

INTERIM REPORT No. 2
6– 19 September 2012

24 September 2012

I. EXECUTIVE SUMMARY

- The campaign has become increasingly polarized and focused on the competition between the United National Movement (UNM), and the election bloc Bidzina Ivanishvili–Georgian Dream (GD). The tone of the UNM and GD campaigns is confrontational and rough.
- While opposition parties have opportunities to convey their messages to the electorate, the GD complains about an uneven playing field and a general atmosphere of subtle pressure and intimidation towards opposition views. An Interagency Commission (IAC) continues to pro-actively address allegations of violations of electoral legislation and has issued 11 recommendations to date, including the recommendation to suspend the enforcement of some court decisions.
- Election preparations remain on schedule with the Central Election Commission (CEC) meeting legal deadlines. Printing of ballots and voter lists will commence on 21 September. Voter lists in consular offices have been finalized and a total of 45 polling stations have been established abroad to enfranchise 42,613 registered voters. The CEC extension of the deadline for voter registration abroad did little to deflect criticism and confusion about applicable registration procedures.
- Voters will have a choice between 2,806 candidates, including 2,313 candidates from party lists on the proportional ballot and 493 candidates on majoritarian ballots. In total, there are 797 female candidates (28.4 per cent). Neither the UNM nor the GD met the voluntary quota for gender representation on their respective lists. All majoritarian races appear competitive, with two to ten candidates running for each seat. On 14 September, the Tbilisi City Court extended the detention of a GD supporter, who was arrested on 16 July on charges of vote-buying and later on 31 August became a candidate on the GD list.
- The State Audit Office (SAO) has investigated more than 100 individual donors of GD, of which the courts fined 68 for illegal donations. For UNM, 10 donors were investigated of which 8 were fined. The UNM explained the limited number of UNM donors being fined by their policy to advise donors in advance on the size of their donations based on their tax declarations.
- Media has provided voters with extensive coverage of the electoral campaign. However, most broadcasters monitored by the OSCE/ODIHR EOM appear to follow partisan editorial policies in their news and current affairs programs. So far, only the public broadcaster offered viewers balanced campaign coverage.
- Most complaints noted to date were filed with District Election Commissions (DECs) with regard to appointment of members to Precinct Election Commissions (PEC) or delineation of precinct boundaries. A few DEC or CEC decisions were challenged in courts and none were reversed.

II. CAMPAIGN ENVIRONMENT

Campaign activities of varying intensity are taking place across the country. Much of the campaign is concentrated on the competition between the two key opponents, the UNM and the GD. The other parties complain that they cannot compete with the overwhelming resources of the UNM and the GD including to purchase commercial advertisements on the main TV stations.

The polarization of the campaign has increased. The tone of campaign messages of both UNM and GD senior leadership and majoritarian candidates is confrontational and rough. While the UNM leadership systematically questions the origins of Mr. Ivanishvili's assets and his political agenda in case of victory, the GD responds by accusing the UNM of misrepresenting facts.

Door-to-door campaigning and small-sized meetings in villages and small urban communities are widely used by most parties. The UNM and GD additionally organized large-scale rallies and concerts and are engaged in attracting voters from across all segments of the population. The Christian Democratic Union (CDU) election bloc and New Rights (NR) mostly rely on their traditional rural electorate.

The UNM continues to dominate advertisement space on privately owned buses used for public transport in main urban centers and on billboards across the country. On 12 September, the two main advertising companies introduced a discount and made additional billboards available. To date, the GD has purchased billboards only in Poti and Zugdidi, and CDU a few in Tbilisi. Procedures for allocating public space for campaign posters are not uniformly implemented. On 10 September, the Interagency Commission (IAC) acknowledged this fact and issued a recommendation to local authorities to allocate additional space for campaign posters. In some regions, the OSCE/ODIHR EOM observed that posters of GD are frequently being defaced.

While it appears that the opposition has opportunities to convey their messages to the electorate, representatives of GD and other opposition parties and NGOs complain about an atmosphere of subtle pressure and intimidation towards opposition views, as well as towards public employees and recipients of social benefits. UNM representatives, municipal authorities and at times the police allegedly signal to such voters not to engage in opposition activities but rather attend UNM rallies. A number of supporters of the opposition have been detained.¹ OSCE/ODIHR observers also reported instances when public administration employees and teachers were encouraged to attend UNM rallies. In one instance, on 14 September, the IAC recommended the dismissal of a schoolmaster in Rustavi for accepting a request from the UNM majoritarian candidate for a meeting at his school with teachers while leaving a similar request from the GD candidate unanswered.² GD has complained against camera crews representing Info9.com.ge that have been filming participants at their rallies in a manner that they perceive as intimidating.³

¹ Since its arrival, the OSCE/ODIHR EOM has noted eight cases of detention of activists and supporters of GD (in Imereti, Tbilisi, Samtskhe-Javakheti, Kakheti and Kvemo Kartli) under various charges, including for minor hooliganism.

² Statement by the IAC of 14 September.

³ Also observed by the OSCE/ODIHR EOM at GD rallies in Magharo village (Signaghi District) on 7 September and Lanchkhuti town on 15 September. Info9.com.ge is a pro-UNM web-portal that in its design and layout copies that of the major pro-GD web-portal Info9.ge.

The IAC continues to pro-actively address allegations of violations of electoral legislation by civil servants. To date, it has issued 11 recommendations to institutions including the National Bureau of Enforcement; Georgian Public Broadcaster (GPB); Ministry of Labor, Healthcare, and Social Protection; and local authorities. All listed institutions appear to abide by the IAC recommendations, which ranged from a suggestion to suspend the enforcement of a court decision to halting the reevaluation of social aid benefits during the election period. In four instances, the IAC justified its recommendations with the aim to avoid creating the perception that a certain activity was pursuing ‘an electoral goal’ or was politically motivated.

Although election subjects cannot be held criminally liable for vote-buying, they can be disqualified by court decision when the fact of vote-buying is established. The Prosecutor’s Office opened investigations in seven cases of suspected vote-buying, with four related to illegal donations. In one case involving two companies Global Contact Consulting Ltd. and Studio Maestro Ltd., satellite dishes and TV equipment were seized by court order.⁴ As a result, the distribution of some 110,000 and 18,000 satellite dishes and 50,000 and 18,000 satellite receivers of Global Ltd. and Maestro Ltd., respectively, was stopped. On 10 September, the IAC announced that the seizure of Maestro’s equipment could be lifted and currently negotiations are ongoing with the company over the terms of its release. Another case involved a GD supporter, Merab Kachakhidze, whose detention was extended on 14 September by the Tbilisi City Court following his arrest on 16 July on vote-buying charges. Mr. Kachakhidze became a candidate for GD on 31 August, but will now remain in detention at least until the next court hearing scheduled for 8 October.

In what appeared to be a development unrelated to the election campaign, in the evening of 18 September, several video records showing abuse of prisoners in the Gldani Prison in Tbilisi were aired on three TV channels. As a response, a number of public street protests were held in Tbilisi, Kutaisi and other Georgian towns in the late hours of 18 September and throughout the following day. The police did not interfere with the protests. The EOM will follow up on these developments, focusing both on their potential impact on the remaining part of the campaign period and on the political reactions of the authorities and key election contenders towards the human rights violations depicted.

III. ELECTION ADMINISTRATION

The CEC continues to be on schedule with the preparations for the elections. Distribution of electoral materials to the DECAs has taken place and the printing of ballots will begin immediately after the 21 September deadline for candidate withdrawal. In an innovative approach, protocols for all contests will be pre-printed with the names of competing parties, blocs or candidates to ease and speed up the process of completing the protocols and minimize errors. PEC chairs, deputies and secretaries will receive special training on completing the protocols.

The CEC has introduced a comprehensive system for processing and publishing preliminary results to the public. Software is being finalized to allow immediate uploading of PEC protocols to the CEC website and to facilitate data entry into a central database. Voters are being familiarized with election day procedures through television spots aired twice a week on two stations with nationwide coverage.

⁴ See court decisions of 21 and 25 June (Global Ltd), court decision of 14 June and administrative protocols of 11 and 15 July (Maestro Ltd.). (Also see below under Section VI. Media).

The CEC holds frequent sessions open to observers and the media. Deliberations are candid and vibrant, and decisions often pass with the narrow margin of one vote. The CEC uploads all decisions on their website promptly and is responsive to observer requests for information. It holds regular consultations with civil society, including domestic observer organizations.

IV. VOTER REGISTRATION

Preliminary voter lists include a total of 3,621,256 voters. They have been posted in polling stations from 26 August to 20 September to allow voters to check their details and to request corrections, which will be subsequently updated. DEC's informed OSCE/ODIHR observers that such requests from voters were limited. Requests for reassignment of polling stations will be allowed upon presentation of relevant documents up to and including election day for voters discharged from prisons or hospitals, or who return from abroad.

On 9 September, the CEC extended the initial deadline for citizens abroad by three days to apply for registration at PECs established in consular offices. Citizens living abroad and entered into the consular registry are automatically added to these voter lists. By 10 September, voter lists in consular offices were finalized and 42,613 voters were registered in 45 polling stations abroad, of which 1,409 were not in the consular registry.⁵ However, timely and accurate information about how to qualify for voter registration abroad was not readily available. Confusion mostly related to the lack of distinction between an application for consular registration, which requires a legal address in the country of stay, and an application to be added to the voter list, which does not necessarily require a legal address in the country of stay. Neither the Ministry of Foreign Affairs (MFA) and the Civil Registry Department (CRD) nor the CEC website offers information on registering to vote abroad.⁶

V. REGISTRATION OF CANDIDATES

All 16 electoral subjects (14 political parties and 2 electoral blocs) submitted lists of candidates for the proportional contest, and all but one party for the majoritarian contests.⁷ Voters will have a choice between 2,313 candidates within party lists on the proportional ballot and 493 on majoritarian ballots. There are 729 and 68 female candidates in the respective contests. In addition, independent candidates will run in four districts. The UNM has majoritarian candidates in all 73 election districts; followed by, among others, GD in 69; Kakha Kukava – Free Georgia (KK) in 64; LP in 59, CDU in 58 and NR in 54. The most contested majoritarian district is Saburtalo (Tbilisi) with 10 candidates, while Adigeni only has two candidates. Only one complaint was filed regarding candidate registration.⁸ Earlier in the campaign an issue arose concerning the assignment of the electoral number to GD. GD had initially assumed it would be able to retain the number used by one of the parties in its bloc from the 2008 elections. Based on its interpretation of the Election Code, the CEC assigned GD a different electoral number. This reassignment rendered a significant amount GD campaign material printed with the previous number unusable.

⁵ No polling stations have been established in the Russian Federation due to the absence of diplomatic relations between the two countries.

⁶ The CRD on-line application only provides for completion of the form for consular registration.

⁷ The Public Movement did not nominate candidates for majoritarian races.

⁸ The CEC rejected one independent candidate for non-compliance with the two-year residency requirement. The CEC decision was upheld in both city and appeal courts.

Only 6 of the 16 electoral subjects met the voluntary quota whereby two women are included in each 10 candidates on the list.⁹ Those that meet the quota will receive a 10 per cent higher state subsidy if they pass the four per cent threshold in the proportional contest. Neither UNM nor GD met this voluntary quota. Overall, women account for 28 per cent of candidates in these elections. GD fielded 41 women out of 269 candidates (15 per cent), while UNM fielded 20 out of 228 (8 per cent).

VI. CAMPAIGN FINANCE

From 1 January to 9 August, disclosed donations to all party and bloc funds totalled GEL 19,216,936. Some 748 donors contributed GEL 16,659,586 to UNM whereas 969 donors contributed GEL 2,400,257 to the parties forming the GD bloc. UNM received the maximum allowable individual donation of GEL 60,000 from 89 donors; GD, from only two donors.¹⁰

The SAO stated to the OSCE/ODIHR EOM that they run crosschecks of donor information with the state database of people receiving social assistance and the database of real estate property. The SAO also requests donors' tax records from the state tax authority, the Revenue Service, where they deem further investigation is necessary.¹¹ If a donor has not declared income over the past two years, the SAO refers the case to the courts. In some 35 cases examined in detail by the OSCE/ODIHR EOM, the courts have deemed the donations by such individuals illegal on the grounds that 'the donor failed to prove the origins of the property donated'.¹² Whereas citizens are legally obliged to declare income and pay taxes, the Law on Public Unions of Citizens does not require this for donations to be legal. The SAO has also not concluded any Memorandum of Understanding with the Revenue Service, as required by its regulations, to establish procedures for cross-checking tax documents.¹³

Legislation grants the SAO and the courts wide discretion in determining whether a donation is 'justifiable' as well as broad authority to make inquiries. At times, donors do not receive sufficient explanation as to why they are being fined when they had sufficient income from previous years to make the donation, though in some cases donors did not declare any income in the last two years. The fact that some SAO senior officials are standing as UNM candidates undermines perceptions of the body's impartiality and independence.¹⁴

The SAO investigated over 100 GD donors, including a contribution of GEL 100 and one in-kind contribution amounting to GEL 10. Some 68 GD donors were fined by the courts. The SAO investigated 10 UNM donors, of which 8 were fined. All donors were levied fines equal to five times the donation. The UNM explained the limited number of UNM donors being fined by

⁹ These include the CDU, Justice for Georgia Movement, Jondi Baghaturia – Georgian Group, NR, Freedom – The Way of Zviad Gamsakhurdia, and the Public Movement.

¹⁰ Figures based on information published on the SAO website. On 19 September, the SAO informed the OSCE/ODIHR EOM that the accumulated donations to all parties until now amount to GEL 28,348,419. This information has not yet been made public on their website as required by law (LPUC art. 26.6).

¹¹ See Tax Code, Article 39.f; Law on Political Unions of Citizens, Article 34¹, Paragraphs 2g and 3.

¹² See Law on Political Unions of Citizens, Article 34¹ Paragraph 2 g. Some 102 donors have been investigated by SAO and fined by the courts for 'failing to prove the origins of the property donated'.

¹³ Authorities to date have only provided the OSCE/ODIHR EOM with draft MoUs.

¹⁴ The current SAO Director Lasha Tordia stepped down as an MP for the UNM on 23 July when he replaced former SAO Director Levan Bezhashvili who resigned in order to run in these elections for the UNM. Former SAO Deputy Director Tina Bokuchava is the highest-ranking female candidate on the UNM party list.

their policy to advise donors in advance on the size of their donations based on their tax declarations.

The SAO and the courts reviewed the vast majority of cases of illegal donations before the SAO adopted its internal regulations in July 2012.¹⁵ The Ombudsperson reported that individuals investigated as potentially illegal donors were summoned without being informed about their status as witnesses or suspects. They were body searched, deprived of personal belongings during lengthy interviews conducted in a manner that did not indicate due process.¹⁶ The Ombudsperson reported that lawyers were not fully allowed to exercise their duties and income data of donors was made public without their consent.

According to the National Bureau for Enforcement (NBE), since 8 May, immovable property of illegal donors was seized in 34 cases and in 27 cases subsequently auctioned off. In five cases, the auctioned property was the only accommodation of the donor. Movable property, mostly vehicles, was seized in 35 cases and subsequently auctioned off in 25 cases. Bank accounts of 75 individuals and 5 legal entities were seized. A non-binding IAC recommendation suspended the enforcement of seizures of immovable property thereby also suspending evictions. After consulting the SAO as a creditor, the NBE lifted the seizure of the bank account of the six parties forming the GD bloc and an affiliated NGO, thereby suspending the enforcement of a Tbilisi City Court decision of 27 June that fined GD with GEL 2,850,717.¹⁷

On September 4, President Saakashvili initiated an amendment to Article 57.6 of the Election Code that replaces deregistration with a fine in the event that an electoral subject fails to submit a campaign finance report on time. To date, the parliament has not yet adopted the amendment.

VII. MEDIA

Thus far, media has provided voters with extensive coverage of the campaign both in newscasts and talk shows. However, the majority of broadcasters monitored by the OSCE/ODIHR EOM appear to follow partisan editorial policies in their news and current affairs programs. In general, there has been limited critical analysis and assessment, as well as frequent blurring of facts and editorial commentary.

The OSCE/ODIHR EOM preliminary media monitoring findings indicate that only the public broadcaster, GPB, offered a balanced coverage of the campaign. In the newscasts of *First Channel (GPB1)*, both UNM and GD received similar proportions of mostly positive and neutral coverage (13 and 17 per cent respectively). *GPB1* has also devoted extensive coverage to further seven political parties allocating each of them between 5 and 12 percent of mostly positive coverage. The public broadcaster has so far complied with its legal obligation to allocate 60 seconds of free time per hour to all ‘qualified’ electoral subjects.

Rustavi 2 and *Imedi*, the only private TV stations with nationwide coverage, demonstrated bias in favor of the UNM. While *Imedi* allotted the largest portion of coverage (26 per cent) to GD, the tone of the coverage was mainly negative. By contrast, the UNM and CDU received 18 and 14 per cent of coverage respectively, mostly positive in tone. TV *Adjara* and *Rustavi 2*

¹⁵ See SAO regulations: <http://sao.ge/res/files/pdf/60/document.pdf>.

¹⁶ See Address by the Public Defender to the Chamber of Control of Georgia at <http://www.ombudsman.ge/index.php?page=1001&lang=1&id=1491>.

¹⁷ The NBE statement is available at http://nbe.gov.ge/index.php?lang_id=ENG&sec_id=32&info_id=5435.

demonstrated similar approach in coverage of key contestants.¹⁸ On these two stations, the UNM received significant coverage (36 and 28 per cent respectively), which was mostly positive in tone, while GD received 7 and 18 per cent of coverage, mostly negative in tone. In their coverage, *Rustavi 2*, *Imedi* and *TV Adjara* often blurred the line between official government activities and campaign-related appearances of state officials, who are also high-ranking members of the UNM. In particular, the President and the Prime Minister were extensively covered in their official capacities even during clearly campaign-related events, such as the presentation of UNM candidates.

By contrast, *TV 9* and *Maestro* devoted the largest part of their coverage (48 and 36 per cent respectively), which was mainly positive in tone, to the opposition GD bloc. The newscasts of *Kavkasia* were more focused on the activities of GD (27 per cent), but also provided considerable amount of positive and neutral coverage to the UNM and CDU (16 and 9 per cent respectively). The coverage of *TV 9*, *Maestro* and *Kavkasia* is limited to Tbilisi City and satellite networks due to the lack of terrestrial broadcasting licenses.¹⁹ Implementation of the ‘Must Carry, Must Offer’ provisions helped these TV stations to increase their penetration into cable networks. While OSCE/ODIHR EOM interlocutors welcomed the introduction of the ‘Must Carry’ provisions, they maintain that the duration should be extended beyond 1 October to also capture the tabulation of votes and the announcement of results. Currently, it is at the discretion of cable companies whether to keep or remove TV stations affected by the provision. When the regulation was fully implemented, *Maestro* was able to triple its viewership ratings.

Preliminary OSCE/ODIHR EOM media monitoring results indicate that among electoral subjects, only UNM and, to a lesser extent, GD have been actively purchasing airtime. Other contestants complained to the OSCE/ODIHR EOM about the high prices for political advertisements on the main, nationwide channels. A non-profit organization, Georgia – Not For Sale, purchased airtime to broadcast negative advertisements against GD and Mr. Ivanishvili, personally. Identical spots were broadcast as free advertisements by UNM. On 17 September, the non-profit organization, Future Today, began airing paid advertisements that depict UNM, the government, and President Saakashvili negatively.

VIII. COMPLAINTS AND APPEALS

Based on information available to the OSCE/ODIHR EOM, most complaints were filed to DEC’s on the appointment of members to PECs and the delineation of precinct borders. Only a few DEC or CEC decisions were challenged to courts, and none were reversed. The OSCE/ODIHR EOM has so far noted 102 complaints filed to 25 of the 73 DEC’s.²⁰ Most complaints challenged the functioning of PECs or the appointment of PEC commissioners.

Out of 54 complaints filed to the CEC, it decided on 42, including one relating to candidate registration and four to registration of electoral subjects. Fourteen complaints were upheld, including one challenging the location of three polling stations in administrative buildings. In

¹⁸ *TV Adjara* is funded by the government of the Autonomous Republic of Adjara and has not been transformed into a public media as required by the broadcasting law

¹⁹ Due to the transition to digital broadcasting in 2015, no terrestrial licenses have been issued since 2005.

²⁰ Of these, 31 were granted, 3 partially granted, 54 rejected, and 11 dismissed. Three are yet to be decided. A few DEC decisions were challenged in court and upheld.

this case, the CEC requested the DEC to relocate all three stations.²¹ The CEC received 25 requests to draw up administrative protocols of violations; it rejected two, but in at least 14 instances requested the respective DEC to impose fines on local civil servants for violating election legislation in court. On 17 September, the head of the administrative service in Dusheti municipality was fined GEL 2,000 for posting a UNM poster on the municipality's website.

IX. PARTICIPATION OF NATIONAL MINORITIES

National minorities enjoy full political rights under the Constitution, and according to the 2002 census make up 16 per cent of the population. The most significant minority groups are Azeri (6.5 per cent) and Armenians (5.7 per cent), concentrated in border regions. With only six MPs (4 per cent) of ethnic minority origin in the outgoing parliament, full integration of national minorities remains a challenge. UNM, GD, CDU, KK, LP, and NR all nominated national minority candidates. In Akhalkalaki, five majoritarian candidates, including from the UNM and the GD, are ethnic Armenians; with another four Armenian candidates in Ninotsminda. In Marneuli, six majoritarian candidates are ethnic Azeri. The CEC has translated voter lists, ballot papers and protocols and conducted trainings in minority languages. The CEC is also operating a tri-lingual hotline and regularly airs voter information in Armenian, Azeri and Russian.

X. DOMESTIC AND INTERNATIONAL OBSERVERS

As of 19 September, 45 domestic and 48 international observer organizations had been accredited. In total, 92 organizations applied for accreditation. Seven domestic and six international organizations were declined registration on procedural grounds. Additionally, on 9 September, the CEC rejected an application from the Russian Federation's Public Chamber, citing absence of diplomatic relations and disrespect for Georgia's sovereignty.²² Three domestic observer groups intend to conduct partial parallel vote tabulation.²³ A number of exit polls are also expected. The CEC expects some 20,000 domestic and 2,000 international observers.

XI. MISSION ACTIVITIES

During the reporting period, the OSCE/ODIHR EOM continued its regular activities, meeting with state officials, the election administration, candidates and party representatives, court officials, media representatives, civil society, and the diplomatic community. The OSCE/ODIHR EOM Head of Mission met a pre-electoral delegation of the Parliamentary Assembly of the Council of Europe led by Luca Volontè (Italy). The mission has briefed representatives of the diplomatic community. LTOs deployed throughout the country continue to observe electoral preparations and the campaign and prepare for the deployment of short-term observers.

²¹ In addition, 28 complaints were rejected or dismissed, including one submitted by a DEC member challenging CEC Decree No. 6 of 3 February on the limit of 1,500 voters per precinct. The CEC decree was upheld in court.

²² CEC Ordinance 263/2012.

²³ These are the International Society for Fair Elections and Democracy (ISFED), New Generation New Initiative (NGNI) and League of Voters.