

## **Non-paper on the report by the Needs Assessment Mission of OSCE/ODIHR for of the Presidential Elections**

Executive Summary, para 3.

***These latest amendments [to the Electoral Code] take into account a number of recommendations made by the OSCE/ODIHR in its final report on the observation of the 12 May 2007 parliamentary elections. However, some OSCE/ODIHR NAM interlocutors called these changes “cosmetic” and expressed a lack of confidence in their effective contribution to the conduct of democratic elections.***

The same idea is further explored in III.C. para 5:

***Some interlocutors expressed concerns to the OSCE/ODIHR NAM that the recent amendments to the election code are of a “cosmetic” and not a substantial nature. In particular, some had requested the inking of voters’ fingers to avoid possible multiple voting and the printing of ballot papers outside Armenia. Other interlocutors expressed a lack of confidence in the judiciary despite recent public statements by President Kocharian about the importance of judicial independence.***

The amendments introduced to the Electoral Code before and after the May 12 2007 parliamentary elections are all based upon the recommendations of the Council of Europe Venice Commission and the OSCE. With these latest amendments, nearly all (with exception of only two or three points) recommendations of the final ODIHR report have been accepted. With that in mind, we find it strange even to cite anyone referring to such amendments as “cosmetic”. We should assume that ODIHR does not consider its own changes ‘cosmetic’.

As far as inking of voters’ fingers and the printing of ballot papers outside Armenia are concerned, the government of the Republic of Armenia has many times stated that the first question was discussed and rejected, and such a practice does not exist in most OSCE member-states. Instead we have replaced it with an equally useful tool – the stamping of passports which are our national identity papers and which are required in order to vote.

The second suggestion, if it was to be mentioned, should have also included our public explanation: due to the technical and logistical difficulties on one hand and accountability limitations on the other.

### III. Findings.

#### B. Political context

***The nomination of presidential candidates requires these persons to have Armenian citizenship and have been permanently residing in Armenia for the last ten years. The election code was amended to include the requirement that candidates do not hold dual citizenship, even though dual citizens are now allowed to vote, provided they are registered in Armenia. These requirements affected the nomination of two potential candidates: Aram Karapetyan, who was a presidential candidate in 2003, and Raffi Hovannisian whose nomination had not been accepted on the same grounds in 2003.***

In this case the Needs Assessment Mission has misinterpreted the legislation, and an incorrect conclusion follows. The candidates named here were not registered, not because of their dual citizenship. The dual citizenship law is not yet being implemented, pending the development of the entire regulatory field. They were not registered because they failed to meet the residency and

citizenship requirements put forth in the Constitution: The first has not resided here for the last 10 consecutive years; the second has not held citizenship for 10 years.

### III.E. Media:

***Factors affecting the media situation include ... legal actions taken against journalists in recent years.***

In recent years, there have been two legal actions taken against journalists: Arman Babajanyan who has been imprisoned for military duty avoidance and Gagik Shamshtyan who was fined for hooliganism. Neither of these two cases were related to the professional activities of the persons mentioned. We therefore believe that the statement is incorrect and should be reviewed.

Ibid:

***Some OSCE/ODIHR NAM interlocutors expressed concerns about access to the media before the official start of the campaign on 21 January 2008. Some alleged that obstacles exist for certain opposition representatives to gain access to media and that an unofficial blockade against their presence on the media, especially on the public broadcast channel H1, is being enforced.***

This much said, the report only briefly notes in the following paragraph that «The Office of the Press Secretary of the President is conducting monitoring of the political broadcasts of six private television channels.» No findings of the monitoring are cited or mentioned, despite the fact that the results of the monitoring were provided to NAM during its meeting with the Assistant to the President of the Republic of Armenia. By the way, that meeting itself is also omitted in the Annex – List of meetings.

In addition, the NAM report again contains many unproven and unverifiable allegations. While all those cases are properly attributed to “some interlocutors” they together create some negative expectation and tension, which actually does not exist in reality. Particularly, the report contains the following unproven and unobserved allegations:

### II. Executive summary, para 6:

***According to a number of OSCE/ODIHR NAM interlocutors, public confidence in the integrity of the election process in Armenia remains low. Different fraud schemes suggestive of multiple voting or vote buying have been alleged, such as printing of large numbers of fake passports or the usage of different color pens to mark the ballots. Some interlocutors expressed their suspicions that vote buying will take place on a large scale. However, no detailed information or supporting documentation were provided to support such claims.***

### III. B Political context:

***Some interlocutors expressed concerns to the OSCE/ODIHR NAM about the supposed lack of confidence of the electorate in the integrity of the election process in Armenia. They were also concerned about the possible negative influence of business circles on the conduct of the upcoming election, especially with regard to potential vote buying and other financial and political incentives to influence the choice of the voters. The OSCE/ODIHR NAM was also told by some interlocutors that they expect administrative resources to be abused during the election period and that they are worried about the possibilities of multiple voting.***

### III.D. Election Administration:

***Some interlocutors expressed concern about pressure being applied to their commission members.***

We believe it should have not have been difficult to identify particular commission members, who have felt pressure, and interviewing such members could be an identification mechanism for proving or disproving (and therefore not including in the report) the mentioned allegations.