



INTERNATIONAL ELECTION OBSERVATION MISSION

Georgia — Municipal Elections, 30 May 2010

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The 30 May municipal elections marked evident progress towards meeting OSCE and Council of Europe commitments. However, significant remaining shortcomings include deficiencies in the legal framework, its implementation, an uneven playing field, and isolated cases of election-day fraud. The authorities and the election administration made clear efforts to pro-actively address problems. Nevertheless, the low level of public confidence persisted.

Further efforts in resolutely tackling recurring misconduct are required in order to consolidate the progress and enhance public trust before the next national elections. While the elections were overall well administered, systemic irregularities on election day were noted, as in past elections, in particular in Kakheti, Samtskhe-Javakheti and Shida Kartli.

The election administration managed these elections in a professional, transparent and inclusive manner. The new Central Election Commission (CEC) chairperson tried to reach consensus among CEC members, including those nominated by political parties, on all issues. For the first time, Precinct Election Commission (PEC) secretaries were elected by opposition-appointed PEC members, which was welcomed by opposition parties and increased inclusiveness. The transparency of the electoral process was enhanced by a large number of domestic observers.

Considerable efforts were made to improve the quality of voters' lists. In the run-up to these elections, parties received state funding to audit the lists. Voters were given sufficient time and information to check their entries. As part of the recent UEC amendments, some restrictions were placed on the rights of certain categories of citizens to vote in municipal elections, in order to address opposition parties' concerns of possible electoral malpractices.

The Unified Election Code (UEC) was substantially amended in December 2009, addressing some previous recommendations made by the OSCE/ODIHR, Venice Commission of the Council of Europe and the Congress of Local and Regional Authorities of the Council of Europe. The code as amended is generally adequate for the conduct of democratic elections; however, a number of significant shortcomings remain. These include limitations on voting and candidacy rights, and an election system which does not guarantee the equality of the vote. Provisions which allow unlimited campaigning by certain public officials and the use of administrative resources for campaign purposes do not guarantee a level playing field for all contestants.

The CEC registered 26 political parties for these elections in an inclusive process. The large field of candidates provided voters with a genuine choice. However, the number of competitors was limited in some single-mandate constituencies, and 4.5 per cent of majoritarian candidates withdrew after they had been registered.

The campaign took place in a mostly calm environment, and contestants were able to campaign and to assemble freely. There was a strong focus on the race for the mayor of Tbilisi. Campaign activity outside the capital was more limited. Most contestants carried out issue-based campaigns. Many contenders professed a lack of confidence in the electoral process. The International

Election Observation Mission (IEOM), comprising of the OSCE/ODIHR and the Congress of Local and Regional Authorities, received allegations of violations from some opposition parties and non-governmental organizations, including pressure on opposition candidates to withdraw. The governmental Inter-Agency Task Force for Free and Fair Elections sought to address such concerns. While these allegations could not always be substantiated, OSCE/ODIHR long-term observers assessed several of them as credible. The distinction between the state and the ruling party was sometimes blurred, and there was not always a clear distinction between the official and party functions of public officials.

The media environment is diverse, but divided along political lines and many outlets remain strongly influenced by their owners. In addition, the transparency in media ownership still needs to be improved. During the campaign, the media broadcast a variety of election-related programmes, including debates, allowing voters to make a more informed choice. The public broadcaster offered its viewers an overall balanced picture of the campaign in its news. The campaign coverage in the news of all other monitored television channels, however, lacked balance, with some supporting the government and others the opposition. Most monitored television channels devoted extensive and favorable coverage to activities of the authorities, outside the campaign context, thus indirectly benefiting candidates with a pro-government orientation. The very high rates for paid political advertisement on the main television channels limited contestants' possibilities to campaign in the media.

Provisions of the UEC regarding electoral disputes could benefit from further clarification. There was an apparent lack of understanding of procedural provisions regulating complaints and appeals, both among complainants and election commissions. Lack of clarity on procedures and competences left much discretion to election commissions with regard to the review of complaints, and resulted in inconsistent practices.

Women remained under-represented as candidates and in the CEC, but were overall well-represented in lower-level commissions. Many parties put forward candidates belonging to national minorities. By contrast, minorities were under-represented in District Election Commissions (DECs) in areas where they live. Various election materials were made available in minority languages.

Election day was generally calm, and the process was well-managed and transparent in the large majority of polling stations visited by IEOM observers. However, IEOM observers reported instances of tension and a variety of procedural violations, some of them serious, including 13 cases of likely ballot box stuffing. The voter turnout was 49 per cent, according to preliminary CEC data. Voting was assessed positively in 96 per cent of polling stations visited. IEOM observers reported relatively few cases of voters not finding their names on the voter's list. Domestic observers and party proxies were present in the large majority of polling stations visited.

The vote count was assessed more negatively, with one in five counts assessed as bad or very bad and significant procedural errors or omissions reported from over one quarter of counts observed. One in five PECs had problems completing the results protocols, and over one third of them did not post protocols for public scrutiny as required by law. The tabulation process was assessed negatively in five of the 43 DECs observed. Problems were noted in particular in connection to PEC results protocols. Observers were at times hindered in their observation, and one IEOM observer team had to be withdrawn due to intimidation.

PRELIMINARY FINDINGS

Background

On 30 March 2010, the president of Georgia, Mikheil Saakashvili, called municipal elections for 30 May. Voters elected members of 63 councils (*sakrebulo*) of local self-government units (municipalities and self-governing cities), the Tbilisi city *sakrebulo*, and the mayor of Tbilisi, who was directly elected for the first time.

The 2008 parliamentary elections were won by the United National Movement (UNM), which gained 119 out of 150 seats. The political environment since then has remained highly polarized. Protesting against alleged violations in those elections, many opposition parties have since boycotted the work of the parliament. The armed conflict in August 2008 further aggravated political tensions. In April 2009, large-scale demonstrations were held in Tbilisi, with demands including constitutional and electoral reform, freedom of the media, independence of the judiciary, and the release of alleged political prisoners. An Electoral Reform Working Group negotiated significant alterations to the Unified Election Code (UEC), which were adopted in December 2009. While some parties boycotting the parliament participated in this process together with the parties in parliament, most of them did not sign the final agreement.

Legal Framework and Election System

The 2010 municipal elections were regulated primarily by the Constitution of Georgia (adopted in 1995, last amended in 2010) and the UEC (adopted in 2001, last amended in 2010).¹ The Constitution does not contain detailed provisions on local self-government and primarily refers to the Law on Local Self-Government. The UEC has undergone numerous amendments since its adoption. Significant amendments were introduced in December 2009, addressing some previous recommendations by the OSCE/ODIHR, the Venice Commission of the Council of Europe and the Congress of Local and Regional Authorities. The procedure for nominating and electing the CEC chairperson was changed, and the direct election of the mayor of Tbilisi was introduced.

The UEC is generally adequate for the conduct of democratic elections; however, it contains a number of gaps, inconsistencies and contradictions. Furthermore, a number of significant shortcomings remain. In contradiction with the OSCE and Council of Europe commitments, it does not allow for independent candidates. The provisions which allow unlimited campaigning by certain public officials² and the use of administrative resources for campaign purposes do not guarantee a level playing field. Both the Constitution and the UEC deny the right to vote to persons serving a prison sentence, irrespective of the crime committed.

Members of *sakrebulo* are elected for a four-year term under a mixed proportional-majoritarian system. The seats allocated under the proportional system are distributed to the parties and coalitions which have passed a five per cent threshold (four per cent in Tbilisi). Mandates in single-mandate constituencies are awarded to the candidates who received the highest number of votes. Mayors of municipalities and self-governing cities are elected by the *sakrebulo*. The

¹ Other applicable laws include the Law on Self-Government, the Law on Political Parties, relevant provisions of the Criminal Code and the Code of Administrative Procedures and legal acts (resolutions and ordinances) of the election administration.

² As defined by Article 3 of the UEC, the following categories of officials are allowed to campaign even when carrying out official duties: president, members of the parliament, government, supreme councils of Adjara and Abkhazia, heads of governments of Adjara and Abkhazia, as well as deputy ministers, members of *sakrebulo* and heads of executive bodies.

Mayor of Tbilisi is elected by popular vote. A candidate needs to obtain no less than 30 per cent of valid votes to be elected. If this requirement is not met, a second round takes place within a month between the two candidates who obtained the highest number of votes.

Only for the city of Tbilisi, the UEC requires that the number of voters be taken into account when drawing the borders of single-mandate constituencies. For other *sakrebulo*s, the single-mandate constituencies should take “territorial and administrative peculiarities” into consideration.³ Across the country, the number of registered voters per single-mandate constituency varies considerably within one and the same local-government unit, at times by more than 1,000 per cent. Such large deviations undermine the equality of the vote.⁴

Election Administration

These elections were administered by a three-tiered structure consisting of the Central Election Commission (CEC), 73 District Election Commissions (DECs), and 3,621 Precinct Election Commissions (PECs). In addition, 74 special PECs were created for voting by military and police units, as well as in pre-trial detention facilities and hospitals. Under the UEC, all election commissions have 13 members, seven of which are nominated by the parties that qualify for state funding.

Overall, election commissions administered these elections in a professional manner. The CEC is an inclusive multiparty permanent body. The chairperson of the CEC is elected by the representatives of opposition political parties in the CEC from among three candidates proposed by the president following consultations with non-governmental organizations. The new CEC chairperson was elected in January 2010 by the parliament as none of the proposed candidates received the majority of votes of CEC opposition members.

The CEC generally worked in a transparent and inclusive manner, holding sessions in a collegial atmosphere. The CEC chairperson tried to reach consensus on all issues. The CEC launched a wide range of voter information initiatives in the broadcast media. The Georgian version of the CEC website was informative and updated regularly, adding transparency to the process.

DECs are permanent bodies with five permanent members elected by the CEC. Eight additional members were appointed only for the election period, seven of them by political parties and one by the CEC. PECs are temporary bodies established anew for each election. A number of election stakeholders have assessed that some parties, which are entitled to appoint PEC members, did not have the necessary resources to appoint their party members to all PECs. In addition, party-appointed PEC members were frequently replaced. In line with the recent UEC amendments, PEC secretaries were elected by the opposition-nominated PEC members from among themselves. This provision was welcomed by opposition political parties and enhanced the inclusiveness and transparency of the work of PECs. A few cases of pressure on party-appointed PEC members to resign were alleged by local representatives of opposition parties. In two cases, such allegations were substantiated by OSCE/ODIHR long-term observers.

The CEC conducted comprehensive training for DECs and PECs, which was assessed positively by the OSCE/ODIHR observers. DECs and PECs in general appeared to be aware of their duties.

³ Article 112 par. 3 of the UEC.

⁴ In line with paragraph 7.3 of the 1990 OSCE Copenhagen Document, participating States undertake to guarantee universal and equal suffrage to adult citizens. Paragraph 2.2 of the Code of Good Practice in Electoral Matters of the Venice Commission recommends that “the permissible departure from the norm should not be more than 10% and should certainly not exceed 15% except in special circumstances”.

Voter Registration

The CEC is responsible for the maintenance of the centralized voter register. Over the past months, the election administration as well as political parties made considerable efforts to audit and improve the voters' lists. In the run-up to elections, political parties received state funding to verify the lists and voters were given sufficient time and information to enable them to check their entries. As a result of the verification, a significant amount of corrections were introduced in the voter lists, which seem to have improved the quality of lists. Out of 239,752 various corrections that were proposed, mainly related to incorrect addresses, persons allegedly not living at a specific addresses or believed to live abroad, the CEC accepted some 35,164 corrections. In addition, the CEC reported to have introduced as many as 302,558 corrections after the checks performed mainly by the election administration until 14 May. The total number of registered voters was 3,544,770.

As part of recent amendments to the UEC, some restrictions were placed on the rights of certain categories of citizens to vote in municipal election, in order to address opposition parties' concerns of possible electoral malpractices. Under a transitional UEC provision, 13,153 voters who changed their registered place of residence since 15 January 2010 were not allowed to vote in their new place of residence; they could only vote at their old places of residence.

As of 14 May, more than 11,281 voters were de-registered from the civil register at the request of the owners of the premises where they were registered, based on the owners' statements that these individuals did not in fact reside at these premises. After considerable discussions, the CEC decided on 2 May that these voters would be able to vote for the proportional segment of the *sakrebulo* elections (and, in Tbilisi, for the Tbilisi mayor) if they register by 14 May with the DEC in the district where they were last registered. Ultimately, only 187 such voters registered with DECs. The CEC chairperson assessed that this low figure could have been due to mere voter inactivity. Some interlocutors of the IEOM opined that public information provided by the CEC in this regard was insufficient.

The voters' lists contained 47,793 entries of voters who for various reasons had incomplete addresses, of which 29,775 are in Tbilisi. Since identification documents of such voters in most cases only state the municipality, they can not be assigned to a specific precinct. These voters were able to vote only for the proportional element of the *sakrebulo* elections (and, in Tbilisi, for the Tbilisi mayor).

Citizens who left Georgia before 1 January 2010 and did not return by 14 May were marked in the voters' lists as being abroad. In order to be able to vote, they had to show a passport with an entry stamp. PECs were instructed by the CEC and DECs to note in the voters' lists known cases of voters who had left Georgia. However, lack of precise regulations on how to perform this procedure have resulted in inconsistent application by DECs and PECs.

Voting by the military and the police caused many controversies. The UEC is ambiguous in defining the conditions under which these voters can vote for the majoritarian component of elections.⁵ In the run-up to elections, the CEC envisaged that all such voters serving away from their places of residence would be able to vote in both majoritarian and proportional contests (and, in Tbilisi, for the Tbilisi mayor). On 29 May, following an appeal alleging violations in the compilation of special lists of voters from the Ministry of Interior, the Tbilisi City Court ruled that

⁵ The Code is unclear whether such persons need to have served in a specific location for at least one year before election day, or whether they need to be assigned to that location for at least one year of service in order to receive the majoritarian ballot.

some 17,000 servicemen registered by the Ministry of Interior will only be able to vote for the proportional component. The Tbilisi City Court decision did not include any legal reasoning.

Registration of Parties and Candidates

Political parties must register with the CEC to be able to put forward candidates and party lists. Non-parliamentary parties and parties that did not participate in the last parliamentary elections needed, *inter alia*, to collect 30,000 supporting signatures in order to register. A total of 36 parties applied to the CEC for registration within the legal deadline. Twenty-six of them were registered in an inclusive process, of which two subsequently withdrew.⁶ Ten parties were duly denied registration due to an insufficient number of signatures collected. Ten parties which were registered by the CEC formed three electoral blocs.

The Christian-Democratic Movement (CDM), the largest of the opposition parties that took up seats in the parliament following the 2008 elections, stood in a bloc with two other parties. Two blocs were formed by extra-parliamentary parties. The Alliance for Georgia (AfG) comprised four parties, including Our Georgia – Free Democrats, whose leader Irakli Alasania, a former ambassador to the United Nations, was the bloc's candidate for the Tbilisi mayor. Georgia's former prime minister Zurab Nogaideli was a leading figure in the three-party National Council (NC) bloc, whose Tbilisi mayoral candidate was the leader of the Conservative Party, Zviad Dzidziguri.

Nine candidates were registered for the Tbilisi mayoral election. In total, 4,078 majoritarian candidates were registered in 1,025 single-mandate constituencies. Overall, as many as 4.5 per cent of majoritarian candidates withdrew after they were registered.⁷ In some majoritarian constituencies, the competition was limited, with few candidates running. In several majoritarian constituencies, UNM candidates ran unopposed.⁸

A total of 419 proportional party lists were registered. Several proportional lists were de-registered due to the fact that after the withdrawal of some candidates, the number of remaining candidates dropped below ten, the minimum required to register a list. The UEC does not go into details about the validity of lists after they have been registered by DEC. The CEC attempted to pass a resolution stipulating that lists remain registered even if the number of candidates drops below the minimum required for registration of lists; however, the majority of the CEC voted against this resolution.

The Campaign Environment

The campaign took place in a mostly calm atmosphere, and contestants were able to campaign and to assemble freely. Campaign activity was limited outside the main cities, but picked up in the last fortnight. There was a strong focus on the race for the mayor of Tbilisi. The main campaign activity was local meetings with the electorate, often involving local candidates as well as leading party figures. Most contenders carried out issue-based campaigning. Employment was a major campaign theme for several parties and blocs. The UNM stressed improved welfare provision and infrastructure. The AfG focused on social programmes, including pensions and help to families.

⁶ Movement for a United Georgia and Georgian Troupe.

⁷ In Ambrolauri district, as many as 11 of the 63 registered majoritarian candidates withdrew, and in Dusheti district, 14 out of 71.

⁸ For example, in Tsalka (Kvemo Kartli region), in six of the 30 single-mandate constituencies, only one candidate was registered, from the UNM.

The CDM put a heavy accent on lower utility prices. By contrast, the NC had a significant focus on alleged violations of the electoral process.

Isolated incidents included violent clashes with the police during a demonstration on 6 May organized by some opposition parties. There were several controversies over the placement of campaign posters. During a dispute over the placement of UNM posters on 6 May, Mr. Dzidziguri fired shots in the air. The AfG complained to the CEC about the defacing of their posters in Tbilisi, and the placement of UNM posters over them. The CEC chairperson established that there was a violation with regard to the first complaint and did not investigate the second one. One NC candidate was fined for removing UNM posters in Ozurgeti.

Many contenders professed a lack of confidence in the electoral process. The IEOM received allegations of violations from some opposition parties and non-governmental organizations. These included pressure on opposition candidates to withdraw. Such allegations could not always be substantiated and in some cases proved to be false. However, in several cases OSCE/ODIHR long-term observers assessed them as credible. In Samtskhe-Javakheti region, one NC candidate, a doctor, was told by her supervisor that if she did not withdraw, she would be dismissed following the election.

The Inter-Agency Task Force for Free and Fair Elections (IATF), comprising representatives of various ministries and government agencies, sought to address such concerns. In Mestia (Samegrelo–Zemo Svaneti region), candidates of the Freedom party were pressured to withdraw. The IATF informed the IEOM that the prosecutor has begun an investigation of the case. Following the incident, the governor, who was accused of being involved, went on leave from his duties. One AfG candidate in Racha-Lechkhumi and Kvemo Svaneti region who had been warned by a UNM supporter to withdraw was contacted and reassured by an IATF representative.

Some opposition parties asserted that a pervasive climate of pressure existed, such that state employees and their family members were reluctant to associate themselves with the opposition, for fear of losing their jobs, a fear in part related to the high prevalence of intimidation and pressure in past elections. The IEOM received allegations from numerous sources that businesses were reluctant to make donations to some opposition parties for fear of negative repercussions. This is of concern in light of the evident disparity between the campaign funds available to different parties.

Some activities contributed to a public perception of a lack of distinction between the state and the governing party. According to the UEC, civil servants are permitted to campaign outside their normal duties. Many, including regional governors in Imereti, Kakheti and Guria, took leave in order to campaign for the UNM. The IEOM received allegations that in several places municipal offices were left understaffed because of mass leave taking. In Gurjaani (Kakheti region), municipal officials on leave carried out official duties, including helping people with social assistance applications, at the UNM office. A public campaign by the Tbilisi mayor's office with the slogan "I love Tbilisi", which was launched before these elections were called, was subsequently carried over into the UNM's campaign in the capital. The prime minister, Nika Gilauri, and other high-level members of state administration warned public officials to stay in line with the UEC and not to abuse administrative resources.

From the date of the announcement of the elections, implementation of projects not previously foreseen in government budgets is prohibited by law. Following allegations of local-government spending being concentrated in the pre-election period, the OSCE/ODIHR long-term observers examined some municipal budgets and confirmed that this was indeed often the case. In Signaghi

(Kakheti region), 90 per cent of the 2010 budget for cultural events was spent in April. In 2009, there was no such increase at that time of year. In Telavi (Kakheti region), social assistance spending for April was double the total for the previous three months.

The Media

Georgia has a diverse media environment, with media divided along political lines. Many outlets remain strongly influenced by their owners. The lack of transparency regarding media ownership is problematic, especially due to allegations that some state officials are indirectly linked with some national and local broadcasters.

Over the course of the campaign, public and private broadcasters aired various election-related programs and talk shows. The Georgian Public Broadcaster (GPB) broadcast two debates, one among the five candidates for the Tbilisi mayor nominated by “qualified” subjects, and the other among the four candidates nominated by “unqualified” subjects.⁹ Such transmissions gave voters an opportunity to compare candidates and parties and enabled them to make a more informed choice. The very high cost of paid political advertising limited contestants’ possibilities to campaign on television. The main channels charged approximately ten times higher rates than for commercial advertisements. Consequently, contestants intensively utilized airtime for free-of-charge spots on both public and private broadcasters.

The GPB’s First Channel offered its viewers a balanced picture of the campaign in its news. The campaign coverage in news programs of all other monitored television channels lacked balance, with some supporting the government and others the opposition. This is not in line with the Law on Broadcasting, which calls for non-discriminatory and pluralistic coverage of all relevant views in the news programs.¹⁰ Most monitored television channels¹¹ devoted extensive and favorable coverage to the activities of authorities, outside the campaign context, thus indirectly benefiting candidates with a pro-government orientation. There was a notable tendency to cover the activities of state officials positively, often pointing out achievements and successes. Media coverage of appearances of the Tbilisi mayor, president, government ministers and local government representatives at ceremonial events, often in the presence of UNM candidates, indirectly benefited the UNM campaign.

During the media monitoring of the last six weeks of the election campaign, the First Channel of GPB devoted 14 per cent of its political and election news to the UNM and 15 per cent to the AfG. The qualitative analysis indicated that UNM received slightly more positive coverage than AfG. The CDM-led Christian-Democratic Union received 14 per cent and the NC 13 per cent of mainly neutral coverage. GPB's Second Channel provided permanent access to all political parties and covered their campaign activities.

The two by far most popular national television channels, Rustavi 2 and Imedi TV, demonstrated their support for the ruling party and its Tbilisi mayoral candidate. Rustavi 2 devoted 59 per cent of its political and election news coverage to activities of the authorities and the ruling party,

⁹ Political parties or blocs that are represented by a faction in the parliament or received at least four per cent of the proportional vote in the last parliamentary elections or three per cent nationwide in the last municipal elections are considered “qualified” subjects. “Unqualified” subjects must demonstrate public support through opinion polls results in order to enjoy free airtime/space.

¹⁰ Article 54 of the Law on Broadcasting. In addition, the Code of Conduct for Broadcasters calls for “thorough and balanced coverage of campaign activities of qualified election subjects”.

¹¹ The OSCE/ODIHR EOM monitored the following channels: GPB’s First and Second Channels, Rustavi 2, Imedi TV, Kaukazia TV, TV Maestro, Real TV and TV Adjara.

including the president (22 per cent), the government (14 per cent), the local government (6 per cent) and the UNM (17 per cent). This coverage was overwhelmingly positive in tone. By comparison, the AfG and CDM received 11 and 10 per cent of the coverage respectively which was mainly positive in tone. Imedi TV, Adjara TV and the local Tbilisi station Real TV adopted a similar approach. Real TV also produced programs discrediting opposition candidates. Local Tbilisi stations Kavkazia TV and TV Maestro, by contrast, served as a platform for the opposition, in particular the AfG. Both channels also criticized the UNM and the authorities.

Mr. Dzidziguri complained to the CEC about unequal news coverage by Imedi and Rustavi 2. The CEC reviewed the complaint, however, postponed the decision until after the election day. On 27 May, referring to this case, the CEC chairperson called on all television channels “to observe the principle of equal distribution of airtime among contestants.”

The CEC conducted its own media monitoring and released two media-monitoring reports during the campaign. The methodology chosen and the interpretation of the results of quantitative and qualitative analysis have resulted in a positive assessment of the campaign coverage and did not identify any substantial imbalances in the news coverage.

Participation of Women

There are neither legal barriers to the participation of women in politics and elections, nor legal provisions designed to encourage their participation. While the Constitution guarantees the equality of all citizens, it does not contain any gender-specific provisions. The most significant law concerning equality between women and men is the Law on Gender Equality, a framework law which entered into force on 12 April 2010. The participation of women in decision-making bodies is low. The share of women in parliament is currently seven per cent. Only one of 18 government ministers is a woman.

The proportion of women candidates in single-mandate constituencies and on proportional lists remained virtually unchanged compared to the 2006 municipal elections. Only 11 per cent of majoritarian candidates were women, and 18 per cent of the candidates on proportional lists. None of the nine candidates for the mayor of Tbilisi was a woman. Two of the parties running in the elections were headed by women.¹² The CDM’s candidate for the chair of the Tbilisi city *sakrebulo*, Inga Grigolia, featured prominently in the party’s campaign. With regard to the election administration, only one of 13 CEC members is a woman, but women accounted for approximately 52 per cent of DEC members. In polling stations visited by IEOM observers on election day, 52 per cent of PEC chairpersons were women; overall, women accounted for 67 per cent of PEC members in these polling stations.

Participation of National Minorities

According to the 2002 census (which did not include South Ossetia and Abkhazia), national minorities make up 16.2 per cent of the population. The most significant minority groups are Azeris (6.5 per cent) and Armenians (5.7 per cent), concentrated in Kvemo Kartli and Samtskhe-Javakheti, respectively. Other minority groups include Russians, Ossetians, Greeks, Chechens, Jews, Abkhazians and Kurds. National minorities enjoy full political rights under the Constitution. However, Georgia lacks a comprehensive national legal framework for the protection of minority

¹² There were the Georgia’s Way party of former Foreign Minister Salome Zurbishvili (part of the AfG bloc), and the Christian-Democratic People’s Party of Magdalena Kotrikadze (part of the CDM-led bloc).

rights. Concerns were raised by civil-society organizations that some Roma do not have ID cards, were not registered, and could not vote.

According to the CEC, various election-related materials were made available in minority languages. National minorities were under-represented in DEC members. In Samtskhe-Javakheti, where Armenians comprise some 55 per cent of the population, only 28 per cent of DEC members were from national minorities (and 40 per cent of DEC chairpersons). In Kvemo Kartli (45 per cent Azeri and 6 per cent Armenian), only one DEC member, a Greek, was from a national minority. In Kvemo Kartli and Samtskhe-Javakheti, the UNM, the CDM, the NC and the Democratic Party put forward national-minority candidates for the majoritarian elections roughly in proportion to their share of the population, although on the proportional lists national-minority candidates were in most cases under-represented. The UNM had the highest number of candidates in regions inhabited by minorities.

Complaints and Appeals

In the pre-election period, approximately 70 complaints were submitted to the DEC members, 52 complaints and 8 appeals to the CEC, 9 cases to the Tbilisi City Court, 4 appeals to the Tbilisi Court of Appeals, and one to the Kutaisi Court of Appeals. The UEC does not establish a deadline for either filing or reviewing complaints. On average, complaints filed with the CEC were reviewed within approximately two weeks after their submission. The CEC failed to adjudicate prior to election day all complaints brought before it. Lack of clarity on procedures and competences left much discretion to election commissions with regard to the review of complaints and resulted in inconsistent practices.

The vast majority of complaints were submitted by domestic observers and by opposition parties. They mostly alleged misuse of administrative resources, campaigning by persons who are barred from campaigning, and obstruction to posting of election materials. Most of these complaints were dismissed as unsubstantiated or as lacking legal basis. In one case, the CEC endorsed an interpretation that appears to be in contradiction with legal provisions which prohibit campaigning by certain persons. The CEC decided that these persons can take part in campaign activities provided they do not actively call on voters to vote for or against a contestant. The lack of clarity in the UEC provisions with regard to the competences of election commissions resulted in complaints being filed with the CEC even when they pertained to violations that allegedly took place in the regions; this affected the efficiency of investigation of complaints in question. The deadlines for filing appeals and for the judicial review have been extended by the 2009 amendments to two calendar days; however, the deadline for the review of appeals by election commissions remained one day.

There has been an apparent lack of understanding among complainants and commissions of provisions regulating election disputes. Notably, more than half of appeals were filed at the CEC by opposition parties after the prescribed deadline. Furthermore, complaints and appeals were often filed to non-competent bodies. DEC members did not always forward complaints to the CEC in cases where they lacked the competence to review them, although the General Administrative Code requires them to do so. DEC members did not always issue decisions in writing immediately upon their adoption; instead, they informed complainants orally during the session and issued written decisions only later. Several DEC decisions did not include legal reasoning. Such practices deprived complainants of their right to seek effective legal redress.

In spite of numerous allegations of pressure exerted on opposition candidates to withdraw from the elections, the IEOM is aware of only two such cases that were brought to the prosecutor's office before election day. These cases are under investigation.

Domestic Observers

The UEC provides for domestic and international observation at all levels of the election administration during the entire election period. The transparency of the electoral process was enhanced by the registration of a large number of domestic election observers, party and non-party. Civic organizations¹³ carried out long-term and short-term observation with large numbers of observers.

Election Day

Election day was generally calm, and the process was well-managed and transparent in the large majority of polling stations visited by IEOM observers. However, IEOM observers reported instances of tension and a variety of procedural violations, some of them serious. The CEC started posting polling station results and protocols on its website at around 02:00 hours on 31 May. Voter turnout was 49 per cent, according to preliminary CEC data.

Opening procedures were assessed positively in the large majority of polling stations visited. IEOM observers noted some procedural shortcomings. IEOM observers assessed the voting process as good or very good in 96 per cent of polling station visited. Some regional variations were noted, with 10 per cent negative assessments in Kakheti, Samtskhe-Javakheti and Shida Kartli. PECs' performance, as well as PECs' and voters' understanding of procedures, as well as transparency of the process, were assessed positively in the majority of polling stations visited.

The most widely observed procedural violations concerned inking, an important safeguard against multiple voting. In 9 per cent of polling stations visited, not all voters were checked for traces of invisible ink, in 7 per cent, not all voters were marked with ink, and in four polling stations voters who had already been inked were nonetheless allowed to vote. Other violations noted included ballot boxes which were not properly sealed (7 per cent), series of seemingly identical voters' signatures on the voter list (6 per cent), group voting (7 per cent), multiple voting (1 per cent), proxy voting (1 per cent), and the same person "assisting" numerous voters (2 per cent). In 13 polling stations, IEOM observers saw indications which strongly suggested that ballot box stuffing had occurred. In 6 per cent of polling stations visited, not all voters marked their ballots in secret. Some polling stations were not readily accessible to persons with reduced mobility.

IEOM observers reported eight instances in which voters were intimidated. Many observers noted the presence of party activists recording which voters came to a polling station or saying they were conducting exit polls; most of those who could be identified did so on behalf of the UNM. Proxies of political parties and electoral blocs were present in 96 per cent of polling stations visited, and domestic civic observers, in 81 per cent. Unauthorized persons, including security personnel, were present in 6 per cent of polling stations visited and were seen interfering in or directing the process in 11 instances.

IEOM observers assessed the vote count more negatively, with one in five counts observed assessed as bad or very bad and significant procedural errors and omissions reported from over

¹³ The most active civic organizations were the International Society for Fair Elections and Democracy, new Generation–new Initiative and the Georgian Young Lawyers' Association and Transparency International Georgia.

one quarter of counts observed. A considerable number of PECs did not perform basic reconciliation procedures required by law, such as counting and entering into the protocols the number of voters' signatures on the voter list or of unused ballots. In many counts observed, voters' choices were not announced aloud, and in the majority of counts, ballots were not shown to everybody present. Ballots validity was not always determined in a reasonable and consistent manner. IEOM observers reported that frequently, non-PEC members participated in the count. They also reported three cases of falsification of voters' list entries, results or protocols.

One in five PECs had problems completing the results protocols. IEOM observers reported seven cases where the result protocols had been pre-signed. In over one third of counts observed, the PEC did not post copies of the results protocols for public scrutiny, as required by law, and in almost one half, they did not fax the results protocols to the CEC immediately upon completion.

The tabulation process was assessed negatively in five of the 43 observed DEC. Problems noted included cases where PECs were completing results protocols at the DEC premises or correcting them without a formal DEC decision, or election material arriving with the seals not intact. Figures on the results protocols frequently did not reconcile correctly. Official complaints were filed in ten DEC where tabulation was observed. IEOM observers reported some instances where they or other observers could not familiarize themselves with all aspects of the tabulation process. In DEC 41 (Ninotsminda), IEOM observers had to be withdrawn after their interpreter was intimidated by a DEC member. Several DEC informed IEOM observers that they would not tabulate the election immediately upon receipt but would only do so on or after 31 May.

***This statement is also available in Georgian.
However, the English version remains the only official document.***

MISSION INFORMATION & ACKNOWLEDGEMENTS

Tbilisi, 31 May 2010 – The International Election Observation Mission (IEOM) for the 30 May 2010 municipal elections in Georgia is a joint undertaking of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Congress of Local and Regional Authorities of the Council of Europe.

The OSCE/ODIHR Election Observation Mission opened in Tbilisi on 16 April with 14 experts in the capital and 24 long-term observers deployed throughout Georgia. On election day, some 203 short-term observers were deployed. In total, there were observers from 37 OSCE participating States. The IEOM observed voting in 815 polling stations out of a total of 3,694, counting in 84 polling station, and the tabulation in 43 out of 73 District Election Commissions. Ambassador Audrey Glover (United Kingdom) is the Head of the OSCE/ODIHR Election Observation Mission.

The Congress Election Observation Mission included 14 locally and regionally elected representatives from 11 European countries. Four members of the delegation are members of the European Union Committee of the Regions. Congress Vice-President Guenther Krug (Germany) headed the delegation. Observers, including local and regional elected representatives, contribute to the transparency and integrity of electoral processes at local and regional levels. The Congress conducted a pre-election visit on 3 and 4 May. On the days prior to the municipal elections, the Congress delegation met with representatives of the government, parliament, opposition, media and NGOs, as well as the National Association of Local Authorities of Georgia (NALAG).

The municipal elections were assessed for their compliance with OSCE and Council of Europe commitments for democratic elections, as well as with Georgian legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, in particular the tabulation of results and the handling of possible post-election day complaints and appeals.

The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The head of the Congress delegation will present a report, including recommendations and resolution, to be adopted at the Congress Plenary Session in October 2010. A

preliminary debate will take place at the Standing Committee Meeting (Strasbourg, 18 June 2010) with the presence of Guenther Krug and Sharon Taylor, spokesperson of the Committee of the Regions members.

The IEOM wishes to thank the authorities of Georgia for the invitations to observe the elections, the Central Election Commission for its co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs and other authorities for their assistance and cooperation. The IEOM also wishes to express appreciation to embassies and international organizations accredited in Georgia for their co-operation and support.

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