



Office for Democratic Institutions and Human Rights

GEORGIA

PARLIAMENTARY ELECTIONS

31 OCTOBER & 14 NOVEMBER 1999

FINAL REPORT



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**I. INTRODUCTION**

The Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) in Tbilisi on 23 September 1999 to monitor the parliamentary elections scheduled for 31 October 1999.

Mr. Nikolai Vulchanov, OSCE/ODIHR Election Advisor, was appointed as Head of the OSCE/ODIHR Election Observation Mission. Mr. Bruce George, Vice-President of the OSCE Parliamentary Assembly, was appointed by the OSCE Chairman-in-Office as his Special Representative to lead the short-term observation during the first round of the election.

This Final Report consolidates the findings of eight core-staff based in Tbilisi, 12 long-term observers deployed in the regions and short-term observers. On election day, the EOM deployed 177 short-term observers from 27 OSCE participating States, including 20 parliamentarians from the OSCE Parliamentary Assembly, staff from embassies in Tbilisi, as well as representatives from international non-governmental organisations based in the region. Observers were deployed in 74 districts where they visited more than 800 polling stations.

In 20 of the 75 constituencies holding elections, no candidate was able to secure a first round victory, therefore second round elections took place in these constituencies on 14 November. The OSCE/ODIHR Election Observation Mission deployed 35 short-term observers during the second round and their findings are included in this report. The OSCE/ODIHR Election Observation Mission remained in Georgia until 20 November.

The OSCE/ODIHR Election Observation Mission would like to thank the Ministry of Foreign Affairs and the Ministry of Defence of Georgia for their support and co-operation.

**II. EXECUTIVE SUMMARY**

The 1999 parliamentary election was the third multiparty parliamentary election since Georgia's independence. The conduct of this election represented a step towards Georgia's compliance with OSCE commitments, although the election process failed to fully meet all commitments. In the areas where elections were held, voters were mostly able to express their will and, despite some irregularities, were generally able to vote without interference in an atmosphere largely free from intimidation. However, some instances of intimidation and violence observed during the pre-election period and on election days, raise concern. Regrettably, voting could not take place in Abkhazia and parts of South Ossetia.

Notwithstanding some major deficiencies, the election framework is sufficient to conduct genuine multiparty elections if applied in a non-selective and transparent manner. However, on a number of occasions the Central Election Commission (CEC) did not follow these principles when implementing the law.

The election law allowed the ruling party to enjoy a dominant position in the election administration at all levels. Regrettably, some of the activities of the election administration lacked transparency and the CEC failed to achieve a broad consensus in its decision making.

During the pre-election period, fundamental freedoms were generally respected. The heated competition between the leading political parties and election blocs confirms that political pluralism exists in Georgia, with a clear distinction among competing political interests. Occasionally, the tone of the campaign went beyond acceptable limits of political competition. A few instances of violence and intimidation marred the pre-election period. Freedom of movement was at times restricted, and on occasions these restrictions prevented political parties from freely campaigning and observers from exercising their rights.

The media generally enabled political parties to inform the electorate on their political platforms and provided voters with the possibility of making an informed choice. However, the OSCE/ODIHR Observation Mission (EOM) identified a clear advantage for the ruling party, particularly visible in the performance of the electronic media and the state owned newspapers. Additionally, several opposition parties complained that the authorities and the Head of State used their positions to gain privileged access to the state media. Conversely, the media in Ajara overwhelmingly favoured the bloc "Revival of Georgia" (Revival Bloc).

On election day 31 October, polling was generally conducted in a calm and orderly manner. However, differences existed between the quality of polling across various regions. While in Tbilisi polling was relatively well conducted, in Samtskhe-Javakheti and Kvemo Kartli, it was less than satisfactory and in Ajara it was unsatisfactory. A noticeable number of Precinct Election Commissions (PECs) appeared to be unaware of the counting procedures and did not conduct them in accordance with the election law. Instances of ballot stuffing were observed on a few occasions.

On election day 14 November, polls were well conducted in some districts but were marred with irregularities in others. A number of serious violations were observed, including intimidation of PEC members and ballot stuffing in Tbilisi, Abasha and Chkhorotsku. In Tbilisi District N 9, Nadzaladevi, violence disrupted the work of a number of PECs shortly before the end of the voting and marred the election process in that district.

Unauthorised persons were observed in the course of the voting and counting procedures in polling stations both during the first and the second round. The EOM found that a significant number of PEC members during both election rounds performed in a satisfactory manner, despite a polarized political environment and often in inadequate working conditions.

Lack of consensus, which characterised most CEC activities, was blatant during the final certification of the proportional vote, when only 13 out of 19 CEC members signed the final protocol. The protocol respected the letter of the law, but lacked essential information for a transparent completion of the election process. Additionally, the CEC did not provide adequate information on the election results at precinct level to the Labourist party, which, according to the CEC final protocol, failed to overcome the proportional threshold by less than 0.5%.

The CEC handled poorly electoral complaints and declined to even consider some of them. Generally, the Supreme Court acted impartially when adjudicating appeals against decisions of the CEC. However, the manner in which certain appeals were addressed by the Supreme Court gives cause for concerns: in particular part of the hearing in relation to the Labourist Party's appeal regarding the tabulation protocol was conducted in camera – the public and observers were both excluded and no minutes were taken. Furthermore, the hearing continued into the early hours of the morning and was attended by a substantial number of police officers, thus further compromising the transparency and undermining the confidence in the appeal process.

Further progress is necessary to increase the confidence in the election process in Georgia. The EOM urges the Georgian authorities to investigate violations of the law, to improve the electoral legislation and to address the shortcomings of the electoral administration.

### III. LEGAL FRAMEWORK

#### A. General Outline

The Constitution provides for a bicameral parliament comprising of the Supreme Council (*Umaghiesi Sabcho*) and the Senate.<sup>1</sup> However, as a result of the conflicts in Abkhazia and South Ossetia, and the outstanding issue of Georgia's territorial integrity, the Senate has not been formed yet.

The Parliament of Georgia has a four-year term, with the last election held on 5 November 1995.<sup>2</sup> On 4 August 1999 the President of Georgia called for new elections and set the election date for 31 October 1999.

The Constitution of Georgia and the Organic Law<sup>3</sup> of Georgia on Parliamentary Elections (hereafter the law) are the principal texts establishing the legal framework for the 1999 parliamentary election. The election law was passed on 1 September 1995 and amended four times (17 October 1997, 3 March 1999, 25 June 1999 and 20 July 1999).<sup>4</sup> Other laws are also relevant to the conduct of elections, these include: the Administrative Code; the law on Internally Displaced Persons; the law on Political Parties; the Citizenship law; the law on Rallies, Meetings and Manifestations and the law on the Status of a Member of Parliament.

The CEC enjoys wide range of powers including the authority to promulgate instructions and resolutions to clarify the law and adjudicate on complaints and appeals. Article 11(1) of the law states that resolutions of the CEC are normative acts (except those regarding personnel and personal matters, issues concerning the registration of parties and blocs participating in elections, and the consolidation of the election results).<sup>5</sup>

<sup>1</sup> Adopted by Parliament on 24 August 1995.

<sup>2</sup> This was held in conjunction with the Presidential election.

<sup>3</sup> Organic Laws have priority over non-organic laws as under Article 66 of the Constitution. They are passed by the majority of all deputies entitled to vote, whereas ordinary laws are passed on the basis of a majority of deputies present in the Parliament at the time of parliamentary voting.

<sup>4</sup> The Parliamentary Election Law came into force upon publication on 4 July 1999 with the exception of Article 54.6 which came into force 15 days later and Article 59 which came into force on 1 October 1999.

<sup>5</sup> A normative act as defined by the 1996 Law on Normative Acts, is a decision issued by an authorised

Article 11 of the law refers to criminal and administrative liability in accordance with Georgian legislation in force at the time. Until the new Administrative Code comes into force in 2000, the old Soviet Administrative Code (1980) still applies.<sup>6</sup>

As regards criminal penalties, the Criminal Code (1999) contains five articles which are election-specific.<sup>7</sup> It is noteworthy that there are no specified penalties, administrative or criminal, regarding multiple voting – an important legislative omission.

## B. Election System

The law provides for a mixed election system with 150 deputies elected through a single nation-wide multi-mandate district on the basis of proportional representation according to party lists and 85 deputies elected in single-mandate election districts on the basis of two-round plurality-majority election system. However, as it was not possible to conduct elections in Abkhazia and parts of South Ossetia, elections took place in only 75 single-mandate election districts.

### The proportional vote

The qualifying threshold for representation in parliament is 7% of the votes of those participating in the elections. To determine the number of mandates won by a party list, the number of votes received by a given party list is multiplied by 150 and divided by the sum of votes received by each list. The tabulation of the proportional vote is made by the CEC on the basis of the result protocols from the PECs.

### The plurality-majority vote

The 85 single mandate election districts correspond to the territorial and administrative division of the country, with the exception of Tbilisi, which was allocated 10 mandates.

Each election district receives one parliamentary mandate. However, because of wide variation in the electorate size between constituencies, the weight of each vote is unequal. This contradicts paragraph 7.3 of the Copenhagen Document. A striking example of this disparity is the constituencies of Kazbegi district with approximately 4,000 registered voters and Kutaisi City with a registered electorate of over 135,000. A small electorate also presents a problem to non-parliamentary parties who must secure 1,000 signatures in support of nominations to compete in the single-mandate ballot.

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state body which is general in nature and is of multiple application. Accordingly, some decisions of the CEC are normative acts whilst others, are regarded as "special acts". Normative acts only take effect after publication in the Official Bulletin of Legislation. Normative acts may be reviewed by the Constitutional Court on the basis that a citizen's fundamental rights are breached by a particular act.

<sup>6</sup> Penalties are imposed for the obstruction of work of the election commissions (Article 174.3), failure to implement a commission decision (Article 174.4), disruptive behaviour in polling station (Article 174.5), and the carrying of arms in a polling station (Article 174.6).

<sup>7</sup> In relation to illegal interference with meetings and demonstrations (Article 164), obstructing the right of a citizen to participate in an election or referendum (Article 165), interference with the activities of election commissions (Article 166), deliberate violation of the secrecy of the ballot, falsification of elections, deliberate incorrect calculation of votes or results (Article 167), illegal interference with the creation or activities of a party or union by violence or threat (Article 169).

The election district of Liakhvi was established in South Ossetia to compensate for the fact that it was not possible to organize voting in the constituency of Tshkinvali. Although Liakhvi was not a clearly defined constituency, its establishment enabled some voters in this area to vote.

For a candidate to be elected in a single mandate election district, he or she must secure a qualified majority of the votes equaling not less than one third of the total number of persons having participated in the elections. The elections are considered valid only if at least one third of the total number of registered voters in the district participate. In case no candidate is elected in the first round, a second round of elections will be held for the two candidates with the best results from the first round. The CEC set the date for these second round contests on 14 November. In a second round contest, a candidate to be elected needs only to secure the highest number of votes.

In the single-member constituencies, registered parties, election blocs or groups of citizens may nominate candidates.<sup>8</sup>

### C. Eligibility – Voters and Candidates

According to the Constitution, the elections to the Parliament of Georgia should be held on the basis of universal, equal and direct suffrage. Each Georgian citizen who has attained the age of 18 years on the day of an election has the right to vote. Each citizen who has attained the age of 25 years on the day of an election and has lived in Georgia permanently for no less than 10 years has the right to be elected. No citizen judged by a Court to be incapable, and no person who is committed to a penitentiary by the sentence of a Court has the right to vote. A Georgian citizen who has not lived in Georgia for the previous two years and is not registered at the consulate of Georgia of any country shall not be elected as a Member of Parliament.

The EOM welcomes article 36, which details the incompatibility of status as a candidate for the Parliament with the position in the executive and the judiciary.

### D. Legal Issues

The law establishes an adequate framework to conduct genuine multiparty elections, provided that the legal provisions are applied in a uniform and transparent manner. However, some provision of the law are vague or contradictory, and some provision raise serious concerns. The procedural provisions do not cover all aspects of the election and the law calls upon the CEC to determine certain rules and regulations and introduce some important provisions.

The law remains vague regarding a number of important issues, e.g.:

- what are the modalities to “ensure the creation of equal conditions during the election campaign for all parties, election blocs and candidates participating in the elections” (Art.22.2.m);
- there are no provisions to guarantee that observers and proxies are allowed to follow precinct election results during the process of vote tabulation at the District Election

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<sup>8</sup> Only registered parties and election blocs are entitled to participate in the proportional vote.

Commission (DEC) and CEC levels and to ensure full transparency at this crucial stage of the election process;

There are various contradictions in the law, e.g.:

- articles 18.3 and 25.5, deal with timing for the mandate for the PECs, but specify different points for the termination of the mandate;
- articles 19.1,3 and 19.2 regarding the salaries of CEC members, while the former require that the salaries of all members of the CEC should be paid from the state budget, the latter states that “the CEC shall decide on the number of the paid members”. This also raises the problem of equality CEC members.

The following illustrates some of the concerns verified by the EOM in the course of the observation:

- as the CEC resolutions on personnel and personal matters, issues concerning the registration of parties and blocs, and consolidation of election results were not normative acts and therefore were not published in the Official Journal, access to these important information was often denied to members of the CEC itself (Art.11 1);
- the maximum number of 3,000 registered voters per precinct is extremely high and even with a modest voter turnout may cause technical problems negatively impacting on the performance of the precinct election Commissions (Art.16.1);
- it is highly unusual to task PECs to prepare the precinct voter lists and send voter invitations (Art.26.1, 3);
- it is extremely unusual to take into account the invalid votes cast in the election, in order to determine the number of votes corresponding to the 7% threshold necessary for a nation-wide party list to qualify for allocation of seats within the proportional vote (Art.54.6);
- there is no indication on how to sum up the votes in the invalidated precincts in order to determine whether the 10% required threshold to invalidate the proportional vote has been passed. It is therefore virtually impossible to repeat any elections for the proportional vote (Art.54.10).

The law contains transitional provisions that extensively modify the composition of election commissions, voter registration and identification procedures, and extend the mandates of deputies from Abkhazia.

In 1999, two constitutional amendments were adopted with a significant bearing on the election. The first was to raise the qualifying threshold for parliamentary representation through the proportional vote from 5% to 7%. This threshold is unusually high, in comparison to other OSCE participating States.

The second amendment was in relation to Article 50.5 of the Constitution which originally provided that “the right of election of a Member of the Parliament and also his inadmissibility in participating in the elections is determined by the Constitution”. The amended version provided that “regulations and qualifying conditions should be determined by the Constitution and Organic Law”.<sup>9</sup> The effect of this amendment was to give more latitude to the Parliament to add further requirements in the election law. In fact, Article 2(2) of the law

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<sup>9</sup> Emphasis added.

was amended to add a two years residence or consulate registration requirement for candidates,<sup>10</sup>

#### IV. PRE-ELECTION PHASE

##### A Election Administration

##### 1. Structure of the Election Administration

The law establishes a three-tier election administration: the Central Election Commission (CEC), District Election Commissions (DEC) and Precinct Election Commissions (PEC). Following a decision of the CEC, four regional offices of the CEC were established in Telavi, Akhalsikhe, Batumi and Kutaisi.

##### i. Central Election Commission

Articles 60-62 of the transitional provisions of the law vary the composition of the election Commissions for the 1999 parliamentary election. Under these provisions, the CEC consists of 19 members appointed within 30 days of the enactment of the amended election law. These members are appointed in the following manner:

- The President appoints five members including the Chairman.
- The Parliament appoints five members, of which no more than three should be from the parliamentary majority.
- The seven political parties, which secured the best results in the 1998 local elections<sup>11</sup> held under the proportional system, may appoint one member each.<sup>12</sup>
- One member appointed from the Supreme Council of Ajara.
- One member appointed from the Supreme Council of Abkhazia.

The wide ranging competencies of the CEC are set out in Article 22 of the law and in CEC Instruction 18/1999 in which the CEC decided to modify its own competencies as outlined in Instruction 10/1995. This raises the question of whether the CEC should have the authority to determine and modify its own competencies.

The CEC also appoints the Chairman and six members of the DECs.<sup>13</sup>

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<sup>10</sup> "A citizen, who has not lived in Georgia for the last two years and is not registered at the Consulate of Georgia of any country, shall not be elected as a member of the Parliament."

<sup>11</sup> These parties were named by CEC Resolution #15 of 9 July 1999. They consist of: Citizens Union of Georgia; Union of Democratic Revival\*\*; The Labourist Party of Georgia; The Socialist Party\*\*; National Democratic Party; People's Party; The Georgian Traditionalists Union\*\* (\*\* Denotes members of the Election Bloc, Revival of Georgia).

<sup>12</sup> The mandate of these members shall last until the five political parties, blocs with the highest number of votes in the 1999 parliamentary election appoint their members.

<sup>13</sup> The CEC is also responsible for the following: announce the dates of commencement and end of election activities; register parties and election blocs in the elections; register party lists submitted by the parties and election blocs; determine rules for the use and allocation of election funds; establish elections forms including ballots, ballot boxes and stamps; determine regulations for storage of election documents; introduce provisions relating to the media and control their implementation; ensure the creation of equal conditions during the election campaign; and determine the results of the elections. The decisions of the CEC, which are taken by a majority of its members are binding

The work of the CEC is supported by seven departments composed of 45 administrative staff. These departments include the legal department, the operations department and the information technology department that has responsibility for aggregating the final results.

## ii. Regional Offices of the Central Election Commission

Article 22.2.b of the law gives the CEC the authority to delegate part of its mandate to other bodies. This requires a two-thirds majority of its members, or 13 of the 19 members. On 10 September, in Resolution 71, the CEC created 4 regional representative bodies of the CEC to “implement activities and ensure proper organisation”. Each had a staff of two persons nominated by the CEC Chairman and appointed by the CEC. Its competencies were to: coordinate the activities of the DEC; exchange information between the CEC and lower level commissions; create the necessary conditions for the working of DEC and PECs with the help of local governing bodies; organise sessions and seminars of DEC chairmen under the consent of the CEC.

Some opposition party members on the CEC strongly objected to this provision. It is not clear to the EOM why it was necessary to establish these offices. The creation of these bodies varies the structure of the election administration as set out in the law. If a need for such bodies existed, Parliament should have been given the opportunity to debate the issue. The mandate of the Regional Offices is vague, and it is not clear why such offices were set up in only 4 of the 11 regions of Georgia. The regional offices of the CEC were generally established in the same building as the Regional Governor or the local councils (Sakrebulo), violating at least the spirit of article 30.9 of the law.<sup>14</sup>

## iii. District Election Commissions

There were 75 DEC formed for the 1999 parliamentary elections. The DEC are composed of 14 members. Seven members of the DEC, including the Chairman are appointed by the CEC. The following groups can nominate members to the DEC: registered public unions; local governing or self-governing bodies; voters by initiative of at least 50 persons; members of Parliament elected in the relevant district under the majority system. The seven other members are appointed by political parties represented on the CEC. Observers reported that only a few nominations were made by groups of voters.

The DEC have responsibility to ensure that the law is followed and verify its uniform application in the election district.<sup>15</sup>

## iv. Precinct Election Commissions

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<sup>14</sup> This stipulation was also breached by a number of DEC and PEC which established offices in the same building as local and self-governing bodies.

<sup>15</sup> *Inter alia*, their main competencies are to: establish election precincts; appoint the Chairman and 6 additional members of the PEC; supervise the activities of the PEC and receive their reports; register candidates and their authorised representatives; ensure the creation of equal campaign conditions; facilitate the organisation of meetings between candidates and voters; consolidate and announce election results in the district; organise new election in those precincts where the voting was considered invalid; organise second-round elections (where necessary); decide on complaints on the work of PECs.

The DEC established over 2,580 PECs, with not more than 3,000 registered voters in each. PECs are composed of 14 members with seven members appointed by the DEC and seven by political parties. Nominations to PECs can be made by the same bodies as for the DEC. <sup>16</sup>

The PECs main responsibilities are to compile and amend the voter lists and organise and conduct the voting and counting procedures. <sup>17</sup>

## 2. Performance of the Election Administration

The system of appointment to election commissions creates the potential for the incumbent administration to enjoy a built-in majority at all levels of the election administration. Where the President and the majority in Parliament are from the same party, together they can appoint eight members to the CEC. The representative bodies of Abkhazia and Ajara appoint their own representatives, which may or may not be close to the incumbent administration. The members appointed by the political parties include a representative of the incumbent party. For this particular election the built-in majority at the CEC, together with the representative of Abkhazia, included at least 10 of the 19 members of the CEC.

The CEC gave the members appointed by opposition parties, the opportunity to express their opinions, but the general performance of the CEC appeared politically polarized. The built-in majority was frequently supported by the other two CEC members elected by Parliament. As the CEC appointed 7 members (including the Chairperson) of each DEC which in turn appointed the PECs, the system enabled the incumbent party to control appointments at all levels. Following the appointment of DEC members, observers noted a pattern of political polarization emerge in lower level commissions well.

As the CEC is endowed with a wide range of powers to clarify the law and regulate its implementation, it was imperative for the CEC to act in an impartial, transparent and timely manner. Regrettably, on a number of occasions the CEC did not follow these principles, thus diminishing confidence in the election process.

The CEC dismissed some DEC members including a number of Chairpersons. In one instance this decision was overturned in a court of law. By mid-October over 80 DEC members had resigned. These members were replaced based on the nominations of the CEC's organisational department and subsequently approved by a resolution of the CEC.

### Access to Documentation

On a number of occasions, representatives of opposition parties in the CEC did not have access to important CEC documentation. The CEC decided to limit access to documentation and to strictly regulate the timing of responses to requests for information. <sup>18</sup> The CEC had three days

<sup>16</sup> Only 10 signatures are required to support a nomination made through voters' initiative.

<sup>17</sup> Other important responsibilities are: inform the public on its work; receive and consider complaints in this regard; provide voters with voting invitations and with requested voting licenses; ensure that premises, ballot boxes, voting booths and information stands are available in the precinct; conduct the voting operation on the day of election; determine the total number of the eligible voters and the voter turnout in the precinct and count the votes cast for all candidates, parties, blocs.

<sup>18</sup> With Resolution 52, based on Art. 11 of the law.

to respond to requests for information, and the heads of departments could extend this period up to one month. The CEC internal regulations also prohibited the issuance of originals and copies of documents received by the CEC. As a consequence, some CEC members had only restricted access to CEC documentation and received the available information with considerable delays, when much of this documentation was available to CEC staff. The EOM also experienced delays in receiving a response to written communications and requests for information both at the central and district levels.

#### Determination and publication of deadlines

Several political parties and candidates were at times unaware of important stipulations or unable to comply with relevant requirements on time due to unrealistic deadlines set by the CEC. For example, a CEC Resolution on the "Rule of Consideration of Receiving Nominations for Appointing the Candidates to the DEC" was published only shortly before the deadline for nomination expired. Therefore, those entitled to make nominations to these key posts had only limited time to complete the extremely detailed forms and submit them on time. This resolution seemed to present less difficulty to local officials or Members of Parliament, also entitled to make such nominations, than to political parties and citizens groups. Furthermore, it is a highly questionable practice for an incumbent Member of the Parliament to nominate the Chairman of the body entrusted with the administration of his own election district.<sup>19</sup>

In several instances, CEC resolutions were adopted or published after the operative deadline had expired.

#### Introduction of new procedures

The CEC was slow in providing its members with information about actions or decisions. This is particularly notable in the introduction of special holograms shortly before election day. The committee responsible for studying options to improve ballot paper security was instructed to report to the CEC about its work. It was not until mid-October that the committee finally reported the decision to introduce special holograms to be placed on each ballot paper. These were to be unique to each polling station. This decision was taken without reference to the membership of the CEC, and the committee reported that the holograms (over 6,000,000 in total) had already been purchased and received.

As the holograms were sensitive election materials, questions were raised about security measures for their distribution and storage. In sum, the process for holograms introduction lacked transparency and their use failed to meet their stated purpose of enhancing ballot security and increasing confidence in the voting process.

#### The powers and competencies of the CEC

Certain resolutions of the CEC seem to extend beyond its competence. Instead of interpreting the law, they changed the law. Examples include Resolution 83, which provides that the majoritarian candidate registration forms should be submitted to the CEC rather than the DEC as specified in the law. Similarly, article 18.3 states that the PECs' mandate ends

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<sup>19</sup> Article 27.1.b.

after the summarisation of precinct results and article 25.5 states that it ends after the summarisation in the DEC. In Resolution 45, the CEC determined that it ends at the settlement of the elections results in the district by the CEC. This is a significant variation and extends the PEC mandate till 7 November. This amendment should have been accompanied by an instruction detailing the competence of PECs during this period.

Candidates were afforded immunity from criminal prosecution by article 46 of the law. The EOM noted that the CEC resolved to lift such immunity on three occasions. The CEC members did not enjoy any form of immunity by virtue of the law. However, Article 18(11) provides that only the Prosecutor General can institute criminal proceedings against CEC members. The Prosecutor General did institute criminal proceedings against a CEC member, Merab Gabelardashvili (nominated by the Socialist Party), to investigate an allegation that Gabelardashvili attempted to bribe a third party to enter the CEC computer and falsify the tabulation of proportional results. Gabelardashvili's lawyer confirmed to the EOM that an investigation was underway. As of 14 November, Gabelardashvili was not charged and continued to attend CEC meetings.

Without advance notice, CEC decided that, voting in Omalo, a remote village in northern Georgia, will take place on 24 October, seven days before the national election day. Several members of the CEC and the opposition members of the responsible DEC (Akhmeta) were informed about the decision only in the morning of 24 October and were unable to travel there. In addition to the voters of Omalo, a number of military personnel were transported by helicopter to Omalo to vote. The process for deciding to conduct early polling lacked transparency and accountability.

The EOM experienced serious delays in receiving accreditation for its members from the CEC. The delay hampered the activity of observers throughout the country during the pre-election phase. Furthermore, the modalities for issuing accreditation documents were burdensome.

#### Assessment of the Work of DECs

On a number of occasions, the election administration at the district level failed to perform their duties in a uniform, transparent and timely manner. A large number of DECs were located in the buildings of local administration, and, on occasions, in the same building as the campaign offices of the ruling party. In some instances, party propaganda material was present inside the buildings housing DEC offices, and in a small number of cases inside the office of the DEC. This violates the law and does not inspire confidence in the impartiality of the DECs.

In a significant number of cases, representatives of opposition parties were not involved in the decision-making process in DECs. Some members complained to observers that they had not been advised of meetings in a timely manner and that decisions were taken in their absence. In a few cases, observers reported that DECs refused to meet with them, and in a very limited number of occasions observers were asked to leave sessions where DEC Chairmen were addressing the PEC Chairmen.

#### **B. Registration of Parties and Candidates**

## **1. Pre-Registration of Political Parties, Blocs and Candidates**

The law stipulates that in order to participate in elections, political parties must re-register with the CEC.<sup>20</sup> Two different registration procedures applied. Parties that were represented in parliament had to submit an application to the CEC together with a copy of the party's registration certificate. Non-parliamentary parties were required to submit an application together with a list of signatures of 50,000 supporters. Initially, over 50 parties and blocs were registered. Although some of these were represented in Parliament, it is inconceivable that the CEC had sufficient resources to check signatures presented by the non-parliamentary parties. Parties were entitled to form election blocs and register the bloc with the CEC. A total of 19 parties and 12 election blocs contested the election.

## **2. Registration of Party Lists for the Proportional Ballot**

Parties and candidates faced a confusing web of requirements regarding the data they needed to provide to support their applications for registration. Some of this information was included in the law and other requirements were set out in CEC Resolutions which were sometimes not issued in a timely manner. The complete set of rules on the presentation of party list was finalized only three days before the deadline to present party lists. The CEC Resolution defining the criteria for refusal of candidate registration, dated 4 October, was published on 8 October - two days after the deadline for the submission of registration forms. The parties were under the impression that the CEC decided, just prior to the relevant deadline, on a method for disqualifying certain candidates.

## **3. Registration of Candidates in Single-Member Election Districts**

A candidate in a single mandate election district must collect 1,000 signatures in support of his or her nomination. These nomination petitions are reviewed by the DEC, with power to accept or reject. In general, the DEC applied the same stringent verification criteria to the candidates in single-member districts as the CEC applied to candidates registering for the party lists in the proportional ballot.

## **4. Complaints and Appeals in the DEC and the CEC**

Article 29 provides that decisions of the PEC are appealed to the DEC, those of the DEC are appealed to the CEC, and those of the CEC to the Supreme Court. This article specifies a three-day time limit for appeals to the Supreme Court. The CEC applied the same time limit to appeals between the lower level as well, despite the fact that this was not specified in the law.

In general, the way the CEC interpreted the law hampered appeal procedures. For example, article 39.3 requires the destruction of petitions in support of a candidate no later than 20 days prior to an election. This article also gives to members of election commissions and, in case of complaints, to the Courts, the right to review the lists of supporters. Notwithstanding this right, the DEC destroyed the lists prematurely, apparently at the behest of the CEC. Therefore, neither the CEC members nor the Supreme Court could review the lists when adjudicating appeals on candidate registration. Moreover, the provision that only election commissions shall be acquainted with the lists was not always respected. In one case,

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<sup>20</sup> Articles 13 and 67 and CEC Decision #22

observers reported that a local official was aware of the names of voters who had signed candidates' nomination papers and even asked at least one person to remove his name.

The bulk of pre-election day appeals related to the cancellation of registration of candidates, both in the single-mandate constituencies and for the party lists.

As a result of confusion regarding the requirement for petition, a large number of candidates applying for registration were rejected, often for minor errors or omissions. In total, the CEC rejected or upheld the rejection by DEC's of 478 candidates. As a result of a high number of rejections, in two of the single member election districts, the name of only one candidate remained on the ballot paper. Following the rejections of candidates from the party lists, several parties were removed from the proportional ballot as the number of candidates appearing on their list had fallen below 100, the required minimum. To avoid such a large number of rejections and appeals, it would have been preferable for the CEC to grant the nominees sufficient time to rectify errors on their petitions.

In general, appellants were given the opportunity to make verbal representation to the CEC, however the CEC considered appeals against decisions taken by the DEC in a perfunctory manner and in many cases, the CEC reviewed DEC decisions without having sight of the documentary evidence.

## 5. Complaints and Appeals in the Courts

In hearing election-related appeals, the Supreme Court played an extensive role in the 1999 elections. Pre-election day appeals were mainly related to CEC decisions to cancel the registration of parties and candidates. Post-election day appeals are described later in this report.

In general, the Supreme Court considered appeals against CEC decisions in a timely and impartial manner and in line with principles of due process. A number of appeals relating to nominations rejected by the DEC or the CEC was upheld by the Supreme Court, indicating reasons for increased confidence in the judiciary following recent reforms. The low cost incurred by appellants in bring a case to the Supreme Court was a positive factor.

However, the large number of appeals that the Supreme Court was required to address within a three-day deadline placed a heavy burden on its justices. Indeed, as many as 13 cases were addressed on one day. As a result the quality of the Court decision suffered.

A perplexing case was that of Zviad Tsetskhladze, a Revival Party candidate, whose registration was cancelled because, allegedly, his application form did not contain essential information about his business activities. At the first hearing at the Supreme Court, Tsetskhladze asserted that the application form under consideration was not his original form. The Supreme Court initially refused to adjourn to allow expert evidence. Subsequently, the Supreme Court agreed to reconsider this case after the Revival Party produced expert evidence indicating that the signature on the form was not that of Tsetskhladze. Notwithstanding evidence of forgery the Supreme Court did not agree to reconfirm the registration of Tsetskhladze as a candidate.

## 6. Personal Identification of Candidates

In March 1999, a Presidential decree extended until 1 January 2001 the validity of former Soviet passports as a means of personal identification inside Georgia. There was some confusion regarding the effect of the decree and its impact on the identification requirements for both candidates and voters. Much time was spent in challenging and adjudicating this issue in the Supreme Court. An important test was that of Guram Absandze, a prospective candidate for the People's Party-Didgori. Absandze, currently detained by the Georgian Ministry of Interior, requested unsuccessfully a Georgian identification card from the Minister of Interior and at the time of the election possessed only a former Soviet passport. The Supreme Court ruled that Absandze could not be registered as a candidate as his Soviet passport did not indicate that he was a Georgian citizen. However, this same passport was sufficient for him to be a voter. Yet the Supreme Court re-instated a number of majoritarian candidates even though they only had a former Soviet passport.

### C. Voter Registration

#### 1. Voter Lists and Civil Registers

PECs are mandated to compile voter lists and post them no later than 1 October, 30 days before the election. The central and local authorities assist in the compilation of the lists. Both citizens permanently living on the territory of a given precinct and those internally displaced persons (IDPs) currently living there should be registered in the precinct. IDPs will appear on a separate list of voters and they may not participate in the plurality-majority vote.

The data for the voter lists originate from two sources:

- Civil status office within the district executive branch, tasked to register civil events (birth, death, marriage, divorce, change of name, adoption of child and establishment of paternity), which operate under the guidance of the Ministry of Justice.
- The National Registration Office at the Ministry of Interior (former OVIR), which registers permanent and temporary residence, and issues identity documents.

Article 33.2 of the law requires that no voter should be included in more than one precinct voter list. However, the civil registers are scattered in multiple offices and multiple levels. As such it is impossible it is impossible to implement the provision of article 33.2.

Appeals may be lodged with the PECs regarding errors and omissions in voter lists, but no later than 20 days before the election. If the appeal is upheld, the DEC shall change the voter lists. The final version of the lists should be published no later than 10 days prior to an election. If the appeal is rejected, the appellant has further right of appeal at the District Court.

#### 2. Supplementary Voter Lists and Voter Licenses

Article 50.7 of the law allows voters to register on supplementary lists and to vote on election day. Those entitled to have their names added to the supplementary lists are voters with voting license, PEC members working outside of the precinct they are registered in, and voters inadvertently left out of the lists.

A voting license can be provided, from the home precinct until the day before an election to voters who will not be at their precinct on the day of election. Such voters will be struck from the voter lists at the original precinct and may vote in another precinct, but can only vote in the proportional ballot system.

This provision raises questions about the transparency of the registration process. Unless the PECs enforce the obligation on voters to present an identification document and proof of residence when registering on election day, this provision can be open to abuse. Such a provision should be used only in exceptional cases. As voters are aware of the provision, there is only a limited incentive for them to check their entry on the voter lists before the election. The provision should be reviewed. Article 34.1 already provides legal redress for voters excluded from voter lists. At an absolute minimum, the PEC, DEC and CEC protocols should indicate in a separate line the number of voters who were added to the voter lists on election day.

One of the following identity papers were accepted to amend the voter lists and vote on election day: identification card, Georgian Passport, Former USSR passport with a record of domicile (“propiska”) in Georgia and certificate issued by an appropriate State body.

### 3. Military voters

Military voters may be assigned to regular civilian precincts. If the addition of their names raises the total number of voters over 3,000 (the maximum number allowed per precinct) or if the bases are located some distance from civilian precincts, there may be a special military precinct established. The regular precinct rules are to be followed in these cases, with the exception that the seven PEC members appointed by the DEC are military personnel.

### 4. Internally Displaced Persons

Regrettably, elections could not be held in Abkhazia and in South Ossetia due to the frozen conflicts. The EOM welcomes that 166,000 internally displaced citizens from these regions were entitled to participate in the proportional vote according to their present places of residence in the absence of their ability to return to their permanent residence. Article 33 of the law stipulates that displaced persons shall not participate in the majority elections held in single-mandate districts. However, Article 59 of the Transitional Provisions of the law stipulates that: “before the complete restoration of the jurisdiction of Georgia in Abkhazia and before the necessary conditions are created for the elections of members of Parliament of Georgia [...] citizens elected from Abkhazia as a result of the 1992 elections who are members of the Parliament of Georgia [...], shall have their mandate as members of the Parliament extended”. Although article 33 attempts to compensate for not holding election in two areas of displacement, the provision creates an anomaly.

In the 1992 Georgia elections, 12 members of Parliament were elected to represent the electorate of Abkhazia. However ethnic Abkhazians boycotted this election. Since 1992, no internationally recognised elections have been conducted in Abkhazia and South Ossetia. The mandates of Abkhazian MPs were extended in 1995 and in 1999. Voting did not take place in parts of South Ossetia and the two seats for the districts of Tskhinvali and Java remained vacant.

Representatives from the Citizens Union for Georgia (CUG) stated that IDPs prefer not to vote in the single-member ballot as to do so would mean that they have taken permanent residence. This in turn would mean the loss of state benefits and a mistaken belief that they have relinquished their rights to return to their homes in Abkhazia or South Ossetia. Regardless of the motives, the partial participation of IDPs in the electoral process raises questions in terms of equality of rights.

The partial IDP vote seems also to contradict the United Nations Guiding Principles on Internal Displacement. Principle 1.1: "Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against the enjoyment of any rights and freedoms on the ground that they are internally displaced". Principle 22.1.d: "Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights: [...] The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this rights".

## 5. Displaying and Amending Voter Lists

Technical and organisational delays prevented a significant number of PECs from displaying the voter lists on time. Where voter lists were publicly displayed, they were not compiled according to uniform criteria across the country, and in a large number of cases not readily accessible for public inspection.

Moreover, some opposition parties voiced serious concerns regarding the accuracy of voter lists, particularly when the number of registered voters change significantly from a previous election. A clear example of this is Rustavi where the total number of registered voters changed from 45,234 in 1998 to 83,510 in 1999. Also, the number of registered voters in Tbilisi rose from 664,273 in 1998 to 743,520 in 1999 (an 11.93% increase) and similar increases were noted in Mameuli, Gardabani, Kutaisi and Bolnisi. Where such changes occur, it is incumbent upon the election administration to provide credible explanation.

## D. Media and the Elections

### 1. Legal Framework

The law establishes a mechanism for the CEC to regulate the mass media during the election campaign. Article 47.8 specifies: "During the election campaign, the public television and radio stations shall allot 3 hours every day free of charge and equally distributed among the parties and election blocs for election campaigning". The party slots began broadcasting on 7 October, initially transmitted in the morning when audiences are low, but from 16 October at times that would receive higher viewing.

Article 47.8 also stipulates that the selling of broadcast time by State TV and Radio companies is forbidden. Nonetheless, the governing party CUG did place a paid advertisement on State TV. Since regulations regarding the media came into force only during the campaign period, the CEC did not consider this a breach of the law as the airtime had been first sold to a private company, which then re-sold the space to the CUG before 4 August, the date when the prohibition came into force.

In addition to the provision of free airtime to political parties, the law contains other positive provisions, including the equality of access and pricing for political parties for broadcasts on private TV stations. The stipulation in Article 47.10 is another positive provision: "Except for the period of time specifically allocated for election campaigning, the President of Georgia, members of Parliament and other officials are prohibited from making appearances related to the election campaign".

## 2. EOM's Monitoring

The monitoring of the main television channels by the EOM began on 3 October 1999 and ended on 30 October 1999. In total, 486 hours of broadcasts were monitored and analyzed. The final results highlight a very high percentage of airtime devoted to political issues (political-time) on the state owned *First Public Channel* (43%), while *Rustavi 2*, the most popular privately owned television station, devoted a lower percentage (11%) to political-time.

Included in the total political-time, the *First Channel* dedicated 32% to cover presidential, governmental and CUG activities. This amount arises to 80%, if the free political airtime is disregarded. The tone was generally neutral, or positive when covering President Shevardnadze. The remaining time was equally distributed among the other parties, with the free political airtime broadcast from 7 October to 30 October. The Revival bloc received a 4% of which one fifth was negative.

Among the 11% *Rustavi 2* dedicated to politics, 64% was dedicated to the President, the Government and CUG, primarily in a neutral and positive way. The Revival bloc received 12% coverage mainly neutral and positive. Among other main parties, the Labourist Party obtained 4%, the bloc National Democratic Alliance-the Third Way 7%, and the bloc Industry Will Save Georgia 5%. Generally, the coverage was not negative.

In Ajara, the regional broadcaster has the right to use the frequencies of the *First Channel* for two hours every day after 22:00 hrs. These broadcasts were monitored for a total of 11 days during the period 12 to 25 October from 18:30 to midnight, for a total of 66 hours. The monitoring shows markedly different results, the Revival bloc received 81% of the time with the local authorities of Ajara receiving 2%. Qualitatively, this time was very positive coverage. The President of Georgia and CUG together received 15% coverage, of which more than 80% was negative.

Over the same period the *First Channel* covered the activities of the President, the Government and CUG for a total of 86%, with a tone both positive and neutral. Revival bloc received 5% coverage, of which 20% was negative.

In essence, the *First Channel* clearly gave an advantage to the ruling party in terms of total time allocated to its activities. The Ajara broadcaster used its allocated time to campaign openly for the Revival bloc and report negatively on the President.

*Cavcasia*, a private television station was monitored over the period 12-25 October for a total 48 hours. The time the station dedicated to politics was 23%, in which the President and

CUG received 52% coverage, and Revival of Georgia 34%. Generally the coverage was neutral.

In the printed media, *Sakartvelos Republika*, the state-owned newspaper in Georgian language, dedicated 23% of its total space to cover political issues in the period 30 September 30 October. Of this total, 62% was used to report on President Shevardnadze and 21% on the Government and CUG. The Revival bloc received 9% of the space which was largely negative. The coverage of the bloc Industry Will Save Georgia (1%) was neutral.

The coverage of *Svobodnaja Gruzia*, the state-owned newspaper in Russian language, closely mirrored that of *Sakartvelos Republika*. Reporting in *Alia*, one of the most popular private newspapers, and *Akhali Taoba* was more balanced with parties receiving both positive and negative coverage. In the period 30 September 30 October, *Alia* dedicated 20% of its total space to political issues. In that, the President received a 5% coverage (of which 21% was negative and 46% positive), and CUG 13%. The Revival bloc received 39% coverage of which 19% was negative, and 51% neutral. The bloc National Democratic Alliance-the Third Way received 7% coverage.

Nine issues of the newspaper *Adjara*, published and distributed in Adjara were analyzed. In these, Revival bloc and the local authorities received 61% coverage, mostly positive. The President of Georgia, the Speaker of the Parliament and CUG also received 25% coverage. However, this was uniformly negative.

Thus, the media generally enabled political parties to inform the electorate on their political platforms and provided voters with the possibility of making an informed choice. However, the EOM identified a clear advantage for the ruling party, particularly visible in the performance of the electronic media and the state owned newspapers. Additionally, several opposition parties complained that the authorities and the Head of State used their positions to gain privileged access to the state media. Conversely, the media in Ajara overwhelmingly favoured the Revival Bloc.

## **E. Election Campaign**

The heated competition between the leading political parties and election blocs was evidence of political pluralism in Georgia, with a clear distinction between competing political interests. However, occasionally the tone of the campaign went beyond acceptable limits of political competition.

During the election campaign period, fundamental freedoms were generally respected. However, the freedom of assembly was on occasions restricted. Also, a few acts of violence against candidates marred the campaign period. Following a grenade attack on the home of a candidate in Aspindza, the EOM publicly condemned any form of violence in an election campaign. Unfortunately, this act was followed by two other serious incidents where independent candidates were attacked. On 13 October in Khobi district, candidate Badri Daraselia was stabbed. Another candidate was shot in Kutais area. In addition, on several occasions, the campaign offices of different parties were attacked, by gunfire, by vandalism, and theft of campaign material.

In two separate incidents, the freedom of movement of campaign teams and candidates was restricted.

- Zurab Noghaideli, a candidate of the CUG was prevented from entering Ajara for two days by a small protest at the control post, which the Ajaran local authorities appeared unwilling to disperse.
- Local officials and law enforcement officers used the former Soviet Administrative Code in a questionable manner in an attempt to limit the campaign activity of the Revival bloc. Several buses belonging to the Revival Party were impounded on 11 October. The original reason given for incident was fear of contamination through contravention of veterinary regulations, despite the fact that the buses did not contain any livestock or produce. Article 120, used to impound the buses, provided only for financial penalties rather than restricting movement.

Article 22.m of the law gives the CEC authority to introduce provisions that shall ensure for all parties, election blocs equal conditions during the campaign and candidates. The CEC failed to introduce provisions to ensure parties, blocs and candidates received equal campaign conditions in some respects such as displaying posters or arranging public meetings.

Although only few complaints were received by the CEC on these issues, one opposition bloc complained to observers that they faced bureaucratic delays in securing fora for public meetings which had been made available to the ruling party. Similarly, on a number of occasions, the Revival bloc held meetings in open spaces as previously booked buildings were unavailable without prior notice and shortly before the scheduled meetings. As a consequence, these meetings were characterized by unrest and disorder with a noticeable presence of security forces. An example of this is the Revival bloc rally that took place in Telavi on 16 October 1999. EOM observers witnessed the head of the Telavi police, Mr. Onanashvili, wearing civilian clothes, failing to intervene when agitators disrupted the meeting, and later throwing two smoke grenades, then used as a pretext to use water cannons to disperse the crowd. The CUG encountered difficulties to freely campaign in Ajara.

Observers reported that, at times, the distinction between state and party resources were blurred, with the incumbent party apparently enjoying privileged use of state resources. This was particularly noticeable in some Sakrebulo (local government buildings), sometimes used as political campaign offices. In one instance (Oni district), a complaint on this issue was lodged with the DEC, which rejected the complaint and the publicly owned office continued to be used as a campaign office.

Article 47.6 of the law gives local governing bodies authority to determine the regulations for the display of election campaign material in public areas. In Tbilisi, the Sakrebulo issued these regulations on 7 July and 300 designated sites were established for displaying posters. Parties and candidates were able to display and distribute campaign material, largely without any interference. However, in Tbilisi, campaign material of the CUG and the National Democratic Alliance were most prominently displayed and predominated numerically, particularly during the early stages of the campaign. Closer to the election, the campaign material of other parties, the Peoples Party, the Labourist party and particularly the bloc Industry will Save Georgia became more visible. The campaign material of the Revival bloc was not very conspicuous. The situation in Ajara was the opposite, with the campaign material of the Revival bloc dominating urban centers and the campaign posters of other

parties seen only in peripheral areas. On a few occasions, observers reported that CUG campaign material was displayed in public buildings including the post office, the public library and even in some DEC offices.

Although the law makes a number of references to the establishment of equal campaign conditions and the rights of parties and candidates, it is vague on how equal campaign conditions can be realized or what penalties should be applied when violations occur. The introduction of detailed provisions that define candidates and parties entitlements, including the equality of access to campaign spaces and more transparent and detailed complaint procedures, would improve the election environment by “leveling the campaign field”. Such provisions should also clarify the role of local government in granting access and setting payment terms for use of municipal buildings, emphasize the distinction between party and state property, and prohibit the use of state resources for campaign purposes.

#### **F. Domestic Observers**

In line with Paragraph 8 of the Copenhagen document, the law provides for the representatives of domestic observer groups to be registered by the CEC, enabling them to attend meetings of the election commissions and to have access to PECs on election day. This provision covers authorised representatives of political parties and election blocs, proxies of candidates, representatives of public organisations and the media. However, unlike the 1995 elections, where all public organisations were legally entitled to monitor the elections, the CEC introduced a resolution restricting the type of organisation that could apply for registration. Furthermore, the resolution required public organisations to inform the DECs and PECs where they intend to observe.

The CEC registered five domestic observer groups. The largest of these, the International Society for Fair Elections and Democracy deployed about 2,200 observers. The four other groups deployed around 120 observers, and focused their activities on specific districts.

Observers faced far fewer problems than in 1995 to access election precincts. However, some restrictions to the activities of domestic observers were reported. In particular, the EOM was informed by one of the smaller observer groups, the Centre of Strategic Research and Development, that its observers were denied entry to Ajara.

The ODIHR welcomes the contribution of domestic observers to the transparency of the election process. Observers reported that many PECs were very crowded which made it difficult to identify the various persons present and their role. As such, all persons present in the PECs should be issued with accreditation badges. The design of these badges should be simple and should enable any person present to identify the role of those present. The accreditation of domestic observers should be straightforward and enable them to visit any polling station they chose, rather than restrict them to specific PECs declared in advance.

### **V. ELECTION DAY – FIRST ROUND**

#### **A. General Impressions**

International observers filed over 950 observation report forms covering over 800 of the approximately 2,600 polling stations. Some observers returned to the same polling station at

different times over the election day, and in a few cases, observers remained at a polling station for the entire polling and counting period. In addition to the report forms, observers submitted a number of narrative reports detailing specific violations and irregularities.

Observers were asked to give an overall assessment of the voting and counting procedures.<sup>21</sup> On the voting, in 79% of the forms, observers reported a good or very good overall opinion and on the count 76%. A bad or very bad overall assessment was given in 21% of voting and 24% of counting observed.

However, there was a wide variation in observer assessments across different regions. This is particularly noticeable in Ajara where observers assessed voting as bad or very bad in 54% of reports. Other regions assessed in a more negative manner were Samtskhe-Javakheti (33% bad or very bad), Kvemo Kartli (29%), Samagrel-Zemo Svaneti (26%) and (Kakheti 25%). Generally, observers reported voting in Tbilisi, Mtsheta-Mtianeti, Imereti and Guria to be good.

#### Overall opinion on the voting, by region, in percentage

Overall evaluation	1	2	3	4	5	6	7	8	9	10	11
Very bad	2	7	0	3	9	8	12	4	0	0	16
Bad	13	18	9	12	20	6	21	22	0	17	38
Good	50	55	54	73	47	49	57	62	74	72	38
Very good	35	19	37	12	24	37	10	11	26	11	9

01 Tbilisi

05 Kvemo Kartli

02 Kakheti

06 Imereti

09 Guria

03 Mtsheta-Mtianeti

07 Samtskhe-Javakheti

10 Racha-Lechkumi

04 Shida Kartli

08 Samegrelo-Zemo Svaneti

11 A.R. of Ajara

#### B. Turnout

According to a document issued by the CEC, the total number of registered voters, including those added to the registers through the supplementary list but whose numbers nation-wide was not announced is 3,143,851 of whom 2,133,878 participated in the elections, representing a 67.9% turnout. However, this figure masks significant differences in different parts of the country. The clearest example of this is in Ajara where 241,515 participated from total registered voters of 254,030, a turnout in excess of 95%. Observers did not report a significantly higher number of voters than in other parts of the country. However, they did report a strikingly high number of violations in Ajara.

Such unrealistically high turnout figures were not restricted to Ajara. In Marneuli, the turnout was 98.6%; in Bolnisi 95.4% and in Tetriskaro over 88%.

#### C. Voting

In general, polling stations received sufficient election materials although observers reported that in 14% of cases important material was missing. In DEC 10 (District Gldani, Tbilisi), some polling stations received less ballot papers than the number of registered voters as the DEC had received 15,000 ballot papers short of the number of registered voters. Observers

<sup>21</sup> Based on a scale 4 ranging from very good (4) to very bad (1).

reported that 51% of polling stations did not open on time, opening either early or in most cases late. A large number of polling stations in Lentekhi District opened very late (14:00) and in four cases, not at all. The CEC decided to repeat polling in this district on 7 November.

On the whole, observers reported that PECs performed their duties reasonably well, frequently under difficult circumstances. Inadequate and overcrowded premises were reported in a large number of cases, particularly in Samtskhe-Javakheti and some buildings were unsuitable to serve as polling stations. Overcrowding was exacerbated by the presence of unauthorised persons during voting and counting. Observers reported that in several instances police officers were present inside polling stations, without being invited by the PEC Chairman, as the law stipulates. A large number of senior local officials were present as well, at times taking an active role in the election process including instances where they even issued temporary identification documents to voters.

Campaign material was present in the vicinity of PEC buildings in 7% of observations and active campaigning was reported in a similar number of cases. Agitation and unrest was reported in 10% of observations – a high percentage for elections in the OSCE area – with the incidence in Kakheti, Kvemo Kartli and Samtskhe-Javakheti higher than average.

Intimidation of voters was reported in 5% of observations, again a high figure. The figure for Ajara was 17%. In a few cases, observers reported that a climate of fear existed inside and in the vicinity of polling stations.

Observers reported that the PECs were politically plural, and that in general PEC members representing various political parties worked well together. However, proxies and party observers frequently interfered in the work of the PECs and at times behaved as though they were members of the Commissions. Whilst their presence certainly contributed to the transparency of the process on election day, steps should be taken by the political parties to ensure that they are adequately trained, in order to fulfil their tasks unobtrusively.

Observers also noted the following:

- In virtually all cases, ballots were validated according to the established procedure.
- Ballot boxes were properly sealed in 96% of cases, but the seals often amounted to little more than a poorly gummed sheet of paper or string. The mobile ballot boxes were not always sealed properly, and some remained unsealed until they were actually used.
- Voter licences were retained by PECs in 79% of cases, although this figure was as low as 51% in Shida Kartli and 62% in Ajara.
- In most areas the secrecy of the vote was almost uniformly respected. However, observers noted that in a small number of cases, voters were asked by proxies or persons not even authorised to be present, to show their marked ballot before depositing them in the ballot boxes. Was the case in Samtskhe-Javakheti, Ajara and Kvemo Kartli.
- In a small number of cases, voters were issued with extra ballot papers, in particular in Ajara.
- “Group” or “family” voting was reported in 21% of observations.
- Despite the legal provisions allowing IDPs to vote only for the proportional election, they were on a number of occasions given ballot papers for the majoritarian as well.

- Ballot stuffing and instances where the number of ballots found in the ballot boxes did not correspond with the number of voters having cast ballots were also observed.

Observers reported that polling in military establishments was generally well conducted.

#### D. Voter Lists

In over 10% of report forms observers noted that the supplementary list of those allowed to register on election day exceeded 100 names and in over 2% of report forms, exceeded 200 names. The law specifies that the chairman should countersign the register where voters are registered on election day. In 21% of reports, observers reported that this did not happen, with this number increasing to 35% in Samtskhe-Javakheti and 42% in Kakheti.

In the absence of accurate voter lists, it is vital that the voter identity is checked to prevent multiple voting at different polling stations. The performance of PECs in this respect was not uniform, with only 86% checking voter ID as required by the law. Similarly, the serial number of voters' identification document was recorded properly in 78% of observations. On a more positive note, voters signed the voter lists in 96% of cases.

In Aspindza, the police confiscated the former-Soviet passports of citizens without giving them new identification documents in return. The Presidential decree extended the validity of these documents. As a result, these citizens were at risk of losing their fundamental right to vote.

#### E. Vote Count

The EOM monitored the count in 74 polling stations. The overall assessment of the count was characterised as bad or very bad in 24% of cases. A significant number of PEC appeared unaware of the correct counting procedures. The major procedural problems identified during the count were:

- Unauthorised personnel present in polling station (29%);
- PECs not counting unused ballots or not separating them before counting valid ballots (16%);
- Not counting the number of registered voters (26%);
- Not counting the number of signatures on voter lists (18%);
- Failing to pack invalid ballots before counting valid ballots (65%);
- Failing to post copies of the protocols at the PECs (63%);

In a small number of cases, upon opening the ballot box, observers noted ballot papers grouped together in batches indicating that ballot box stuffing took place. Also, in some instances the number of the ballot papers in a ballot box did not correspond to the number of signatures. Observers also reported that local government officials were often present and actively involved in the count or requested copies of completed protocols.

Despite these problems, there was general consensus among the PEC members on the results, with disagreements in 5% of observations, and only a few written complaints attached to the protocols. Domestic observers were present during 75% of the counts witnessed.

## **F. Tabulation and Publication of Preliminary Results**

About half of observers travelled with the election material from the PEC's to witness the procedure at the DEC. The protocols were generally delivered to the DEC by the PEC chairpersons, but other persons were also present and at times had access to the election material.

Some of observers followed at least part of the procedure for the aggregation of results at the DEC. Where minor errors on the protocols were encountered, the DEC made an adjustment, rather than returning the protocol to the PEC.

The arrangements for preliminary vote tabulation at central level, including denial of access to the protocol department and the computer rooms for some members of the CEC, made it impossible for some political parties to verify data acquired at lower levels of the election administration.

After the closure of polls, throughout the night, the CEC provided to the media and political parties the provisional results on the proportional vote. However, the procedures followed were not sufficiently transparent. The figures released by the CEC were based on the summation of precinct results arriving by fax from various DEC in a random manner. It was not clear how many precincts and which districts contributed to these provisional results during the various releases. The protocols provided by the DEC lacked sufficient details to provide for a transparent preliminary aggregation process.

The tabulation was conducted in the CEC premises, which was not accessible to party representatives. Even some CEC members, particularly those from the opposition, were denied access to these premises. International observers were allowed to monitor the process of data input. However, no printouts of provisional results by precincts were provided.

The tabulation was conducted by a limited number of CEC technical staff with standard statistical software, which did not include special safeguards against technical errors. In case such errors occurred and they needed to be corrected, no trace was left for the wrong record after the corrections were inserted.

## **VI. THE POST ELECTION PHASE**

### **A. Tabulation and Publication of Final Result**

On 7 November the CEC produced a document called "Protocol of Summarisation of the results of the elections to Georgian Parliament of October 31 1999" (Protocol), in line with Article 54.3 of the law. The Protocol was based on the DEC protocols for the plurality-majority vote and the PEC protocols on the proportional vote. A formal resolution of the CEC was not adopted to approve the contents of the Protocol.

Only 13 out of 19 members of the CEC signed the Protocol. This indicated a lack of confidence in the process. One member of the CEC was formally accused of an attempt to tamper with the computer equipment used to tabulate the results. Nonetheless, he remained a member of the CEC and signed the CEC document on the results of the first round of voting.

The Protocol had severe deficiencies:

- It listed by districts the numbers of registered voters and the number of participants in the election (point 4), but did not specify whether these numbers referred to the proportional vote, or to the majoritarian vote. Moreover, it included registered voters and the participants in the election in nullified precincts.
- The Protocol listed the names of 49 elected Members of the Parliament but provided no supporting evidence regarding their election. Even the names of the parties, which nominated these candidates, were not included.
- The protocol failed to include the number of votes equivalent to the 7% threshold prescribed by article 54.6.
- Finally, the Protocol listed the names of the 150 deputies elected in the proportional ballot by parties, the precinct where the results were annulled and the 20 districts where a second run was to be conducted.

According article 54.6 of the law, the 7% threshold is to be determined on the basis of *votes cast*. The CEC interpreted this provision to mean voters who signed the voter registers.<sup>22</sup> This is an extremely unusual interpretation of the law. The votes for the Labourist Party (140,595) were less than 7% of the *votes cast* (149,371), but more than 7% of the *valid votes* (140,212). Moreover, the CEC included in the total of *votes cast* those cast in districts and precincts where the vote was nullified due to serious irregularities.

The EOM was informed that the party Industry Will Save Georgia was able to meet with the CEC and discuss the tabulation. The CEC maintained that no other party sought to meet and discuss the tabulation whilst the Labourist Party informed the EOM that attempts to discuss the tabulation had been thwarted by the CEC. The CEC did not publish the breakdown of the tabulation by precinct.

However, the EOM received the breakdown of the final result at the precinct level and was allowed to verify PEC protocols and other data acquired by observers in the field against official PEC protocols stored by the CEC. This random verification process showed that in a small number of cases, there were noticeable differences between the contents of these two types of documents. Nevertheless, in an overwhelming number of cases, there were no changes or only insignificant differences. While the EOM appreciates that its representatives were given limited access to original election documentation, it must be stressed that a credible election process presupposes complete transparency and unimpeded access to any election related document throughout the election process by any interested party.

## B. Post-Election Appeals

In the days immediately before the final declaration of the results, the CEC heard 41 complaints.

The Labourist party submitted two appeals to the Supreme Court – one in relation to the district of Martvili, and a second in relation to the tabulation of results on the national level. In Martvili district, the CEC called for repeat polling in all polling stations due to serious irregularities, including the burning of protocols. Repeated polling only took place for the

<sup>22</sup> This figure would include valid ballots, invalid ballots, those who signed the register but did not deposit a ballot, and precincts and districts where the entire proportional vote was invalidated.

majoritarian ballot.

A CEC member, advised the EOM categorically that it was not possible to appeal against the tabulation of proportional results at the national level. The member in question advised the EOM that only decisions which were contained in a resolution (and not a simple protocol as was the case with the national tabulation) could be appealed to the Supreme Court. Those assertions notwithstanding, the Supreme Court entertained an appeal against the tabulation of proportional results lodged by the Labourist Party.

In other cases, the Supreme Court generally demonstrated little hesitation to reverse the decisions of the CEC. However, concerns were raised regarding the Supreme Court's handling of the Labourist Party appeal on the tabulation of final results. The Court met *in camera* for several hours on 16 November, with the public and observers excluded. No minutes of this session were made available to election observers. Despite the CEC apparently conceding that significant errors had been made in the tabulation, only 700 votes were reinstated to the Labourist Party. The Court seemed reluctant to consider the method for calculating the 7% threshold. The arrival of substantial numbers of police officers at the Court in the early morning hours did nothing to enhance confidence in the appeal process.

### C. Results and Repeat Elections

Following the first round of voting, according to the announcement made by the CEC on 7 November, 150 deputies were elected through the proportional system and 49 through the single-mandate district elections. The results of the elections were declared invalid in a few precincts in six districts (Akhaltzikhe, Lentekhi, Terjola, Tsalenjikha and Chokorotsku) and all precincts in the Martvili district. New elections for the single-mandate candidates were called for these precincts.

According to the results announced by the CEC, only three parties overcame the 7% threshold in the proportional ballot:

Citizens Union of Georgia (41.75%), Revival bloc (25.18%) and Industry Will Save Georgia (7.08%). The Labourist Party received 6.59%.

Under article 54.3, a second round run-off election was called in 20 districts (1, 5, 9, 10, 13, 16, 19, 29, 36, 38, 48, 54, 55, 56, 58, 59, 61, 63, 66 and 70) where no candidates received the necessary number of votes on 31 October.

In accordance with article 22.2.s, the CEC called for a new election to be held in Keda district where the 31 October ballot had been declared invalid. This should involve registration of new candidates and the appointment of a new DEC and PECs.

The CEC Protocol and the provisions of Articles 59 raise another issue. In allocating 150 seats by the proportional system and 75 by the plurality-majority system, 225 deputies would be returned to the Parliament through direct elections. A further 12 deputies would represent the territory of Abkhazia and two seats kept vacant for the districts of Java and Tskhinvali (South Ossetia). However, this brings the total potential number of deputies to 239 or 4 greater than stipulated by the Constitution. The CEC referred this problem to the newly elected Parliament.

## VII. ELECTION DAY – SECOND ROUND

Due to disruption in the office of the Martvili DEC between the two rounds, the vote was postponed in the district. A hunger strike was initiated in the district of Abasha by party members requesting the replacement of one of the candidates with another due to alleged violations in the vote count for the first round in one precinct. Limited monitoring revealed that the electronic media provided diverse political information but continued to favor the party in office, confirming the pattern identified before the first round.

The administrative preparations for the second round started late and were hampered by lack of clarity on the necessary procedures, particularly in the district of Martvili. A resolution of the Supreme Court to cancel the CEC decision on the first round of the vote in this district, issued on the evening of 12 November, further complicated the preparations for the second vote. Gldani, where theft of a substantial number of ballot papers occurred before the first round of the election, the CEC did not recognize the winning candidate and called for a second round.

The CEC decided not to use holograms as ballot security measure for the second round of the election. No formal decision was issued whether new ballots would have to be printed or ballots from the first round would have to be used again. However, new ballots were printed.

On election day 14 November, a number of observers reported unusual police presence in various districts of the country. Special police permission was required to enter some villages where reruns of particular precincts were conducted.

The polls were generally conducted according to the law. However, a significant number of unauthorized persons were observed inside polling stations and DEC's and observers reported cases of intimidation. In particular, violations were observed in Tbilisi, Abasha and Chkhorotsku.

According to observer reports, the vote count outside Tbilisi was conducted in a generally acceptable manner. However, in a number of precincts in Tbilisi, the counting procedures failed to meet international standards. Violence in Tbilisi District No 9, Nadzaladevi, allegedly provoked by supporters of the losing candidate who disrupted the work of a number of precincts shortly before the end of the voting, marred the election process in the district. As a result, from a total of 44 precincts in District No 9, seven did not submit protocols at the DEC and the ballots from another two precincts were to be counted at a later stage either at the DEC or at the CEC. Intimidation of PEC members during the counting procedures were reported in Tbilisi districts No 1, 5 and 9.

## VIII. FINAL RESULTS

The final outcome of these elections is summarised in the table below.<sup>23</sup>

Parties and Blocs	% Vote	Seats	Seats	Total	Total
	Proportional----->	SM	Seats	Seats	%

<sup>23</sup> Georgian Parliament official Web Site: [www.parliament.ge](http://www.parliament.ge).

Union of Citizens of Georgia	41.75%	85	47	132	56,17%
Revival of Georgia	25.18%	51	7	58	24.68%
Industry Will Save Georgia	7.08%	14	1	15	6.38%
Georgian Labour Party	6.69%	0	2	2	0.85%
National Democratic Alliance					
Third Way	4.45%	0			
People's Party – Didgori	4.11%	0			
Georgian United CP & Workers' Councils	1.35%	0			
25 other parties, together less than	1.00%	0			
Abkhazia MPs elected 1992	N/A	N/A	12	12	5.11%
<u>Independents</u>	<u>N/A</u>	<u>N/A</u>	<u>16</u>	<u>16</u>	<u>6.80%</u>
<b>Totals</b>		<b>150</b>	<b>83</b>	<b>235<sup>24</sup></b>	

Thus, the 1999 election in Georgia produced a clear majority and a well defined opposition in Parliament. The CUG strengthened its position to a dominant 57% in the new Parliament. The Revival Party together with the two Members of the Georgian Labour Party represent the opposition. The Industry Will Save Georgia cannot be characterised in terms of pro-government or opposition. The National Democratic Alliance which campaigned as the alternative between the CUG and the Revival of Georgia was the principle loser of this election.

## IX. RECOMMENDATIONS

1. The legal framework for elections in Georgia should be reviewed comprehensively in order to address the concerns outlined in this report.
2. The size of election districts (constituencies) should be reviewed to ensure that the number of voters in each constituency does not vary by more than 10% and thus guarantee the approximate equality of each vote in compliance with paragraph 7.3 of the Copenhagen Document.
3. The legal framework governing the work of civil status and residence registration offices at the municipal and central levels should be updated following an in-depth review. The amended legislation should clarify the responsibilities of all implementing agencies and guarantee that personal data of citizens regarding their civil status and permanent residence are collected, registered, maintained and accurately updated in an organised and timely manner, without violating the confidentiality of the data. This is a precondition for accurate voter lists.

<sup>24</sup> The seats of Martvili and Keda districts are still vacant as the election will be repeated after the presidential elections scheduled for 9 April 2000. In addition, two seats from South Ossetia are still vacant.

4. The responsibility for the compilation of voter lists should be tasked to the central state agency also responsible for the maintenance of civil register and to the municipal authorities in close co-operation with the Central Election Commission. Parties should have the right to access voter lists.
5. The number of registered voters in each precinct should not exceed 1,000 in order to improve voting and counting procedures.
6. The ruling party's dominant position within the election administration should be curtailed.
7. All members of election commissions at all levels should have access to all relevant election related documentation and information without hindrance.
8. The CEC should introduce clear and enforceable provisions to ensure equal treatment of political parties during the campaign and thus fully implement the provision of the election law.
9. The date of the beginning of a campaign period and the date when regulations concerning the election campaign should come into force, should be stipulated in the law.
10. The requirement for a non-parliamentary party to collect 50,000 signatures needs to be addressed. In the absence of reliable and transparent mechanism to check the signatures, this requirement can be abused and does not offer enough guarantee of integrity.
11. Political parties, election blocs and candidates should be given clear and timely advice by election commissions on the completion of nomination papers and sufficient time to correct minor technical errors. This would reduce the number of rejections, thereby offering voters the opportunity to vote for the candidate of their choice.
12. The law should specify a clear prohibition for unauthorised persons to be present in the working premises of all election commissions during all stages of the election process.
13. Proper identification badges should be provided to all individuals authorised to be present in precincts and higher election commission premises.
14. Adequate enforcement mechanisms need to be introduced to regulate the conduct of the media during the election campaign.
15. The introduction of transparent ballot boxes, as a safeguard against ballot stuffing would enhance the integrity of polling procedures and increase confidence in the election process.
16. A preliminary aggregation of results for the proportional ballot should take place at DEC level. These results should be included in an official protocol containing the breakdown by precincts, announced publicly and used to double check the official tabulation conducted by the CEC at the central level. Protocols at all levels should include more detailed information, e.g. the number of voters who registered on the supplementary list (if this legal provision is retained) and allow for a transparent balance of all figures.

17. The threshold for calculating if parties are eligible for allocation of seats by the proportional system should include only valid votes, as only those disclose a clear political choice.
18. The provision of the law that proportional vote can be repeated only when the total of votes in the PECs where results have been invalidated exceeds 10% of the total number of the voters should be reconsidered. Partial repeated voting should take place when the number of voters at the nullified polling stations can determine whether or not a party is represented in Parliament or can modify the allocation of seats among parties that overcame the threshold.