



INTERNATIONAL ELECTION OBSERVATION MISSION Georgia – Presidential Election, Second Round, 28 November 2018

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The second round of Georgia's presidential election was competitive and candidates were able to campaign freely, however one side enjoyed an undue advantage and the negative character of the campaign on both sides undermined the process. Elections were well administered; yet, the lack of regulation of key aspects of the second round did not provide legal certainty. The campaign was marred by harsh rhetoric. Increased misuse of administrative resources further blurred the line between party and state. Private media continued to demonstrate sharp polarization and clear bias, while the public broadcaster did not ensure editorial independence and impartiality. On election day, voters actively took part and the process was assessed positively, although the observed tracking of voters reinforced concerns about potential intimidation.

No candidate obtained more than 50 per cent of valid votes in the first round on 28 October, so a second round was set for Wednesday, 28 November. The decision on the run-off date became a contentious issue and led to calls from civil society to reconsider and objections from opposition parties. While the CEC acted within its authority to set the date, the circumstances around the decision negatively impacted stakeholder confidence in the CEC. Despite this, the election was well managed, deadlines were generally respected, and the CEC made efforts to address procedural shortcomings noted during the first round in refresher trainings.

The legal framework insufficiently regulates key aspects of the second round. Unclear regulation of the campaign, including in the media, led to inconsistent and contradictory interpretations and did not provide legal certainty. Further, recent amendments did not rectify problematic issues identified in previous two-round elections nor address previous ODIHR recommendation to provide explicit run-off regulations.

In the run-up to the second round campaign activities intensified, and there were isolated violent incidents. A number of anti-opposition and anti-government demonstrations took place before the run-off, increasing the tensions between the two sides. The use of negative, harsh and at times violent rhetoric significantly overshadowed the campaign and went unaddressed by authorities. In the campaign there were incidents of the misuse of administrative resources and the announcement of a series of social and financial initiatives, in particular debt relief for 600,000 individuals by a private financial institution linked to the chairperson of the ruling party. These incidents and the involvement of senior state officials from the ruling party in the campaign, continued to blur the line between the state and the party. The gathering of voter data and mapping of political preferences, in combination with tracking of voters on election day, raised concerns about the potential for intimidation and the ability of voters to vote free of fear of retribution, as provided for by the OSCE commitments, as well as Council of Europe and other international standards.

Campaign finance reporting requirements for the second round were determined only less than two weeks before the second round. The substantial imbalance in campaign donations in favor of the candidate backed by the ruling party which was noted during the first round remained in the run-off. There is no requirement to report on campaign activities by third-parties, including public protest movements, which mainly benefitted the ruling party backed candidate. Both candidates received support from political parties without candidates in the second round and the expenditures these

parties incurred went unreported. The fact that most of campaign finance complaints for both rounds was still pending prior to the run-off continued to raise concerns about the effectiveness of the enforcement of campaign finance rules.

Lack of clear regulation for the second round led to varied interpretations of the law and limited opportunities for campaigning in the media. While not required by law, most national broadcasters provided free airtime to both candidates. The national public broadcaster displayed a clear bias against the opposition and did not fulfill its obligations to ensure editorial independence, fairness and impartiality of programmes, contrary to international standards. Private media continued to demonstrate their sharp polarization and clearly exhibited bias in their reporting, some becoming more vocal about their political positions.

Nearly 700 complaints were filed following the first round election day, mainly concerning procedural violations during voting and counting. The dismissal of a large number of cases on procedural grounds demonstrated a limited understanding of the complaints and appeals procedures by the complainants. Overall, the handling of complaints often lacked proper consideration of substance, and commissions took narrow or inconsistent interpretations of the law, all of which negatively impacted the right to effective remedy, at odds with OSCE commitments and international good practice.

The accreditation of international and citizen observers as well as media was extended for the second round. Political parties and candidates not contesting in the run-off were not eligible to have representatives to observe. As a result a large number of party activists were accredited as citizen observers, negatively impacting the perception of independence of citizen observers.

Election day proceeded in an orderly manner despite a tense competitive environment. A few violent incidents are being investigated by law enforcement. Opening, voting and counting were assessed positively in almost all polling stations observed, and procedures were generally followed. The environment outside of the polling stations reinforced concerns about the ability of voters to vote free of fear of retribution, especially as candidates' supporters were using lists of voters to note who was coming to vote. Citizen observers and media were often acting on behalf of political parties and in some instances interfered in the counting. The tabulation process was assessed as efficient, well organized and transparent.

PRELIMINARY FINDINGS

Post-Election Developments

On 14 November, the Central Election Commission (CEC) announced the final results of the first round. As no candidate obtained more than 50 per cent of votes required to be elected in the first round, the second round was set for Wednesday, 28 November. Due to the lack of clarity in the Election Code and a disagreement within the CEC, and between the CEC and political stakeholders and citizen observer groups, the decision on the run-off date became a contentious issue (See *Legal Framework* section).

Two leading candidates from the first round, Salome Zourabichvili (independent, backed by Georgian Dream – GD) with 38.64 per cent of votes and Grigol Vashadze (United National Movement – UNM) with 37.74 per cent, qualified for the run-off.¹ The third-place candidate, David Bakradze with 10.97

¹ During the campaign, UNM in coalition with ten other minor opposition parties presented Mr. Vashadze as the presidential candidate of the United Opposition (also called “Strength in Unity”).

per cent, his party (European Georgia) as well as the Republican party publicly endorsed the candidacy of Mr. Vashadze for the second round. The leaders of several other political parties indirectly expressed their preference for one of the candidates: the Georgian Labor Party in favor of Mr. Vashadze and the Alliance of Patriots of Georgia for Ms. Zourabichvili.

The period leading up to the run-off was marked by a series of anti-UNM and anti-government demonstrations that contributed to the tense pre-election environment. Several public movements, led by individuals close to GD, organized several demonstrations across the country, vilifying the previous UNM government. At the same time, the anti-government street protest, initiated in June 2018 and linked to two cases involving the killing of minors, regained momentum ahead of the second round with a demonstration in Tbilisi on 10 November.² During the demonstration, confrontations and physical clashes between the police and participants took place. Several small anti-government demonstrations with a few dozen participants were periodically organized in front of the GD headquarters in Tbilisi.

Legal Framework

The legal framework does not address essential aspects of holding a second round. When recently amending electoral legislation the opportunity was missed to rectify problematic issues identified in previous two-round elections and address previous ODIHR recommendations to ensure legal clarity by providing explicit run-off regulations. While provisions are generally applicable to both rounds, certain aspects of the second round including on the campaign, campaign finance and media remained unclear. This led to inconsistent and contradictory interpretations and did not provide legal certainty.

In light of insufficient regulation by the law and in line with its previous practice, the CEC adopted a decree to regulate a few aspects of the second round shortly before its announcement. The decree determined how the voter lists would be updated, prolonged the authority of the current Precinct Election Commissions (PECs), terminated the authority of the representatives of parties, initiative groups and candidates 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, initiative groups and candidates taking part in the second round the right to have representatives at all levels of commissions. To increase political balance of the participants in the count, the CEC amended procedures allowing only representatives of second round contestants to assist commissioners.³ Furthermore, while the Election Code sets the voting hours for all polling stations, the CEC extended the opening hours for out-of-country polling stations enabling voters to vote after working hours. Two civil society organizations unsuccessfully challenged the legality of this decision. 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.⁴

² The demonstration was called after the Tbilisi Mayor requested the leaders to change the location of the protest from 7 December onwards as it would be used for public end-of-year festivities. The leaders publicly announced their refusal to move and on 9 November, the Ombudsman called on the authorities to “refrain from creating artificial barriers and preventing citizens from exercising their right to peaceful manifestation.”

³ The amendment also limited the participation of ruling party-nominated commissioners in the count to maximum one.

⁴ While 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, the Decree 52/2018 sets a three-day deadline. The Decree also shortens the period for nominating international observers to five days before elections, while Article 40 of the Election Code provides up to two days before election day.

While the law explicitly provides that the first round of the presidential election should be held on a Sunday, provisions for the second round are ambiguous and leave room for interpretation which caused unnecessary confusion. Article 105 of the Election Code states that the second round should be held two weeks after the announcement of the first-round results, and following a decision of the CEC, the second round was held on a weekday. Three political parties separately appealed this decision arguing that the CEC took a narrow interpretation of the law, disregarding its spirit and thus limited voting rights of citizens within the country and abroad.⁵ All three cases were dismissed by the courts, leaving the CEC decision in force.

Election Administration

The CEC had 20 days to determine the final results of the election and announce the date of the second round. On 14 November, after the final adjudication of all appeals and within the legal deadline, the CEC announced 28 November to be the date for the second round. The announcement followed widespread speculations about the reasons for the selection of the date and allegations that it was coordinated with the GD leadership.⁶ Prior to the announcement, citizen observer organizations called on the CEC to schedule the election on a weekend.⁷ The law provides that election day should be a day-off. However, some opposition parties argued that having polling on a weekday, even if declared a day-off, may be an obstacle for voters abroad and voters within the country who have to travel to their place of registration.⁸ In an attempt to address one of these concerns, the CEC extended the polling time for voters abroad.⁹ While the CEC acted within its authority to set the date, the circumstances around the decision negatively impacted stakeholder confidence in the CEC.

Despite the diminished trust in the CEC, the elections were well managed and the deadlines were generally respected. The CEC maintained the same structure and composition of lower-level election commissions. As for the first round, elections were not organised in the Sukhumi and Tskhinvali regions. The CEC also prolonged the powers of DEC and PEC members. Political parties could replace PEC nominees until 23 November, almost 10 per cent of members from the first round were replaced.¹⁰ In cases where non-partisan PEC members resigned, the DEC members filled these vacant positions through an open competition.

The CEC Training Centre organized trainings for PEC members on second round election day procedures. The training sessions, observed by the ODIHR EOM, were informative, interactive and emphasized how to address some of the procedural shortcomings noted during the first round, including those noted by international observers on counting, completing the results protocols, sealing election documentation and considering complaints.

For the second round, the voter list was updated to reflect deceased voters, those who turned 18, as well as changes to civil registration data.¹¹ Voters were given a brief opportunity to check their voter list data on the CEC website, but there was no opportunity to request changes. Voters who were registered for out-of-country voting for the first round were included in the voter lists abroad for the

⁵ UNM, EG and Sakartvelo. Sakartvelo further argued that the CEC had no right to announce the date while a case on the registration of Ms. Zourabichvili was pending in court.

⁶ The CEC denounced these allegations in a statement on 14 November.

⁷ See the [joint statement](#) of the International Society for Fair Elections and Democracy (ISFED), the Georgian Young Lawyers Association (GYLA), and the Transparency International made on 14 November.

⁸ UNM also alleged that the decision was related to the government not wanting to have the election day on the Saturday 1 December, the anniversary of the case involving the killing of minors.

⁹ Transparency International unsuccessfully appealed this CEC decision to the court.

¹⁰ 2,081 PEC members from among 21,864 PEC members nominated by political parties were replaced.

¹¹ Based on information from the CEC, 13,619 voters were added in the lists, including 3,500 who turned 18 and 9,430 who had updated information in the civil registry. In total 3,838 were removed, including 3,607 deceased. .

second round and other voters had an additional opportunity to register with the diplomatic missions in person or electronically from 1 to 11 November.

On 20 November, citizen observer organizations issued a joint statement alleging that the Public Service Development Agency is producing fake identification cards.¹² The Prosecutor's Office of Georgia has launched an investigation that is still ongoing and made premature public statements questioning the evidence and alluding to potential criminal liability of the civil society organizations for false reporting.¹³ This exchange reignited tensions between the civil society and the government.

Campaign Environment

Campaign regulation for the second round, including its official start, was unclear since the Election Code lacks relevant provisions and the CEC did not issue any normative act in this regard. According to the CEC, the campaign started with the announcement of the final results of the first round and campaign regulations were not applicable before that date. In practice, however, political parties and candidates resumed campaigning shortly after the first round of the election, resulting in an unofficial and unregulated campaign.

The period leading up to the run-off was characterized by an intensification of campaign activities at both the national and local levels, greater mobilization of voters and increased tensions between the two sides participating in the second round. Many ODIHR interlocutors stated that the election was no longer a choice between two candidates but a referendum on the future governing power of the country. Fundamental freedoms were generally respected during the run-off campaign and contestants were able to campaign freely. Yet, isolated violent clashes between GD and UNM party activists took place and are under investigation.¹⁴ The UNM and its coalition partners questioned the quality of the investigations and what they perceived to be an intention of the authorities to apply the lowest possible sanctions.

During rallies observed by the ODIHR EOM and in public appearances, candidates attempted to focus on concrete campaign messages, mainly concentrating on the unifying capacity of the candidate, Georgia's territorial integrity as well as social and economic projects.¹⁵ In the larger context, however, these efforts were overshadowed by an escalation of negative campaigning and harsh accusations between the ruling party and the UNM-led coalition. Public demonstrations held before the second round were an integral component of the campaign and were widely used for negative campaigning. The campaign was again dominated by controversial topics that appear to be highly sensitive for the Georgian society.¹⁶ This left almost no opportunity for the presentation of structured election programs and conduct of issue-oriented debate, further diminishing the voters' ability to make an informed choice.

¹² According to the [statement](#), an employee of the Public Service Development Agency (PSDA) informed citizen observers about the alleged scheme to make it possible for one person to vote at several polling stations with different ID cards. [The Minister of Justice](#) and the [PSDA Chairperson](#) denounced these accusations and arguing that NGOs were misled by UNM.

¹³ On 22 November, the [Prosecutor's Office of Georgia stated](#) that NGOs failed to provide evidence for the allegations about fake IDs. On 23 November, seventeen NGOs made a [statement](#) expressing concern about the Prosecutor's statement that may contain an indirect message about imposing criminal liability on human rights defenders.

¹⁴ Violent physical clashes between GD and UNM party members and activists were reported in Akhalkalaki on 30 October and 6 November and in Kaspi and Marneuli on 29 October.

¹⁵ Georgia's territorial integrity gained further prominence during the run-off campaign following the installation of fences along the administrative boundary line in early November. Both candidates visited the location where the installation took place, emphasizing that attempts to transform it into an official border must be prevented.

¹⁶ Alongside the topics from the first round (i.e. perception of national historical events and draft law on cultivation of marijuana), the unsubstantiated mutual accusations of political ties with Russia became the most frequent theme.

The ODIHR EOM noted a widespread use of aggressive and violent rhetoric in television programmes, on social media and during demonstrations, as well as in individual statements made by many high-ranking party members and public officials. Several statements including the ones comparing the election to a civil war and calling for the destruction of opponents bordered on xenophobia and hatred.¹⁷ Contrary to international good practice, there is no comprehensive legislation on hate speech, and thus the authorities did not review these instances to determine if they amounted to hate speech.¹⁸ Citizen observer groups denounced these statements.

Regrettably, the misuse of administrative resources increased between the rounds. ODIHR EOM observed high-ranking public officials using institutional webpages for the purpose of campaigning.¹⁹ Several such instances took place during the unregulated period before the announcement of the second round, illustrating the need to regulate this interval. While not prohibited by law, the campaign of the GD-backed candidate continued to benefit from the constant participation and support of numerous senior state officials from the ruling party.²⁰

Further, in between the two rounds, the government announced a series of social projects and increases to welfare benefits, mainly for disadvantaged groups, raising concerns about potential violations of the law.²¹ Although some are part of a long-term government strategy, the fact that they were widely publicized during the campaign provided an unfair advantage to the GD-backed candidate.²² Further, the announcement by the government of a debt relief equivalent to GEL 1.5 billion for 600,000 individuals funded by a private financial institution linked to the GD chairperson could amount to vote buying. The Election and Criminal Codes prohibit vote

¹⁷ The ODIHR EOM observed that UNM representatives periodically referred to Ms. Zourabichvili as a “traitor” and called GD “an immoral armed gang”; during the anti-UNM public demonstrations across the country UNM was compared to “Nazis, terrorists or Satans” and the organizers called to “destroy or annihilate the party”; GD representatives periodically referred to UNM as a “bloody criminal regime” and their coveted victory as “civil war and revenge”; Mikheil Saakashvili made two statements of prejudice or discrimination targeting Jewish people, Bangladeshi and Indians with comments based on religion, nationality or economic status; several election stakeholders, including one of the candidates, reported having received death threats.

¹⁸ [Council of Europe, Committee of Ministers, Recommendation No. R \(97\) 20 1997](#) states that “hate speech shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance.” It further states that “the governments of the member states should establish or maintain a sound legal framework consisting of civil, criminal and administrative law provisions on hate speech.”

¹⁹ Several articles covering activities of the Chairperson of the Parliament that contained features of election campaign were posted on the Parliament’s website.

²⁰ The Prime Minister, the Minister of Health, the Chairperson of Parliament and the Tbilisi City Mayor appeared on Ms. Zourabichvili’s campaign billboards and political ads aired on television.

²¹ Between 1 and 19 November, the national government announced several social projects, including the increase of monthly financial assistance for socially vulnerable children up to 50 GEL, prolonging financial and non-financial assistance to socially vulnerable persons when they are employed, increasing the number of social support beneficiaries in the mountainous regions, increasing salaries to military servants and providing housing by 2020. In addition, several local self-government bodies in multiple regions publicized social and infrastructure projects, e.g. a 10 per cent salary increase in 2019 for the employees of all non-profit legal entities established by the Mayor’s Office and financed from the local budget in Akhalkalaki (Samtskhe Javakheti), construction or renovation of roads, schools and sport facilities in Kvemo Kartli, Samtskhe Javakheti, Imereti, Racha-Lechkhumi Kvemo Svaneti and Shida Kartli regions.

²² Article 49.4 of the Election Code states that from “the 60th day before and including Election day, it is prohibited to increase the amount of welfare benefits (pensions, hardship allowances, allowances etc.), except for benefits the increase of which was provided for by the legislation of Georgia at least 60 days before election day.(...)” See also Article 49.3 which states that, “from the 60th day before and including Election day, it is prohibited to implement such projects/programmes that have not been previously included in the state budget of Georgia (...) or the budget of any local self-government unit, except when projects/programmes are funded within the allocations provided for by the respective program code of the respective budget and/or by the funds from such allocations(...).”

buying.²³ All these activities further blurred the line between the state and the party, at odds with OSCE commitments and ODIHR and Council of Europe good practice.²⁴

Both political forces increased their efforts to mobilize voters, including in minority areas. Door-to-door canvassing and small gatherings were organized on a daily basis. Both parties acknowledged relying on the mechanism of coordinators who were tasked to map the political preferences of individual voters in a specific area. Yet, numerous ODIHR interlocutors reported that the ruling party coupled this mechanism with pressure and intimidation especially on public sector employees and groups dependent on state allowances.²⁵ Despite secrecy of the vote safeguards, these instances of pressure raised concern about the ability of these people to vote free of fear of retribution, as provided for by the OSCE commitments, as well as the Council of Europe and other international standards.²⁶

Campaign Finance

While general campaign finance regulations apply for the run-off, there are no explicit legal requirements for reporting on campaign finances for the second round. Still, on 16 November the State Audit Office (SAO) set the bi-weekly reporting deadlines for 22 November and 3 December. This late decision and the lack of clarity about the application of campaign rules before the announcement of the second round did not effectively ensure transparency and accountability of campaign finances. Reportedly due to the late notification from the SAO, the GD-backed candidate failed to comply with reporting deadlines. There are no legal provisions requiring the SAO to verify campaign finance reports or publish its conclusions before election day. This limits the transparency of campaign finances and impacted voters' ability to make an informed choice.²⁷

During the reporting period, the GD-backed candidate received the vast majority of donations.²⁸ GD is not allowed to incur any campaign expenditures on behalf of the GD-backed candidate and therefore has no reporting requirements. Similarly, there are no requirements for parties that did not make it to the second round to report on campaign activities in support of run-off candidates. Further, there are

²³ Article 164¹ of the Criminal Code and article 47 of the Election Code prohibits electoral subjects to offer, promise or provide funds or property to the citizens for election purposes. While criminal liability does not attach for promises related to future distribution of budgetary resources, ahead of the run-off election, the government and local self-government bodies promised to provide property to specific groups of the population, e.g. construction of residential buildings in Tskaltubo and Zugdidi (Imereti and Samegrelo-Zemo Svaneti regions) for 780 IDP families, transferring the ownership of Legion apartments owned by the Ministry of Economy to the residents, a pilot program to provide 413 socially vulnerable families with food products worth of 40 000 GEL in Zugdidi (Samegrelo-Zemo Svaneti region).

²⁴ Paragraph 5.4 of the [1990 OSCE Copenhagen Document](#) provides for “a clear separation between State and political parties”. Guideline II.B.1.1 of the [2016 ODIHR and Venice Commission Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) states that “the legal framework should provide effective mechanisms for prohibiting public authorities from taking unfair advantage of their positions by holding official public events for electoral campaigning purposes, including charitable events, or events that favour or disfavour any political party or candidate.”

²⁵ In two regions, public employees reported to ODIHR EOM being asked by superiors to collect lists of voters, with commitments to vote for the GD-backed candidate, and felt pressured to vote for the candidate to keep their jobs.

²⁶ Paragraph 7.7 of the [1990 OSCE Copenhagen Document](#) requires that campaigning “be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution”. Paragraph 19 of the [1996 CCPR General Comment 25](#) to the ICCPR stipulates that “Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.”

²⁷ Paragraph 194 and 206 of the [ODIHR and Venice Commission Guidelines on Political Party Regulation](#) states that “transparency is important because the public has the right to be informed. Voters must have access to the relevant information as to the financial support given to political parties in order to hold them accountable. It requires the timely publication of financial reports in a format understandable for the general public”.

²⁸ As of 28 November GEL 4,436,722 was donated to Ms. Zourabichvili, and GEL 781,855 to UNM.

no regulations of third-party campaigning and no requirements for accounting of expenses incurred by public movements or civil society groups that organize events for the purpose of campaigning.²⁹

Following the first round, the SAO requested the court's approval to investigate 161 donors on the sources of donated funds, and interviewed 10 donors on the issue. Furthermore, the SAO initiated investigations of six complaints related to vote-buying and illegal donations, including in-kind donations from political parties.³⁰ Similar to the first round, no sanctions were imposed before run-off election day. The majority of cases for both rounds were still pending, and the lack of expedited legal deadlines for the SAO to respond to complaints continued to raise concerns about the effectiveness of the enforcement of campaign finance rules.

Media

The legal framework does not explicitly regulate media for the second round and lacks clarity regarding campaigning in the media before the official announcement of the run-off. On 30 October, the media oversight body, the Georgian National Communication Commission, informed broadcasters that they consider all election-related regulations to apply only after the CEC sets the date of the second round. In the absence of clear regulation, the majority of broadcasters chose to follow the media regulator's interpretation of the law and not air campaign materials before the announcement of the second round. This limited campaign opportunities on these broadcasters. *Rustavi 2*, however, started to air free and paid advertisements from the UNM on 10 November, stating that the absence of regulations does not restrict them from airing campaign materials.³¹

The Election Code required national broadcasters to provide free airtime only to the candidates nominated by the political parties that qualify for state funding.³² Despite limitations in the law, broadcasters have the discretion to provide free time to a political party which nominated a candidate, if such party is supported by at least four per cent of respondents in a public opinion poll conducted within a month before the elections. Although these provisions do not entitle the GD-backed independent candidate to free time, all national broadcasters except *Rustavi 2* and TV *Iberia* have voluntarily decided to provide her with the same amount as the UNM candidate, reportedly to provide equal opportunities. TV *Imedi* did not allocate free time to the UNM-backed candidate, blaming the party for raiding the channel in 2007. Both contestants mainly used their free and paid time for negative campaigning, rather than promoting themselves.³³

²⁹ ISFED filed a complaint with the SAO requesting appropriate measures to be taken against activities of the two movements "Right Choice" and "I support my freedom" which are in its opinion clearly conducted in support of the GD-backed candidate. An investigation is ongoing.

³⁰ These referred to cases of "third party" donations to Ms. Zourabichvili by GD when her campaign materials featured the GD Chairperson Bidzina Ivanishvili and the Chairperson of Parliament Irakli Kobakhidze, and Alliance of Patriots of Georgia distributing booklets calling for support of Ms. Zourabichvili. The latter was considered as illegal donations by SAO which sought sanction on 26 November.

³¹ The media regulator treated it as illegal for *Rusatvi 2* to place paid political advertisements outside the official election period and issued a warning.

³² Paragraph 7.8 of the [1990 OSCE Copenhagen Document](#) requires the participating states to "provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process".

³³ While TV *Objektiv* has complied with legal obligations to allocate free time to UNM, it has supplemented every UNM advertisement with statements from Alliance of Patriots of Georgia party members refuting the UNM advertisements and condemning the UNM. TV *Objektiv* has also aired a number of unmarked negative advertisements targeting UNM and called to participate in anti-UNM protests. The channel was fined for the latter.

The results of the ODIHR EOM media monitoring for the second round indicate that the polarization of major media outlets remained strong.³⁴ In particular, *TV Imedi* announced it would be actively working to prevent the UNM candidate from winning and used their prime time news and current affairs programmes to strongly condemn the UNM and its candidate.³⁵ Some 34 per cent of their news coverage was devoted to the UNM, almost exclusively negative in tone, while GD and the GD-backed candidate received 23 and 9 per cent respectively, mainly positive or neutral in tone. *Rustavi 2* on the other hand was strongly denouncing the government, GD and the GD-backed candidate, who received 17, 32 and 9 per cent of coverage respectively, predominantly negative in tone, while UNM received 24 per cent of largely neutral coverage.

Contrary to its public mandate, legal obligations, and international standards, the public broadcaster, GPB-1, displayed a clear bias against UNM and the UNM candidate and favoured the GD and the GD-backed candidate.³⁶ While it allotted equitable news coverage with some 30 per cent to both UNM and GD and the GD-backed candidate combined, the tone differed and was mainly negative towards UNM and positive or neutral for GD and the GD-backed candidate. Both GPB-1 and *TV Imedi* also devoted about a quarter of their political news coverage to the activities of the government, highlighting their upcoming social initiatives. *TV Pirveli* offered more neutral and factual coverage of both parties and contestants in their newscasts. Their talk shows were a platform for heated and emotional disputes between UNM and GD. While *TV Adjara*'s coverage was mainly neutral for all, it devoted significantly more coverage to GD and the GD-backed candidate, 27 and 4 per cent accordingly, compared to UNM that received 19 per cent.

Complaints and Appeals

Following the 28 October election day, DEC's received 669 complaints mainly concerning procedural violations during voting, result protocols and the manner of their completion.³⁷ In 137 cases DEC's decided in favour of the complainants in whole or in part, and some 320 were rejected on the merits. A total of 162 were dismissed on procedural grounds, such as a lack of legal standing, the complaint being filed with the wrong body, or a missed deadline. This demonstrated the complexity of regulations and a limited understanding of the complaints and appeals procedures by the complainants.

The DEC's' review of complaints was open and transparent and legal deadlines were respected. Complaints were not reviewed on substance in many cases when the PEC's had already corrected the results protocols formally eliminating the violation or where explanatory notes of the PEC chairs were

³⁴ ODIHR EOM has resumed quantitative and qualitative media monitoring of primetime coverage of six broadcasters: GPB-1, *TV Adjara*, *Rustavi 2*, *TV Imedi*, *TV Pirveli* and *TV Iberia*. Following the temporary suspension of *TV Iberia* activities in October, the channel closed its news programme and dismissed its entire news staff.

³⁵ *TV Imedi* has announced in their news and on the website, that if the UNM candidate wins, he will pardon those who are "linked with UNM's criminal regime, violence, racketeering, and seizure of the television station."

³⁶ Article 16 of the Law on Broadcasting required the public media to "ensure editorial independence, fairness and impartiality of programmes and freedom from governmental or political [...] influence." Paragraph 4 of the [Recommendation CM/Rec\(2007\)15 of the Committee of Ministers of the Council on Europe on measures concerning media coverage of election campaigns](#) advises the media owned by public authorities, to cover the electoral campaigns in "a fair, balanced and impartial manner, without discriminating against or supporting a specific political party or candidate." The [2009 Joint Statement on Media and Elections by the UN Special Rapporteur on Freedom of Opinion and Expression and the OSCE Representative on Freedom of the Media](#) highlights that public media should "respect strict rules of impartiality and balance, particularly when reporting on the governing party(ies) and on government decisions and actions during an election period."

³⁷ Some 340 complaints were filed by citizen observer groups and the rest by representatives of political parties. Kutaisi, Saburtalo, Krtsanisi and Marneuli DEC's received the most complaints. All 21 complaints where recounts were requested were dismissed.

provided. In some cases DEC's were inconsistent in their interpretation of the law and practice of applying disciplinary sanctions for PEC members.³⁸ Three appeals of final DEC protocols were rejected by the CEC as unsubstantiated.

Two CEC decisions on DEC results protocols and 13 DEC decisions were appealed to the district and city courts, and 8 cases were further appealed to the Courts of Appeal. According to some of the complainants, while they had little trust in the success of their cases, they filed complaints to expose gaps in the legislation. While all of the cases were dismissed as unsubstantiated, in a number of cases judges agreed that the law could benefit from further review to eliminate gaps and inconsistencies.³⁹

Between the rounds, DEC's received 54 complaints related to campaign violations, and the absence of PEC members that were supposed to be on-duty. Eight cases were rejected as unsubstantiated and 46 cases are still pending.⁴⁰ The CEC received three complaints, two on alleged campaign violations and one challenging the registration of Ms. Zourabichvili as a candidate. The latter was rejected as not timely. The decision was upheld upon appeal.

Overall, the handling of complaints often lacked proper consideration of substance, and commissions took narrow or inconsistent interpretations of the law, which negatively impacted the right to effective remedy, at odds with OSCE commitments and international good practice.⁴¹

Citizen and International Observers

The CEC has extended the powers of registered observers and media representatives for the second round and gave them until 22 November to register additional representatives. In total, 1,328 international observers from 58 organizations, 48,343 citizen observers from 73 organizations and 2,406 journalists from 95 media outlets had the possibility to observe elections. For the second round only parties, initiative groups and candidates contesting the run-off could have representatives in the polling stations. As a result, other entities from both sides accredited some of their representatives through citizen observer organizations to have a greater presence in the polling stations. This misuse of citizen observation for political interest negatively impacted the perception of impartiality of citizen observers and their role in the electoral process.

Election Day

Election day proceeded in an orderly manner despite a tense competitive environment. However, a few violent incidents were reported and are being investigated by law enforcement.⁴² The CEC declared a preliminary voter turnout of 56.23 per cent which is noticeably higher than in the first

³⁸ These cases referred to PEC members refusing to participate in the casting of lots, missing stamps on final PEC protocols, and introducing changes in the original protocols.

³⁹ These included PEC members refusing to take part in casting of lots and their further participation in the process, definition of gross-violation and improper performance of PEC members, and discretion of the DEC to impose sanctions.

⁴⁰ The CEC received one complaint related to campaign violations and it is still pending.

⁴¹ Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) provides that everyone will have “an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”. Guideline II.3.3b of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) recommends that “the procedure must be simple and devoid from formalism, particular concerning the admissibility of appeals”

⁴² These included the attack on journalists of TV *Pirveli*, a physical confrontation in the premises of the polling stations in Mtskheta, Vake, Batumi, Lilo, and Adigen, attempted multiple voting in Kvemo-Kartli, and possible violation of secrecy of the vote in Abasha. A confrontation occurred between supporters of Mr. Vashadze and law-enforcement in Marneuli and a shooting incident in Lagodekhi.

round. While the election day was well managed, IEOM observers noted that the environment outside of the polling stations raised concerns about the ability of voters to vote free of fear of retribution.

Opening procedures were assessed positively in all but 5 of 82 polling stations observed with notably fewer delays in their opening for the second round. Still some procedural problems were noted, in particular PECs not announcing the number of voters in the lists (12 cases) or the number of ballots received (21 cases). As in the first round, a number of PEC members appointed by opposition refused to participate in the casting lots for the distribution of functions or refused the selected function reportedly because they did not want to be assigned to the mobile ballot box (observed in 14 per cent of polling stations).

Voting was evaluated positively in 97 per cent of the 738 observed polling stations. While procedures were mainly followed, one aspect of the process, the general environment, was assessed negatively in 10 per cent of polling stations observed. The negative assessments were largely due to the overcrowding (57 cases), tension inside the polling stations (21 cases), interference in the work of the PECs by citizen observers and representatives of the two candidates (24 cases). In line with the law, voters without valid IDs and those not in the voter list were refused to vote in 17 and 15 cases, respectively.⁴³ As the crossing point between Sukhumi region and Zugdidi district was open, voters who had valid IDs had the possibility to vote.

While election day campaigning is not forbidden, the GD chairperson had a large scale phone call and text campaign. As during the first round, election day observations confirmed the practice of coordinators collecting lists of voters who are expected to support their candidate. At 15 per cent of polling stations observed IEOM observers noted that people outside the polling station were tracking voters for both candidates but more frequently for the one backed by GD. In many instances, they had lists of voters and appeared to be influencing those who came to the vote. Observers also noted coordination efforts being directed by municipal authorities in multiple districts. In some cases the lists had photos as in the official versions of the voter lists that parties receive from the CEC. In addition, in a few cases, voters were observed showing their marked ballots to PEC members or citizen observers. These instances further increased concerns about the ability of voters to vote free from pressure and fear of retribution.

Party representatives and citizen observers were present in over 93 per cent of polling stations observed, contributing to the transparency of the process. As the number of party representatives was limited for the second round, both candidates appeared to have fielded their supporters as citizen observers. In 52 per cent of polling stations observed, IEOM observers noted clear indications that citizen observers represented party interests.

IEOM observers assessed the counting process positively in 67 out of 77 polling stations observed. PECs generally followed procedures, although there were some procedural problems observed.⁴⁴ In 11 cases, interference in the counting process by citizen observers and party representatives was noted. While permitted by law, in two thirds of the polling stations observed ballots with additional marks were again deemed valid, potentially making it possible to identify voters. In one third of polling stations observed, representatives of both candidates were not assigned to assist PEC members in

⁴³ In one penitentiary institution, observers noted that a large number of prisoners were able to vote in this round since they had recently received new identification documents (546 prisoners voted as opposed to 132 in the first round).

⁴⁴ The validation of ballot papers in question happened without voting in 22 PECs, unused ballots not cancelled in 10 PECs, incomplete protocols signed in 6 PECs, the content of all ballot boxes was not mixed before the start of the count in 8 PECs and the choice on every ballot was not loudly announced in 9 PECs observed.

counting, contravening the procedures established for the second round.⁴⁵ The counting process was transparent to both observers and contestants' representatives. At the same time, as during the first round, copies of PEC protocols were not publicly displayed in 30 polling stations out of 71 observed, limiting transparency.

IEOM observers evaluated the process of tabulation as efficient and well organized and positively assessed the process in all DEC observed.⁴⁶ The few problems reported included some tensions due to inadequate premises, PEC protocol figures not always reconciling, and PEC materials not always arriving intact. IEOM observers noted a similar number of citizen observers during tabulation as during the voting process while candidate and party representatives were not present in 21 out of 64 DEC observed.

Over 288 election day-related complaints were filed with the DEC alleging a range of procedural violations in the distribution of PEC member functions, mobile voting, inking of voters, and the secrecy of the vote. Most of these cases are still pending consideration.⁴⁷ The majority of the complaints were filed by the UNM and citizen observer groups. The Ministry of Interior launched investigations in the eleven cases of alleged violations, including physical violence, multiple voting and breaches of the secrecy of the vote.

*The English version of this report is the only official document.
An unofficial translation is available in Georgian.*

⁴⁵ In some cases this occurred because the representatives were absent.

⁴⁶ In some cases, where complaints on the PEC protocols were filed, the DEC suspended the tabulation until the morning.

⁴⁷ As of 29 November. The majority of these requested the imposition of disciplinary sanctions, as well as annulment of the results in three cases.

MISSION INFORMATION & ACKNOWLEDGEMENTS

Tbilisi, 29 November 2018 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP). The assessment was made to determine whether the election complied with OSCE commitments, Council of Europe standards, other international obligations and standards for democratic elections and with national legislation.

Kristian Vigenin was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and Leader of the OSCE short-term observer mission. Margareta Cederfelt headed the OSCE PA delegation. Laima Liucija Andrikienė, headed the European Parliament delegation. Andrej Hunko headed the PACE delegation. Ambassador Geert-Hinrich Ahrens is the Head of the ODIHR EOM, deployed from 19 September.

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. 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 Winter Meeting in Vienna on 22 February 2019. The PACE will present its report at its plenary session in January 2019 in Strasbourg. The EP delegation will debrief the Committee on Foreign Affairs at one of its next meetings.

The ODIHR EOM for the second round includes 14 experts in the capital and 22 long-term observers deployed throughout the country. On election day, 211 observers from 32 countries were deployed, including 185 long-term and short-term observers deployed by ODIHR, as well as an 11-member delegation from the OSCE PA, a 10-member delegation from EP and a 5-member delegation from PACE. Opening was observed in 82 polling stations and voting was observed in 738 polling stations across the country. Counting was observed in 77 polling stations, and the tabulation in 64 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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