

## INTERNATIONAL ELECTION OBSERVATION MISSION

### Georgia — Presidential Election, 27 October 2013

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#### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

**Tbilisi, 28 October 2013** – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP) and the NATO Parliamentary Assembly (NATO PA).

João Soares (Portugal) was appointed as Special Co-ordinator by the OSCE Chairperson-in-Office to lead the short-term OSCE observer mission. Meritxell Mateu Pi (Andorra) headed the PACE delegation, Krzysztof Lisek (Poland) headed the EP delegation, Mati Raidma (Estonia) headed the NATO PA delegation, and Ilkka Kanerva (Finland) headed the OSCE PA delegation. Matteo Mecacci (Italy) is the Head of the OSCE/ODIHR Election Observation Mission (EOM), deployed from 19 September 2013.

The assessment was made to determine whether the elections complied with the OSCE commitments and Council of Europe standards for democratic elections, as well as with Georgia's international obligations and domestic legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report at its Standing Committee Meeting in Vienna in February 2014. The PACE delegation will present its report at its Standing Committee Session in Vienna on 22 November. The EP will present its report in the Committee on Foreign Affairs at its meeting on 4 November. The NATO PA will present its report to the Standing Committee at its next available meeting.

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#### PRELIMINARY CONCLUSIONS

The 27 October presidential election was efficiently administered, transparent and took place in an amicable and constructive environment. Fundamental freedoms of expression, movement, and assembly were respected and candidates were able to campaign without restriction. The campaign environment was without major irregularities. The media was less polarized during this election, and presented a broad range of viewpoints. On election day, voters were able to express their choice freely.

The electoral legal framework is comprehensive and provides a sound legal basis for the conduct of democratic elections. Numerous technical amendments were made to the electoral legislation ahead of the election, which addressed the majority of OSCE/ODIHR recommendations. However, several provisions of the Election Code remain unclear and were not applied in a consistent manner.

Twenty-three presidential candidates were registered by the Central Election Commission (CEC) in a transparent and inclusive manner. Twenty-four nominees were refused registration. Four of these challenged their refusals over dual citizenship but were rejected, which may not be in keeping with international good practice.

According to OSCE/ODIHR EOM interlocutors, the campaign environment was seen through the prism of the 2012 parliamentary elections and was notably less polarized. However, it was

negatively impacted by allegations of political pressure, including on United National Movement (UNM) representatives at local-self governmental institutions. The campaign gradually evolved from a direct confrontation between the Prime Minister and the President, which had overshadowed the political scene, to a competition among the main candidates. However, personality politics continued to dominate the public debate throughout the campaign.

The CEC managed the electoral preparations in a professional, transparent, and timely manner and enjoyed a high level of stakeholder confidence. CEC sessions and meetings were open to observers, non-governmental organizations, and the media. The CEC engaged in inclusive discussions with stakeholders on various election-related matters before making decisions.

District and Precinct Election Commissions (PECs) performed in a competent manner and largely managed preparations without difficulties. However, the insufficient experience of some PEC members was noted by various stakeholders. The appointment of six commission members by the parties of the Georgian Dream (GD) coalition and only one by the UNM to all levels of the election administration raised concerns by election contestants about an over-representation of the GD coalition.

Overall, there was confidence in the quality of voter lists. In August, a number of voters were removed from the voter register on the basis of incomplete data or invalid address registration. Only a small portion of these voters re-registered and were included in voter lists.

A wide range of views and information was available to voters through talk-shows, newscasts and free airtime, providing candidates with a platform to present their programs and opinions freely. Even though equal access was guaranteed only to those candidates who qualified for free airtime, the main media outlets covered all major contestants. The OSCE/ODIHR EOM monitoring showed that candidates nominated by the parties enjoyed an advantage over independent candidates because the media outlets focused more on the activities of the main political parties, rather than on the candidates' campaigns.

Numerous complaints were filed about the appointment of key PEC positions, campaigning by public officials, defacement of posters, harassment of party activists and vote buying; most of these were rejected. Complaints were also filed with the Inter-Agency Commission for Free and Fair Elections instead of with election commissions and courts that had the authority to impose sanctions and ensure an effective adjudication of disputes in line with international commitments and good practice.

The State Audit Office is mandated to respond to violations of campaign finance regulations and to apply sanctions. However, the decision not to react to campaign finance violations until after election day resulted in limited actual oversight.

Civil society and citizen observer organizations undertook a number of activities to support the electoral process and monitor the elections. The involvement of a large number of citizen observers and groups throughout the electoral process enhanced the transparency overall.

Although there were only three female candidates, one of these featured prominently in the campaign. Overall, women were well-represented in the election administration making up some 56 per cent of District Election Commission members and 65 per cent of PEC members. Four CEC members are women, including the chairperson.

Election day was assessed as professional and transparent overall. The assessment of opening, voting, counting, and tabulation by international observers was positive. Procedures were largely followed and international observers noted a high level of transparency throughout the day. The

main concern expressed was that polling stations were overcrowded with more observers than allowed by law, and that in some cases they were observed to have interfered in the process. The CEC started announcing results on election night and posted them on its website broken down by district and precinct; this is a positive measure to further increase transparency.

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## PRELIMINARY FINDINGS

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### Background

On 4 July, in line with legal and constitutional provisions, the president called the presidential election for 27 October. Constitutional amendments that come into force upon the inauguration of the new president will considerably reduce the powers of the president in favour of the prime minister and the parliament. The current prime minister announced that he would resign from office by 24 November. In such a case, according to the Constitutional amendments, the government will be dissolved and the new president will appoint as prime minister the candidate nominated by the parliamentary majority forming the government.

Since the 2012 parliamentary elections, the atmosphere has been marked by a tense cohabitation between the governing coalition, the Georgian Dream (GD), and the parliamentary opposition party, the United National Movement (UNM), and their respective leaders. This was compounded by arrests and pre-trial detention of several UNM officials, including its Secretary General, who was responsible for running their presidential campaign and a potential presidential candidate. Moreover, major political changes have taken place at the local level.

### Electoral System and Legal Framework

The president is elected by popular vote for a five-year term. To be elected in the first round, a candidate must receive more than 50 per cent of the valid votes cast. Otherwise, a second round between the two candidates with the highest number of votes is held two weeks after the official announcement of results. The candidate who receives the most votes in the second round is deemed elected.

The electoral legal framework is comprehensive and provides a sound legal basis for the conduct of democratic elections. The presidential election is primarily regulated by the Constitution, the Election Code and the Law on Political Unions of Citizens.<sup>1</sup>

Numerous technical amendments were made to the electoral legislation in 2013 following the 2012 parliamentary elections, which addressed the majority of OSCE/ODIHR recommendations. The amendments were adopted by consensus in the parliament and incorporated most of the recommendations made by non-governmental organizations (NGOs).<sup>2</sup>

The amendments that entered into force in August this year enhanced the framework, including through clarifications and greater safeguards to prevent the abuse of administrative resources; more equitable conditions for campaigning, including an obligation for presidential candidates to resign from incompatible offices; further regulation of the formation of election commissions; and changes to the rules for campaign financing.

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<sup>1</sup> Other applicable laws include the Administrative Procedures Code, Administrative Offences Code, Criminal Code, Law on Public Assemblies, and the Law on the Constitutional Court.

<sup>2</sup> International Society for Fair Elections and Democracy (ISFED), Georgian Young Lawyers Association (GYLA) and Transparency International Georgia.

Electoral stakeholders lacked a clear understanding of several legal provisions during the campaign. This included whether attendance of a campaign event is prohibited for public officials who are not allowed to participate in and conduct campaigning. The Inter-Agency Commission for Free and Fair Elections (IAC), an extra judicial body, which was re-established for this election and was composed of deputy ministers and headed by the Minister of Justice issued a non-binding recommendation indicating that passive attendance at campaign events was not prohibited.

In addition, interlocutors were unclear as to whether police officers had the right to attend campaign events and under which conditions. Subsequently, the Ministry for Internal Affairs issued two instructions stating that police officers could not attend campaign events when they were off duty, even if they were not in uniform.<sup>3</sup>

## **Election Administration**

The election was organized by three levels of election administration: the CEC; 73 District Election Commissions (DECs); and 3,655 Precinct Election Commissions (PECs). In addition, 34 special polling stations were established in penitentiary institutions, medical facilities and military bases, and 52 polling stations were established in diplomatic and consular missions abroad for out-of-country voting.<sup>4</sup>

The CEC managed the election preparations in a professional, transparent and timely manner and enjoyed a high level of stakeholder confidence. CEC sessions and meetings were open to observers, NGOs and the media. The CEC engaged in inclusive discussions with stakeholders on various election-related matters before making decisions. The CEC promptly uploaded session minutes, decrees, ordinances and decisions on complaints on its website in Georgian and English.

Election commissions at all levels have 13 members each, seven of whom are nominated by the political parties that qualify for state funding.<sup>5</sup> Five CEC members are appointed by the parliament with additional procedure to select the chairperson. For DECs and PECs, the remaining six members, in addition to the political party nominees, are appointed by higher levels of election commissions.

DECs and PECs performed their tasks in a competent manner and election preparations were largely managed without difficulties. However, the insufficient experience of some PEC members were made by various stakeholders.

The appointment of six commission members by the parties of the GD coalition and only one by the UNM to all levels of the election administration raised concerns by election contestants about an over-representation of the GD coalition.<sup>6</sup> The PEC chairperson, deputy chairperson and secretary positions were distributed according to legal requirements, and in 2,751 PECs, the chairperson

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<sup>3</sup> Article 25 of the Constitution and Article 1.2 of the Law on Public Assemblies stipulate that members of the armed forces and the Ministry of Internal Affairs (including the police) do not have the right of assembly. In addition, Article 45.4.c of the Election Code stipulates that they are not allowed to conduct and participate in campaigning.

<sup>4</sup> No polling stations were established in the Russian Federation due to the absence of diplomatic relations between the two countries.

<sup>5</sup> Parties that received the highest amount of state funding include the United National Movement, Georgian Dream–Democratic Georgia, Conservative Party, Republican Party, Our Georgia-Free Democrats and Political Movements “Industry will save Georgia”, and National Forum.

<sup>6</sup> See paragraph 72 of the European Commission for Democracy through Law (Venice Commission), Code of Good Practice in Electoral Matters: [http://www.venice.coe.int/webforms/documents/CDL-AD\(2002\)023rev.aspx](http://www.venice.coe.int/webforms/documents/CDL-AD(2002)023rev.aspx).

positions were held by staff appointed by the DEC<sup>7</sup>. However, in precincts where the chairpersons were elected from among the political appointees, the result heavily favoured the GD coalition over the UNM. This trend was also repeated for the deputy chairperson and secretary positions.<sup>8</sup>

Four CEC members are women, including the chairperson. At lower levels, women comprised approximately 56 per cent of DEC members and held 24 per cent of the chairperson positions. Women represented some 65 per cent of PEC members, and served as chairpersons in 53 per cent of PECs.

A CEC voter information campaign with messages on different electoral aspects was broadcast on public and private media, including television (TV) information spots broadcast in minority languages and in sign language. The CEC Training Centre conducted training sessions for PEC officials, which were well attended. According to the OSCE/ODIHR EOM and attendees, the training materials were comprehensive and well written. In addition, trainings were conducted for various stakeholders, including local administration officials, the Council of National Minorities, public defender, workers in penitentiary institutions, media representatives, citizen observers, and political party representatives. These trainings were interactive and assessed positively by participants, NGOs, and the OSCE/ODIHR EOM.<sup>9</sup>

### **Voter Registration**

The CEC is responsible for compiling the voter lists (VLs) based on information provided by the State Services Development Agency (SSDA) within the Ministry of Justice and other relevant authorities.<sup>10</sup> The CEC announced the final number of voters at 3,537,719, including 48,458 voters registered abroad.

In August, approximately 98,000 voters were removed from the SSDA register on the basis of incomplete data or invalid address registration.<sup>11</sup> These voters needed to re-register by 10 October to be included in VLs for the election. The limited time period given to the SSDA to adequately notify and re-register these voters was inadequate. The SSDA announced that by the deadline, 9,142 deregistered voters had re-registered.

VLs were posted at PECs for public scrutiny with changes possible until 11 October. The PECs distributed two rounds of voter information cards. In some limited cases associated with internally displaced persons, PECs could not find the voters at their listed place of residence. According to the election administration, very few voters went to PECs to check their data on VLs. It was also possible to check this data on the CEC website. Overall, there was confidence in the quality of VLs.

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<sup>7</sup> The chairperson, deputy chairperson and secretary cannot be from the same “election subject”, which is defined in the Election Code as political parties, election blocs, candidates and initiative groups of voters. In 37 PECs, the results of the first sessions were cancelled due to not following this provision. Subsequently, the members for these positions were reappointed and the sessions were re-run.

<sup>8</sup> This included 873 chairpersons from the GD and 23 from the UNM; 918 deputy chairpersons from the GD and 100 from the UNM; and 742 secretaries from the GD and 164 from the UNM. For selecting the three key PEC positions, the six parties of the GD coalition were counted as one election subject.

<sup>9</sup> As reported by OSCE/ODIHR LTO teams in Samegrelo-Zemo Svaneti, Racha, Imereti, Guria, Samtskhe-Javakheti, and Kvemo Kartli.

<sup>10</sup> Ministry of Defense, Ministry of Corrections and Legal Assistance, Ministry of Internally Displaced Persons, Local self-government bodies and the Supreme Court.

<sup>11</sup> The CEC noted that after subtracting voters abroad, the actual number of de-registered voters was approximately 75,000. The de-registered voters were allowed to vote in the 2010 and 2012 elections because of special legal provisions, which were not applicable for this election according to a parliamentary decision.

## Candidate Registration

Under the Constitution, any citizen of Georgia who has the right to vote, is at least 35 years of age, has lived in Georgia for at least five years, and resided in Georgia for at least the three previous years before the election is called, may be elected as the president.<sup>12</sup> These residency requirements appear disproportionate and at odds with international standards.<sup>13</sup>

Candidate registration was overseen by the CEC and was conducted in a transparent and inclusive manner. Political parties and independent candidates submitted applications to the CEC and were then required to collect signatures of at least 0.75 per cent of registered voters (equal to 26,530 voters).<sup>14</sup> The CEC received 54 applications - 42 from independent candidates and 12 from political parties. In total, the CEC registered 23 candidates, 10 nominated by political parties and 13 independent candidates.<sup>15</sup> Three candidates were women.

Seven nominees withdrew and twenty-four nominees were refused registration, some for not fulfilling legal requirements.<sup>16</sup> Nine nominees filed complaints with the CEC. Four of these challenged their refusals over dual citizenship. All complaints were rejected by the CEC and the courts. The rejection of candidatures of dual citizens could be considered restrictive and not in keeping with international good practice.<sup>17</sup>

## Campaign Environment

Freedoms of expression, movement, and assembly were respected and candidates were able to campaign freely without restriction. According to OSCE/ODIHR EOM interlocutors, the campaign environment was seen through the prism of the 2012 parliamentary elections and notably less polarized. However, it was negatively impacted by allegations of political pressure, including on UNM representatives at local-self governmental institutions. The campaign gradually evolved from a direct confrontation between the Prime Minister and the President, which had overshadowed the political scene, to a competition among the main candidates. However, personality politics continued to dominate the public debate throughout the campaign.

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<sup>12</sup> The Constitution also includes transitional provisions allowing people who hold citizenship from a European Union Member State to stand, which will expire on 1 January 2014 (see Article 104<sup>4</sup>).

<sup>13</sup> “Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation”. See Paragraph 14 of General Comment No. 25 (1996) to Article 25 of the International Covenant on Civil and Political Rights (ICCPR) by the UN Human Rights Committee. See also paragraphs 26-27 of the 2011 Joint Opinion of the OSCE/ODIHR and the Venice Commission (no. 617/2011).

<sup>14</sup> Independent candidates are nominated by an initiative group made up of five voters.

<sup>15</sup> Candidates nominated by parties: Akaki Asatiani (Union of Georgian Traditionalists), Davit Bakradze (United National Movement), Nino Burjanadze (Democratic Movement–United Georgia), Koba Davitashvili (People’s Party), Sergo Javakhidze (Justice for Georgia), Zurab Kharatishvili (European Democrats), Giorgi Margvelashvili (Georgian Dream-Democratic Georgia), Teimuraz Mzhavia (Christian Democratic People’s Party), Shalva Natelashvili (Labour Party of Georgia), Giorgi Targamadze (Christian-Democratic Movement). Independent candidates: Nugzar Avaliani, Tamaz Bibiluri, Teimuraz Bobokhidze, Levan Chachua, Nino Chanishvili, Giorgi Chikhladze, Mamuka Chokhonelidze, Kartlos Gharibashvili, Nestan Kirtadze, Giorgi Liluashvili, Avtandil Margiani, Mamuka Melikishvili, Mikheil Saluashvili.

<sup>16</sup> Of these 24, five were rejected for holding dual citizenship, twelve for not submitting the list of supporters within the defined terms, one for submitting fewer support signatures than required, three for submitting incomplete documentation, two for not correcting inaccuracies on supporter lists, and one for termination of the Georgian citizenship. The rejected nominees with dual citizenship included Salome Zurabishvili, Taniel Khvedelidze, Merab Suliashvili, Giorgi Gakhokia and Zurab Tsitsushvili.

<sup>17</sup> See Article 3 of the First Protocol of the European Convention on Human Rights and paragraph 1.1.b of the Venice Commission’s Code of Good Practice on Electoral Matters.

Isolated cases of harassment of party activists by rival supporters and instances of violence were noted during the campaign period.<sup>18</sup> The UNM reported a few incidents of intimidation of affiliated local officials or party representatives by authorities.<sup>19</sup> The UNM and other parties also complained about public officials campaigning, and the removal of posters; most of these were considered unfounded by the OSCE/ODIHR EOM. The misuse of administrative resources did not become a major issue during the campaign.

In spite of the large number of candidates, the campaign lacked vitality. Only Giorgi Margvelashvili (GD-DG), Davit Bakradze (UNM), Nino Burjanadze (Democratic Movement-United Georgia (DM-UG)) and to a lesser extent Koba Davitashvili (People's Party), Shalva Natelashvili (Labour Party), and Giorgi Targamadze (Christian-Democratic Movement) actively campaigned throughout the country.<sup>20</sup> Campaign methods included rallies, billboard and posters, small meetings with voters, press conferences and to a limited extent social media. Most candidates focused campaigning on door-to-door activities. The OSCE/ODIHR EOM noted that many interlocutors viewed the campaign as a run-up to the local elections due in May 2014.

The most prominent campaign message was to guarantee the respect of people's rights and protection from government abuse. Even though the president will have reduced authority to effect policy, candidates promoted a range of issues including education, employment and social welfare. Territorial integrity and relations with the Russian Federation featured prominently, and the "restoration of justice" was mentioned in several candidates' programmes, with calls for officials appointed by the previous government and its main local and national leaders to be brought to justice.

Mr. Margvelashvili's campaign was supported throughout by the GD members of parliament and members of the government, including the Prime Minister, both at rallies and in the media. During the campaign, the Prime Minister was prominent in TV appearances. A main point of the GD campaign was his donation of one billion USD to a Georgian co-investment fund (See Media Section). His announcement that he would resign and name his successor after the election also featured as a campaign issue.

## Campaign Finance

The Law on Political Unions of Citizens and the Election Code regulate public and private funding of political parties, reporting and disclosure requirements, establish ceilings on donations and campaign expenditures, and provide sanctions for violations. The legislation was amended in August 2013, following the 2012 parliamentary elections. The most recent amendments addressed the major outstanding concerns of OSCE/ODIHR EOM interlocutors and were passed by parliament in a consultative manner. The legal framework could be effective in ensuring the integrity and transparency of campaign financing, if implemented properly.

The Financial Monitoring Service for Political Finances of the State Audit Office (SAO) is mandated to respond to violations of campaign finance regulations and apply sanctions.<sup>21</sup> The law does not set the deadlines for the SAO to scrutinize the financial declarations of the contestants.

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<sup>18</sup> During the UNM primaries in July, at least 17 people were arrested for throwing objects at UNM leaders and attempting to disrupt the events. They were charged with petty hooliganism, and all but one was fined with GEL 100 each. From August to October, some fifteen other cases involving filming of activists at rallies, altercations during the posting of election materials and physical assaults were brought to the attention of the IAC and the OSCE/ODIHR EOM, by the UNM, DM-UG and Labour Party.

<sup>19</sup> In two cases the UNM filed complaints with the prosecutor's office.

<sup>20</sup> Mr. Margvelashvili was put forth by the GD coalition as its presidential candidate, although as coalitions are not permitted to nominate candidates, he was formally nominated by the GD-DG.

<sup>21</sup> Fines of GEL 2,000 were imposed in two cases for failing to notify the SAO about cash withdrawals from bank accounts.

However, in practice the SAO examined these declarations in a timely manner. Additionally, there is no deadline for the SAO to address campaign finance violations. The statute of limitations for violations of campaign finance requirements is six years. The absence of clear deadlines for addressing violations raised concerns about the effectiveness of campaign finance oversight.

The vast majority of parties and independent candidates submitted income and expenditure reports within the reporting deadline, with no action taken by the SAO for those not submitting reports. The SAO is not required to publish these reports, although to ensure a greater level of transparency the SAO made the reports publicly available on its website. Several OSCE/ODIHR EOM interlocutors expressed concerns during the campaign about the low level of oversight being exercised by the SAO. The SAO informed the OSCE/ODIHR EOM that it decided to only react to campaign finance violations after election day in order to avoid having an effect on the electoral process. This decision resulted in limited actual oversight.

Although the ban on corporate donations was lifted in 2013, no donations from legal entities were received by any candidate. Some 152 donors contributed GEL 1,791,861 to the GD and 343 donors contributed GEL 1,819,585 to DM-UG. The UNM reported receiving GEL 375,093 from 85 donors for the given period.

## Media

Interlocutors consider the media environment more open than during the 2012 elections and journalists are noted as covering major political events in a more inclusive manner. National TV remains the prime source of information for the overwhelming majority of voters. Print media outlets offer a wider spectrum of views; however, they have limited influence and are gradually being replaced by online media.

The improved media environment provided voters with a wide range of views through talk-shows, free airtime and debates. However, critical analysis and analytical reporting is still lacking. Candidates were provided with a platform to present their programs and opinions freely. Newscasts provided daily coverage of the main contestants, although they were more focused on the everyday campaign activities of the candidates rather than their respective platforms.

The law created two categories of candidates; those who qualify for free airtime and those who do not.<sup>22</sup> This distinction provided significant benefit to qualified candidates and limited the ability of non-qualified candidates to campaign on the same level. Non-qualified candidates criticized this distinction as arbitrary in the context of the presidential election and held a press conference calling for equal conditions for media coverage and state funding for all candidates.

Despite this, prominent non-qualified candidates received considerable coverage in the news and talk-shows. In a positive development, starting from 10 October, the Georgian Public Broadcaster (GPB) included Ms. Burjanadze on the list of candidates who qualified for free airtime based on public opinion polls.<sup>23</sup> By contrast, private broadcasters chose not to allocate free airtime to her. *GPB-1* organized two debates among different qualified candidates on 17 and 18 October. Ms. Burjanadze chose not to participate in debates because she was not included in the first grouping,

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<sup>22</sup> Free airtime (60 seconds per hour on public broadcasters, and 90 seconds per three hours on private broadcasters) was allocated to each political party that received either four per cent in the last parliamentary elections or three per cent in the last local elections. This included Giorgi Margvelashvili (GD-DG) Davit Bakradze (UNM), Koba Davitashvili (People's Party), Sergo Javakhidze (Movement "For Fair Georgia"), Giorgi Targamadze (Christian-Democratic Movement), Zurab Kharatishvili (European Democrats), and Teimuraz Mzhavia (Christian-Democratic People's Party).

<sup>23</sup> A political party that receives more than four per cent in an opinion poll held no later than a month before the election may be allocated free airtime.



which included the candidates Mr. Margvelashvili and Mr. Bakradze. Only Ms. Burjanadze actively purchased airtime on national TV, while Mr. Bakradze, Mr. Chikhladze, Ms. Kirtadze, and Mr. Margvelashvili purchased a limited number of advertisements. While entitled, the UNM and GD-DG did not use their allocated state funding for advertising on private TV stations.<sup>24</sup>

The OSCE/ODIHR EOM monitoring showed that media outlets focused more on the activities of the parliamentary political parties and the government than on the activities of specific candidates.<sup>25</sup> In addition, all major national TV stations broadcast live three meetings lasting over 11 hours in total between the Prime Minister and political experts and journalists. During these meetings and two lengthy interviews on *GPB-1* and *Imedi*, the Prime Minister criticized the work of the experts and journalists in covering the government and election, and openly campaigned for Mr. Margvelashvili, effectively providing him with additional airtime.

Only the *GPB-1* provided qualified candidates with equitable coverage. In its newscasts *GPB-1* provided similar proportions (from 12 to 15 per cent of election-related coverage) to Mr. Bakradze, Ms. Burjanadze, Mr. Margvelashvili and Mr. Targamadze. Mr. Davitashvili, Mr. Kharatishvili, Mr. Mzhavia and the non-qualified candidates, Ms. Kirtadze and Mr. Natelashvili each received from six to eight per cent.

The newscasts of all private broadcasters monitored by the OSCE/ODIHR EOM mainly focused on the activities of Mr. Margvelashvili and Mr. Bakradze. TV *Maestro* devoted similar proportions of coverage to both candidates, which was mainly neutral in tone. While *Rustavi 2* and *Imedi* were mainly positive and neutral when covering both candidates, they devoted more time to Mr. Bakradze. TV *Kavkasia* favored Mr. Margvelashvili both in tone and the amount of coverage. Additionally, private broadcasters provided significant coverage to Ms. Burjanadze and Mr. Targamadze, which was mainly neutral in tone.

Batumi-based TV *Adjara* focused more on regional issues, providing limited coverage of the campaign activities of the candidates. When TV *Adjara* did cover the campaign, it clearly favored Mr. Margvelashvili, who received 14 per cent of mostly positive coverage, while none of the other candidates received more than 8 per cent of similar coverage. In its newscasts, TV *Adjara* included profiles of all candidates and presented their background and main election messages.

The Georgian National Communications Commission (GNCC) is the key media regulatory body responsible for overseeing the activities of the broadcast media. The GNCC did not present any interim monitoring results and intended to release its first interim report shortly after election day. It informed the OSCE/ODIHR EOM that it did not receive any election-related complaints, but identified one minor violation related to the airing of political advertisements.

## National Minorities

National minorities enjoy full political rights under the Constitution. According to the 2002 census, they make up 16.2 per cent of the population with the most significant minority groups being Azeri (6.5 per cent) and Armenians (5.7 per cent), concentrated in border regions. Georgia has ratified the Council of Europe Framework Convention for the Protection of National Minorities.

For this election, the CEC established a special working group on ethnic minority issues, organized meetings with national minority representatives, and made visits to minority regions. The CEC

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<sup>24</sup> According to the Law on Political Unions of Citizens, extra funding for TV advertisements is awarded to parties that qualify for general state funding and have nominated a presidential candidate. The UNM and GD-DG are the only parties that meet these criteria and are entitled to GEL 600,000 and 100,000, respectively.

<sup>25</sup> The monitoring was conducted from 23 September until 26 October and focused on primetime hours (18:00 - 24:00). The media outlets monitored included: *GPB-1*, TV *Adjara*, *Rustavi-2*, *Imedi*, *Maestro*, and *Kavkasia*.

provided grants to support civic integration and increase national minority participation in the election process. They also carried out trainings, awareness-raising, and voter education projects in co-operation with several minority NGOs in minority languages and areas.

All interested presidential candidates were able to set up local election offices in national minority regions and carry out election campaigns without hindrance. The three most visible campaigns in the national minority areas were by the GD-DG, UNM and DM-UG candidates. During the pre-election period the overall situation in national minority regions was calm and no significant incidents took place. In addition to the state language, the CEC provided election-related documents in Armenian and Azeri. The CEC webpage also provided information in the Abkhaz language. During the election period, the CEC operated a hotline in minority languages.

### Complaints and Appeals

The Election Code establishes an expeditious dispute resolution process for complaints and appeals against election commission decisions with one to three calendar days allotted for appeals and decisions. All election stakeholders have the right to file complaints. In addition, election commissions may submit administrative protocols of violations to a city or district court requesting administrative sanctions. Complaints on a number of issues may be lodged directly to the courts, as well as election commissions, thus creating the potential for conflicting jurisdiction. Depending on the nature of the violation, the courts adjudicate within three to fifteen days. Appeals are made to the Court of Appeals and its decisions are final.

The deadline for the CEC and DEC's to review complaints other than against lower level election commission decisions is one month. Even though the time limit does not ensure that disputes are adjudicated in a timely manner within the election period, which goes against international good practice,<sup>26</sup> the CEC and DEC's decided on most such complaints before election day.

Some 100 complaints were filed with the CEC and DEC's on the appointment of key PEC positions, campaigning by public officials, defacement of posters, harassment of party activists, and vote buying; most of these were rejected.<sup>27</sup> Complaints were reviewed by the CEC in open and interactive sessions where complainants had the opportunity to present the facts and their arguments. However, in a number of these cases, the person who allegedly committed the offense was not invited to the respective CEC session and thus did not have the opportunity to be heard.<sup>28</sup>

The IAC dealt with over 80 cases brought to its attention either by letter or orally at the nine sessions.<sup>29</sup> The majority of cases concerned allegations of prohibited campaigning by public officials, defacement of posters and harassment of candidate supporters. The IAC discussed almost all complaints even when they went beyond its mandate.<sup>30</sup> The IAC issued 16 recommendations to various stakeholders including recommending that state and local government bodies should issue explanatory notes to public servants on what they are permitted to do during the election period and that they refrain from dismissal of government personnel.<sup>31</sup>

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<sup>26</sup> See paragraph 95 of the Venice Commission's Code of Good Practice in Electoral Matters.

<sup>27</sup> No fines were imposed for any violations. Four cases were sent to the courts.

<sup>28</sup> This runs contrary to paragraph 5.16 of the 1990 OSCE Copenhagen Document and paragraph 100 of Venice Commission's Code of Good Electoral Practice in Electoral Matters.

<sup>29</sup> See Article 48.9 of the Election Code; it is mandated to 'prevent and respond to violations of the election legislation of Georgia by public servants' and 'to issue recommendations to any public servant, administrative body and the CEC requesting to take appropriate measures'.

<sup>30</sup> For instance, the IAC discussed the rejection of the registration of Ms. Zurabishvili, the request of free airtime by Ms. Burjanadze, and the defacement of campaign posters.

<sup>31</sup> The IAC issued recommendations to the President of Georgia, parliament, ministries and other state agencies, local authorities, CEC, courts the prosecutor's office and political parties.

The practice of filing complaints with the IAC instead of with election commissions and courts that have the authority to impose sanctions did not ensure an effective adjudication of disputes in line with international commitments and good practice.<sup>32</sup> In one instance, the IAC recommended to the prosecutor to refrain from investigations of party activists during the campaign period. Although well-intentioned, this could lead to election related violations not being investigated in a timely manner.

### **Citizen and International Observers**

The Election Code provides for observation by citizen and international observers. The CEC registered 60 citizen and 65 international organizations to observe this election. Overall, the CEC accredited approximately 19,746 citizen and 1,241 international observers. Additionally, parties and candidates nominated representatives to observe election day procedures. Civil society and citizen observer organizations undertook a number of activities to support the electoral process and monitor the elections, including observation of the pre-electoral process, deployment of observers on election day, monitoring of the work of DEC's and of the media, voter list verification, parallel vote tabulation, establishment of telephone hotlines and information websites. The involvement of a large number of citizen observers and groups throughout the electoral process enhanced the transparency overall.

### **Election Day, Counting and Tabulation of Results**

Election day took place in an amicable and constructive environment. International observers assessed the overall process positively, although some technical irregularities were noted throughout the day. The CEC started announcing results on election night and posted them on its website broken down by district and precinct; this is a positive measure to further increase transparency. The preliminary voter turnout was reported at 46.6 per cent.

International observers positively assessed opening procedures in 146 of 157 PECs observed. However, small delays in opening were observed in 43 polling stations, which did not affect voting. Candidate and party representatives were present in 148 polling stations and citizen observers in 119 polling stations observed. However, in 12 cases, they were observed directing or interfering in the work of the PECs. Minor procedural problems included not entering the number of voters and ballots in the display protocol or logbook in 20 PECs.

In a positive overall assessment of voting by international observers, they evaluated the process as good or very good in 97 per cent of observations. Observers were not obstructed and could clearly observe procedures in 99 per cent of polling stations. However, the voting process was assessed less positively in 91 cases, mostly because of PEC overcrowding due to the high number of citizen observers and candidate and party representatives present, often with multiple representatives in the polling station at the same time. In three per cent of polling stations observed, these people were noted as directing or interfering in the work of the PECs. In 13 per cent of polling stations observed, the display protocol was not filled in properly and the number of voters not recorded as required by law. The performance of the PECs and their understanding of voting procedures as well as the transparency of the process were assessed positively in 95 and 97 per cent of observations, respectively. Women served as chairpersons in 56 per cent of PECs observed.

Counting was assessed positively in 92 of 102 polling stations observed. International observers had a clear view of the counting process in 101 polling stations observed. Counting was assessed as transparent in 99 of 105 observations, however, in 18 polling stations PECs had some difficulties in filling the results protocols and in 32 cases they were not was not publicly posted, as required by

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<sup>32</sup> See Article 2.3c of the ICCPR, and paragraphs 92-100 of the Venice Commission's Code of Good Practice in Electoral Matters.

law. In 13 cases the PECs did not announce the choice on every ballot aloud, which is a key measure of transparency, and did not cross-check data after counting in 15 cases.

The tabulation process was assessed as good or very good in 74 of 79 observations from 65 DEC's. International observers were generally able to follow it without restrictions. The facilities for receiving election materials were assessed as inadequate in 16 observations, and in 16 cases the high number of people present at the DEC's negatively affected the process. Candidate and party observers and citizen observers were well-represented in the DEC's observed.

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

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#### MISSION INFORMATION & ACKNOWLEDGEMENTS

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Tbilisi, 28 October 2013 - The OSCE/ODIHR EOM opened in Tbilisi on 19 September. It includes 16 experts in the capital and 28 long-term observers deployed throughout Georgia.

On election day, 401 observers from 45 countries, were deployed, including 274 long-term and short-term observers deployed by the OSCE/ODIHR, as well as 65 parliamentarians and staff from the OSCE PA, 32 from the PACE, 11 from the EP and 19 from the NATO PA. Voting was observed in 1,467 polling stations across the country. The tabulation process was observed in 65 DEC's.

The observers wish to thank the authorities of Georgia for the invitation to observe the election; the Central Election Commission for its co-operation and for providing accreditation documents, and, the Ministry of Foreign Affairs and other authorities for their assistance and co-operation. The observers also wish to express appreciation to the embassies and international organizations accredited in Georgia for their co-operation and support.

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