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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**RECOMMENDATIONS OF THE NATIONAL ASSEMBLY
WORKING GROUP ON REFORMS IN THE ELECTION CODE
OF ARMENIA**

**This document has been classified restricted on the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

1. Connected with the composition of electoral commissions:

- CEC consists of five members.
- Those RA citizens with electoral rights having attained 30 years of age can become members of the CEC who have higher legal, education or have research degrees in law as well as at least five years of experience in state governance.
- A person can be appointed a CEC member if he/she has not been a member of any party during the preceding 3-5 years.
- A CEC member does not have the right to get involved in politics in any way and must demonstrate political restraint in his/her public addresses.
- The CEC Chairman is appointed by the President of the Republic.
- Each of the two largest authority factions and two largest opposition factions will appoint one CEC member for a 5-year period. Two and a half years later, one member is appointed for 5-year period by each of those authority and opposition factions, which have not participated in the previous appointments. If there are no such factions (for instance, there is only one opposition faction), then the only faction transfers its appointment right to one of the parties having received 3 percent during the previous parliamentary elections.
- During national elections, from the moment of registration of election lists of candidates and parties, each of the registered candidates (except for those registered under majoritarian system), parties, appoints one CEC member in the CEC with advisory vote right. The authority of the latter is terminated upon completion of elections.
- During this period, commission members with advisory vote right have all the rights that CEC members have, except for the right of voting during decision making and the right of receiving salaries.
- Raise the salaries for CEC members equating them to those of members of regulating committees.

2. Connected with composition of TECs:

- The staff of TECs is formed pursuant to the procedure for formation of the CEC.

TEC Chairman, just like the CEC Chairman, is appointed by the President of the Republic.¹

- TEC members get salaries only during the elections.
- Optimize the number of TECs.
- During national elections, from the moment of registration of candidacies, each parliamentary candidate registered under majoritarian system appoints one CEC member with advisory vote right in the CEC. The authority of the latter are completed simultaneously with completion of elections.

3. Connected with composition of PECs:

- The core staff of PEC is formed from civil servants.
- Number of PEC core staff is determined depending on the number of voters.
- In PECs, whose core staff is impossible to man completely from civil servants, the remaining part is manned with teachers: The core staff undertakes to complete election organization works.

¹ The members of the Working Group consider another approach possible, according to which, TEC chairpersons are appointed by the President of the Republic, however, half of the members must be appointed from members appointed by opposition factions, and the other half – from members appointed by the authority factions:

- During elections, from the moment of registration of candidacies, parties, each registered candidate, party appoints one PEC member with advisory vote right in the PEC. The authority of the latter are completed upon completion of the elections.
- During this period, the commission members with advisory vote right have all the rights of PEC members, except those for voting during decision making and receiving compensation: At the same time, he/she has the right to elect the member of the core staff of the commission, whose work he/she is going to support (oversee).
- In large cities, the core staff of the commissions is determined during the days preceding the election day (2 days ago), by drawing a lot (it is decided which public servant is included in which PEC).
- A member of the core staff of commission does not have the right to implement his/her authorities in the PEC, the precinct center of which is located in his/her workplace.
- Summarization of voting results in PECs in the presence of other PEC members is done by the chairman of the commission who is personally responsible for accurate summarization.
- It is the full commission members' responsibility to record the violations. Failure to complete this commitment will obviously carry a legal responsibility.
- Committing violation by a PEC member carrying criminal responsibility can lead to a for-life barring from the right to be involved in public service and teaching activity.

4. Connected with appealing the decisions, actions, and inaction of electoral commissions

- In the proceeding of appealing the decisions, actions or inaction of electoral commissions, the person having filed an appeal bears the burden of proof.
- A commission has the official right to obtain evidence, however does not bear such responsibility.
- In electoral relationship, specify all potential norms related to the proceeding in the Electoral Code, as thoroughly as possible, however the law on Administrative Basics and Administrative Proceeding will not stop acting on these relationships. It will act as long as the Electoral Code will not define otherwise.
- PEC decisions may be appealed to TEC; the TEC decision taken as a result of examination of that application may be appealed to the court. Other TEC decisions, actions, inaction may be appealed to the CEC. CEC decisions may be appealed to the court.

5. Connected with recognizing the PEC voting results invalid:

- Set out grounds that inevitably lead to invalidity of the PEC voting results (e.g. ballot stuffing, stealing the ballot box, etc.).

6. Connected with responsibility:

- Failure to accept an appeal (including failure to accept on time), failure to give a receipt on acceptance, recording a wrong date (hour) of appeal (recount request) should be included in violations carrying legal responsibility.
- Failure to complete the decisions of higher-level commissions (including those taken as a result of discussion of the appeal) should be included in violations carrying legal responsibility.

- Define separate responsibility for each violation of election campaign.

7. Connected with summarization of voting results in TEC:

- Set out that, while summarizing the voting results, TEC should obligatorily refer to appeals recorded in record books received from PECs.
- During national elections, TECs summarize the violations recorded in the record books of PECs and submit them to the CEC.

8. Connected with voter lists:

- Add an additional column in the voter lists where the relevant Precinct Electoral Commission member makes a v-form mark beside the signature of election participants. Upon the request from proxies, the latter are given the photocopies of columns of the voter lists containing names and surnames of voters and with the v-shaped mark.

9. Connected with recount of voting results:

- Application for recount can be submitted by members of a particular Precinct Electoral Commission - both those having a full voting right and those having an advisory voting right. Candidates, parties can demand recount in no more than three precincts in each electoral district.
- Recount applications are submitted on the next day after the voting day, from 10:00 to 16:00.
- In each electoral district, voting results of at least 12 precincts should be obligatorily recounted.
- If there are more than 12 applications for recount, then the precincts subject to recount are determined by drawing a lot (with the help of a special unified software).
- In the event if there are not applications for recount or their number is less than 12 but are equal or more than 9, then this number will be reached to 12 by drawing a lot. If this number is less than 9, then 3 precincts are selected by draw.
- The TEC member determined by drawing a lot (with the help of special software) bears responsibility for each recount and actually performs the recount. TEC Chairperson does not perform recount.
- Recount is performed in definite hours (for example, from 15:00 to 18:00).
- If voting recount in a precinct has started but not finished by the end of the working day, then the recount will continue until it is completed.
- In the event of revealing significant discrepancies as a result of recount, the materials are forwarded to the Prosecutor's Office. The significant discrepancy should have a numerical expression (e.g. 1 percent deviation).
- Recount results are extrapolated to the voting results of the other precincts of the particular electoral district, thus adding the amount of inaccuracies.

10. Connected with organization of voting for diplomatic corps:

- The diplomatic corps should be provided the opportunity to vote in the country where they are performing their services.

11. Connected with oversight of election campaign by the National TV and Radio Commission (NTRC):

- During the election campaign, the NTRC performs oversight over the maintenance by broadcasting media outlets of the defined procedure for election campaign.
- NTRC develops a methodology for evaluation of equality between parties and candidates during the pre-election phase.
- NTRC, consulting with the CEC, may specify additional conditions directed to equality in election campaign.
- The methodology developed by the NTRC is published at least 5 days prior to the start of the campaign.
- In the election campaign phase, once in every 7 years, NTRC publishes the monitoring results.
- For election campaign advertisement, such a timeframe is provided that ensures the maximum large number of voters having the opportunity to familiarize themselves with it.
- NTRC has the opportunity to impose sanctions on broadcasting media outlets, if it thinks that the particular outlet violates the equality principle.

12. Connected with campaign finance:

- In the pre-election campaign phase, certain expenditures (see the breakdown below) should be obligatorily financed from the pre-election campaign fund.
- The law specifies the maximum threshold for obligatory expenditures from the pre-election fund, which is the same for all candidates, parties, and any violation of that threshold carries sanctions.
- From the pre-election fund, other campaign expenses also can be financed, the maximum amount of which is not specified.
- The maximum threshold of expenditures obligatorily to be financed from the pre-election fund is specified by the Electoral Code; it should be reasonable so that to ensure enough financing of the campaign on the one hand and, on the other hand, not to be so large that becomes able to direct the election results.
- It is obligatorily that from candidate's, party's pre-election fund (from its restricted part), the following is financed.

-TV and radio advertisement;

-purchase of all material values that are distributed to voters;

-printed and other materials for external advertisement, expenditures for placement of advertisement;

-printed materials distributed to voters.

- During the pre-election campaigning phase, documents certifying the expenditures subject to obligatory financing from the pre-election fund, after signing the relevant transactions, within a 3-day period, should be submitted to the CEC.
- If payment for goods or services subject to be obligatorily financed from the pre-election fund of a candidate/party has been performed (for example, printed materials have been printed) prior to the pre-election phase, then spending cap of the fund is decreased by that amount.
- Oversight over the pre-election funds is implemented by the CEC (part of the working group considers that it should be done by tax authorities, though the EC Committee of Ministers recommends that this should be done by an independent agency that is not within the executive authorities).
- If the presented documents prove a significant discrepancy of performed expenditures with the established market values of similar expenditures, then

a fine in the amount of five times is imposed, and the threshold of the pre-election fund is decreased by that amount.

- If a candidate or a party does not pay the fine within a 5-day period following the imposing of the fine or does not appeal the decision on imposing fine in the court, then this serves a basis for recognizing the registration of the candidate/the party out of force.
- Financing the expenditures that are obligatorily subject to be made from the pre-election fund from other sources or are exceeding the threshold carries imposing a fine in the amount of five times of that amount; exceeding the threshold more by more than 30 percent leads to recognizing the registration of the candidate (party) out of force.

13. Connected with pre-election campaign:

- Public transportation, regardless of the form of its property, cannot be used for pre-election campaign purposes, except for the cases when equal conditions are ensured for other candidates.
- The CEC specifies the procedure for using community- and state-owned real estate for pre-election campaign, aimed at ensuring equal terms.
- Materials containing political campaigning cannot be posted on advertisement billboards with sizes over 10 square meters after calling elections, except for by the below procedure.
- Subjects owning billboards larger than 10 square meters should present their suggestions (the exact location of billboards, detailed terms of provision) to the CEC no later than 5 days prior to the start of the campaign. The CEC distributes them among the subjects having applied for providing billboards, pursuant to the specified procedure.
- Posting campaign materials in public areas as well as in areas of common use of apartment houses is prohibited.
- Posting campaign materials on buildings owned by state and local governments is prohibited, unless they are provided to all candidates on equal terms.
- Display, dissemination of campaign materials in public service objects is prohibited (no final consensus of positions was achieved on the issue).
- Charitable funds bearing the names of parties, candidates or having confusing similarity therewith or being associated with a party, a candidate, should terminate their activities during the elections.
- It is prohibited to stake on voting results or election results.
- The nominated candidates (including those in public service) do not go on mandatory leave.
- Once elections are called, media coverage of the activities of public authorities is not restricted.
- Once elections are called, free media coverage of a candidate being in public service is restricted by clear rules (for example, only official receptions of foreign delegations, emergency situations, etc.). If coverage beyond the restriction has occurred, then the TV companies take this into account while covering other candidates so that they can ensure the equality principle.

14. Connected with voting phase:

- (The votes on whether to apply finger-marking were equally distributed.)
- Full and advisory (extended) PEC members as well observers have the right to video-record the entire voting process provided that the ballot box is not recorded.

- Voting should be done with pens of the same color; ballot paper voted with a pen of another color is an invalid ballot paper.

15. Connected with the responsibilities of the Police on the voting day:

- Police officers performing service in a precinct center on the voting day undertake to prevent accumulation of groups of people within 50-meter radius from the precinct center.

16. Connected with requirements on election lists of candidates of parties during the elections of the National Assembly under proportional system:

- During the elections of the National Assembly, at least 20 percent and each 5th candidate nominated under the proportional system should be women.

17. Connected with publicity:

- Following the summarization of voting results in a PEC, the relevant records are posted in the precinct center, in a visible place, and should be displayed in their place at least 24 hours.

18. Connected with the timeframes of election process:

- Reduce the period between the call of elections and the actual elections. Reduce the period between the nomination of candidates and the call of elections. Reduce the period between the registration of candidates and the nomination of candidates.

19. Connected with raising the public confidence:

- Immediately after summarization of the election results, the chairperson of a commission forwards the data to the CEC via SMS, fax or email. The software posts those data on the website. Those data are considered non-official. Upon receiving the official data from the TEC, differences from the non-official data are mentioned in the website.