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ELECTION OBSERVATION DELEGATION TO THE PARLIAMENTARY ELECTIONS IN GEORGIA

(8 October and 30 October 2016)

**Report by
Ana GOMES, Head of the EP Delegation**

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Introduction

Following an invitation from the Georgian Minister for Foreign Affairs, the Conference of Presidents authorised the sending of an Election Observation Delegation to observe the parliamentary elections in Georgia scheduled for 8 and 30 October 2016. Ms Ana Gomes was elected Head of the EP delegation at the constituent meeting held on 27 September.

For the first round, the European Parliament Election Observation Delegation was composed of seven Members: Ms Ana GOMES (Portugal, S&D), Mr Michael GAHLER (Germany, EPP), Mr Jaromír ŠTĚTINA (Czech Republic, EPP), Ms Clare MOODY (United Kingdom, S&D), Mr Andrejs MAMIKINS (Latvia, S&D), Ms Anna FOTYGA (Poland, ECR) and Mr Javier NART (Spain, ALDE).

For the second round, the delegation was composed of six members: Ms Ana GOMES, Ms Sandra KALNIETE (Latvia, EPP), Mr Joachim ZELLER (Germany, EPP), Ms Clare MOODY, Ms Anna FOTYGA, and Ms Norica NICOLAI (Romania, ALDE).

The European Parliament Delegation carried out the election observation in accordance with the Declaration of Principles of International Election Observation and the Code of Conduct for international election observers. It followed the OSCE/ODIHR methodology in the evaluation procedure and assessed the election for its compliance with OSCE commitments for democratic elections. Members of the EP Delegation signed the Code of Conduct for Members of the European Parliament Election Observation Delegations, in conformity with the decision of the Conference of Presidents of 13 September 2012.

Programme

The EP delegation was integrated within the framework of the OSCE/ODIHR election observation mission headed by Ambassador Alexandre Keltchewsky. Parliamentary delegations from the OSCE PA, the NATO PA and the Parliamentary Assembly of the Council of Europe also took part in the International Election Observation Mission (IEOM).

The programme of the EP delegation combined joint briefings within the framework of the IEOM, and additional meetings for the EP delegation only.

The joint briefings by the ODIHR for the delegations from the parliamentary assemblies covered - among other topics - the campaign and political environment; the participation of national minorities; the legal framework and the registration process. Three topical debates were also organised on election law and administration (with the Chairperson of the Central Election Commission and think tanks / NGOs); with a view to facilitating the exchanges between the Georgian parties and the international observers; on campaign financing and media (with representatives from the main national media representing different editorial lines); and with representative from the main political parties (the main opposition party - United National Movement - nevertheless requested and held a bilateral discussion with the international observers, in order to independently discuss the campaign

environment). These topical debates proved to be constructive, invigorating the exchanges between panellists and with the international observers.

The EP delegation also held separate meetings with the Head of the EU Delegation and Heads of missions from EU Member States, with the President of Georgia H.E.M Margvelashvili, with the Prime Minister M. Kvirishkashvili and other members of the Government, and with Ambassador Jankauskas, Head of the EU Monitoring Mission in Georgia.

Background

The parliamentary elections were the first to be held under the constitutional framework adopted in 2013: a semi-presidential political system where the influence and prerogatives of the President have been reduced in favour of empowering the office of Prime Minister and the legislature. The abolition of the majoritarian component of the electoral system in favour of a fully proportional system ahead of the elections was however not included in this reform, despite consensus in the Parliament on the main objectives and support from the civil society and the international community: no compromise emerged within the parliament on how and when such amendments should be worked out. Therefore, the system remained in place: the 150 members of parliament were elected for a four-year mandate under a mixed electoral system, 77 of them being elected under a closed list proportional component in one nationwide constituency (with a 5% threshold) and the remaining 73 in single-mandate constituencies with two rounds.

Georgian political life remained tense due to strong polarisation between the two main party coalitions: the United National Movement (UNM), founded in 2001 by former President Mikheil Saakashvili which had dominated Georgia's political life since the Rose Revolution of November 2003, and the Georgia Dream (GD) movement, created in 2011 by the wealthy businessman (and former Prime Minister) Bidzina Ivanishvili. In 2012, the coalition led by the Georgian Dream Party had secured 85 seats, and the United National Movement 65 seats.

Over the last few years, tensions have increased between these two parties. The political environment has deteriorated due to reciprocal and repeated accusations of corruption, selective justice and of politically motivated anti-corruption campaigns, pressures on media, provocations and intimidations, which marred the atmosphere ahead of the elections. Recent political developments fragmented the ruling coalition and parliamentary parties, and coalition partners of the Georgian Dream movement decided to run separately.

Election Days

For the 1st round, the EP Delegation split into 4 teams deployed in Tbilisi, in the region of Marneuli and in the Gombori range. For the 2nd round, the delegation was deployed in Tbilisi, in the Kakheti region, in Kutaisi and in Alkaltsikhe. All teams observed in a significant number of polling stations, in urban, suburban and rural areas, areas with large numbers of ethnic minorities, and sometimes in special polling stations (prison, areas populated with IDPs etc..).

The conduct on both elections days was considered as generally smooth, especially in the context of the steady increase in the number of violent incidents during the campaign. The observed acts of intimidation in some polling stations as well as the overcrowding of others may have disrupted the voting process in some places, but without having any significant impact on the overall process and the results. Despite the irregularities and the incidents noted, especially between the two rounds, the EP delegation concluded that conditions were met for the people of Georgia to genuinely express their will.

Press conferences and preliminary conclusions

In line with normal practice in an IEOM, the draft statements of preliminary findings and conclusions were negotiated with the OSCE/ODIHR mission and the heads of delegations from parliamentary assemblies. The key messages from the preliminary findings focus on the fact that,

- for the first round, the elections were competitive, well-administered and fundamental freedoms were generally respected; the calm and open campaign atmosphere was, however, impacted by allegations of unlawful campaigning and some incidents of violence; voting proceeded in an orderly manner, while counting was assessed more negatively due to procedural problems and increased tensions.

- for the second round, the run-offs were competitive and administered in a manner that respected the rights of candidates and voters, despite the lack of a legal framework; contesting of the first round results dominated political discourse; confidence in the election administration was somehow weakened; media coverage was more balanced than for the first round.

The press conferences on 9 and 31 October both attracted a great deal of national and international media attention.

Aside from fully supporting the preliminary findings and conclusions, the Head of EP Delegation in her statements vigorously condemned all acts of violence, intimidation and the leaking of illegal recordings that marked the campaign, and called for thorough investigation and judgement. She also underlined the importance of public political debate in diffusing tensions and polarisation, to challenge views and programmes. The imbalance between the financial resources of political parties should also be addressed in a determined and ambitious way.

The Head of the EP Delegation strongly emphasised to the outgoing majority, when it had reached the threshold for a constitutional majority, the need for the ruling party to use its power for the benefit of the whole country, rather than employing it for political retribution, to ensure the respect for the institutional checks and balances between the different branches of power, for basic freedoms, such as media freedom, and for the role of the opposition.

Results

25 blocs/parties participated in the elections in the first round, and 816 candidates were registered for the 73 majoritarian constituencies. In the 2nd round, 4 blocs/parties contested the elections.

In the 1st round, 100 members were elected out of 150:

- 77 in the single-round proportional contest, where only three parties reached the 5 % threshold: Georgian Dream with 48.68 %, United National Movement with 27.11 % and Alliance of Patriots of Georgia with 5.01 % of votes. They respectively obtained 44, 27 and 6 seats.

- 23 received more than 50 % of the vote in the majoritarian constituencies, all representing Georgian Dream.

In the 2nd round, contenders from the two main parties faced each other in most of the races for the remaining 50 majoritarian constituencies: The Georgian Dream movement won 48 seats, and the remaining two were won by an independent and by the representative of a party in coalition with Georgian Dream.

Party	Proportional			Constituency			Seats	
	Votes	%	Seats	Votes	%	Seats	Total	+/-
<u>Georgian Dream</u>	856,638	48.68	44			71	115	+67
<u>United National Movement</u>	477,053	27.11	27			0	27	-19
<u>Alliance of Patriots of Georgia</u>	88,097	5.01	6			0	6	New
<u>Free Democrats</u>	81,464	4.63	0			0	0	-8
<u>Democratic Movement – United Georgia</u>	62,166	3.53	0			0	0	0
<u>State for a People</u>	60,681	3.45	0			0	0	New
<u>Labour Party of Georgia</u>	55,208	3.14	0			0	0	0
<u>Republican Party</u>	27,264	1.55	0			0	0	-9
<u>Industry Will Save Georgia-Our Fatherland</u>	13,788	0.78	0			1	1	-5
<u>National Forum</u>	12,763	0.73	0			0	0	-6
<u>Independents</u>	-	-	-			1	1	
Total	1,825,054	100	77			73	150	0

Conclusions

Given the overall satisfactory conduct of the elections, the clear and determined pro-European and pro-Western commitment and achievements of the country, and taking into account the importance of Georgia in EU external policy (Association Agreement, regional stability, visa free regime etc.) the Head of the EP Delegation recommended that the DEG should include Georgia on the list of priority countries for EP Comprehensive Democracy Support Approach activities from 2017 onwards.

At its meeting on 15 December 2016, the DEG approved this proposal, and appointed Ana Gomes as EP lead member for CDSA activities with the Georgia.

1st round: 8 OCTOBER 2016

Annex A

LIST OF PARTICIPANTS

Members

Ms Ana GOMES, Portugal, S&D - Head of Delegation

Mr Michael GAHLER, Germany, EPP

Mr Jaromír ŠTĚTINA, Czech Republic, EPP

Ms Clare MOODY, United Kingdom, S&D

Mr Andrejs MAMIKINS, Latvia, S&D

Ms Anna FOTYGA, Poland, ECR

Mr Javier NART, Spain, ALDE

Annex B

Press statement by Ana Gomes,
Head of the European Parliament Delegation
to the International Elections Observation Mission to Georgia - Parliamentary elections



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Tbilisi 9 October, 2016

We are very pleased to be here at the invitation of the Georgian authorities to observe these elections. We were fully aware of and witnessed the high stakes involved in this competitive contest, which is a crucial milestone on the path towards the democratic consolidation of the Georgian state.

As you know, Georgia stands very high on the agenda of the European Union and of the European Parliament: the Association Agreement, the finalisation of the Visa Liberalisation Action Plan, the regional security environment, the energy dimension, to name but a few, are key issues in EU-Georgia relations. We have had the opportunity to reiterate this message in our meetings with the highest Georgian authorities.

The European Parliament delegation - which was made up of seven members representing the four largest political groups - subscribes fully to the preliminary statement that has just been presented by OSCE Special Coordinator, Mr Ignacio Sanchez Amor (MP) on behalf of the International Election Observation Mission, and I take this opportunity to thank Ambassador Keltchewsky and his team for their cooperation and I commend their excellent and high quality work. I would also like to thank my colleagues from other parliamentary assemblies for our fruitful collaboration throughout this process, and stress that we stand here together in support of Georgia and its people.

I would like to emphasize some elements of this preliminary statement. At first, let me praise the professional way in which these elections were organised, and how the process was managed yesterday, despite the problems at the count as mentioned in the preliminary conclusions. It was particularly striking to witness the involvement and the role of women in the management of the polling stations: we sincerely wish their representation at all levels of political life in Georgia could be as wide as it is in the polling stations, and hope that political parties will take the necessary steps in this regard.

One aspect that must be addressed in the running of elections is to ensure that political parties and civil society representatives do not cause overcrowding in polling stations in a way that may have an impact on the conduct of the proceedings.

The generally smooth conduct of the Election Day is even more noticeable in the context of a steady increase in the number of violent incidents that characterised the last phase of the electoral campaign, culminating in the bomb explosion in the car of an opposition MP running for office. It is the responsibility of the relevant authorities to keep public order but it is also the moral duty of all political parties and forces to set a calm and respectful tone for the campaign. All acts of violence must be investigated thoroughly and without delay, and their perpetrators brought to justice, including in the case of Kortskheli. Impunity is not acceptable and will not be accepted. Additionally, the leaking and publication of illegal recordings, apart from violating the privacy of the persons targeted, has further embittered the campaign and distracted from the main policy issues.

An election process is not over until the complete and final tabulation of the results. In order to counter any speculation or concern we call for the verified results at each level to be published as soon as they are available.

Let me also underline the importance of a real exchange of views in political life. We were surprised to hear that no general debate could be organised between the main party leaders. Whatever the reasons behind this, one has to bear in mind that debating is part of the learning process of a vibrant democracy, and that citizens have the right to listen to programmes and views being challenged. Democracy is also about preparing the day after the election, and not about exacerbating any polarisation. It is about maintaining civilised dialogue between lawmakers and ensuring that this dialogue is meaningful.

Finally, the strong imbalance between financial resources that political parties had at their disposal for campaigning is striking. Georgia must take determined and ambitious actions, in line with international standards, to control the influence of business in politics, and to ensure a genuine level playing field and fair competition between political parties.

To conclude - and in line with my previous comments on the acts of violence that took place in the last weeks of the campaign and some acts of intimidation that took place yesterday - I would like to emphasize that everything must be done to prevent any escalation of violence between now and the second round of the election. It is the responsibility of the competent authorities and of all political forces to do everything in their power to defuse tensions; it is the role of the media and of civil society to hold them to account; and finally it is the duty of the international community to closely monitor all these efforts.

Thank you.

Annex C



OSCE Office for Democratic Institutions and Human Rights Election Observation Mission

Georgia

Parliamentary Elections, 8 October 2016

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The 8 October elections were competitive, well-administered and fundamental freedoms were generally respected. The calm and open campaign atmosphere was, however, impacted by allegations of unlawful campaigning and some incidents of violence. The election administration and the management of voter lists enjoyed confidence. The media is pluralistic, but some monitored broadcasters lacked balance in their campaign coverage. Debates offered a useful platform for contestants to present their views. Voting proceeded in an orderly manner, but counting was assessed more negatively due to procedural problems and increased tensions.

The electoral legal framework is conducive to holding democratic elections. Late amendments to the electoral law impacted election operations and the campaign. Recent legal changes also resulted in the drawing of new constituency boundaries aiming to respect the principle of equal suffrage, as previously recommended. However, some deviations still remain and the changes did not provide sufficient parameters for determining boundaries or set procedures for future review.

The election administration, led by the Central Election Commission (CEC), worked in a timely and professional manner and the CEC enjoyed a high level of confidence amongst electoral stakeholders. More than half of the election commission members were appointed by political parties. Allegations of commissions lacking impartiality when appointing the remaining lower-level commission members persisted throughout the campaign, partially due to the discretion in the legal framework.

There is increased trust and confidence in the accuracy of the voter lists amongst election stakeholders. Election commissions gave voters ample opportunity to verify their information on the lists. Legal amendments eased registration procedures for previously disenfranchised voters and improved the inclusiveness of voter lists, but were introduced too late to be fully effective.

Twenty-five parties and blocs were registered for the proportional ballot and 816 candidates in majoritarian contests. While voters could select from a wide range of contestants, the late introduction of changes to the political party legislation impacted the registration of some parties and the inclusiveness of the registration process. Seven of nine eligible parties met the non-binding gender

quota on their candidate lists and qualified for additional public funding. There were 143 female majoritarian candidates.

The campaign was competitive and largely calm, despite isolated violent incidents. While fundamental freedoms were generally respected and contestants were able to campaign freely, several parties voiced allegations of political pressure on candidates and campaign staff. The tone of the campaign between the two leading parties was confrontational and permeated the election atmosphere. Campaign issues included unemployment, economy, development of infrastructure and social security as well as the publication surveillance recordings. Incidents of the misuse of administrative resources and unlawful campaigning were reported.

Amendments to campaign finance regulations only partially addressed Council of Europe's Group of States against Corruption (GRECO) recommendations for a more uniform legal framework and proportionate and dissuasive sanctions for infringements. The State Audit Office (SAO), responsible for overseeing party and campaign finances, investigated 694 donations and imposed sanctions on 7 donors. Partially due to new procedures requiring the SAO to obtain court approval for its investigations, campaign finance violations were often not addressed in a timely manner, undermining the effectiveness of the SAO's oversight. There was a substantial imbalance in the amount of funds that parties were able to raise.

Media legislation provides a sound framework for the freedom of media. The overall pluralism of the media landscape has improved. Media outlets are perceived as polarized. The Georgian National Communications Commission did not comprehensively disclose the findings of its monitoring and did not react in a timely and effective manner to violations they detected. OSCE/ODIHR EOM media monitoring showed that the monitored broadcasters respected legal provisions pertaining to free and paid advertising, but were not in compliance with the law with regard to the publication of opinion polls. Debates offered an inclusive and pluralistic platform for contestants to present their views, but some monitored broadcasters were biased in their news or current affairs programmes.

The Election Code establishes a timely dispute resolution process for appeals of election commission decisions, but limits the voter's right to appeal, contrary to international commitments and good practice. Election commissions and courts received 187 complaints during the campaign period, and reviewed them transparently in open sessions informing the parties of the hearings. The lack of an expedited deadline for taking administrative action against electoral offenses and insufficient resources for investigations limit the effectiveness of this remedy. Many electoral stakeholders acknowledged the need to continue reform of the judicial system.

Candidates from national minorities were nominated by several parties and blocs on their lists, but few in electable positions, and in majoritarian contests in minority populated regions. In these regions, the campaign was conducted in a free and competitive environment. It was more vivid in Azeri areas and more subdued in Armenian areas. Concerns were raised that some new boundaries between constituencies may decrease the possibility for representation of national minorities.

In an inclusive process, the CEC accredited 55 international and 111 citizen observer organizations.

The participation of numerous citizen observers at all stages of the electoral process contributed to the transparency of the elections.

Election day generally proceeded in an orderly manner, but tensions increased during the day and several violent altercations took place near and in polling stations. Opening and voting were assessed positively in almost all polling stations. In the few polling stations where the process was assessed as negative, this was largely due to the interference in the work of the Precinct Election Commissions by unauthorized persons. Counting was assessed notably worse due to procedural problems and increased tensions. Tabulation in the District Election Commissions was assessed more positively. The presence of significant numbers of citizen observers and party representatives enhanced transparency, but contributed to overcrowding and they were frequently interfering in the work of the commissions.

PRELIMINARY FINDINGS

Background

On 5 June, the president called the parliamentary elections for 8 October. These were the first parliamentary elections held under the new semi-presidential political system with powers of the president reduced in favour of the prime minister and parliament. Despite the broad consensus reached on the abolishment of the majoritarian component of the electoral system in favour of a fully proportional system ahead of the elections, the adoption of the reform was postponed until after the 2016 elections.

The elections were held against a backdrop of public discontent with politics and the political elite, and the country's continued poor economic performance. Signed in June 2014, the Association Agreement with the European Union also impacted the context of elections. The tensions between the Georgian Dream (GD) and the United National Movement (UNM) permeated all aspects of the political environment and marred the atmosphere for elections.

In the last parliamentary elections, the ruling coalition, led by the GD, won 85 of 150 seats and the largest opposition group, the UNM, 65 seats. Recent political developments fragmented the ruling coalition and parliamentary parties.¹ The GD and its coalition partners took part in the elections separately. National minorities are represented in the outgoing parliament by seven members.²

Electoral System and Legal Framework

The 150 members of parliament (MPs) are elected for four-year terms under a mixed electoral system. Of these, 77 members are elected under a closed list proportional component in one nationwide constituency and 73 in single-mandate constituencies. Parties and blocs must surpass a five per cent threshold of valid votes cast to qualify for proportional seat allocation. In majoritarian contests,

¹ Since the 2012 parliamentary elections, the Free Democrats (FD), National Forum (NF) and the Republican Party (RP) left the GD-led coalition; four members left the GD to sit as independents. Currently, the GD is supported by 12 independent majoritarian candidates, the Industry Will Save Georgia and Conservative Party (CP) with six members each. Four members from the UNM founded a new party – New Political Centre Girchi.

² Including three Armenians, three Azeri, and one Ossetian.

candidates must receive more than 50 per cent of valid votes cast to be elected, a threshold that has been increased from 30 per cent by the December 2015 amendments.

The legal framework is conducive to holding democratic elections, but the introduction of amendments to fundamental elements of the electoral law less than a year prior to the elections is against international good practice.³ Late changes created some confusion amongst voters about where to vote and who their candidates are, which made it necessary for the election administration to adjust its operations and impacted the campaigns of some majoritarian candidates. The elections are primarily regulated by the 1995 Constitution and 2011 Election Code (last amended in June 2016) as well as decrees and ordinances of the Central Election Commission (CEC).⁴

Significant amendments were made to the Election Code in 2015 followed by a package of technical amendments adopted in June 2016.⁵ At the end of 2015, aiming to respect the principle of equal suffrage and address previous OSCE/ODIHR recommendations, new procedures for boundary delimitation of single-mandate constituencies were adopted. The amendments prescribed the redrawing of constituencies in a two-stage process, defined the boundaries for 43 of 73 single-member constituencies and mandated the CEC to delimitate the remaining 30 constituencies in municipalities where more than one election district should be created.

The amendments did not provide specific parameters for determining constituency boundaries, such as population size, number of registered voters, number of people actually voting, or a mechanism applicable to minority populated areas. The law also does not specify criteria for permitted deviations in the number of voters and does not sufficiently address the issue of managing future boundary reviews.

Further, the largest deviations from the average number of voters still contravene international good practice, and a few constituencies do not satisfy the principle of connectivity.⁶ Many OSCE/ODIHR EOM interlocutors reported that the delimitation process lacked sufficient transparency and engagement of relevant stakeholders.⁷

³ The 2002 [Council of Europe's European Commission for Democracy through Law \(Venice Commission\) Code of Good Practice in Electoral Matters](#) states that the fundamental elements of electoral law, in particular the electoral system, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election.

⁴ Other applicable laws include the 1997 Law on Political Unions of Citizens, Criminal Code, Administrative Offences Code, Administrative Code, 2008 Law on the State Audit Office and 2004 Law on Broadcasting. The CEC adopted 39 decrees and 292 ordinances, 192 ordinances of the CEC Chairperson. Five ordinances of the CEC Chairperson were appealed to the court, of which one was satisfied, and the others were not. Four decrees were appealed, none were satisfied.

⁵ Among the most important changes are the transitional provisions that ease conditions for some categories of voters to be registered at their factual or previously registered address. Other amendments defined the number of voters necessary to register an initiative group to support nomination of independent candidates, decreased the amount of free airtime provided to contestants on public and private broadcasters, and allowed police, in exceptional cases to prevent violence, to be present near polling stations without a request from polling staff.

⁶ The largest deviation in numbers of voters from the average size is currently 25.4 per cent.

⁷ The [OSCE/ODIHR and Venice Commission Joint Opinion on Amendments to the Election Code of Georgia, 14 March 2016](#) states that "many electoral stakeholders criticised the initial stages of creating the constituencies as lacking transparency, impartiality and broad engagement. Later stages of consultation on the proposed boundaries suffered from a lack of stakeholder engagement, which further undermined the inclusiveness of the process".

Election Administration

Elections are managed by a three-tiered election administration: the CEC, 73 District Elections Commissions (DECs) and 3,634 Precinct Election Commissions (PECs).⁸ For these elections, 53

DECs fully exercised their functions prescribed by law, while the remaining 20 DECs acted as Subsidiary District Election Commissions (SDECs).⁹ All election commissions are composed of 13 members, 7 of whom are nominated by the political parties that qualify for public funding having obtained at least 3 per cent of the votes in the last parliamentary or local elections.¹⁰ At the CEC level, the additional five members are appointed by the parliament upon the nomination by the president, and there are separate procedures for the selection of the chairperson.¹¹ Three CEC members are women, including the chairperson. Women comprise approximately 62 per cent of DEC and 69 per cent of PEC members.¹²

The elections were managed at all levels in a timely and professional manner. The CEC operated transparently, promptly posting decrees, ordinances, decisions and minutes of the meetings on its website and regularly conducting briefings and meetings with stakeholders. All CEC sessions were open to observers, party and media representatives. Throughout the process, the CEC enjoyed a high level of confidence amongst stakeholders.

During the pre-election period, allegations were made about the CEC, and particularly DECs, lacking impartiality when appointing lower-level commission members. The legal criteria for electing PEC members are vague and leave space for misinterpretation, which gave rise to concerns expressed by various stakeholders.

PECs were established and held their first sessions electing the three leading positions (chairperson, deputy chairperson and secretary) by the legal deadline, with the exception of 258 PECs that had to re-run their first sessions and re-elect commission members. The selection process for the three positions was carried out in accordance with the law. In the vast majority of PECs, DEC-appointed staff were selected.¹³ However, in 373 precincts where the party appointees were selected as chairpersons, the results heavily favoured the GD with 300 appointments, followed by the CP - 30, Topadze – Industrials, Our Homeland - 25, UNM - 6, Democratic Movement (DM) - 6, RP - 3 and FD - 3.¹⁴

⁸ In addition, 11 special precincts were established in penitentiary institutions and medical facilities. For out-of-country voting, 57 PECs were established in 42 countries.

⁹ SDECs mainly provided logistical, administrative and information support to DECs. There was no tabulation of results at SDECs.

¹⁰ The seven political parties that received the highest amount of state funding include the UNM, GD, CP, RP, FD, Industry Will Save Georgia and NF.

¹¹ The president nominates three candidates and then the CEC members appointed by parties (with exception of the member appointed by the party with the best results in the previous parliamentary elections) elect the chairperson.

¹² According to figures from the CEC.

¹³ In 3,261 of 3,634 PECs.

¹⁴ Deputy chairpersons: DEC-appointed staff - 2,934, GD – 470, CP – 86, Topadze – Industrials, Our Homeland – 51, RP – 32, UNM – 23, FD – 19, DM – 14. Secretaries: DEC-appointed staff – 3,075, GD – 241, CP – 118, Topadze-Industrials, Our Homeland – 94, RP – 40, UNM – 13, FD – 32, DM – 21.

The training centre of CEC conducted comprehensive trainings for DEC and PEC members in three phases. Training sessions observed by the OSCE/ODIHR EOM were generally well-attended and conducted in a professional and interactive manner. The centre also successfully organized trainings on election-related topics for various stakeholders, such as media representatives, local administration officials, potential female candidates, representatives of electoral contestants, and citizen observers.

The authorities made a concerted effort to facilitate access for persons with disabilities. The CEC announced that 1,115 polling stations were barrier-free, including by arranging special booths for wheelchair users, and equipped all polling stations with magnifying sheets and tactile frames for visually impaired voters.

The CEC voter education and information campaign was well-prepared and comprehensive. It consisted of banners, printed materials, videos and spots on the Internet. Videos conveyed messages on various aspects of the electoral process that were available in minority languages and in sign language, and were broadcasted on private and public TV channels.

Voter Registration

Georgia has passive voter registration. Citizens over 18 years of age have the right to vote, except for prisoners sentenced to more than five years imprisonment. In March 2015, persons without legal capacity were granted the right to vote.¹⁵ The CEC is responsible to compile voter lists (VLs) based on data provided by the Public Service Development Agency (PSDA) within the Ministry of Justice and other relevant authorities.¹⁶

Out of 3,720,400 citizens, there were 3,513,882 voters on final VLs.¹⁷ Some 49,700 voter were registered abroad. VLs were observed by the OSCE/ODIHR EOM to be properly posted in polling stations from 8 September for public scrutiny, and additions and corrections were permitted until 22 September. In addition, voters were given ample other options for verifying their data on VLs through the CEC website, mobile phones, and a special application through 7,000 payment terminals around the country. The CEC reported that between June and September, approximately 950,000 voters checked their information via these three methods.

The PSDA is introducing biometric data in the state registry.¹⁸ To remove inconsistencies in the VLs, door-to-door verifications were conducted and facial recognition software is being used to remove duplicate records. In addition, a photograph of the voter is included on the VLs, which, according to OSCE/ODIHR EOM interlocutors, appears to be largely accepted by the public. In general, increased trust and confidence in the accuracy of VLs was noted.

Amendments in force from 12 July gave voters without an officially registered address or valid documents the opportunity to register and be added to the VLs according to the address of their

¹⁵ Following Constitutional Court Decision #2/4/532,533 of 8 October 2014 on citizens recognized as incapable.

¹⁶ Ministry of Defence, Ministry of Corrections and Legal Assistance, Ministry of Internally Displaced Persons, local self-government bodies and the Supreme Court

¹⁷ Population data according to the National Statistics Office.

¹⁸ Currently, the PSDA has biometric data for some 2,400,000 voters.

previous or factual residence by 1 August. Despite the intention of authorities to increase inclusiveness, the timeframe was insufficient. Considering the short period, the CEC adopted a special decree extending the period for registration for these categories of voters until 22 September. The CEC informed the OSCE/ODIHR EOM that 62,362 voters previously removed from the VLs were re- included following these changes.

Candidate Registration

Any citizen of Georgia who has the right to vote, has attained the age of 21, and speaks Georgian may be elected.¹⁹ Citizens who have not resided in Georgia for the last two years and who did not register during this time with a consulate abroad, or those deemed a drug addict or user, may not be elected. The restrictions on language and residency are disproportionate and the possible post-election disqualification for failure to pass a drug test challenges paragraph 7.9 of the 1990 OSCE Copenhagen Document.²⁰ Certain public officials are required to resign from their positions to be eligible to stand for office.

The CEC registered 25 candidate lists for the proportional contest, with 19 parties running separately, and 16 running in 6 electoral blocs.²¹ Parties have to first register with the CEC as prospective contestants to be able to apply for registration of their candidate lists. Out of 64 parties/blocs that applied for the pre-registration, 26 were either rejected or their registration was later revoked, mainly for failure to submit the required documents.

The registration as prospective contestants of some parties was impacted by the changes introduced in May 2016 to the Law on Political Unions of Citizens. The amendments came into force during the election period on 20 June, introducing new requirements to update party data with the Public Register within 10 days after the changes take place and to have a notary present at all general meetings. Following these amendments, the registration of the Centrists and Kvaratskhelia-Socialists parties as prospective contestants was annulled by the CEC. In the case of the Centrists Party, there are strong indications that the new requirements were applied by authorities involved in a selective and possibly politically motivated manner.²² The consequences of late legislative changes and the lack

¹⁹ The Georgian Young Lawyers' Association submitted a complaint to DEC #81 of Kobuleti, and appealed later to the CEC and Tbilisi City Court stating that the DEC violated legislation by registering a candidate who does not speak Georgian. The Court ruled that the law does not prescribe a mechanism for verifying language skills. Therefore the DEC decision to register the candidate was upheld.

²⁰ Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens", while paragraph 24 provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law". See also Paragraph 14 of the United Nations Human Rights Committee General Comment No. 25 to the International Covenant on Civil and Political Rights and section I.1.1.1.d.iii of the Code of Good Practice.

²¹ Parties that were represented in the outgoing parliament and those who qualified for state funding had to collect 1,000 signatures to register as prospective contestants, while the others had to collect 25,000 signatures.

²² On 13 August, the party's controversial political advertisement was aired, and on 15 August, the Public Registry placed the information about the registration status of the party on its website and sent it to the CEC, which the Registry stated was in the interest of the public.

of a formal and efficient communication mechanism between the CEC and the Public Registry impacted the inclusiveness of the candidate registration process.

There were a total of 869 majoritarian candidates, including 53 independents. For majoritarian contests, candidates could be nominated by parties, blocs or run independently if nominated by an initiative group of at least five voters. Twenty-seven initiative groups had their registration cancelled for not submitting the necessary documentation or voluntarily withdrew. Independent candidates nominated by voter initiative groups had to submit supporting signatures of at least one per cent of the voters registered in the district. Independent candidates who were elected in the last parliamentary elections were exempt from this provision.

Out of nine parties eligible for state funding, seven met the voluntary quota of at least 30 per cent of candidates of the less represented gender among every 10 candidates of their respective list, which qualified them to receive additional 30 per cent of public funding.²³ This incentive encouraged women's participation in the proportional contest, but does not address it in the majoritarian component. There were 1,304 registered female candidates (out of a total of 3,524) in the proportional and 143 in the majoritarian contests.

Campaign Environment

The campaign officially began on 8 June, upon the call for elections. The campaign was competitive and largely calm, despite isolated violent incidents, including the bombing of an MP's vehicle.²⁴

Campaign activities intensified and visibility increased across the country two weeks prior to election day. While fundamental freedoms were generally respected during the campaign and contestants were able to campaign freely, several parties voiced allegations of political pressure on candidates and campaign staff involving local authorities, police and the State Security Service. Only a few official complaints were formally submitted on these matters and are under investigation.

The tone of the campaign between the GD and UNM was confrontational and the two parties accused one another of exacerbating the situation.²⁵ The timing of recently published surveillance recordings could have affected the image and reputation of involved candidates and negatively impacted the campaign atmosphere.²⁶ The campaign was dominated by the GD, UNM, Paata Burchuladze – State

²³ Political parties that met this requirement are DM, Labour Party (LP), Alliance of Patriots of Georgia (APG), FD, Labour Socialist Party, RP and the Left-Wing Alliance.

²⁴ On 16 September, in Gamarjveba village, a UNM campaign activist was attacked and an investigation was opened. On 28 September, in Marneuli, a SP candidate was attacked allegedly by UNM candidate relatives. On 1 October, in Didinedzi, three GD campaign activists were beaten up allegedly by UNM activists. On 2 October, in Gori, at a meeting with voters, two shots were fired in the direction of an independent candidate, Irakli Okruashvili, leaving his bodyguard and a campaign activist wounded. On 4 October, in Tbilisi, a vehicle of a UNM MP was blown up, five people were injured, the incident is under investigation.

²⁵ On 14 September, the Prime Minister and chair of the GD accused the UNM of radicalizing the situation in the country. On the same day, the executive secretary of the UNM accused the GD of continuing intimidation and pressure on UNM party members.

²⁶ On 13 September, published surveillance recordings included private conversations between the SP chair and the *Rustavi 2* TV channel director. On 26 September, a compilation from conversations between former president of Georgia, Mikheil Saakashvili, and UNM party officials and candidates was published.

for People (SP), Alliance of Patriots of Georgia (APG), while the FD, RP, DM and several independent candidates featured to a lesser extent.

Most campaigning was conducted in the media and through billboards, posters, door-to-door canvassing, community meetings and mainly small-scale rallies. The OSCE/ODIHR EOM observed 53 rallies and meetings with voters. A few parties campaigned through social media and the Internet. According to the OSCE/ODIHR EOM media monitoring, the GD purchased 75 per cent of the total paid advertisement observed in the monitored broadcasters, SP followed with 17 per cent. Pressing issues such as unemployment, economy, development of infrastructure as well as social security were addressed by contestants.

Interlocutors, both from the authorities and political parties, reiterated their commitment to combating the misuse of administrative resources and maintaining a calm campaign atmosphere. The OSCE/ODIHR EOM, however, received numerous allegations regarding the misuse of administrative resources. A few incidents of pressure on local public employees and teachers to attend GD campaign events were reported.²⁷ Further, in some instances, GD candidates used official public events for the purpose of campaigning, raising concerns of blurring the line between state and party, at odds with paragraph 5.4 of the OSCE 1990 Copenhagen Document.²⁸

The law prohibits changes in municipal budgets during 60 days before election day. Several interlocutors, including contestants, claimed that the government reallocated budget funds immediately prior to this deadline in order to optimize the campaign effect and has been promoting the completion of infrastructure and renovation projects among voters shortly before election day. This raises concern about the equality of contestants during the election.²⁹

While the law prohibits campaigning by certain public officials during working hours, provisions permit officials to take vacation time to campaign, which was noted on multiple occasions by the OSCE/ODIHR EOM at campaign meetings. Foreign citizens are also prohibited from campaigning; however, a former president of Georgia, now a citizen of Ukraine, campaigned for the UNM.³⁰

²⁷ For example: on 12 September, in Zestaponi, teachers were intimidated against attending a UNM campaign event. On 9 September, in Gurjaani, kindergarten teachers were asked to attend a campaign meeting of the GD majoritarian candidate.

²⁸ Paragraph 5.4 of the [1990 OSCE Copenhagen Document](#) provides for “a clear separation between State and political parties”. For example, on 23 August, in Chiatura, the Minister of Interior along with a GD majoritarian candidate opened a fire station. On 20 September, in Khreiti, the GD majoritarian candidate attended and campaigned at the opening of a museum organized by municipality. See also paragraph II.B.1.3 of the [2016 OSCE/ODIHR and Venice Commission Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#).

²⁹ For instance, on 27 September, the municipality of Batumi made changes to the local budget in order to implement renovation of infrastructure, while Article 49. 3 of the Election Code prohibits implementation of projects that have not been included to the budget 60 days prior election day.

³⁰ On 25 September, in Batumi, Mikhail Saakashvili via video message endorsed the UNM in front of an audience. On 26 September, in Zugdidi, Mikhail Saakashvili gave a speech at a UNM rally via video message. This resulted in a complaint to the court by a citizen observer group.

In several areas, cases of contestants being obstructed from placing campaign materials and of damaging of campaign offices were noted.³¹ The vast majority of campaign incidents that the OSCE/ODIHR EOM was made aware of related to vandalized campaign posters and billboards.³²

Campaign Finance

Amendments in 2013, 2014 and 2016 to legislation regulating campaign finances introduced provisions that lowered sanctions for violations, adjusted the types of permitted donations, allocated public funds to cover TV advertising expenses for qualified contestants and added regulations related to independent candidates. A number of previous recommendations from the Council of Europe's Group of States against Corruption (GRECO) regarding the need for a more uniform legal framework and proportionate and dissuasive sanctions for all infringements were only partially addressed.³³ Among the majoritarian candidates, only those nominated by qualified political parties have access to public funding.

According to the information from the SAO, the majority of contestants had submitted their income and expenditure reports within the legal deadlines, except for 5 parties and 18 independent candidates. Before imposing sanctions, the State Audit Office (SAO), the oversight body, informed these contestants and provided additional time to meet the requirements. While, contrary to international good practice, the law does not set the deadlines for the SAO to scrutinize the reports, the SAO examined some of the reports it received and published those on its website every three weeks to ensure greater transparency.

The SAO investigated 694 donors, most of whom had contributed to the GD, to verify contributions and the origins of funds.³⁴ During the campaign period, the SAO sanctioned three parties and one independent candidate for not submitting financial reports on time, as well as seven donors for unlawful donations.³⁵ Furthermore, the SAO received 43 complaints related to different campaign finance violations and 28 related to vote-buying.³⁶ In consideration of these complaints, the SAO is conducting investigations. The OSCE/ODIHR EOM was informed that new procedures requiring the SAO to obtain court approvals delayed its investigations and since there is no expedited

³¹ For example, on 11 August, in Dedoplistskaro, the UNM's office was damaged; on 2 September, in Tbilisi, a UNM candidate's office was raided; on September 19, in Saburtalo, a GD office was broken into by three individuals. In Gardabani, the UNM billboard was taken down and replaced by one of the GD on the same building. In Rustavi, the UNM was prevented from contracting a large billboard on the main street.

³² For instance, in Akhaltsikhe, Dedoplistskaro, Khelvachauri, Kvemo Bolnisi, and numerous areas of Adjara and Guria region. As of 28 September, the OSCE/ODIHR EOM was aware of 23 criminal cases of damaging campaign materials, 20 of them under investigation.

³³ See the [2015 GRECO Second Compliance Report on Georgia](#).

³⁴ For instance, 444 out of the 694 interviewed donors (including legal entities) contributed to the GD, 133 to SP, 40 to UNM, 38 to APG, 18 to FD, 8 to DM, 8 to Industrials, Our Homeland, 4 to NF, 1 – to Georgian Dasi.

³⁵ Our Fatherland, Georgian Idea, Peoples Party and independent candidate Tamara Irajuli. Of the seven sanctioned donors, four donated to the SP, two to the GD, one to the APG.

³⁶ Of the 43, 9 were found to be not under SAO jurisdiction, 2 were sent to the court for sanctioning and the remaining cases are pending.

legal deadline for the SAO to respond to campaign finance violations, most will be addressed after election day. This weakened the effectiveness of campaign finance oversight.

From 8 June to 1 October, parties and blocs declared a total amount of GEL 22,874,725 (approximately EUR 8,752,830) from donations by some 1,770 donors to 17 parties and blocs as well as 22 independent candidates.³⁷ During the observation period, only the GD took a loan (one million GEL) for its campaign needs from a commercial bank, Cartu Bank.³⁸ While not a violation of campaign finance regulations, it was seen by stakeholders as inappropriate, in particular because there are no special regulations concerning loan terms and the loan could be paid back from state funds for which the GD is eligible.³⁹ There was a substantial imbalance in the amount of funds that parties were able to raise.

Media

Georgia has a wide range of media outlets and a lively media environment. The primary source of information is television while print media have limited circulation. According to all OSCE/ODIHR EOM interlocutors, there were improvements since 2012 in the overall pluralism of the media landscape and more recently with the growing contribution of online media. Nevertheless, media outlets, especially broadcast media, are often still perceived as polarized along political lines.

Media legislation provides a sound framework for freedom of the media. The Constitution guarantees freedoms of speech and of the press and prohibits censorship, libel is not a criminal offence, and freedom of information provisions in legislation ensure access to public information. However, in the two last years, court actions related to a case over the ownership of the *Rustavi 2* TV channel have sparked concerns and have been cited by several civil society and international organizations as an attempt to restrict media freedom.⁴⁰ The on-going court case did not affect *Rustavi 2's* capacity to cover the election.

The Law on Broadcasting stipulates that both public and private broadcasters should ensure pluralistic and non-discriminatory coverage of all relevant views in their news programmes, while the Election Code contains detailed provisions regulating the free and paid advertisement during the election campaign and the publication of opinion polls. Recent amendments to the Election Code reduced the amount of free airtime granted to the nine contestants qualified for public funding on both public

³⁷ (1 EUR equals approximately 2.55 Georgian Lari, GEL). During the reporting period, the following contestants received highest amount of donations: the GD received GEL 15,059,230; SP – GEL 4,558,555; APG – GEL 1,271,485; UNM – GEL 998,833; FD – GEL 421,690; DM – GEL 177,661; Topadze – Industrials, Our Homeland –GEL 130,910; NF – GEL 93,937. Out of 1,350 donors, 31 are legal entities.

³⁸ The bank is allegedly linked to former Prime Minister Bidzina Ivanishvili.

³⁹ According to the SAO, loans are regulated by banks and procedures for paying off the loan should be done according to the procedures and terms stated in the contract.

⁴⁰ On 5 November 2015, the Tbilisi City Court directly interfered with the editorial independence of the media outlet by temporarily replacing its management – the court suspended *Rustavi 2's* General Director and the Financial Director from their positions. On 13 November 2015, the Constitutional Court suspended this decision and on 30 September 2016, ruled the 5 November 2015 Tbilisi City Court action as unconstitutional. See also the [6 November 2015 OSCE Representative on Freedom of the Media statement on this case](#).

and private broadcasters to not more than 90 seconds per every three hours.⁴¹ The Georgian Public Broadcaster (GPB) and *Adjara TV*, in line with legal requirements, offered non-qualified contestants equal, but very limited airtime (10 seconds per day) and only one party used this opportunity.⁴²

Generally, media outlets respected legal provisions on free and paid advertisement; however, broadcasters did not abide by the disclosure rules for the publication of opinion polls. One party produced an advertisement with anti-Turkish and xenophobic content, which was aired by some TV channels.⁴³

The Georgian National Communications Commission (GNCC) is responsible for overseeing media compliance with legal provisions. The GNCC conducted media monitoring and published four reports covering the period from 8 June to 22 September.⁴⁴ However, the reports did not comprehensively disclose monitoring findings and the GNCC did not react in a timely and effective manner to most violations detected during the campaign. According to the Law on Broadcasting and the Code of Conduct of Broadcasters, the self-regulatory mechanism of each broadcaster is responsible to consider complaints related to the content of editorial coverage.⁴⁵ During the election campaign, none of the self-regulatory bodies of major broadcasters received official complaints.⁴⁶ OSCE/ODIHR EOM media monitoring showed that broadcasters widely covered the electoral contestants in a variety of formats.⁴⁷ All monitored broadcasters, as well as local broadcasters, invited qualified contestants to participate in debates and talk shows. The distinction was often blurred between the formats of newscast and current affairs programmes, where instead of journalists reporting on news, guests discussed news items without providing more thorough information on the campaign activities of different parties. In general, media coverage focused on the GD and UNM, and political discourse was marked by their constant confrontation rather than presentations of their electoral programmes.

In the monitored newscasts, *GPB-1* provided -25 per cent to the GD and 18 per cent to the UNM with mostly neutral tone. Seven other parties were allotted between 2 and 6 per cent each. *GPB-1* devoted

⁴¹ For these elections, the CEC identified 11 eligible parties, of which 9 are participating in the elections.

⁴² The Election Code does not specify the amount of time to grant to non-qualified subjects.

⁴³ The content of the advertisement produced by the APG violated Article 45.3 of the Election Code. On 24 September, the Office of the President, followed by civil society organizations, urged the CEC to take pertinent actions on this case and on 3 October, the CEC decided to take an administrative action against the APG. On 7 October, the Tbilisi City Court decided to fine APG in the amount of 2,000 GEL. In response to a complaint from the APG, the GNCC on 30 September decided to take an administrative action against *Rustavi 2* for violating Article 51.6 of the Election Code when the channel took the APG advertisement off air without consulting the concerned party.

⁴⁴ The GNCC informed the OSCE/ODIHR EOM that since 8 June it monitored 53 TV channels, 30 radio stations and 31 local government funded newspapers.

⁴⁵ However, on 8 September, three citizen observer organizations drew the GNCC's attention to the programme "Meeting with regional media" hosted by former Prime Minister Bidzina Ivashvili on *GDSTV* every Monday and Thursday, as a possible case of unfair and unbalanced coverage.

⁴⁶ On 12 September, the UNM addressed a letter to *Imedi TV* channel asking to be offered one-hour of live coverage starting at 21:00 to present its electoral programme, as *Imedi TV* did for the GD on 8 September. The channel did not satisfy the UNM's request. On 27 September, UNM addressed a complaint to the GNCC for being denied equal access to *Imedi TV* channel. As of 8 October, there was no public reaction from the GNCC.

⁴⁷ OSCE/ODIHR EOM commenced a quantitative and qualitative media monitoring of primetime coverage (18.00-24.00) of six broadcasters (*GPB-1*, *Rustavi 2*, *Imedi*, *Maestro*, *GDS* and *TV Pirveli*) on 5 September.

wide coverage to the prime minister and the government, 7 and 18 per cent, respectively, mostly in a neutral or positive tone, giving additional visibility that could have advantaged the ruling party. In addition, on 8 September, *GPB-1* and three private TV channels provided one-hour live coverage on primetime to a campaign event where the GD electoral program was presented.⁴⁸

Rustavi 2 devoted similar space to the GD and UNM in its newscast, 26 and 23 per cent, respectively, neutral in tone, and three other parties received significant coverage: SP – 11 per cent, RP – 8 per cent and FD – 8 per cent. However, *Rustavi 2* devoted rather negative coverage to the ruling party in current affairs and entertainment programmes. *Maestro* and *GDS* showed a bias in favour of the GD, devoting to the ruling party -26, - 36 per cent of their news coverage, respectively, mainly neutral or positive in tone.⁴⁹ *Imedi* dedicated 32 and 33 per cent of news coverage to the GD and UNM, respectively. In the last several days of the campaign, these channels gave a significant amount of coverage to the UNM in connection with the bombing of a vehicle of a UNM MP, which affected the overall distribution of time between parties. *Maestro* and *GDS* also devoted significant coverage to the prime-minister and the government, allotting to them together between 18 and 20 per cent. In their news and current affairs programmes, especially during the last two weeks of the campaign, they focused on stories related to the previous government, often using a negative tone. *TV Pirveli* also devoted most of its news coverage, 24 per cent, to the ruling party, with the UNM receiving 18 per cent.

Complaints and Appeals

The Election Code establishes a timely dispute resolution process for appeals on election commission decisions. Representatives of parties, blocs, candidates and registered observers have the right to file complaints about any aspect of the election process. Contrary to paragraph 5.10 of the 1990 OSCE Copenhagen Document, voters only have the right to file complaints on their non-inclusion in a voter list.⁵⁰

The system of electoral dispute resolution provides for the possibility to file complaints with prosecutors, the GNCC, the SAO and local municipalities. Its complexity leaves stakeholders without clarity on the appropriate avenue to address complaints and in practice they were filed with several bodies concurrently, also due to the lack of trust in the adjudicating authorities.

⁴⁸ Following the broadcast of the GD campaign event, the *GPB-1* offered all qualified contestants one hour on primetime to broadcast a live presentation of their electoral programme. However, contestants were asked to cover the costs of recording and transmission of the live coverage, resulting in uneven access to the public broadcaster. Only the FD took advantage of this opportunity on primetime. *Imedi*, *Maestro* and *GDS* were the other three channels that offered one-hour live coverage of the GD campaign event on 8 September.

⁴⁹ *GDS* TV channel is owned by Bera Ivanishvili, the son of Bidzina Ivanishvili.

⁵⁰ Paragraph 5.10 of the 1990 OSCE Copenhagen Document states that ‘everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity’. At least three complaints from citizens were left without consideration based on the ground that citizens are not authorized to submit complaints. See also paragraph II.3.3.3.f of the Code of Good Practice, which states that “All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections.”

Court filing fees are a minimum of GEL 100 (some EUR 38) for first instance and no less than GEL 150 (some EUR 57) for appeals. The law allows judges to postpone payment or release the complainant from court filing fees in special cases. Although, there is a practice of accepting election complaints and postponing payment until after the hearing, the absence of an explicit regulation potentially limits access to courts and undermines the effectiveness of the remedy. Many electoral stakeholders acknowledged the need to continue reform of the judicial system.

Since the elections were announced, 187 complaints have been submitted to different levels of the election administration and courts. The CEC fulfilled its legal obligation to publish all complaints and decisions taken by the CEC and courts on its website within one day. Complaints to DEC and their decisions were also posted on the CEC website, despite the lack of a legal requirement. Complaints considered by election commissions and courts were reviewed in a transparent manner at open sessions and parties were informed about the time and place of the hearings. Generally, decisions were well-grounded and motivated.

Of the 187 complaints, 98 were submitted to DECs, 55 to the CEC, 16 to Tbilisi City Court and 10 to the Court of Appeals. Most concerned violations of campaign rules, including campaigning by unauthorized persons (35 cases), the misuse of administrative resources (26 cases), or complaints requesting to file administrative protocols for alleged election violations (32 cases), and were challenging the legality of the appointment of PEC members (7 cases). Sixteen complaints were satisfied and four were partially satisfied.

The election administration, the GNCC and local municipalities are responsible for recording election-related administrative violations and have up to two months to take action. So far, seven administrative cases were initiated by the election administration and 32 cases are pending action. The lack of an expedited deadline for electoral cases and insufficient resources for investigation, left many violations unaddressed during the election period compromising the efficient protection of electoral rights. The Prosecutor's Office opened 74 investigations of election related criminal matters.⁵¹

An Inter-Agency Task Force (IATF) was established to address potential electoral violence and the misuse of administrative resources. The IATF held nine public sessions and received 104 complaints, but issued only four non-binding recommendations of a general nature. Since the taskforce is more of a forum for discussion than decision-making, it was inefficient in addressing complaints regarding concrete cases.⁵² Nevertheless, the platform of the IATF was actively used by parties and citizen observers as a mechanism to make public their concerns and as a means of having their complaints forwarded to the relevant authorities.

⁵¹ Among which, 28 are cases on violent actions and 26 on the damage of election campaign materials.

⁵² Further, in violation of the General Administrative Code, the IATF did not give timely written answers to complainants. This Code prescribes the obligation of all bodies to give answer on written applications within 10 days or one month in some special cases.

Participation of National Minorities

According to the 2014 census, national minorities make up 13.2 per cent of the population. The most numerous groups are the Azeri (6.3 per cent) and Armenians (4.5 per cent).⁵³ The Constitution prohibits discrimination on ethnic or religious grounds; national minorities enjoy full political rights, including the right to use their mother tongue in private and public.⁵⁴ However, political participation of national minorities is limited.

Several parties and blocs nominated candidates from national minorities on their party lists, but few in electable positions,⁵⁵ and for the majoritarian races in minority populated regions.⁵⁶ Following recent amendments to the Election Code, OSCE/ODIHR EOM interlocutors expressed concerns that some of the new boundaries between constituencies may decrease the representation of national minorities, particularly in the merged Akhalkalaki and Ninotsminda constituency.⁵⁷

National minority issues and inter-ethnic relations did not feature prominently in the campaign, although some candidates occasionally used ethnicity as a mobilizing factor.⁵⁸ Minority languages were widely used by parties and candidates in minority populated areas. Visible campaigns were conducted in a relatively free and competitive environment, especially in Azeri areas, while it was more subdued in Armenian areas. Candidates were generally able to campaign freely in minority areas, but the campaign was marked by a few instances of hate speech and violence, indirectly affecting inter-ethnic relations.⁵⁹ National minorities were well-represented in DEC and PEC in Armenian areas, but not represented at all in DEC and minimally represented in PEC in Azeri areas.

Citizen and International Observers

The Election Code adequately provides for observation by citizen and international organizations, as well as representatives of election contestants. The legislation contains detailed provisions on

⁵³ Followed by Russians (0.7 per cent), Ossetians (0.4), Yazidis (0.3), Ukrainians (0.2), Kists (0.2), Greeks (0.1), Assyrians (0.1) and other groups (0.4).

⁵⁴ Georgia has ratified the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM), and has signed, but not ratified, the European Charter for Regional or Minority Languages (ECRML).

⁵⁵ On party lists: GD – 10 of 155 candidates; UNM – 13 of 200; SP – 20 of 197; FD – 10 of 200; LP – 8 of 167; APG – 8 of 195; DM – 6 of 165; none of these candidates are placed above the 14th position.

⁵⁶ Majoritarian contests: GD - 3 of 73 nominated candidates; UNM - 5 of 72; SP - 6 of 72; APG - 4 of 71; DM - 2 of 51; RP - 2 of 28; FD - 1 of 64; and 4 independents.

⁵⁷ The merger of Akhalkalaki and Ninotsminda into one constituency could impact the representation of Armenians from the Samtskhe-Javakheti region. Also, some villages in the former Akhalkalaki constituency, mostly populated by Armenians, were moved to the Borjomi-Aspindza constituency, creating logistical challenges to the electoral administration and candidates, as well as potentially affecting minority representation. The number of constituencies in the largely Azeri region of Kvemo Kartli has been increased by one, but OSCE/ODIHR EOM interlocutors noted that some of the criteria used for the boundary changes were unclear.

⁵⁸ However, on 19 September, in the reply to a journalist's question about the ratification of the ECRML and granting Armenian the status of regional language, Bidzina Ivanishvili said there were no limitations on language use, but noted the lack of proficiency in Georgian prevents Armenians from "assimilating".

⁵⁹ A paid TV advertisement and rallies by the APG contained anti-Turkish statements, which may have vexed part of the ethnic Azeri community. Representatives of the "Georgian Force" party attacked oriental cafés in Tbilisi. A TV debate ended with a brawl between a Georgian and an Azeri candidate, but did not appear motivated on ethnic grounds.

the rights and responsibilities of observers and grants access to all stages of the electoral process. The CEC registered 111 citizen and 55 international organizations (including visiting election management bodies). The registration process was inclusive and managed in a professional manner.

Various citizen observer organizations conducted long-term election observation activities focusing on different aspects of the election environment, campaign finance, media monitoring, national minority participation, and election dispute resolution. On election day, citizen observers were deployed and observed procedures at all levels of the election administration and one organization conducted parallel vote tabulation. Parties and candidates nominated representatives to observe election day procedures. The participation of numerous citizen observers at all stages of the process contributed to the transparency of the elections.

Election Day

Election day generally proceeded in an orderly manner, but tensions increased during the day with several violent altercations taking place near and in polling stations. While voting was assessed as generally positive, the assessment of counting was markedly worse due to procedural problems and increased tensions. Citizen observers and party representatives were present in almost all polling stations, but were frequently interfering in the work of the commissions.

Opening was assessed positively by international observers in 153 of the 162 polling stations observed. Short delays in opening were observed in 80 polling stations, but did not affect the process. Procedures were generally followed, but some irregularities were noted: PECs did not announce or properly record information on the number of voters and ballots in 10 and 13 per cent of cases, respectively. Citizen observers and party representatives were interfering in or directing the work of PECs in some 12 per cent of observations.

Voting was evaluated positively in over 97 per cent of the observed polling stations. In the few cases where the process was assessed negatively, this was largely due to the interference in the work of the PECs by unauthorized persons. While the presence of citizen observers and party representatives in 87 per cent and 99 per cent of polling stations, respectively, contributed to the transparency of the process, they were directing and interfering in the work of some 6 per cent of PECs observed. Overcrowding was reported in over 7 per cent of the PECs. A few serious irregularities were reported, including voters with traces of invisible ink allowed to vote (2 per cent) and attempts at influencing voters (2 per cent). Almost 40 per cent of polling stations observed were not accessible for voters with disabilities; however, accessibility was somewhat better in polling stations announced as barrier-free.

The counting process was assessed markedly worse – 31 per cent of counts were assessed as bad or very bad. The negative assessments of counting were related to PECs not following procedures rather than deliberate falsification: PEC members did not invalidate unused ballots before counting (27 per cent), did not pack unused and spoiled ballots properly (20 per cent), did not mix ballots of the mobile and stationary boxes (9 per cent), valid and invalid ballots were not determined in a consistent and reasonable manner (9 and 11 per cent, respectively), and protocol data was not properly cross-checked after counting (11 per cent). In half of the observations, unauthorized individuals participated in the count. Tensions or unrest in the vicinity of the polling station was observed in almost 13 per

cent of cases. Persons attempting to disrupt or obstruct the process and intimidate PEC members was also observed in 5 per cent of cases.

Other serious irregularities that negatively affected the assessment of the integrity and transparency of counting included PECs signing the protocols before completing them (11 per cent) and not recording the number of invalid and number of ballots per contestant in a proper manner (16 per cent). In over 7 per cent of PECs, observers did not have a clear view of the counting process.

Election security became an issue towards the end of polling and during the count when violent altercations affected the process in four polling stations.⁶⁰ In one PEC, voting had to be halted until the security and safety of PEC members and voters could be restored. Violent attacks in two polling stations resulted in the destruction of polling materials, reported harm to citizen and international observers, stopping the counting process and eventual annulment of results.

The assessment of tabulation was more positive. In 46 out of 58 DEC observed, the process was assessed as good or very good. In the remaining DECs, procedures were not followed (6 cases) and there were limitations in observation (5 cases). A main shortcoming was inadequate facilities for receiving election materials (17 DECs observed), which in 11 cases resulted in overcrowding, negatively affecting the tabulation process. PEC protocols were not completed correctly and in full when delivered to the DEC in 8 cases.

The CEC began announcing and posting preliminary results by districts, along with PEC protocols, from 1:00 in the morning the day after the elections. The CEC stated that it only began releasing preliminary results once it accumulated a representative sample. The preliminary voter turnout was reported at 51.63 per cent.

MISSION INFORMATION & ACKNOWLEDGEMENTS

Tbilisi, 9 October 2016 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the Parliamentary Assembly of NATO, and the European Parliament (EP). The assessment was made to determine whether the elections complied with OSCE commitments, Council of Europe standards, other international obligations and standards for democratic elections and with national legislation.

Ignacio Sanchez Amor was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and Leader of the OSCE short-term observer mission. Guglielmo Picchi headed the OSCE PA delegation. Emanuelis Zingeris headed the PACE delegation. Ana Gomes, headed the European Parliament

⁶⁰ PEC 48 in Marneuli, PEC 90 in Kutaisi and PECs 108 and 79 in Zugdidi.

delegation. Paolo Alli headed the NATO delegation. Ambassador Alexandre Keltchewsky is the Head of the OSCE/ODIHR EOM, deployed from 30 August.

Each of the institutions involved in this International Election Observation Mission (IEOM) has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The OSCE PA will present its report at its Standing Committee meeting in Vienna on 23 February 2017. The PACE will present its report at its Standing Committee meeting in Nicosia on 26 November. The European Parliament will present its report at the debriefing with the European Parliament Committee on Foreign Affairs in Brussels on 11 October, and the NATO PA will present its report at its Annual Session in Istanbul on 18-21 November.

The OSCE/ODIHR EOM includes 14 experts in the capital and 26 long-term observers deployed throughout the country. On election day, 420 observers from 39 countries were deployed, including 324 long-term and short-term observers deployed by the OSCE/ODIHR, as well as a 37-member delegation from the OSCE PA, 28-member delegation from the PACE, 17-member delegation from polling stations and voting was observed in 1,520 polling stations across the country. Counting was observed in 147 polling stations, and the tabulation in 58 DECes.

The observers wish to thank the authorities for their invitation to observe the elections, and the Central Election Commission and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties and civil society organizations and the international community representatives for their co-operation.

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2nd round: 30 OCTOBER 2016

Annex D

List of participants

Members

Ms Ana GOMES, Portugal, S&D, *Head of Delegation*

Ms Sandra KALNIETE, Latvia, EPP

Mr Joachim ZELLER, Germany, EPP

Ms Clare MOODY, United Kingdom, S&D

Ms Anna FOTYGA, Poland, ECR

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Annex E



Европейски парламент Parlamento Europeo Evropský parlament Europa-Parlamentet Europäisches Parlament
Euroopa Parlament Ευρωπαϊκό Κοινοβούλιο European Parliament Parlement européen Parlaimint na hÉirípa
Europski parlament Parlamento europeo Eiropas Parlaments Europos Parlamentas Európai Parlament
Parlament Ewropew Europees Parlement Parlament Europejski Parlamento Europeu Parlamentul European
Európsky parlament Evropski parlament Euroopan parlamentti Europaparlamentet

Press statement by Ana Gomes,

Head of the European Parliament Delegation to the International Elections Observation Mission to Georgia – second round of Parliamentary elections

We are very pleased to be back in Georgia to observe the second round of elections.

The European Parliament delegation - which this time included six members representing the four largest political groups - subscribes fully to the preliminary statement that has just been presented by OSCE Special Coordinator, Mr Ignacio Sanchez Amor (MP) on behalf of the International Election Observation Mission.

Once again I would like to thank Ambassador Keltchewsky and his team for their excellent continued support, cooperation and work.

I would also like to thank my colleagues from other parliamentary assemblies for our fruitful collaboration throughout this process. Our presence, three weeks after the first round, is testimony of the joint support of our organisations to democracy in Georgia and its people.

Building on our comments and concerns, we made in the preliminary statement on what we observed in the 1st round, we have the following observations:

Consideration of the numerous complaints and appeals received by the District Electoral Committees was a major topic in between the two rounds of the elections: we were disturbed by the fact that, in the absence of a legal framework to regulate the second round of elections, the handling of complaints, some leading to annulments of results at district level, had to be based on interpretative decrees by the CEC. That opened the way to inconsistencies in the rulings, thus potentially diminishing stakeholders' confidence in the electoral administration.

We were also worried to receive information on a high number of alleged cases of pressure and reprisals on voters, including threats of job dismissals and social benefits cuts as a result of their

support for opposition candidates. We understand that most of those allegations could not be substantiated nor were reported for investigation, but cannot exclude that fear would prevent victims to come forward with formal complaints. We leave this public concern to the attention of the relevant authorities, trusting they will ensure that any such threats will not materialise.

When it comes to election-day, we observed a very professional conduct of electoral proceedings inside the Precinct Election Commissions, with most polling stations dominantly staffed by women performing with high level of competence and dedication. Once again we praise the very high percentage of women represented in the PECs, and hope it will be reflected at all levels of political life.

Inside polling stations observed by us, all went smoothly, partially due to less pressure felt by the now experienced polling staff and by the lower turn out of voters. That was despite the overcrowding of the precincts, with a high number of accredited domestic observers and media representatives, present in rooms often too small.

We are concerned that in a number of cases some of these people went beyond the role of observers, interfering in the work of the PECs and interacting with voters inappropriately. This could suggest that they were not genuine observers, but rather surrogates of political parties or candidates. Let us be clear: the importance of observation by political parties, civil society, international organisations and media cannot be underestimated, and no steps should be taken to restrict genuine observation. However, we believe that some clear criteria need to govern the accreditation of observers and that regulation on the number of observers and media allowed to stand at each polling station is necessary. It is of utmost importance to ensure that there is no abuse of the observation status that may affect the conduct of the proceedings or may attempt to pressure voters in any way.

In Tbilisi we found a quiet and normal environment outside polling stations. Yet the picture was different in several places in rural areas, especially when the competing candidates were involved in a close race. For instance in Mtskheta, Mukhrani, Akhaltsikhe we met groups of men standing outside the precincts, often creating a tense atmosphere, suggesting possible intimidation of voters or confrontation among different candidate supporters. In some cases locals identified those bystanders with sports and martial arts groups linked to the ruling party. In several of these cases police was present, but seemed unable or unwilling to disperse the bystanders.

Overall, we continue to believe that there were conditions for the people of Georgia to genuinely express their will in these elections, despite the irregularities and some incidents noted.

Finally, let me note that we will continue to observe closely developments in Georgia beyond the elections, since we believe that democracy requires genuine elections but also much more in between elections, including respect for basic freedoms, such as media freedom, and respect for the role of the opposition. We know that the stakes in this second round were very high, considering the impact on the balance of power, with the ruling party aiming at obtaining a constitutional majority. Early electoral results would seem to confirm this. Therefore particular responsibility lies with the majority. It needs to use this power to benefit the country, rather than use it for political retribution. In these circumstances, ensuring the respect for the institutional checks and balances between the different

branches of power, and the democratic roles of the majority and of the opposition is of paramount importance. It should not be forgotten that the Government of today could be the opposition of tomorrow, and the opposition of today could be the Government of tomorrow.

Georgia remains very high on the agenda of the European Union, and the European Parliament at every occasion reiterates its support for Georgia on its European path. The final statement and recommendations that will be delivered by the OSCE/ODIHR in the next few weeks. We encourage and will support Georgia in their full implementation, particularly in addressing the questions we have raised, including investigation of violent incidents during the electoral campaign, imbalances in political parties financing, media plurality and freedom, and the independence of the judiciary.

Thank you.

Annex F



INTERNATIONAL ELECTION OBSERVATION MISSION Georgia – Parliamentary Elections, Second Round, 30 October 2016 STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

The 30 October run-offs were competitive and administered in a manner that respected the rights of candidates and voters, despite the lack of a legal framework for the second round. In the period between the rounds, contestation of the first round results dominated political discourse. Further, the principle of transparency and the right to effective redress were often not respected in the investigation and adjudication of election disputes by election commissions and courts. All this weakened confidence in the election administration. In the short and subdued campaign, media coverage was more balanced than for the first round. Election day procedures were conducted in a smooth and professional manner and assessed positively by observers, as election commissions were better prepared and adherence to procedures improved.

The 8 October first round of elections resulted in the election of 100 of the 150 members of parliament. Procedures for correcting protocols and deciding on recounts and annulments of results at the district level are insufficiently regulated. This led to the inconsistent application of the law and diminished stakeholders' confidence in the election administration. District Election Commission (DEC) results were generally finalized by 19 October, while in some districts court appeals were pending.

In the period following the first round election day, DEC received over 1,100 complaints mainly regarding the counting process in polling stations. Weaknesses were noted in the adjudication of complaints by DEC. Complainants were not always notified about the time and place for consideration or provided with copies of decisions and, in a number of cases, thorough investigations were not conducted, contrary to OSCE commitments on the right to effective redress and the principle of transparency. In open hearings, courts questioned their own authority to overrule election administration decisions even while acknowledging irregularities.

Repeat elections on 22 October, following a few annulments due to disruptions on the 8 October election day, were well administered, but overcrowding and, in one case, interference by party representatives, observers and media negatively impacted the atmosphere.

The Election Code does not regulate the second round. Aiming to address a few procedural gaps, the Central Election Commission (CEC) issued decrees that were, however, adopted late in the process, interpreted the law in a contentious manner, and, at times, contradicted the Election Code.

Preparations for the second round included replacing Precinct Election Commission (PEC) members who resigned or were recalled by the nominating political party and conducting refresher training for PEC leadership. Training sessions observed were well conducted and focused on addressing a number of procedural errors noted during the first round, including those by international observers. Voter lists were updated to remove recently deceased and add those who turned 18, no other corrections or changes were introduced.

The official election campaign for the second round began on 19 October following the announcement of the second round date. The campaign was more subdued with candidates putting a focus on direct contact with voters. Electoral contestants were able to campaign freely and without restrictions or incidents. A few reported physical altercations are being investigated by law enforcement.

Election contestants must abide by the same campaign finance regulations for the second round. The post-election day deadline for reporting, however, limited the effectiveness of campaign finance oversight.

Election Code provisions regulating the media applied only during the official election campaign period. OSCE/ODIHR EOM media monitoring showed that parties took some advantage of free airtime and none of the contestants purchased paid advertising. News coverage of the main political parties by monitored broadcasters was more balanced than during the first round. Editorial programmes were dominated by discussions about the possibility of having one party with a constitutional majority rather than the contestants' electoral platforms.

Election day procedures were generally conducted in a smooth and professional manner. The overall assessment of the process by IEOM observers was positive, as PEC members were better prepared and adherence to procedures improved, particularly during the counting. However, overcrowding inside polling stations, the presence of unauthorized persons and them interfering in the work of PECs again had a negative effect. Large crowds were gathered outside many polling stations, with observers noting possible intimidation in a few cases. More than 140 complaints were filed regarding irregularities and procedural errors as well as the expulsion of party representatives from polling stations.

PRELIMINARY FINDINGS

Background and Postelection Developments

On 8 October, elections were held under a mixed electoral system and contested by 25 parties and blocs as well as 816 majoritarian candidates, including 53 independent. Out of a total 150 members of parliament, 77 were elected in a single-round proportional contest. Georgian Dream (GD) with 48.68 per cent, United National Movement (UNM) with 27.11 per cent and Alliance of Patriots of Georgia (APG) with 5.01 per cent of votes passed the threshold and qualified for the proportional seat allocation. These parties/blocs obtained 44, 27 and six seats respectively.

Preliminary results of the first round of elections were accepted by the majority of contestants. Despite previous calls to boycott, UNM agreed to participate in the second round of elections and enter parliament. UNM, Nino Burjanadze – Democratic Movement (DM) and Paata Burchuladze - State for People (SP) voiced concerns about 8 October election day violations and challenged results from hundreds of polling stations across the country.

The remaining 73 single-mandate constituencies are elected in a two-round majoritarian system. In the first round, 23 candidates received the required 50 plus 1 majority of valid votes and were elected. All 23 elected deputies represent GD.

Run-offs were held on 30 October in 50 single-mandate constituencies, of which 18 were within the city of Tbilisi.⁶¹ The run-offs were contested by four parties/blocs and three independent candidates.⁶²

The two main party contenders faced each other in most of the races, GD contested 49 single-mandate constituencies, while UNM 45. One out of the two candidates from Free Democrats (FD) and one candidate from UNM announced their desire to withdraw from the race.⁶³

Tabulation of the First Round Results and Repeat Elections

Tabulation of the first round results by the District Election Commissions (DECs) on 8 October and the following day was assessed by International Election Observation Mission (IEOM) observers more positively than the counting process. However, the issues raised in complaints from political parties and observers and the review of the complaints by the election administration and courts

⁶¹ Repeated voting for the first round was held on 22 October for single-mandate constituencies in one polling station in Marneuli and three in Zugdidi.

⁶² Out of 100 candidates that competed in the second round, only 8 were women.

⁶³ On 10 October, the FD chairman and candidate in Gori, Irakli Alasania, announced his withdrawal from the race. On 23 October, an UNM candidate, Sandra Roeloffs, announced she will not continue participating in the election. However, according to the CEC interpretation withdrawals are only allowed 10 days before the first round and if a candidate makes such an application after this time his/her name will be still on the ballot and the run-offs will proceed accordingly and votes counted for the candidate.

raised concerns regarding the administration of the process and indicated diminished confidence in the election commissions (See *Complaints and Appeals* section).

Procedures allow for correction of mistakes in the Precinct Election Commission (PEC) protocols identified by the DEC solely on the basis of an explanatory note from one PEC member describing the reasons for the mistake. A number of corrections were required because of unclear instructions on how to count voter signatures in the special voter lists (those only voting for the proportional contest) when filling the protocols for the majoritarian results. Corrections to result protocols on the basis of complaints further required a DEC decision. In many cases, DEC superficially investigated the alleged mistakes, accepted basic explanatory notes from individual PEC members contacted at a later stage and made corrections based on these explanations.

Out of 325 requests for annulment of PEC results 10 were granted. In four PECs where the annulments could have impacted the results, repeat elections for the majoritarian contests were held on 22 October.⁶⁴ The OSCE/ODIHR EOM observed the voting and counting process in these four locations which was generally smooth and well administered, however, overcrowding with observers, party representatives and the media negatively impacted the atmosphere in these PECs.⁶⁵

On 19 October, after receiving DEC results protocols, the CEC announced 30 October to be the date for the second round of elections.

Complaints and Appeals

Following the 8 October election day, DEC received 1,168 complaints, mainly in regards to PEC result protocols and the way they were completed. Many complaints were of a general nature and did not provide concrete facts or evidence about the alleged violations. Those that were more grounded were mainly based on PEC results protocols not being reconciled and the way they were corrected, as well as other procedural irregularities during the counting process. The main complainants were the Georgian Young Lawyers' Association (306 complaints), the International Society for Fair Elections and Democracy (266), DM (235) and UNM (224). Of the complaints, 297 were satisfied, 155 partially satisfied and 481 were not satisfied.⁶⁶ Most of the complaints contained several requests.

The OSCE/ODIHR EOM was informed of 307 requests for recounts and 325 to annul PEC results. The Election Code lacks criteria for when recounts and annulments of polling results should be

⁶⁴ Repeat voting was held in two precincts of the village Jikhashkari and one precinct of the village Ganmukhuri in the Zugdidi municipality (PECs 66.67.38, 66.67.79 and 66.67.108) and one precinct of the village Kizilajlo, Marneuli municipality (PEC 36.22.48).

⁶⁵ Overcrowding was especially problematic in PEC 36.22.48 in Kyzylajilo, Marneuli where interference in the voting and counting process by party representatives and observers was noted. While the counting and tabulation processes were positively assessed by in Zugdidi, procedural mistakes such as failure to manage the voter list and count the votes from the mobile ballot box marred the process in Marneuli. In total eight complaints were submitted to the DEC in Marneuli, and one in Zugdidi in relation to the irregularities.

⁶⁶ In addition, 212 were left without consideration, 8 were withdrawn and 15 complaints in relation to alleged administrative offences are under review.

ordered. In the five cases where requests for recounts were granted and the 10 cases where results were annulled, these decisions were taken by DEC in an inconsistent manner.⁶⁷

In review of many cases, the DEC did not find that the facts of violations were established but still partially satisfied the complaints by taking disciplinary action against PEC members.⁶⁸ The DEC had no unified practice in applying disciplinary sanctions. Further, partially as a result of the short time given for the review of complaints and the number of complaints received by DEC, a lack of thorough investigation was observed.⁶⁹ As a result most decisions were not properly reasoned, contrary to paragraph 5.11 of the 1990 OSCE Copenhagen Document.⁷⁰

Contrary to legal requirements and international good practice, and in contrast with the pre-election period, not all complainants were informed about time and place for consideration of the complaints and not all DEC provided complainants with copies of the decisions.⁷¹ Taking into account that there is no obligation for DEC to upload their decisions on the CEC register, these factors may have posed a barrier to the right to appeal, which contravenes paragraph 5.10 of the 1990 OSCE Copenhagen Document.⁷²

Thirty-two cases were appealed to district/city courts. All were rejected on substance and just five were satisfied, in part, by imposing disciplinary sanctions. Sixteen district/city court decisions were appealed to the Tbilisi and Kutaisi Courts of Appeal. A similar lack of investigation was noted at the court level. Decisions were based on the documents presented and the OSCE/ODIHR EOM did not observe any witnesses being called or any additional documentary evidence requested. In some instances, courts acknowledged during hearings that serious violations had occurred, but questioned their own authority to overrule the election administration's decisions on results and were not willing to take this responsibility.

DEC finalized their results while some complaints were still pending review by the Court of Appeals. There are contradictory provisions in the Election Code on this matter: some articles require the DEC to wait for final court decisions before finalizing results, while other articles allow DEC to proceed while appeals of district and city court decisions are still pending.⁷³

One complaint from UNM and nine from DM were submitted challenging DEC final protocols. The CEC left these complaints without consideration finding that they were submitted by unauthorized

⁶⁷ DEC need a 2/3 vote to decide on an annulment or recount. When inquiring about criteria for making these determinations, the CEC referred the OSCE/ODIHR EOM to this requirement only.

⁶⁸ A total of 758 requests to take disciplinary actions against PEC members were made, mainly as an additional request in the majority of complaints.

⁶⁹ For example, in Case #3/7552-16 from 16 October - The Georgian Young Lawyers' Association against DEC 2 (Vake), the Tbilisi City Court while upholding the DEC decision stated there was a lack of investigation by the

⁷⁰ DEC on one of the complainant's requests and obliged the DEC to pay the court fees. Paragraph 5.11 of the [1990 OSCE Copenhagen Document](#) provides "administrative decisions against a person must be fully justifiable."

⁷¹ [The 2002 Council of Europe's European Commission for Democracy through Law \(Venice Commission\) Code of Good Practice in Electoral Matters](#) states that the right of both parties to participate in hearings must be protected.

⁷² Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) provides "everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity."

⁷³ See Articles 21 and 75 that contradict Article 124.

subjects.⁷⁴ On 23 October, the CEC published the results protocols for the proportional contest. These results were unsuccessfully appealed to Tbilisi City Court by the Labour Party, DM and APG. The Labour Party complained alleging electoral violations in the campaign period, such as the misuse of state resources, pressure on voters from the State Security Service and unlawful campaigning. The DM contested final results referring to election day irregularities and the APG questioned the outcome of the mandate allocation.⁷⁵

Legal Framework for the Second Round

The Election Code does not regulate procedures for the second round; it only prescribes that the second round should be conducted no later than 25 days after election day between the two candidates with the best results. The lack of regulations for the second round was noted as an issue by many stakeholders including the CEC, and gave room for subjective interpretations and inconsistencies in the application of the law.⁷⁶

In light of insufficient regulation by the law, on 17 October, the CEC adopted a decree to regulate a few aspects of the election process for the second round and repeat elections. The decree determined how the voter lists would be updated, prolonged the authority of the current PECs, terminated the authority of the representatives of parties and blocs that are not running in the second round and extended the accreditation of observers. In some instances, the CEC interpreted the law while setting procedures in the decree. For example, while not explicit in the law, the decree only gives parties, blocs or candidates running in the second round the right to have PEC and DEC representatives. This interpretation was unsuccessfully appealed to the Tbilisi City Court and further to the Court of Appeals by DM.⁷⁷ The decree also prescribes shorter deadlines for several election procedures in contradiction to the Election Code which sets deadlines in general and not specific to just the first or the second round.⁷⁸

⁷⁴ The UNM complaint was submitted by the UNM representative to the Marneuli DEC and DM's complaints were submitted by the party's representative in the CEC, the law requires that complaints be submitted by the party itself.

⁷⁵ On 17 October the APG submitted a complaint to the Constitutional Court claiming contradiction between the Election Code and the Constitution on procedure of the mandate allocation. The complaint was admitted. The law provides nine months for Constitutional Court to consider complaints.

⁷⁶ The understanding of term 'elections' used in Election Code was in some cases interpreted by the CEC as the whole process and in other instances only as the first round.

⁷⁷ At issue was the legality of terminating of the authority of party/bloc representatives that are not running for second round; the complaint argued that the election is a process that is only complete after the second round.

⁷⁸ Article 32 of the Election Code prescribes that special voter lists of electoral administration officers shall be completed no later than the fifth day before election day, but Decree #69/2016 sets a three-day deadline. Article 29 defines 15 days before election day as the last day for a PEC member to withdraw while the decree allows withdraws up to four days before the second round and three days for repeat election (the repeat election were called only three days before they were held). Article 40 paragraph 6 and 7 gives international observer organisations up to two days before election day to submit their lists of observers and five days for citizen observers while the decree allows up to three days before election day.

Second Round Election Administration

The late decision on regulations for the second round impacted the inclusiveness of the election administration process and the possibility for the CEC to address, in advance, issues such as PEC staffing, the timely updating of election day procedures and the holding of adequate training sessions. Still, in the limited time left when election preparations resumed, they were well managed and the deadlines were generally respected.

The CEC decree determined that the PECs established for the first round of elections shall continue to function for the repeat voting and the second round. Most of the PEC members employed for the first round of elections worked for the second round also, however, some DECAs had to reopen recruitment to fill positions that became vacant. Political parties were given the opportunity to replace their PEC members up to four days before election day. Two political parties, the DM and FD, withdrew their PEC members without replacing them.⁷⁹ The DECAs filled these vacant positions with non-party PEC members through an open competition.

On 23 October, only seven days before the elections, the CEC adopted a second decree to address some gaps and contradictions in the procedures for the second round election day.

The CEC training centre organized additional training for PEC members on second round election day procedures. The training sessions, observed by the OSCE/ODIHR EOM, were well conducted and emphasized how to address some of the procedural shortcomings noted during the first round, including those noted by international observers.

For the second round, the Public Service Development Agency only updated the voter lists to reflect recently deceased voters and voters who turned 18. Voters were given the opportunity to check their data on the voter list on the CEC website, but there was no opportunity to request changes.

Campaign Environment

The official election campaign for the second round started on 19 October, once the CEC decree establishing the date of run-offs was published. The law does not explicitly regulate the second round campaign. According to the CEC, contestants were verbally informed that the official campaign began with the call for the second round.

In the period between the two rounds, political discourse was dominated by the contestation of the first round results by the UNM and DM. In addition, the majority of stakeholders were discussing the consequences of the possible concentration of power resulting from one party having a constitutional majority in parliament. A call for support of the opposition in the second round was endorsed by two political parties.⁸⁰

⁷⁹ The FD withdrew their PEC members in 21 constituencies.

⁸⁰ The call came from individuals, including some civil society representatives and was supported by the New Georgia and the New Political Center – Girchi parties.

Electoral contestants were able to campaign freely and without restrictions. The campaign for the second round was more subdued. A few reported physical altercations are being investigated by law enforcement.⁸¹ Allegations of pressure on party supporters were made but no official complaints filed. Campaign activities were mainly conducted through door-to-door canvassing, community meetings and group gatherings, aiming for more direct contact with voters. The majority of candidates increased the use of social media and the Internet in this period. New billboards and posters were placed later, only a few days prior to election day.

Campaign Finance

The same campaign finance regulations apply for the second round. The State Audit Office (SAO) informed contestants that financial reports are due by 2 November. This deadline was insufficient for the proper oversight of campaign finances and made it impossible to verify and publish the reports before election day. In addition, the law does not set deadlines for the SAO to scrutinize financial reports and to publish the oversight conclusions contrary to international good practice.⁸² For the second round, from 8 to 21 October, only two parties/blocs received donations totaling GEL 1,083,270 (approximately EUR 420,000) from 33 donors.⁸³ As of 28 October, the SAO had not received complaints related to the run-offs.

Media

Election Code provisions regulating the media applied only during the official election campaign period.⁸⁴ From 9 to 18 October, media covered political developments without specific election related regulations. The OSCE/ODIHR EOM media monitoring showed that throughout this period most of the political news coverage and editorial programs were devoted to the publication of and commentary on the elections results, political party reactions and restructuring, and discussions of the consequence of possibly having one party with a constitutional majority.⁸⁵ Among monitored broadcasters, *Rustavi 2* devoted more coverage to election-related incidents and complaints.

The Georgian National Communications Commission (GNCC), the regulatory body overseeing media compliance with the law, continued to monitor broadcast media and local government funded print media between the two rounds. However, findings for this period will be published only after the second round. On 20 October, the GNCC published its fifth media monitoring report covering the period from 23 September to 8 October. Most of the detected violations were related to compliance

⁸¹ The OSCE/ODIHR EOM confirmed that police investigations are on-going regarding two incidents: on 27 October, in Akhaltsikhe and on 28 October, in Gori. Citizen observers reported police investigations are open in two additional incidents from 10 October in Kharagauli and 11 October in Tbilisi.

⁸² See paragraph 200 of the [Joint OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#).

⁸³ In the reporting period, the GD received GEL 1,066,770; UNM – GEL 16,500. Of the 33 donors there was only one legal entity.

⁸⁴ On the two polling days: 22 and 30 October, broadcasters were not allowed to provide free airtime nor paid political advertising and had to refrain from publishing opinion polls starting from 48 hours before each polling day.

⁸⁵ The OSCE/ODIHR EOM continued quantitative and qualitative media monitoring of primetime coverage (18.00-24.00) of six broadcasters (*GPB-1*, *Rustavi 2*, *Imedi*, *Maestro*, *GDS* and *TV Pirveli*) between the two rounds.

with disclosure rules in the publication of opinion polls. In this regard, the GNCC's decisions were inconsistent, taking administrative action against *Rustavi 2* and not *Imedi* for a similar violation.⁸⁶

OSCE/ODIHR EOM media monitoring during the official campaign period showed that parties took some advantage of free airtime and none of the contestants purchased paid advertising.⁸⁷ While the Georgian Public Broadcaster did not conduct election debates for the second rounds, several other broadcasters tried to organize debates but found candidates were not interested in participating. Candidates and party representatives rarely presented their electoral programmes, instead discussions continued to be dominated by the topic of one party possibly having a constitutional majority. News coverage of the main political parties by monitored broadcasters was more balanced than during the first round, while there was a general decrease of coverage devoted to the Prime Minister by all TV channels.⁸⁸

Election Day

In a calm environment, election day procedures were conducted in a smooth and professional manner. The overall assessment of the process by the IEOM observers was positive, as PEC members were better prepared and adherence to procedures improved.

Opening was assessed positively in all but two out of 63 polling stations observed. There were noticeably fewer delays in opening. Procedures were mainly followed, but some errors, such as PECs not properly recording the number of voters in two and ballots in four instances and not assigning party representatives to observe the registration of complaints in 11 polling stations, were still observed. A wide presence of citizen observers was noted. In five cases, they and party representatives interfered in the process.

Voting was evaluated as good or very good in 97 per cent of the observed polling stations, however, overcrowding inside polling stations (five per cent), an increased presence of unauthorized persons and interference in the work of PEC members (six per cent) mainly by citizen observers (four per cent) again had a negative effect. Large numbers of people gathered outside was reported from 38 per cent of polling stations observed, and, in three per cent of observed polling stations, signs of voter intimidation were noted. A few serious irregularities were reported, such as attempts to influence voters and group voting in 10 and 8 instances respectively and indications of ballot box stuffing in one polling station. Adherence to procedures and voters' understanding of the process had significantly improved.

One party complained, submitting two official complaints to the DEC, that its representatives were expelled from more than 15 polling stations in Marneuli. While observing at a number of polling

⁸⁶ The *Rustavi 2* TV channel published an opinion poll on 1st October, while *Imedi* published two opinion polls, on 29 September and 5 October. Neither *Rustavi 2* nor *Imedi* TV complied with all requirements on the publication of opinion polls prescribed by the Election Code.

⁸⁷ Four political parties participated as qualified contestants for the second round: GD, UNM, FD and Topadze-

⁸⁸ Industrials, Our Homeland. See Media section of the Statement of Preliminary Findings and Conclusions issued on the first round of the elections.

stations in question, IEOM observers only saw one person being expelled and gave overall positive assessments for these stations.

As on 8 October, IEOM observers noted a large presence of representatives of the online news portal, *Allmedia.ge*. With over 3,400 accredited representatives, *Allmedia.ge* registered by far the largest number of representatives among all observer organizations and media. *Allmedia.ge* informed the OSCE/ODIHR EOM that the majority of its representatives were volunteers recruited to observe and record violations on video. Granting media accreditation to *Allmedia.ge* representatives that were acting as observers raises concerns about the adequacy of the media accreditation process to prevent misuse. IEOM observers also noted clear indications of party affiliations of some citizen observers.

The counting was evaluated positively in 49 of the 53 polling stations observed. However, in three cases interference in the counting process by citizen observers and party representatives was noted. Procedural errors were observed in the recording of the number of voters (eight cases), the invalidation of unused ballots before counting (seven cases), the packing of unused and spoiled ballots (four cases). In 14 cases, the signed protocol was not posted or available for public display. An improvement was noted in the procedures for determining valid and invalid ballots, as these were consistently applied in all but two counts observed. Overall, the counting has improved as compared to the first round.

According to the CEC, more than 140 complaints were submitted to DEC's on election day. Most were filed in the Marneuli district, followed by Kutaisi, Zugdidi and Batumi. Most complaints were about mobile ballot box irregularities, the presence of unauthorized persons at PECs, campaigning in the polling stations, violation of procedures, refusal to register complaints and the expelling of observers and media representatives.

The tabulation process was assessed positively in all but one observation. In four instances, unauthorized persons were present but did not interfere in the process. The CEC posted the PEC results protocols on its website starting from 22:00 and released the first aggregated preliminary results at 9:00 on 31 October.

MISSION INFORMATION & ACKNOWLEDGEMENTS

Tbilisi, 31 October 2016 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the European Parliament (EP) and the Parliamentary Assembly of the Council of Europe (PACE). The assessment was made to determine whether the elections complied with OSCE commitments, Council of Europe standards, other international obligations and standards for democratic elections and with national legislation.

Ignacio Sanchez Amor was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and Leader of the OSCE short-term observer mission. Ana Gomes headed the EP delegation. Emanuelis Zingeris headed the PACE delegation. Ambassador Alexandre Keltchewsky is the Head of the OSCE/ODIHR EOM, deployed from 30 August.

Each of the institutions involved in this International Election Observation Mission (IEOM) has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The OSCE PA will present its report at its Standing Committee meeting in Vienna on 23 February 2017. The EP will present its report on 7 November at the debriefing with the European Parliament Committee on Foreign Affairs in Brussels. PACE will present its report at its Standing Committee meeting in Nicosia on 26 November.

For the second round, the OSCE/ODIHR EOM includes 14 experts in the capital and 14 long-term observers deployed throughout the country. On election day, 156 observers from 27 countries were deployed, including 112 long-term and short-term observers deployed by the OSCE/ODIHR, as well as an eight-member delegation from the OSCE PA, a 12 member delegation from EP and seven-member delegation from PACE. Opening was observed in 60 polling stations and voting was observed in 548 polling stations across the country. Counting was observed in 53 polling stations, and the tabulation in 30 DECs.

The observers wish to thank the authorities for their invitation to observe the elections, and the Central Election Commission and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties and civil society organizations and the international community representatives for their co-operation.