the CEC demanding to appeal to the court to have the registration of the Republican Party of Armenia (RPA) in the upcoming elections of Yerevan Elders' Council repealed. On May 12, 2017, the Central Electoral Commission (CEC) rejected the application submitted by the Way Out Alliance.<sup>16</sup> The alliance filed a lawsuit against the mentioned decision in the Administrative Court, which, however, terminated the investigation of the claim of the Way Out Parties Alliance to repeal the CEC's decision and to find the RPA list of May 14 Yerevan City Elders' Council elections registration invalid, reasoning that the date had expired. The court had received the claim only at 11:35 pm on the eve of the voting day. On May 13, 2017 at 5:55 pm the Administrative Court returned the accepted claim reasoning that the plenipotentiary had not attached the document certifying his/her authority.<sup>17</sup> In relation to the above-mentioned case, the SIS initiated a criminal case, which, however, was terminated shortly afterwards.<sup>18</sup>

The above-mentioned cases were more than sufficient for the CEC to take effective measures in relation to these cases and initiate their impact assessment issue and the neutralization of their impact on the

<sup>13</sup> <https://168.am/2017/08/17/830467.html>

<sup>14</sup> <https://armenpress.am/arm/news/890433/hhk-n-koch-e-anum-zerts-mnal-qarozchakan-apatexekatvakan.html>

<sup>15</sup> <http://www.iin.am/2140823.html>

<sup>16</sup> <https://www.azatutyun.am/a/28483127.html>

<sup>17</sup> <https://www.azatutyun.am/a/28486372.html>

<sup>18</sup> <http://shamshyan.com/hy/article/2017/08/17/1074939/>



election results, and the General Prosecutor's Office could take measures in accordance with the procedure prescribed by law based on that publications (initiating criminal case on election bribery and undertaking necessary operative intelligence actions).

According to the results of the voting held on May 14, 2017, the RPA received 22, 609 votes in Arabkir district.<sup>19</sup>

During the pre-election campaign of Yerevan City Elders' Council May 14, 2017 elections the Way Out Parties Alliance made an offer which gave rise to big public discussions. They promised to provide all the voters, who would refuse to take the distributed and forced election bribes, with a 15,000 AMD social aid if they manage to constitute the majority in Yerevan City Elders' Council.<sup>20</sup>

### **4.3.2. Preparation for Voting**

During the stage of preparation for the vote, a total of 11 violations was registered (16% of all observed violations) in 11 precincts (40% of all monitored precincts).

#### ***Voting Room Layout***

At the stage of preparation for voting, the wrong arrangement of the voting room caused the most frequent violations. Five such violations were noticed in five precincts one of which related to the improper voting room arrangement that did not allow for the monitoring of the voting process and the activities of the Commission by observers or made these processes difficult, thus hindering the effective monitoring of the voting process and the elections as a whole. Issues related to the number and arrangement of ballot booths were detected in four precincts where at least one of the booths was located so that it was possible to control/follow the voter. In two of those cases, the violation was eliminated, after the observer had informed the Commission. Only one of the above-mentioned five violations was recorded in the precinct electoral commission's log-book, by the way, considerably after the observer's

<sup>19</sup> <http://www.elections.am/council/election-27340/>

<sup>20</sup> <http://www.aravot.am/2017/05/08/883961/>

demand. Nevertheless, the record made in the log-book did not reflect the observer's evaluation of the violation.

#### ***Precinct Electoral Commissions' Work Practices***

At the stage of the preparation for the vote, three similar violations were recorded in three precincts two of which related to violations of the random drawing for distributing duties among the members of the Commission. The third violation was manifested by an improper record made in the log-book.

In particular, the record did not contain any information on what functions were assigned to the members of the commission by the draw. In general, the three violations were not eliminated; however, respective records were made in the log-book of the Precinct Electoral Commission.

#### ***Propaganda Materials at the Polling Station***

Two violations were noticed in two precincts regarding the presence of propaganda materials in the voting room or polling station that were not eliminated after the observer's comment. No respective record was made on these cases in the precinct log-book.

### **4.3.3. Voting**

During the observation mission, the majority of identified violations was noted in the actual course of the vote. At this stage, the total number of noticed violations amounted to 42 (60.8% of all noticed violations) in 17 precincts (approximately 63% of all monitored precincts).

#### ***Guidance of Voters***

Observers from nine precincts from the service territory of seven Territorial Electoral Commissions (Territories 2, 3, 4, 5, 7, 10) made 10 alarms on cases of accompanying or guiding voters. In six cases persons entitled to the right of presence in the polling station, namely, Commission members, proxies and various observers, conducted guidance. In four

cases persons of no or unidentified status accompanied and guided voters. In nine of the above-mentioned cases it was established that guidance was conducted in favour of the RPA (90% of disclosed cases), and in one case guidance was in favor of Way Out Alliance (10% of disclosed cases). Besides, the mentioned violations were continuous and recurrent. Only five of the mentioned cases were recorded in the precinct log-book. In one case, a record was made on accompanying and guidance practices that was signed by a Way Out Alliance proxy, too.

### ***Undermined Vote Secrecy, Control over Vote***

10 reports were received on undermining vote secrecy from seven precincts across the service territory of six Territorial Electoral Commissions (TEC 1, 2, 5, 7, 8, 9, 10). Five of the cases had to do with the breach of ballot secrecy, with 3 records in the precinct log-books. The remaining cases related to control over voting of which only one was recorded in precinct log-book.

### ***Issues with Voting Supplies and Materials***

Seven cases were noticed in five precincts: five of them were recorded in precinct log-books. The recorded cases had to do with practices of taking ballots out of the polling station and bringing ballots into the polling station. In one case as of 6:30pm, it was found out that the ballot box was not sealed in the established manner, in another case it was revealed that the voters' list signed by voters contained the data of a diseased person.

### ***Multiple Voting or Voting for another Person, Signing for another Voter, Double Voting***

2 cases of signing for another person as well as double voting were noticed in 2 precincts in the service territories of 2 TECs (Territories 4 and 7). Both were recorded in the log-books at the polling stations. In one of the cases, a person who came to the polling station to help another voter tried to check in by the technical device for registering voters. In the other case, the person signed before another person's name on the voters' list.

### ***Precinct Electoral Commissions' Work Practices***

During the poll, an alarm was received on one case of violation of Commissioners' rotation procedure. Neither the violation nor the observer's evaluation of the violation were recorded in the log-book.

### ***Violation of the Assistance Procedure***

Two cases of the violation of the vote assistance procedure were noted in two precincts, within the service territory of two TECs (Territories 1 and 2). The violations were not recorded in the precinct log-book. The major point about abuses and violations of this institution is that the institution of assistance is used for establishing control over the vote (violation of secrecy and creation of an illusion of assistance, or voting instead of the assisted person). Frequently it is also used for voters not needing any assistance, without any clarification for the alleged need for such assistance (the law does not stipulate such a mechanism). The application of the assistant's institution was accompanied by failure to record the data of the assistant in the log-book.

### ***Presence of Unauthorized Persons in the Polling Station***

Both during the poll and in individual cases even during the poll results sum-up the presence of unauthorized persons in the polling stations was widely practiced. Observers noticed six cases in five different precincts (about 18.5% of all monitored precincts). The Chairman of the Commission and the Police did not undertake any measures in order to prohibit the presence of unauthorized persons and fulfil the requirement of the electoral legislation. Only two of the above-stated cases were recorded in the precinct log-books.

### ***Congregations of People and Cars***

Observers made three alarms on the congregation of people and cars in the vicinities of the polling stations (by a radius of 50 meters) from three precincts across the service territories of three different TECs (Territories 4, 5 and 9). The Chairmen of the Commissions and the Police did not undertake sufficient measures to ensure the fulfilment of the requirements of the electoral legislation. The mentioned cases were not recorded in precinct log-books. The significance of these cases is that

they were interrelated with systematized transportation and guidance of voters to control the vote.

### ***Other Violations***

In addition to the described violations, other violations related to the course of the poll were reported, too. They included markings in colored ink (a total of 163 ballots with marks in red, green, black and orange ink; as a matter of fact, the majority of those ballots were in favor of the RPA and Taron Margaryan), support to one of the parties running the elections by an observer of another organization implementing observation mission, unstamped poll receipts, presence of the candidate in the voting room, mismatch between the sequential numbers of voters' receipts checked-in by the technical devices and their sequential numbers on the voters' paper register, and so on.

### ***Problems with Voter Electronic Registration Devices***

The observers noticed a case of mismatch between the electronic lists of the technical devices and the lists signed by the voters, as well as a case of mismatch between the total number of poll participants mentioned in the reference printed out of the technical device and that of signatures on the lists signed by voters.

## **4.3.4. Summarizing the Results**

At the final session on poll results 5 violations related to the summarization processes (approximately 7.2% of all noticed violations) were recorded in 3 precincts (11% of all monitored precincts).

### ***Violations of Final Results Summarization Procedure***

The violations classified here included two cases of breaking the sequence of results count actions, 1 case of ballot tabulation procedure breach, 1 case of existence of excessive items in the envelope, 1 case of violation of poll supplies and materials packaging procedure.

In 2 of the monitored precincts the sequence of actions established by the electoral legislation was violated when summing up the results of the

poll, namely, the electronic device references on the voters registration were printed out first, followed by the count of signatures on the voters' list, whereas the Electoral Code establishes for the opposite order. In one of the precincts, the secretary of the Electoral Commission started to fill in the poll results protocol when the process of ballot tabulation was not over yet, and the ballots were not counted yet. In another precinct, an observer present at the polling station conducted the extraction of ballot envelopes from the ballot box, the extraction of ballots from the envelopes and the announcement of the votes instead of the Electoral Commission Chairman. In response to the comment made by the ELA observer, the Chairman of the Commission said that the final session on the poll results would be accelerated in that manner. When the ELA observer demanded to have the violation recorded in the log-book, the observer who opened the envelopes and tabulated the ballots was substituted for by a Commissioner, and the above-mentioned observer sat next to a member of the Commission and collected a pile of ballots. The same observer stayed at the polling station till the very end and helped the Precinct Electoral Commission in their tasks, including the packaging of the poll supplies and materials and putting them in a sack.

## **4.3.5. On the Violations of Observers' (Subjective) Rights**

Thirty-two violations of observers' rights were noticed. 10 of those related to the right to observe: in a few precincts the observers' right to participate in the preparatory session was violated, there were limitations of familiarization with the electoral documentations and restrictions of free movement in the polling station and so on. In fact, only four of those violations (10%) were recorded in the precinct log-books.

### ***Intimidations and Violence against Observers, Insults***

Seven alarms on intimidation, violence and insults against observers in three different precincts were made, including threat, physical violation, psychological pressure and threats, obscene language and insults against observers. It is noteworthy that none of the mentioned cases was recorded in the precinct log-books.

Thus, two cases were noticed when the observer's camera was hit,

trying to hinder video recording. In one case, an RPA proxy hit the observer on the back, rushing the door open. Two cases of insulting observers, intimidation by means of undermining their dignity were noticed, as well as one case of swearing at and two cases of threats against the observer.

### ***Denying the Observer's Right to Record His Evaluation***

Observers made 22 alarms on rejections to record their considerations upon demand in 26 precincts in the service territories of nine TECs (TECs 1, 2, 3, 4, 5, 6, 8 and 9).

### ***Violation of the Observers' Rights to Take Photos and/or Make Video Recordings***

Observers mentioned one case of hindering the observers' right to take a photo and/or make a video recording in the service territory of TEC 7.

### ***Limitation of Free Movement***

The voting room of Precinct 3/25 was laid out so that it was impossible to comprehensively monitor the poll process. In particular, the desks of Commissioners were placed immediately at the wall as a result of which the observer was deprived of the possibility to comprehensively monitor the electoral process. Moreover, a member of the Precinct Electoral Commission hindered the free movement of the observer in the polling room, forbade standing at the ballot box and monitoring his work, stating that the observer had no right to move around. A similar case took place also at Precinct 6/42 where the Chairman of the Commission prohibited the ELA observer to sit next to the Commissioner responsible for the distribution of ballots and monitor the ballot distribution process, forcing him to retreat to another part of the voting room. After the mediation of the Commission Secretary, hindrance to the realization of observer's rights was suspended.

## **4.3.6. Violence against a Candidate**

Zaruhi Postanjan, nominated as Yerevan Mayor candidate by the Yerkir Tsirani Party and her daughter were victims to violence applied by police servicemen at RPA campaign headquarters on the Day of Elections when they had gone in to follow-up on an alarm about electoral bribe distribution.<sup>21</sup>

A few dozens of policemen who had come to the venue applied force. Pushing and pulling the Mayor's candidate and her daughter out of the headquarters, the Police tried to detain them. Postanjan felt sick when the policemen tried to push her into the police car.

## **4.3.7. Violence and Obstacles against Journalists**

On May 14, on the Day of Yerevan City Elders' Council elections, 2 cases of violence and four cases of various hindrances applied against journalists were noted.<sup>22</sup>

Particularly, at the headquarters of the Republican Party in Nar-Dos street of the capital Sisak Gabrielyan, a reporter from Radio Liberty, was attacked, he was pushed and hit. In School 64 in Erebuni administrative district (Precinct 10/29) violence was applied against Tatev Khachatryan, a correspondent of Armtimes.com news website. The latter's professional activities were hindered at Precinct 7/46 in Malatia-Sebastia district. Hripsime Jebejian, a reporter at Aravot.am, was also a victim of intimidation at the same precinct. Mariam Grigoryan, a correspondent of 1in.am website experienced obstacles to her professional activity at Precinct 10/28 in Erebuni district, Sona Adamyanyan, a journalist from hrapark.am experienced the same at the Trade College, in Nork District 2 (Precinct 2/50).

Similar facts were recorded throughout the campaign: Nelli Grigoryan, a correspondent to aravot.am and Anna Zakaryan, a journalist at Armenian Times were intimidated.

A number of non-governmental organizations made relevant statements on the above-mentioned cases.<sup>23</sup>

<sup>21</sup> <https://www.azatutyun.am/a/28487204.html> ; <https://www.youtube.com/watch?v=gUaGYdN-mfY>  
<sup>22</sup> <http://khosq.am/2017/05/14/%D5%B0%D5%A1%D5%B5%D5%BF%D5%A1%D6%80%D5%A1%D6%80%D5%B8%D6%D5%A9%D5%B5%D5%B8%D6%82%D5%B6-3/>  
<sup>23</sup> <http://khosq.am/2017/05/14/%D5%B0%D5%A1%D5%B5%D5%BF%D5%A1%D6%80%D5%A1%D6%80%D5%B8%D6%D5%A9%D5%B5%D5%B8%D6%82%D5%B6-3/>

### 4.3.8. Monitoring of TEC Operations

Within the “Citizen Observer” Initiative’s new tactics, observers were sent to all the Territorial Electoral Commissions for monitoring their activities in the period from May 14 to 19. The above-stated tactics enabled to reveal the absolute dependence of TECs from the CEC and the latter’s inability to act independently and on its own under the illusionary impression of their being an independent and stand-alone link. It became possible to reveal with the help of observers that the TECs, in essence, acted as functional units of CEC and did not follow the requirements of the RA Electoral legislation.

Observers noticed that the TECs did not fulfil any functions or any activities in the time period allocated for the discussions of complaints by TECs.

Observers also noted facts that the complaint-applications, received by the TECs, were sent to the RA Central Electoral Commission in order to take note of the latter’s positions on the decisions.

As a result of monitoring in the Territorial Electoral Commissions, cases of improper packaging of election supplies and materials by Precinct Electoral Commissions were noticed, in particular, in the majority of cases the signed voters’ lists were in the general sack, and the Territorial Electoral Commissions opened and extracted the signed lists to scan them.

## 5. OBSERVATION MISSIONS AND OBSERVERS

### 5.1. International Observation Missions

An international organization – the Congress of the Local and Regional Authorities of the Council of Europe was accredited in the manner established by the RA Electoral Code and implemented an observation mission during the preparation, the actual course and results summarization of Yerevan City Elders’ Council elections.

### 5.2. Local Observation Missions

Accredited observers of 17 organizations, totaling to 5138, monitored the Yerevan City Elders’ Council elections on May 14, 2017.

Just as in the case of the 2017 National Assembly elections, this time too, cases of behavior contradicting the legislative requirement for unbiased and objective behavior by the observers of various observation mission members were noticed. Initially, lack of trust towards observation organizations unknown to the public and previously not prominent due to their advocacy activities and lack of trust towards their observers was further reconfirmed, and their real function became clear to the public. As a result of the comments made by observers, as well as an interview with the Head of the Control Service of the President of the Republic of Armenia Hovhannes Hovsepian<sup>24</sup> the real mission of those observation organizations and their observers, the system of their management and subordination – the pyramid, the total control over elections through such a false observations system and the unconditional subordination and accountability of the whole system to the Republican Party of Armenia were revealed. Moreover, these elections were unprecedented also because the monitoring revealed violations of a different, previously unseen nature. When the ELA observers looked for the names of observers from other organizations who authored various violations in the precincts (including, guidance, control over voting, hindrance/limitation of observers’ functions, pressures) among the names of observers accredited by the Central Electoral Commission, it was found

<sup>24</sup> <http://armlur.am/681377/>

out that persons with concrete names, wearing badges with those names and introducing themselves as observers were not actually accredited observers and, hence, had no right to be present at the precincts. In fact, the suspicion that the majority of organizations accredited by the Central Electoral Commissions was not only supplying the precincts with false observers whose major task was to guide voters and maintain control over their votes, but also issues false badges for these false observers.<sup>25</sup>  
<sup>26</sup> In some cases these “observers” held a few badges at a time, given to them by different organizations and/or a proxy badge issued by the RPA. Leaving the polling station after the demand of ELA observers, they returned with a badge of an observer issued by a different organization or the badge of an RPA proxy.

Of 17 local observation organizations and 5138 observers only the organizations and the observers of Citizen Observer Initiative and Independent Observer Public Alliance noticed the larger share of electoral violations and contributed to making them public, at the same time undertaking the protection of the electoral right (both subjective and objective), also by means of initiation of legal action.

<sup>25</sup>. <https://www.youtube.com/watch?v=q2bgeXcq3qo>

<sup>26</sup>. <https://factor.am/36566.html>

## 6. APPEAL

### *Brief overview of appeal processes*

Unlike other observation missions, one of the characteristics of the COI was the initiation of strategic lawsuits for the sake of the legal development and appeals process on cases of the violations of observers’ subjective rights and within the framework of the protection of general (objective) electoral rights.

The legal team of the observation mission initiated an appeal process based on electoral violations noticed and reported by observers. On May 14 and 15, 2017, 19 complaint-applications were submitted to 10 Territorial Electoral Commissions (TECs) located in Yerevan by the Europe in Law Association NGO and its observers on violations of observers’ subjective rights and violations of general (objective) electoral rights. Some of these complaints had to do with violations that had taken place in the precincts and some related to violations in Territorial Electoral Commissions. The above-mentioned complaints included violations of both objective and subjective electoral rights which were grouped and incorporated in the complaints.

**The initiation of administrative proceedings based on the complaints regarding violations in the course of the Yerevan City Elders’ Council elections on May 14, 2017, was rejected partially or fully (19 decisions), substantiated by the ineligibility of individual claimants and claimant organizations to protect the rights mentioned in the applications (not being persons before the law), with reference to Article 48 Section 3 and Article 49 Section 1 Para 4 of the RA Electoral Code: no effective examination on the presented facts was conducted.** In the few cases when the Territorial Electoral Commissions examined the complaints (as a matter of fact, in these cases the examination was conducted only with regard to the violation of the subjective right of the observer) it was not done comprehensively and objectively and was a mere formality.

## 6.1. On the Eligibility of Observers and Organizations with Observation Missions as Persons before the Law

Rejections to initiate proceedings on the grounds of acknowledging an observer and an organization fulfilling an observation mission as ineligible to appeal against the actions/inaction of Territorial Electoral Commissions, as well as the arbitrary and restricted interpretation of the right and the law do not emanate from the letter of Article 48 of the RA Constitution, for any person enjoying the right to elect local self-government authorities shall also have effective means for the protection of that right. The above-mentioned interpretation contradicts Section 3 of Article 48 of the RA Electoral Code. Particularly, Section 3 of Article 48 of the RA Electoral Code establishes that any person can appeal the decision, action (inaction) of the electoral commission, if they believe that their subjective electoral right established by the electoral code has been or may be violated. This right includes any citizen's right to question objective electoral rights violations and appeal the decisions of the electoral commissions, their actions (inaction) since the electoral violations noticed during the elections either in combination and/or by essence may have a direct impact on the vote of every individual voter (targeted impact, effectiveness). Consequently, the complaints submitted by any entity who is a person before the law, including those submitted by observers and observing organizations, are subject to examination on grounds of violations of objective electoral rights. The opposite interpretation will lead to a breach of essence of the electoral rights.

## 6.2. On Rejections of Initiating Proceedings with Reference to Applicant Organizations, on the Status of NGOs as Persons before the Law

According to the TECs' decisions, applicant NGOs are not eligible to submit complaints, for the rights of NGOs provided for by the RA Electoral Code are established in Articles 30 and 31 of the RA Electoral Code and relate to accreditation for fulfilling an observation mission. **The decisions have also established that the RA Electoral Code does not envisage any other right for NGOs.** Based on the above-stated, the TECs concluded that NGOs could exclusively appeal acts relating to their accreditation, aiming for the protection of their rights established by the RA Electoral Code.

Rejection to initiate administrative proceedings was in direct contradiction to the provisions of the RA Electoral Code. By the power of Article 30 of the RA Electoral Code NGOs in the RA are entitled to the right to fulfil an observation mission in the course of elections<sup>27</sup>, which is implemented by the organization through its accredited observers. Substantiations regarding observers' eligibility to submit claims are equally applicable to observation organizations, since the latter are full-fledged subjects of electoral legal relations. Their observation mission is a public function that aims at ensuring the transparency of the elections and contributing to the proper implementation of electoral processes. The effective fulfilment of the above-mentioned public legal function, among others, is conditioned by the possibility of organizations implementing observation missions (eligibility to act as an entity before the law) to submit complaints on the violations of electoral rights (on violations of both observers' subjective rights, and objective electoral rights), especially when in cases of the violations of observers' rights the right of the organization to fulfil an observation mission is directly violated, along with the right to receive data as established in Article 42 of the RA Constitution and Article 10 of the European Convention on Human Rights, since the realization of the organization's right to fulfil an observation mission is directly interlinked with observers' activities.

With regard to organizations' statutory goals<sup>28</sup> the RA Constitutional Court in its Decision CCD-906, dated September 07, 2010, the RA Cassation Court in its CC/3275/05/08 decision, dated October 30, 2009, as well as Order 20 on the Judicial Control over Administrative Acts (2004) of the Ministerial Committee of the Council of Europe, dated December 15, 2004, expressed their legal positions on eligibility of non-governmental organizations to act for the protection of collective or communal rights and legal interests (the institution of public complaint 'actio popularis'), and such positions are also applicable to eligibility for submission of complaints in case of violations of the electoral right.

<sup>27</sup> Those organizations whose statutory goals include issues of democracy and protection of human rights at least 1 year prior to the appointment of the day of elections and do not support candidates or parties running the campaign.

<sup>28</sup> The statutory goals of observation organizations include protection of democracy and human rights, protection of concrete collective and communal interests, as well as the implementation of oversight over the legitimacy of elections and referenda, others rights, and the collective right of a concrete group.

### 6.3. On Violations of Observers' Subjective Rights

The vast majority of violations of observers' subjective rights was manifested by the failure to record the observer's evaluation of the violation in the precinct log-book. TECs did not conduct an effective examination of the above-mentioned cases.

- **On Failure to Record Observers' Comments and Evaluations in Precinct Log-Books**

Unlike the post-election appeal process of the National Assembly elections of April 2, 2017, by the decisions on the elections of Yerevan City Elders' Council, the TECs ruled that the applicant observers were really eligible to submit complaints, for in the application they mentioned alleged violations of their rights as observers. Nevertheless, the approaches and standpoints of TECs implementing electoral administration pertaining to the demand to record observers' evaluations in the log-book of the precinct electoral commission, the availability of relevant evidence, acquisition and evaluation of this evidence within the administrative proceedings remain to be problematic. Particularly, the TECs continue mainly to be guided by the written or oral explanations of the Chairmen and Secretaries of the respective precinct electoral commissions (only in two cases did the Territorial Electoral Commissions turn to observers for explanation). There were cases when evidence of demand to record a violation noticed by the observer in the log-book was available, however, the TECs again concluded that there was no violation of the observers' subjective rights, mentioning that the violation detected by the observer did not pertain to the order of the vote, or the demand was submitted during the final session on poll results, consequently, the failure to have the observer's evaluation of the violation recorded in the log-book was legitimate.

### 6.4. Notifications on TEC sessions and Terms of Examination of Complaints

Regardless of the fact that almost all complaints on violations during the Yerevan City Elders' Council elections had been submitted by May 16, 2017, they were examined by Territorial Electoral Commissions only

on May 19. All 10 TECs appointed a session for the examination of the submitted complaints on May 19, 2017, at the same hour for almost all cases. Taking into consideration the fact that May 19 was a Friday, and the results of the elections were to be summed up on Sunday, May 21, as well as the fact that the Central Electoral Commission accepted complaints only on working days, by passing a decision on May 19, TECs deprived applicants of the possibility to appeal the TECs decisions in the CEC as a superior instance and to receive the CEC's evaluation on the impact of the noticed violations on poll results.

### 6.5. TEC Sessions and Decisions on Complaints

- **In some cases the TECs' decisions on rejecting the initiation of administrative proceedings or refusing a complaint<sup>29</sup> were based exceptionally on the clarifications provided by the Chairmen of respective Precinct Electoral Commissions.**

The decisions established that the TECs had made oral or written inquiries<sup>30</sup> and found out from the Chairmen of the respective commissions that in case of a demand from the observers records were made every single time, whereas the lack of records in the log-books was explained by the grounds of observers' non-expression of such demands.

This is how the requirements of the comprehensiveness, completeness and objectivity of the administrative proceedings established by the RA Law on the Fundamentals of Administration and Administrative Procedure were violated. This serves as evidence that in reality administrative proceedings were conducted by the Commissions, in a number of cases without any notification sent to the parties of the proceedings, as a result of which the applicants' rights to be heard and enjoy proper administration were violated. Thus, the TECs had decided not to initiate administrative proceedings on the submitted complaints, whereas the above-mentioned actions themselves were components of administrative proceedings.

<sup>29</sup> Decision 7-A by Territorial Electoral Commission 5, Decision 18-A by Territorial Electoral Commission 4, and Decision 15-A by Territorial electoral Commission 8.

<sup>30</sup> In one case the inquiry was directed also to the Secretary of the same Commission, besides the Commission Chairman. In unique cases decisions referred to the written explanations of Chairmen of Precinct Electoral Commissions.



- **The TECs rule that the violations quoted in the applications were not violations of the poll procedure or did not qualify as a violation of the Electoral Code as a whole.**

In some cases the TECs decisions evaluated the nature of the quoted violation and the complaint-applications were rejected upon grounds that the submitted violations were not considered violations of the poll procedure, or in general violations of the Electoral Code<sup>31</sup>, establishing that the failure to make records in the precinct log-book on such violations did not lead to the violation of the observers' rights.

Even though the TECs made decisions on the rejection of initiating administrative proceedings on grounds of the eligibility of observers and observing organizations as persons before the law, at the same time, they sometimes addressed the demands set forth in the complaint-applications, particularly, the TEC decisions also ruled that the facts quoted in the applications could not in any way impact on the results of the poll, not substantiating in any way how they arrived at such a conclusion.<sup>32</sup>

- **The formal and arbitrary approaches of the TECs to the receipt and examination of complaints**

The TECs made use of all possible and impossible occasions and excuses in order to reject complaints and initiation of proceedings on their basis. For example, on May 19 one of the COI lawyers participated in a session of TEC 10. The TEC already had draft decisions on rejecting administrative proceedings, which were read and approved in the course of the session without any objection by any TEC member. The lawyer made three solicitations during the presentation of draft decisions which were first left unaddressed, and only after multiple claims by the lawyer were they put for vote and rejected without being discussed by the Commissioners.

In one case, the TEC made a decision to reject the complaint because the observer who presented it was not registered in the precinct electoral commission log-book.<sup>33</sup> Whereas, the above-mentioned circumstance only testified to the improper fulfilment of the obligations of the Precinct Commission Chairman or secretary and by itself it served as a ground for

<sup>31</sup>. Decision 24-A by Territorial Electoral Commission 2 and Decision 18-A by Territorial Electoral Commission 7.  
<sup>32</sup>. Decision 15-A by Territorial Electoral Commission 8; Decision 18-A by Territorial Electoral Commission 7; Decision 13-A by Territorial Electoral Commission 6.  
<sup>33</sup>. Decision 25-A by Territorial Electoral Commission 2.

the discussion of the latter's responsibility.

- In five cases, TECs made decisions, which the latter used to solicit to the Central Electoral Commission to repeal the qualification certificate awarded to the Chairmen to involve them in seven Precinct Electoral Commissions.<sup>34</sup>
- In one case, the Territorial Electoral Commission sent the complaint to law-enforcement bodies, and the respective violations (violence against the observer) were evaluated as not affecting the poll results.<sup>35</sup>
- Proceedings were not initiated by TECs regarding violations quoted in complaints by their own initiatives.
- No reference was made to solicitations by respective commissions on the decisions made by TECs.

In all those cases when the representatives of observation organizations had an opportunity to participate in the TEC sessions, they brought forth solicitations: 1) to examine the log-books of Precinct Electoral Commission within the service territory of the TEC, 2) to receive and/or examine copies of video recordings from precinct electoral commissions in the service territory of the TEC, 3) to attach the evidence to the administrative proceedings materials and examine it, 4) to invite as witnesses the members of the respective precinct electoral commissions, as well as persons who were present in the voting room on the day of the elections as registered in the log-books and at the sessions of Precinct Commissions as registered on the respective pages of the log-books. TEC decisions contained no reference to the presented solicitations, the commissions refused to consider those solicitations, which resulted in the violation of the requirements for comprehensive, complete and objective administrative proceedings, as well as infringements upon applicants' rights.<sup>36</sup>

<sup>34</sup>. Decision 24-A by Territorial Electoral Commission 2, Decision 11-A by Territorial Electoral Commission 3, Decision 18-A by Territorial Electoral Commission 4, Decision 13-A by Territorial Electoral Commission 6, Decision 18-A by Territorial Electoral Commission 7.  
<sup>35</sup>. Decision 12-A by Territorial Electoral Commission 9, Decision 9-A by Territorial Electoral Commission 12, Decision 10-A by Territorial Electoral Commission 8, Decision 18-A by Territorial Electoral Commission 2, Decision 8-A by Territorial Electoral Commission 5.  
<sup>36</sup>. Articles 44, 45, 75 of the RA Law on the Fundamentals of Administration and Administrative Procedure, the right to proper administration ensure by Article 50 of the RA Constitution.

- **TECs made decisions in time lines that excluded the possibility of considering the appeals of those decisions by the CEC prior to the summary of poll results and their evaluation in the context of summing up poll results.**

TECs made (dated) decisions on all complaints submitted by applicant organizations and observers on **May 19, 2017**, Friday, which deprived applicants from the possibility of appealing these decisions at the CEC prior to the summary of poll results and evaluating the impact of the violations addressed in them on the poll results within the summarization process.

- **On hindrances for exercising the right to appeal TEC decisions**

**Both the lack of proper notifications on convening TEC sessions and the lack of notifications on adoption of decisions were serious obstacles for applicants from the perspective of exercising their right to appeal TEC decisions and acquire the respective decisions, access and appeal them within 3 days after publication.<sup>37</sup>**

## **6.6. CEC’s Participation and Interventions in the activities of PECs and TECs: Lack of TECs’ Independence**

The rationales of the TEC decisions are identical. This would have been impossible if these decisions were not made at one hub. Moreover, the rationales for TECs’ and CEC’s decisions are almost exactly identical, too, except for some cases that involved violations of the subjective electoral right. The above-mentioned also testifies to the creation of artificial obstacles for participation in the examination of complaints submitted by observers and their representatives due to CEC coordination, the lack of a goal for implementing a real examination of the facts of violations and the evaluation of their impact, as well as the lack of independence of Territorial Electoral Commissions.

<sup>37</sup> Pursuant to Article 47 Section 6 of the RA Electoral Code, an administrative act adopted by the Territorial Electoral Commission comes into force upon publication during the session.

The examination of complaints at TECs is a mere formality, the commissions had already prepared draft decisions, which were simply read out during the sessions and were adopted without any change. No action was taken to conduct an essential examination of the factual circumstances specified in the complaints. This is also testified to by the circumstance that the presented solicitations to invite witnesses, study the log-books, watch the recordings of the precincts, and examine the presented evidence<sup>38</sup> were turned down by the Commissions. The adopted decisions did not contain any references to these solicitations, presumably because the draft decisions were prepared prior to the sessions and were not amended. Even though at some sessions it was also possible to ensure the participation of observers to provide explanations on the violations they had noticed, these explanations were not in any way reflected in the decisions made by the Commissions.

## **6.7. On Complaints Submitted to the CEC and Their Examination**

**By CEC’s final session on poll results of Yerevan City Elders’ Council elections on May 21, 2017 the ELA had acquired TEC decisions and submitted 15 complaints against the decisions made by all 10 TECs.**

Taking into consideration the circumstance that the TECs made their decisions on May 19 which was followed by non working days and the fact that during the National Assembly elections the Central Electoral Commission refused to accept the submitted complaints on grounds that they were submitted on a non-working day (regardless of the fact that the results of the poll were going to be summarized by the Commission on the same day), the complaints were submitted to the Central Electoral Commission on the next working day – May 22, 2017.<sup>39</sup> The complaints submitted to the CEC were examined during three sessions on May 18, May 20 and June 6.

<sup>38</sup> Only in one case an incomplete examination of the presented evidence was conducted.

<sup>39</sup> Two complaints were filed against the actions of Territorial Electoral Commissions on May 16.

During the sessions of the RA CEC, the following solicitations were proposed by the representatives of the applicants:

1. To study the log-books of precinct electoral commission in the service territory of the territorial electoral commission,
2. To receive and/or watch copies of video recordings at the respective precinct electoral commissions,
3. To invite as witnesses the members of precinct electoral commissions, persons present in the voting room and at the sessions of the precinct electoral commission on the day of the elections, registered on the respective page of the log-book,
4. To attach evidence of violations noticed by observers at the precincts within service territories of Territorial Electoral Commissions and submitted on electronic carriers to the case and examine them during the Commission session.

All these solicitations were rejected at the very beginning, before the examination of all complaints presented against the decisions of Territorial Electoral Commissions, and in essence, without any grounds.

The examination of complaints at the CEC was a mere formality, to be more exact, the draft decisions were read out by the Commission during the sessions and were passed unanimously, the statements made by the representatives of the observers, and the provided clarifications were completely disregarded. All complaints without exceptions were rejected referring to grounds of identical content.

The decisions passed on May 18, May 20 and June 6 by the CEC were published (were made available) on the official webpage of the Commission on the second day upon adoption, in a situation when the law envisages a three-day period for appealing the decisions starting from the moment of publication of decisions in the CEC session. Nevertheless, the representatives of observation organizations and observers at the RA Administrative Court appealed the CEC decisions. The total number of submitted claims amounted to 15.

## 6.8. On Claims Filed with Administrative Courts

The COI submitted 13 claims.

## 6.9. On electoral disputes on the campaign and election results initiated by organizations participating in the elections

Within the framework of Yerevan City Elders' Council elections on May 14, 2017 the Way Out Alliance<sup>40 41</sup> (the mentioned electoral dispute is described in Section 4.3.1 of this report) and the Yerkir Tsirani Party initiated electoral disputes. The Special Investigation Service of the Republic of Armenia initiated a criminal case on the above-mentioned, which, however, was closed shortly afterwards<sup>42</sup>:

The results of the elections were disputed by the Yerkir Tsirani Party in the Administrative Court<sup>43</sup>, which rejected the party's claim on May 31, 2017.

<sup>40</sup>. <https://www.azatutyun.am/a/28483127.html>

<sup>41</sup>. <https://www.azatutyun.am/a/28486372.html>

<sup>42</sup>. <http://shamshyan.com/hy/article/2017/08/17/1074939/>

<sup>43</sup>. <https://www.azatutyun.am/a/28506512.html>

## 7. CONCLUSIONS AND RECOMMENDATIONS

Taking into consideration the fact that Section 5 “Conclusions” and Section 6 “Recommendation” of the published report on the monitoring of National Assembly Elections of April 2, 2017 provided a thorough analysis and description of existing problems and the necessary legislative amendments stemming from them, this report will only dwell upon those changes that will complement the already published material.

### 7.1. On Electoral Commissions and Administration

Taking into account the circumstances specified in the “Appeals” sections of this report, an obvious need for amendments to the Electoral Code comes afore to ensure compliance with the provisions of the RA Law on the Foundations of Administration and Administrative Procedures and applicability of the electoral provisions in conditions of respective temporal limitations to align with the principles of the rule of law. It is also necessary to abolish the artificial and formal regulation, which, in essence, enables Commissions to examine substantial issues contained in the complaints, at the same time rejecting the initiation of administrative lawsuits based on complaints and to get rid of the obligation to ensure the procedural rights of the participants in the proceedings/legal relations concerned.

In the meantime, there is a need for such amendments to the Electoral Code that will ensure the realization of the observers’ rights to make records in the log-books at a scope that will cover all such violations and problems of the electoral process that may affect the results of the elections and/or the vote.

### 7.2. Ensuring the Effectiveness of Appeal Processes

- On Special Administrative Court Procedures on Electoral Disputes

Comprehensive and systematic measures are necessary to protect the electoral right, implement effective investigations of electoral disputes, and guarantee and ensure fair evaluations of impacts on election results in both legislative and law-enforcement sectors.

The Administrative Procedural Code needs an amendment which, as a result of procedural revisions of special proceedings in the Administrative Court, will enable the application of procedures to ensure the full exercise of rights in the litigation process and full examination and settlement of disputes within those proceedings in short terms, consequently meeting the requirements of the right to access to court. In this regard, it is necessary to find non-standard solutions conditioned by the characteristic features of special proceedings, including the use of modern information technology (if appropriate).

### 7.3. Regarding Observers’ Rights

The Code on Administrative Offenses shall establish such clear and comprehensive liability that will also encompass the cases of improper, incomplete and selective records of an observer or proxy’s evaluation of violations in the Precinct Electoral Commission’s log-book.

The facts described in this report make it obvious that the training of Commissioners on the amendments to the Electoral Code was not of satisfactory and proper quality, thus causing some procedural violations as mentioned above in this report. Hence, it is necessary to form and ensure such an effective system of training and qualification that will guarantee the Commissioners’ high qualification.