



**Observation Report of the  
6 December 2015  
Constitutional Referendum**

Yerevan, 2016

**Contents**

Executive Summary .....3

Executive Summary .....3

Introduction.....4

General Findings .....5

The Hotline .....6

Commissions: Composition and Performance .....6

The Central Electoral Commission .....9

Attitude towards Observers; the Work Atmosphere.....9

Opening ..... 11

The Voting Process..... 12

The Ballot Counting ..... 17

Investigation of Violations ..... 19

Conclusion..... 21

Recommendations ..... 23

## Executive Summary

### Executive Summary

The Constitutional Referendum on 6 December 2015 was the third attempt to amend the main law of the Republic of Armenia.<sup>1</sup> Like the other electoral processes that have taken place in Armenia, this Referendum, too, was marred by numerous electoral violations. Although it envisaged fundamental changes in a considerable part of the Constitution, sufficient time was not allotted for proposing recommendations on the Amendments or forming a comprehensive opinion. The whole process was organized in a rush, leaving some part of society dissatisfied.

The Civil Society Institute non-governmental organization (CSI) has been carrying out observation missions in Armenia since 2007. On 6 December 2015, that is the day of the Referendum, CSI carried out an observation mission in constituency #1, which covered the Avan Administrative District of Yerevan and a part of the Nor Nork district. CSI's observers took turns working in the polling stations from 7:30am till the completion of the vote count. In addition, there was a free of charge legal counselling hotline (080 080 804), and the violation reports of the observers were posted on CSI's Facebook page ([www.facebook.com/csi.arm](http://www.facebook.com/csi.arm)) and the Human Rights in Armenia website ([www.hra.am/hy/events/2015/12/06/referendum](http://www.hra.am/hy/events/2015/12/06/referendum)) immediately upon receipt.

79 persons had been accredited as CSI-nominated observers. Some of them were experienced observers, for whom this was the fourth or fifth observation mission, while there were some first-timers, as well.

On the voting day, CSI's observers documented numerous cases of violations and incidents casting a shadow over the electoral process, including large-scale steering, attempted multiple voting, proxy voting, false calculations, threats against observers, etc.

With respect to 32 of the documented cases, law-enforcement agencies initiated preliminary inquiries, but for most of them, they eventually refuse to initiate criminal investigation.

This Report summarizes the findings of the election observation and presents recommendations on improving the legislation and practice.



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<sup>1</sup> Two referendums occurred in 2005 and 2015, and another was attempted in 2003.

## Introduction

CSI has specialized in election observation and protection of voters' rights since 2007. CSI carried out observation during the 2007 and 2012 parliamentary elections, the 2008 and 2013 presidential elections, and 2009 and 2013 Yerevan Municipal Council elections, all with a view to contributing to the consolidation of democratic election practices in Armenia through improved public awareness and the provision of legal assistance.

In the run-up to the 6 December Referendum, CSI recruited observer candidates that were subsequently trained by the Central Electoral Commission (CEC) and accredited by the latter as observers. Overall, 79 observers acted on behalf of CSI covering polling stations within constituency #1, or working in mobile teams moving around or at CSI's office. Two observers worked in shifts per polling station—one from the opening of the polling station till 4:00pm, and the other from 4:00pm till the end of the vote count and the preparation of the protocol. Two mobile teams were operating on 6 December, each with one observer and one lawyer. These vehicles moved around all of the polling stations within constituency #1 during the whole day, documenting violations and providing advice and professional and psychological support to the observers working in the polling stations. Three other lawyers worked at CSI's office and provided legal assistance via the hotline, registered violations reported by citizens and observers, and providing legal advice to the observers and other participants of the voting process.

The following tools were specifically developed by CSI and used to document the observation findings and the process:

- A card for observation inside the polling station on the voting day;
- A card for observation of the polling station vicinity on the voting day; and
- A card for observing the vote counting.

Furthermore, video and photo equipment was used to document the violations. The observers were mostly able to video the whole process and transfer the recordings to CSI. The observers made videos of the violations or suspicious situations. The process of transmitting videos or photos was well-organized and very efficient. Some of the photos and videos were posted on the Human Rights in Armenia ([www.hra.am](http://www.hra.am)) website, through which the voting process was continuously covered through frequent updates during the day. Data published by CSI was actively disseminated by other mass media. Moreover, the materials were rapidly posted in the social media and disseminated through the online media, and were followed by the CEC, the Precinct Electoral Commission members, and the General Prosecutor's Office. It enabled not only documenting what had occurred, but also preventing potential violations by commission members and others.



In addition to constant feedback from observers and information collection through them on the voting day, CSI organized a discussion on 12 and 13 December with a view to summarizing the findings of the observation mission, which was attended by all of the CSI-nominated observers and lawyers. The violations documented during the Referendum were comprehensively identified and the information coordinated during this discussion.

## **General Findings**

During 24 years of independence in Armenia, the Constitution adoption or amendment issue was raised four times, and three referendums have been carried out. All of them were marred by numerous violations that cast a shadow over the lawfulness of the adoption of the Constitution, as well as its legitimacy as a document. The 6 December 2015 Referendum was no exception: it was marred by numerous violations committed by Referendum Commission members, as well as allies of the group that initiated the Amendments and the voters of the constituency observed.

This Referendum stood out by the fact that citizens were poorly informed about the substance and details of the Amendments despite the campaigns. The Referendum was organized in a short period of time, which did not make it possible to grasp the essence of the proposed Amendments. As a result, the majority of citizens were not voting for or against the new Constitution, but rather, casting a “yes” vote as a sign of agreement with the policies of the incumbent authorities or casting a “no” vote as a sign of disagreement.

In the opinion of observers that had participated in earlier electoral processes, the Referendum on December 6 was unprecedented in terms of the violations and falsifications. There are documented cases of various entities engaged in face-to-face “preaching” of the “yes” vote among voters before the Referendum, as well as on the voting day: among them were staff of the local schools, kindergartens, and building condominiums, and residents that are held in high esteem among certain stakeholders of the neighborhoods. Overall, the organizers or perpetrators of violations in the Referendum acted very overtly and in an atmosphere of impunity.

The impression was that the voting had been preceded by preparatory activities for obtaining the desired outcome of the vote. The calls to CSI’s hotline and the voting day observation findings support the conclusion that people were taken to polling stations and steered primarily through methods such as giving various promises, providing services, making friendly requests, threats of dismissal from employment or other threats coupled with urges to make sure to vote, to vote “yes,” and to inform back about having done so. Furthermore, citizens were frequently escorted to polling stations by certain individuals that would watch from a distance to make sure that the citizen votes, after which they would depart together.

The following problems were observed in constituency #1 with respect to the physical location of the polling stations:

- The polling stations were not accessible for persons with musculoskeletal disabilities. None of the polling stations had ramps, and some polling stations were on the second floor.
- Some polling stations were very cold, with heating systems that were insufficient for their large areas.
- The area near one of the polling stations had not been cleaned of any of the ice, which made it hard to reach and dangerous for people.
- Some polling stations did not provide sufficient visibility for observing, which obstructed the observation of the area near the polling station. As one of the observers said, *“if vehicles approached, I would not be able to see, because there was a wall with a large gate, behind which they could park.”*
- The observers had a hard time finding the buildings housing some of the polling stations. Moreover, the streets around the polling stations were not lit by night, which posed additional problems for persons leaving the polling stations.

### **The Hotline**

Before the Referendum, on the Referendum day (December 6), and in the days that followed, CSI operated an election process-related legal advice hotline (at the number 080 080 804), which received calls from all over Armenia.

Before the voting day, numerous calls were received, some related to the exercise of voting rights, others to the inaccessibility of the text of the draft Amendments to the Constitution. Moreover, citizens (mostly from Yerevan) reported that, in the run-up to the Referendum day, some people were visiting their apartments and asking whether they would participate in the Referendum, whether they would be present in their community on the voting day, and in some cases even trying to find out how they intended to vote—for or against. There were also some reports of copying the passport information of citizens.

Most of the calls received on the voting day were related to voter list inaccuracies or proxy voting cases, including in particular the presence in voter lists of names of persons that were actually not registered at the respective address, as well as the fact that data had been filled out next to the names of citizens absent from the country (but not only them), observer intimidation, and the like. In addition to citizens, proxies were calling the hotline for information on their rights and/or to provide information about violations detected by them.

### **Commissions: Composition and Performance**

The observation on the voting day showed that the desired outcome for the group that initiated the Referendum relied to a considerable extent on the commissions and local informal opinion leaders and persons with local influence.

The observers found that proxies of various parties, including some representatives of the opposition (from the Heritage Party, for instance), were “working for the authorities.” Certain representatives of the Armenian National Congress took an “opposition stance” and tried to ensure the lawfulness of the Referendum, while others were cooperating with each other. Due to the



shortage of human resources in the opposition parties, the opposition was sufficiently represented in not all of the polling stations.

As to the commission members and chairpersons, they were, regardless of party affiliation, generally acting as supporters and team members of the group that initiated the Amendments, and as such, had no propensity of documenting violations.

*“A man came in from the wrong side, and everyone was confused. The man said he was there to cast his ‘no’ vote and leave. To which the commission members replied that he is free to leave already, because everyone there is a ‘yes’ person.”*

The members of precinct (polling station) commissions within constituency #1 were mostly the directors and staff of the local schools or kindergartens, the building condominium president or staff, or the staff of other local entities upon which the residents, especially the elderly, depend in one way or another. As a consequence, the informal campaigning by such commission members affected the free expression of the voters’ will. Many were concerned that by not voting the way the “preacher” wanted, they would suffer negative consequences in the future, including with respect to the various social services. It seemed like an imminent risk, because the voters knew that those people would be commission members who could find out whether a particular citizen voted and not. In fact, some voters even believed that they could find out how the individual voter has voted. These breaches of the free expression of the voters’ will are hard to prove, and the guilty ones hard to punish, because no side would testify, and the findings of observers would be insufficient for launching an investigation, as proven by the response of the law-enforcement authorities. Even when observers identified flagrant electoral violations, such as a citizen coming to the polling station and finding out that a voter had already signed in the voter list next to his or her name, those citizens would be afraid and would leave whenever the

observers approached them in order to obtain clarification. The commission chairperson and members would either claim that the observer had an illusion or provide a less-than-persuasive explanation.

On voting day, the commissions seemed bound by an instruction to secure the victory of the “yes” side. In a polling station where more “no” votes had been cast, for instance, the commission members said the following: *“We should not have believed their promises of coming to vote “yes.” It’s alright. They, those building residents, will have to come back, needing something, and then they will see what is what.”* Or, when they were learning about the “no” votes outnumbering the “yes” votes in other polling stations within their constituency, they would console themselves by saying *“it’s good that we are not the only ones in this situation.”*

In the opinion of the observers, proxies and commission members were generally operating in an environment of tension: they were getting constant phone calls checking numbers and making demands. Some were leaving, getting in their cars, driving away, and returning later. Whenever the turnout was lower than expected, the commission chairpersons and members would get concerned. Some were even afraid that they would be fired if the “no” votes prevailed in their polling station.

*“In the second half of the day, the commission chairperson started to get tense, because only 500 of the 1,900 voters had turned out. He was very agitated, wondering what number he is going to produce.”*

The tension continued throughout the vote counting. There were constant phone calls, checking some numbers during the vote counting, which made this work harder.

Another documented concern was that commission members were sometimes employees of the same public organization, where one was the supervisor of the others. This situation strained the commission members, as they would naturally be unable to stand up against their supervisor or report violations committed by the latter.

Other reported problems had to do with the low awareness of the commissions. On the voting day, not all of the commission chairpersons and members were aware of their functions. Sometimes, they were performing the functions of other members, or were unfamiliar with the procedures. In some polling stations, they were reading the guidelines before performing any action. In non-standard situations, they would panic and ask the observers for advice. One example was related to various polling stations in which some citizens were voting with reference letters issued by the Passport Department of the Police, but not all of the polling station commissions were familiar with this procedure and were asking what they *“should do with those reference letters now.”* In some cases, the situation was fixed and the procedure complied with only after the observer raised the issue.

In some polling stations, where they were ready to document the violation as demanded by the observer, the commission chairperson and secretary were not sufficiently aware of which line or page in the register to fill out.



The observation revealed the absence of a consistent procedure of recording the persons aiding the voters. In some cases, the commission members were not recording the identification details of persons aiding the voters. In others, they would only fill out the template requiring the aiding person's name, surname, and passport number. In some other cases, they filled out additional details such as the identify of the voter aided, the reason for aiding, the time, and the like. However, the template developed by the CEC for these purposes does not safeguard the credibility of the data filled out there, because it does not contain information on who is being aided and why. Moreover, it cannot be checked whether all cases are recorded or not.

### ***The Central Electoral Commission***

The CEC was operating a hotline on the voting day, but it was virtually inaccessible throughout the day. In the rare cases when it could be reached for reporting a problem to the CEC, the latter quickly took steps to remedy the situation. Moreover, the CEC hotline officials were inaccessible until 7:50am on December 6. When an observer of CSI had a question regarding entry into the polling station before 8am, and CSI tried to contact the CEC to ask the latter to follow up, it turned out that the CEC's relevant officials were not available as at 7:30am, and CSI was offered to call back later. CSI managed to get in touch with the hotline official after 7:50am, following which the problem was resolved.

Another noteworthy fact is that, on voting ay, CEC Chairman Tigran Mukuchyan was visiting polling stations in constituency #1, and in a press conference later, announced that as at 2:00pm, there had been no documented violations there. *"I am personally visiting the polling stations in the capital city. I have already been to the polling stations of Nor Nork and Avan, and spoken with observers and proxies. There are proxies in all of the polling stations, with whom I spoke personally, and they told me that they have not detected any voting irregularities,"*<sup>2</sup> said Mukuchyan.

However, when CSI's observers met with Mukuchyan, they told him about the documented violations, which were also posted on CSI's website, disseminated through the social media, and covered by other mass media.

### **Attitude towards Observers; the Work Atmosphere**

On voting day, some polling stations had, in addition to CSI's observers, observers representing some other organizations, namely one observer and one journalist from the organization called Asparez and one observer from Transparency International. Some observers introduced themselves as representatives of the Free Society Institute NGO, but had a markedly biased behavior.

*“One of them brought food for the commission members and introduced himself as support staff. I had figured out that he was the person steering the voters, and he knew everyone in the area. Then, at around 7pm, he put some sort of an observer badge around his neck and reemerged as an observer. I looked at him astonished and ask about the support staff-to-observer conversion. He said he is an observer of the Free Society Institute.”*

In some polling stations, CSI’s observer was the only observer present.

The attitude towards observers varied between polling stations: in some polling stations, the commission members spoke to the observer with constant irony, exerting pressure, and trying to create an atmosphere of intimidation. In others, they tried to flatter the observer. In almost all of the polling stations, the commission members and proxies tried to distract the voters by making offers of tea, coffee, and barbecue. The male observers were typically under more pressure, which made their observation mission harder.

*“A commission member said that I’m a young girl and I should be ashamed of snitching.”*

*“What does an Armenian girl have to do with politics.”*

Commission members tried to distract female observers through flattering, as well.

*“They started to flatter me by saying my hair color was so nice. They were too friendly.”*

*“But you, you are such a charming girl, you are so cute...”*

*“Throughout my time there, the proxy of the Republican Party of Armenia did not leave me for even five minutes. He kept fetching me coffee, juice, tea, and water, and turned on the heater close to my feet.”*

In some polling stations, threats of violence against observers were reported.

*“Me and the guy from Asparez were standing behind the voter lists to see if they were filling them out correctly. He wanted to see how many were voting. Then, we were removed from there, taken to a place that was about three meters away from everything. As soon as the boy tried to make a video of us being removed and not allowed to work, the commission chairperson came and grabbed him by the chest, pulling his clothes, and threatening.”*

Under Article 6 of the Electoral Code of the Republic of Armenia, proxies, observers, and mass media representatives may take photos and make videos of the electoral commission sessions and the voting progress, provided that they do not undermine the voters’ right to secrecy of the vote. However, in some cases, when observers made videos of electoral violations, it created tension and arguments.

*“During the vote counting, a commission member took ballots away from the video camera very rudely and said that we have no right. They were violating my rights as an observer. I said that observers may make videos and I was not disturbing their work, and in front of them, I made a phone call and checked that I have such right. They became convinced, but again would not allow me. So I started making the video.”*

In some cases, in return to observers speaking up about violations, the commissions threatened that if the observer reported the problem, they would state that the observer made videos of a voter list containing the passport information of voters. This conduct undermined the work of the observers and created tension.

In a large number of polling stations, whenever an observer demanded the commission chairperson and secretary to record a violation in the register, they refused to do so.

In some cases, the commission was very readily supporting the work of observers and documenting all comments and correcting all errors. In one of the polling stations, the chairperson even asked an observer of another organization present at the polling station to fill out the register.

The commission chairpersons and members were well-aware of the organizations that had the right to carry out an observation mission in constituency #1.

### ***Opening***

In the opinion of CSI's observers, most of the polling stations in constituency #1 were hard to reach. It took the observers quite some time to locate those polling stations. In one case, the polling station was located in a building that was not in any way marked. After the CSI observer's warning, the polling station number was posted on the door.

Under Paragraph 1 of Article 31 of the Electoral Code of the Republic of Armenia, observers may be present at the sessions of the electoral commission, as well as in the voting room during the voting. Although most of CSI's observers did not have problems entering the polling station, some observers had to state their right to be present at the commission sessions before being allowed to enter. In one case, the CSI observer was not allowed to enter the polling station before 8:00am in order to be present and observe the commission session.

The commission secretary's justification



was that the observer had no right to be present at the commission session, as proven by the observer badge issued by the Central Electoral Commission: in fact, however, the note on the badge proves the exact opposite.

In some polling stations, the commissions were unable to properly place the closure seals, forgot to attach the samples, and misplaced the voting booths, thereby undermining the secrecy of the vote and creating other issues. In some polling stations, for instance, the voting booths were placed in a way that behind them there was free space (a passage corridor) or a glass door or window or transparent curtain, and someone who wanted to do so could watch the actions of the voter in the booth. In some polling stations, the sticky paper on the ballot box was torn, creating suspicion of ballot stuffing.

### ***The Voting Process***

During the voting, CSI's observers noted numerous violations and problematic situations, including voter steering, pressure against observers and journalists, accumulations, repeat voting attempts, proxy voting, and procedural violations and the like.

On the voting day, there were cases of the same persons visiting the polling station several times and trying to vote more than once. The observers had to be very vigilant, as many polling stations were lacking observers from other organizations, or journalists, or party proxies other than those representing the Republican Party of Armenia.

“In a polling station, a proxy for the Armenian National Congress told a boy that he was voting a second time and demanded his passport. The boy refused to show his passport and walked away immediately.”

“An elderly woman came with her ID card. The observer approached her and asked to have a look at and take a photo of her passport. The photo inside was someone else's. At that time, all the commission members got worried, made a big fuss, and said that she possibly confused something.”

In many polling stations, there were persons without a badge inside the voting room. When the observers asked who they were, they



introduced themselves as proxies for the Republican Party of Armenia. Observers were constantly having to demand the commission chairpersons to comply with the procedure stipulated by law, i.e. to demand proxies either to have and bear badges or to leave the voting room.

Under Article 5 of the Electoral Code of the Republic of Armenia, the voting is secret, and control over the free expression of the voter's will shall be prohibited. However, CSI's observers witnessed cases of voter steering, voter bribe promises, or breaches of the secrecy of the vote.

*“A grandma asked the observer where the lady by the name Tzoghik was, because she had already voted and needed her money.”*

*“I witnessed three cases of elderly or ill persons being brought in with repeated reminders of what should be done how. Upon coming out, they were asked if they did everything correctly or possibly got something confused.”*

*“As I stood outside, a grandma left and told the proxy for the Republican Party of Armenia: ‘My dear Artur, I did everything just as you told me.’ He then turned around and smiled to me, saying that this is one of their grandmas.”*

In many cases, elderly people were accompanied by certain individuals that waited outside and reminded them: “You remember what you got to do, right?” After voting, the elderly people would be seated in taxis and accompanied home. Voters that looked less well-off, mostly single elderly persons, were asked by the escorts if they had food to eat or not.

A CSI observer noticed a proxy for the Republican Party of Armenia, who was very active ever since the opening of the polling station. He was asking voters for their addresses, checking passports, and instructing to fetch voters any time the voter flow stopped. Besides, in virtually all of the polling stations, the proxies for the Republican Party of Armenia had organized phone calls based on lists: they would stand there, with a list in their hands, calling citizens, and asking to come over to vote. This was often done explicitly, without any concealment. In virtually all of the polling stations, the observers noticed citizens coming in and out, escorting neighbors to the polling stations. Most probably, they had made arrangements in advance with specific citizens about the time of their voting and the way they would be voting, and on the voting day, they were ensuring the presence and voting of those voters as per their special lists.

*“I noticed a case of steering: there was this lady who kept bringing elderly persons in and out. I approached that lady in the corridor and asked who she was. She introduced herself as “a roving proxy for the Republican Party of Armenia.” I asked about her badge, and she said she has none. Then, the proxy for the Republican Party of Armenia approached and said that this lady worked in the same kindergarten and helped people to come over.”*

*“As a woman had approached the ballot box and wanted to drop the ballot, she told one of the commission members that she had voted with the ballot they had instructed.”*

Virtually all observers noticed that citizens were being transported to polling stations using cars of the taxi companies Z+ or Milena. They were similarly using public minibus line #5 and buses for transporting citizens to polling stations that were not covered by their routine schedules. In some polling stations, whenever the commission members realized that the observers had noticed the citizen transportation process in taxis, they would instruct to park the taxis away from the entrance to the polling station, in a place where they would not be noticed.

*“When I first saw a car, I went out to check the license plate number, after which a proxy intervened and the cars stopped parking there.”*

The fact that the taxi operation was specifically organized was confirmed by the “advice” given to a CSI proxy by a commission member. After the CSI proxy



completed her shift, she was told by the commission member: “Make sure you do not get into a cab of the company Z, because it will take you somewhere else.”

Cases of breaching the secrecy of the vote were observed, as well: a commission member sitting by the box took a man’s envelop, opened it, took a look at how the ballot inside was marked, and dropped it in the ballot box, claiming he was assisting.

Observers also noticed that the ballot envelopes were transparent, and without even opening them, one could hold them up against light and see how the voted ballot inside was marked.

The preparatory effort and steering were further confirmed by the fact that, during the ballot count, observers noticed that the “no” ballots were mostly in the top of the ballot boxes, while the “yes” ballots were at the bottom, which indicated that the citizens with whom the “yes” vote had been arranged in advance were mostly taken or steered to the polling station during the morning and afternoon hours.

*“During the vote counting, a proxy said to me: ‘No problem, bro, the stack at the bottom are the ‘yes’ ballots’.”*

Many of the commission members and the proxies for the Republican Party of Armenia were aware of this peculiarity: they even knew which part of the ballot box contained the ballots for the residents of which buildings. In some polling stations, they would even ask the commission chairperson not to mix the ballots when extracting from the box, so that they could see who had voted how.

There were various problems related to the voter lists.

*“Two girls could not find their names in either the main lists or the supplementary lists. The commission chairperson took some empty ballots out of the safe and said: ‘Write your names and surnames here, go pick up some ballots, and vote.’ The observer said that it was not allowed and constituted a violation, and that they needed to bring special reference letters in order to get registered. The chairperson told me that the girls had been to the Passport Office and had not been able to obtain reference letters. Everyone got confused, because it was an obvious violation. Then, they found the names of the two girls in the main list and said they can call these girls to come back and sign next to their names, and new ballots would not be issued to them, and the old paper would be torn and thrown away. They called the girls and they came and signed. The old paper was torn and thrown away in order to avoid problems.”*

There were other inaccuracies affecting the lists, as well. Some lists contained names of persons that were not registered at the respective address. Similar reports were received through CSI’s hotline. In some cases, people that had voted in the same polling station during the last general election could not find their names in the referendum voter lists. Or, some residents of a building could find their names in the voter list, while others could not.

In several polling stations, voters coming to vote were finding out that someone else’s information had been filled out next to their names, and those other persons had signed the lists next to their names. Not all such cases were documented by the commissions, and the commission members claimed it was due to technical errors. In several polling stations, several such cases occurred, giving cause for suspicion. In this context, the response of the commission chairpersons is noteworthy: one of them heard about this situation from a voter and said that it was probably due to “the voter’s sister having voted with an ID card.” As a consequence, the voter left without voting. In another case, the commission chairperson responded to the voter’s complaint by saying that presumably the voter’s brother or grandmother or other family members had voted for him. It is alarming that the commission chairpersons reserve themselves the right to respond in such a manner to obvious cases of violations, claiming it to be lawful, and leaving citizens disenfranchised.

*“A woman came and said that her son was away from the city, but someone had apparently voted in his place. The commission chairperson left, spoke on the phone, came back and said that the man by the name Seto says that her son had come back and voted. The lady, terrified, ran away from the polling station.”*

*“When a citizen (about 50 years old) found out that someone had signed next to his name, he made a big fuss. He came back in about 20 minutes and voted. The reasoning was that there had been an address confusion.”*

*“An elderly man, who was about 60 years old, came to find out that someone had signed next to his name. It then turned out that there were two person with the same name and surname, but different patronymics. He was recorded under the other man’s name, marking everything with mistakes.”*

There were many cases of family members voting jointly in the voting booth, although none of them had been recorded as persons aiding voters.



*“Some neighbors came together, and when one of them was in the voting booth, the other one approached her.”*

*“He is my husband, we will just vote together and come out.”*

*“In one case, father and son were together, and he told him to vote and leave. I said there was a sample and another person did not have the right to be inside the booth. They ignored everything I said, and the commission failed to record it as a violation.”*

There were also procedural violations. In many polling stations, proxies, most of whom were proxies for the Republican Party of Armenia, and in one case—even commission members, did not have badges, and the badges emerged much later, after the observers had heavily insisted.

*“The proxy for the Republican Party of Armenia did not have a badge. He said he’s an old man and did not remember, or possibly had dropped it somewhere. I said that he should go and find it, but he was there without a badge for hours. When I asked again, he said I was pestering him and not leaving him alone. He ended up not wearing a badge altogether. When I told the commission chairperson, she told me to leave him alone as he was an old man.”*

*“The badges were brought no earlier than 3:25pm. They filled them out and distributed to everyone.”*

In some polling stations, the Republican Party of Armenia had two or three proxies concurrently, most of them without badges. The proxies for the other parliamentary factions were not particularly eager to document the violations, either, as confirmed by the following statements made by observers from various polling stations:

*“There was a proxy for the Armenian National Congress, but his absence would have made no difference.”*

*“When I was documenting the violations, the proxy for the Heritage Party kept objecting to me.”*

*“The proxy was from the Republican Party of Armenia. In fact, there were two of them, there from early morning. Then, a proxy for the Armenian National Congress showed up, and left after two hours.”*

A most serious problem was the commission members’ avoidance of documenting violations in the polling station register. This fact, combined with the observer having no right





to demand a recount, often made the observer incapable of duly documenting the violation, and the observer's statements and reports of violations would have no consequences, as they were not taken seriously by the law-enforcement agencies. This situation was reiterated after the Referendum: when the Investigative Committee and the Police were reviewing the materials prepared with respect to reported violations, the investigators and inquiry officers were expecting evidence of violations from the observers and challenging the testimony of observers by pointing out the absence of any relevant records in the polling station register. The law-enforcement agencies obviously relied on the statements of the commission members, although the latter were clearly biased. On the contrary, they dismissed the observers' statements as not credible and claimed that the observers had misperceived the situation. Eventually, they would refuse to initiate a formal criminal case.

In some polling stations, there were accumulations, and the commission members did not take steps to address them.

In some cases, citizens struck out their names in the list as a sign of protest.

*“A girl found her name in the list and drew a line over it with a pen, complaining that her name was even in the list. The commission chairperson called the police and they drew up a report.”*

One of the polling stations was adjunct to the Avan Psychiatric Clinic, as legally-capable patients of the clinic could vote through a portable ballot box. CSI's observers observed this process and noticed that some patients that refused to vote were required to justify it in writing.

In one of the polling stations, the lists posted on the doors had been torn. The observer suggested someone standing near the lists in order to inform citizens that their names could be found in the lists inside if they could not be found in the lists posted on the door. However, no one stood there, and voters were walking away.

### ***The Ballot Counting***

Observers noticed violations during the vote counting, as well. For instance, some individuals who had no legal right to be present during the vote counting were there, and the commission chairpersons were reluctant to remove them. In a polling station located in a school, a man without a badge was walking around after 8:00pm. When the observer asked who he was and whether he had the right to be inside the voting room during the counting, the commission members told the observer that he was the school principal, who was walking around the area and assisting. When the observer approached him and asked whether he had a lawful basis for being inside the voting room, and suggesting that he should leave unless he has such a basis, the man refused to leave and said: “I can be wherever I want. I am not going to hang a badge, I'll do anything I want, and if you insist I'll switch off the school power supply, we know all those techniques...” After the observer adamantly insisted, he was removed. Interestingly, several of the commission members were employed at the same school, and the principal's presence was restricting them.

During the vote counting, some commission members were placing “no” ballots in the “yes” stack, below the “yes” ballots. In some cases, they would rapidly extract and count the ballots in order to create confusion. The observers urged the commission members to count the ballots in accordance with the procedure, i.e. by showing each ballot to everyone who was present. In some polling stations, observers were not allowed to sit close to them, claiming that if they did, the observers would distract.

*“I saw three instances of ‘no’ ballots being placed in the stack of ‘yes’ ballots.”*

*“There were cases of rapidly placing the ballots. I told them to do it slowly because I wanted to have a look.”*

*“During the vote counting, neither the proxy for the Heritage Party nor we were allowed to sit close by. They said we were distracting and we should let them count, after which we could count each ballot at the end. At the end, we did in fact count all the ballots.”*

There were also cases of ballot stuffing. Although the observers did not directly witness them, the abrupt change in the votes during the vote counting indicated a high probability of such violations.

*“During the vote counting, there was some noise from outside. I went out, and after I returned, I realized there had been some change. Then, I left again for five minutes and upon my return I saw a thicker stack of ‘yes’ ballots.”*

The vote counting was interrupted in many of the polling stations. It was mostly explained by the commission’s need to have coffee or dinner. Moreover, they were attempting to protract the vote counting in hopes of the observers getting tired and leaving.



*“They would count for 10 minutes, and then take a half-hour break.”*

In some cases, when observers spoke up about a problem, they would utter threats or make threatening hints.

Some ballots that were clearly not invalid were being invalidated. When a CSI observer wanted to take a photo of the contested ballots, the commission did not allow.

Whenever ballot validity was contested, the commission members were often biased, trying to invalidate the valid “no” ballots and to validate the invalid “yes” ballots. Owing to the presence and insistence of the observers, the commissions would eventually treat those “yes” and “no” ballots consistently.

*“In my polling station, there were many ‘no’ ballots, after which they pulled out two envelopes, both with ‘no’ ballots, and the chairperson said that he thought they were invalid. The representative of the Armenian National Congress suggested to vote on validity. During the voting, a representative of the Republican Party of Armenia, who was very active, said he definitely objected, and he and the chairperson raised their hands, after which all the women voted the same way. Naturally, those two ballots were invalidated. And then, when many similar ‘yes’ ballots were extracted, they were placed in the stack of invalid ballots, because they now had a precedent. They were not expecting so many ‘yes’ ballots.”*

*“In our polling station, they considered the ballots with upside-down ‘V’ marks as valid, although I said that they were invalid. Then, many ‘no’ ballots with upside-down ‘V’ marks came out of the box, so they had to treat all of them as valid ballots.”*

In the polling stations where there were more “no” votes, the observers encountered the candid surprise and disappointment of the commission members. “We’ve been doing favors to many people all year round, and now they come to cast a ‘no’ vote.” Those “favors” were presumably the various social services rendered to the residents, such as free healthcare, child admission to kindergarten without any waiting time, and the like.

During the vote counting, when a “no” ballot came out, the commission members lowered their voices, but shouted when announcing the “yes” ballots.

During the vote counting, when the last ballot was taken out, and it became clear that the number of “yes” ballots was greater, the proxy for the Republican Party of Armenia shouted: “In your face! You wanted justice, but the ‘yes’ vote won.”

The voting results varied considerably between polling stations within the same constituency. In some cases, the results of two polling stations in the same building were the exact opposite of one another: in one polling station, two thirds were “yes” votes, while in the neighboring polling station, two thirds of the votes were “no” votes.

In nine polling station of constituency #1, which were observed by CSI, 67% of the ballots were voted “yes,” and in the remaining 11 polling stations, 63% of the ballots were voted “no.”

## **Investigation of Violations**

### *General Overview*

Conducting fair elections is essential for democratic societies. The failure to do so casts doubt on the legitimacy of elected officials and all of their activities. Hence, in view of the public interest, the state should be keen on harshly punishing the perpetrators of electoral violations.

Moreover, given the danger posed to the public by electoral violations, they should be classified as grave criminal offences.

Articles 149 to 154.6 of the Criminal Code of the Republic of Armenia criminally proscribe the following electoral violations: obstructing the exercise of voting rights, the work of electoral commissions, or the exercise of their powers by persons participating in the elections; falsifying the elections or the voting results; disseminating defamatory information about a candidate or party (or party alliance) during the election; violating the procedure of compiling voter lists and making them available to citizens or parties or publishing them; voting more than once or voting for another person; breaching vote secrecy; preparing false ballots or ballot envelopes or giving or using obviously false ballots or envelopes; obstructing the free exercise of the voter's will; failing to return the electoral commission stamp; violating the established procedure for keeping the stamp; entering a polling station with weapons; obstructing access to electoral documents by a proxy, an electoral commission member, an observer, or a representative of the mass media; failing to issue copies of the electoral commission protocols; and failing to perform or improperly performing the powers of an electoral commission chairperson.

According to official data, first instance courts of Armenia have tried 18 cases during 2009-2014, most of which were related to Article 153 (voting more than once or voting for another person), Article 149 (obstructing the exercise of voting rights, the work of electoral commissions, or the exercise of their powers by persons participating in the elections), and Article 154.2 (obstructing the free exercise of the voter's will). As a result, 22 persons were convicted and sentenced, and one person was acquitted. Most of the sentences were monetary penalties, and the prison sentences imposed were conditionally not applied. This approach reinforces the atmosphere of impunity for electoral violations.

#### *Investigation of Violations Reported during the Referendum*

During this Referendum, the law-enforcement agencies were active, too. According to a report by the Office of the Prosecutor General, materials were prepared with respect to hundreds of mass media publications concerning events that occurred on the voting day. Investigators of the Investigative Committee started preparing materials immediately on the voting day, but their diligence distracted the observers, as the observers were having to exit the polling stations and provide explanations to the investigators. The investigators' attitude was inherently alarming: instead of checking the report or the violation, they were checking or contesting the observers' ability to note and evaluate the situation. As a result, CSI decided to instruct the CSI-nominated observers to refuse to give explanations to investigators on the voting day, and to stay at their actual observation places.

As noted above, law-enforcement agencies prepared materials with respect to over 30 incidents (including non-significant ones) publicized by CSI on the voting day. However, the real intention was to create an impression of hard work and effectiveness. In reality, the law-enforcement agencies failed to initiate a single criminal case on the basis of materials prepared with respect to hundreds of incidents. This, together with the superficial nature of the investigations, proves that their efforts were formalistic. Law-enforcement agencies were operating in a rush, under the pressure of deadlines set by their leaders, often making a superficial effort, and failing to inform

the observers and CSI of the outcomes. CSI since asked the Office of the Prosecutor General to provide copies of the relevant decisions.

Moreover, this intense and in a sense pressuring stance of the law-enforcement agencies creates the impression that the real goal pursued by them was a different one: possibly, after an experience of such encounters with investigators, some observers might avoid dealing with law-enforcement agencies in future elections altogether, which could undermine the exercise of their right to report electoral violations.

As to the cases documented and publicized by CSI's observers, some of CSI's observers provided explanations about the cases reviewed by the Police and the Investigative Committee, and the videos and photos available to CSI were shared. For some of them, CSI was informed that criminal case initiation has been refused, and on the others, no information whatsoever was provided to either CSI or the observers. CSI appealed some of the decisions to the Yerevan City Prosecutor and demanded to initiate a criminal case. On 14 January 2016, the Office of the Yerevan City Prosecutor replied that, in one case, the investigator's earlier decision has been quashed and a criminal case has been initiated, and that in another case, the investigator's decision has been upheld.

## **Conclusion**

CSI's observation mission was aimed at contributing the lawfulness of the work of the electoral commissions, preventing electoral violations and falsifications, ensuring the registration of electoral violations, raising citizen awareness of the exercise of voting rights, and facilitating the investigation by law-enforcement agencies of violations detected by the observers.

The 6 December 2015 Constitutional Amendments Referendum was marred by a large number of electoral violations, typical of earlier referendums. The electoral commission members representing the factions of the National Assembly of Armenia, with the exception of some members representing the Armenian National Congress, acted as a unified team, were biased about getting a positive vote at any expense, and failed to respond to and document the violations. The electoral commission chairpersons/members representing the different parties, and persons enjoying a certain type of reputation within the administrative area of the polling stations, together with their allies (mostly young males) were heavily engaged in securing the result desired by the group that initiated the Referendum. During the process, including the voting day, they used various, including unlawful methods to influence the referendum course and result.

Although there were polling stations in which no obvious violations were documented, the voting day was generally strained and implied various forms of pressure against the observers. On the voting day, CSI's observers detected numerous electoral violations and cases that cast a shadow on the electoral process, including mass steering, multiple voting and attempts thereof, proxy voting, vote counting results falsification, threats against voters, and the like.

Although the electoral process generally did not include explicit instances of physical violence, contrary to the past, it transpired that none of the vote rigging methods have been forgotten, and they are still being applied.

All of the violations and suspicious situations detected by CSI observers on the voting day were immediately published on the CSI's Human Rights in Armenia ([www.hra.am](http://www.hra.am)) website and disseminated in the social media, to which the stakeholders, including commission members and proxies that were the main “protagonists” of the published stories, responded with a view to preventing future violations.

With respect to 32 of the incidents detected by CSI's observers, the Police and the Investigative Committee of the Republic of Armenia prepared materials on an *ex officio* basis. This constituency had the highest number of reported violations and cases prepared in the country, owing to the work of the observers. Nevertheless, the reports of violations were investigated superficially, and the action taken by the law-enforcement agencies was formalistic, aimed only at getting society and international organizations to believe that a fight against electoral violations is being waged. This practice reinforces the atmosphere of impunity and deepens public mistrust of the authorities and the justice system.

In summary, it can be concluded that yet another opportunity of organizing an electoral process worthy of a democratic society has been failed in Armenia, and both the domestic legislation and international standards have been violated.

Although we are deeply convinced that fair and credible elections depend largely on the political will of the authorities, we are presenting below some recommendations that can help to improve the quality of the electoral processes.

## Recommendations

### General

- Ensure video recording and online broadcasting of the whole process of the voting, especially the vote counting process—in such a way as to make visible how the ballots have been marked;
- Publish the lists of persons that participated in the voting (without their passport information);
- Introduce a system of e-voting that will operate with biometric data;
- Extend the deadline for vote recount applications: a new period of 72 hours from noon of the day following the voting day could be set;
- Improve the quality of the ballot envelopes and make sure they are not transparent;
- Ensure the compliance of all polling stations throughout the country with the requirements prescribed by law, especially the requirements on the secrecy and accessibility of the voting;
- Ensure clear delineation of the voting room boundaries, separated by walls, and having one entry;
- Prepare and disseminate on television public service announcements explaining the legal consequences and criminal liability prescribed for committing electoral violations;
- Through the mass media, raise public awareness of the procedure of lodging applications to fix inaccuracies in the voter lists, as well as the procedure of reviewing such applications and making corrections in the voter lists;
- Introduce a detailed procedure of registering information about persons assisting voters that cannot mark the ballot on their own, including a template containing the basis for assisting, information about the assisting person and the voting citizen, the time of such assistance, and the like;
- Ensure in practice that all cases of assisting voters that cannot mark the ballot on their own are registered, and the failure to register them is consistently viewed as a violation of the vote secrecy, and the persons guilty of it are punished;
- Prescribe more severe sanctions for the crimes proscribed by Articles 149 to 154.6 of the Criminal Code of the Republic of Armenia;
- On the voting day and the preceding days, preclude campaign offices and party offices distributing any social assistance to the voters, and treat such practices as vote buying;

- Take effective measures to preclude the special transportation of voters to polling stations in free taxis and other public transport, and treat such practices as vote buying;
- Disseminate, in advance, a press release about the date and time of the qualification test organized for candidates nominated to become electoral commission members, so that the mass media and NGOs are informed and the real transparency of the test can be secured; and
- Through public service announcements, raise citizen awareness of vote secrecy.

#### *The Formation of Commissions*

- In national elections, preclude commission membership and/or engagement as proxies or observers of persons that reside in or carry out professional activities within the administrative area of the respective polling station in a community that contains more than one polling stations (namely, the staff of schools, kindergartens, and condominiums located within the area of the respective polling station);
- Ensure that no more than one person working for the same organization/entity is represented in the same electoral commission, in order to prevent conflicts of interest;
- Carry out internal administrative inquiries into violations committed by commission members and chairpersons, which are not criminal, and publish information about the outcome;
- Prescribe a clause on terminating the qualification of commission members that have committed electoral and procedural violations, and depriving them of the possibility to be a commission member/chairperson in subsequent elections; and
- Improve the training of commission members and chairpersons and tighten the requirements for obtaining the necessary qualification.

#### *Rights of Observers and Proxies*

- Prescribe a procedure that will allow proxies and observers to record violations in the register autonomously;
- Expand the rights of observers, giving them in particular the right to lodge an application for a recount whenever they detect violations during their observation, which can significantly influence the outcome of the vote;
- Amend the law to allow the same organization to be represented by two observers simultaneously in the same polling station; and
- Ensure the consistent appearance of proxy badges, and post a sample of the proxy badge next to the other samples.



Furthermore, it is necessary to review and implement the recommendations given to Armenia to date by the international organizations.