



Office for Democratic Institutions and Human Rights

GEORGIA

MUNICIPAL ELECTIONS 2010

May 2010

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

17 – 19 February 2010



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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	EXECUTIVE SUMMARY	1
III.	FINDINGS.....	3
A.	POLITICAL CONTEXT	3
B.	LEGAL FRAMEWORK.....	4
C.	ELECTORAL SYSTEM.....	4
D.	ELECTION ADMINISTRATION.....	5
E.	VOTER REGISTRATION.....	6
F.	CAMPAIGN ENVIRONMENT	7
G.	MEDIA FRAMEWORK.....	8
H.	ELECTION OBSERVATION	8
IV.	CONCLUSIONS AND RECOMMENDATION.....	9
	ANNEX: LIST OF MEETINGS	10

**GEORGIA
MUNICIPAL ELECTIONS 2010**

OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the Ministry of Foreign Affairs of Georgia to observe the 2010 municipal elections, and in line with its standard methodology, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to Tbilisi from 17 to 19 February 2010. The NAM included Mr. Konrad Olszewski, Deputy Head of the OSCE/ODIHR Election Department, and Ms. Tatyana Bogussevich, OSCE/ODIHR Election Adviser.

The purpose of the OSCE/ODIHR NAM was to assess the pre-electoral environment and the preparations for the elections, and to make recommendations regarding a possible OSCE/ODIHR observation activity. The OSCE/ODIHR NAM met the Ministry of Foreign Affairs, the Central Election Commission, Parliament, Civil Registry Office, as well as the representatives of political parties, civil society, mass media and resident diplomatic community. A full list of meetings is included as an annex to this report.

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs of Georgia for its assistance in organizing the NAM. The OSCE/ODIHR also expresses its appreciation to the Special Representative of the Secretary General of the Council of Europe in Georgia and the United Nations Development Programme (UNDP) for advice and organizational support provided to the NAM. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM.

II. EXECUTIVE SUMMARY

According to the Unified Election Code (UEC), the next municipal elections are due to take place before 1 June 2010. President Mikheil Saakashvili announced his intention to call elections for 30 May 2010. Members of 63 local councils (*sakrebulo*s) in municipalities and self-governing cities, the Tbilisi Council (*Sakrebulo*) and the Mayor of Tbilisi will be elected under different election systems. For the first time, the Mayor of Tbilisi will be directly elected.

The UEC was significantly altered in December 2009 following the adoption of amendments negotiated by political parties in the framework of a working group on election legislation. The majority of the OSCE/ODIHR NAM interlocutors supported these amendments and regarded them as an important achievement reached by the government and the opposition.

Elections will be organized by a three-tiered election administration, including the Central Election Commission (CEC), 73 District Election Commissions (DECs) and some 3,500 Precinct Election Commissions (PECs). The composition of commissions at all levels allows for the representation of political parties. The CEC, headed by a new chairperson, is undertaking measures to enhance the transparency and inclusiveness of

its work, including through regular meetings with political parties, civil society and media. Following the 2009 amendments, opposition political parties have a right to nominate secretaries of all PECs.

Georgian citizens at least 18 years of age and registered in a respective electoral district are eligible to vote. Some limitations on the right to vote are imposed, *inter alia* in respect of prisoners. In contradiction with Paragraph 7.5 of the 1990 OSCE Copenhagen Document, recent amendments removed a possibility for independent candidates to contest local elections.¹ Only registered political parties and electoral blocs are granted the right to put forward party lists and candidates.

The quality of voters lists remains one of the most contentious issues but many efforts have been undertaken to address this problem. The CEC maintains the centralized voter register on the basis of information provided by the Civil Registry Agency (CRA). While the CRA estimate that potential errors in the voter data do not exceed one per cent, political parties and civil society groups still lack confidence in their accuracy. The amended UEC grants political parties the right to verify voters lists and foresees state funding for this purpose. The verification is ongoing and is due to be completed by 31 March. According to the CEC, some 3.58 million voters will be eligible to cast their ballots in these elections.

While many political parties are planning to put forward lists and candidates across the country, the race for the Tbilisi Mayor is likely to become the main focus of the elections. Opposition political parties are negotiating the possibility of nominating a single candidate for the Tbilisi Mayor to compete with the incumbent representing the governing United National Movement. Many interlocutors expressed concern with regard to the potential misuse of administrative resources during the elections and opined that the legislation does not contain sufficient safeguards and lacks precision in this respect.

Television is considered to be the primary source of information. Most of the OSCE/ODIHR interlocutors were critical of the Georgian Public Broadcaster (GPB), stating its news coverage and political affairs programmes lacked balance and impartiality required of a public broadcaster and was biased in favor of the authorities. Opposition political parties complained that the GPB's coverage of their activities was very limited and mostly negative in tone.

Domestic civil society organizations are planning to deploy some 3,500 short-term observers to follow election-day proceedings. Some organizations expressed concerns with regard to a new provision allowing the imposition of fines on election observers for interfering in the work of election commissions.

All OSCE/ODIHR NAM interlocutors strongly encouraged an observation activity by the OSCE/ODIHR in connection with the upcoming municipal elections and emphasized that the presence of international observers will be crucial during the pre-electoral period. The OSCE/ODIHR NAM recommends that a standard Election

¹ Paragraph 7.5 of the 1990 OSCE Copenhagen Document requires that OSCE participating States respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.

Observation Mission (EOM) be deployed to observe these elections. In addition to the deployment of a core team of experts, the OSCE/ODIHR will request participating States to second 30 long-term and 350 short-term observers.

III. FINDINGS

A. POLITICAL CONTEXT

Since the mid-nineties, the OSCE/ODIHR has observed numerous elections in Georgia, including the 2006 municipal elections and extraordinary presidential and parliamentary elections held in 2008.² The OSCE/ODIHR concluded that the 2008 parliamentary elections offered an opportunity for the Georgian people to choose their representatives from amongst a wide array of choices, and that the authorities and other political stakeholders made efforts to conduct these elections in line with the OSCE and Council of Europe commitments. However, a number of problems were identified which made this implementation uneven and incomplete.

Following the 2008 parliamentary elections, the governing UNM held the majority of mandates (119) in the 150-seat parliament. The United Opposition, which represented a range of opposition political parties and figures, gained 17 mandates. However, in protest against the alleged violations in the conduct of elections, most of them refused to take up their parliamentary seats. In addition, the Christian Democratic Party and the Labor Party each gained six mandates, and the Republican Party two.

Since these elections, the political climate has been highly polarized. Opposition political parties, including those newly established by former high-ranking government officials, expressed strong criticism of the president and the governing party, and organized demonstrations demanding urgent, comprehensive constitutional and legal reforms, including the electoral framework. The armed conflict that erupted in August 2008 became an additional aggravating factor to an already tense internal political situation.

In September 2008, recognizing the gravity of the political crisis and seeking ways of overcoming it, the authorities proposed a package of reforms, which *inter alia* envisaged the strengthening of the role of parliament, enhancing the independence of the judiciary and pluralism in the media. Opposition political parties were granted the right to nominate up to three vice-chairpersons of the parliament and vice-chairpersons on each parliamentary committee. The Law on Political Parties was amended in December 2008 to restore the state funding of parliamentary political parties, which refused to take up their seats after the 2008 elections.

Negotiations over electoral reforms resumed in March 2009 and a cross-party election legislation working group was formed under the auspices of the Washington-based National Democratic Institute (NDI). Although some political parties chose not to take part in the working group, participants were able to reach a consensus on several long-

² Previous reports by the OSCE/ODIHR on observed elections in Georgia are available at www.osce.org/odihr-elections/30930.html.

standing issues in a process that was assessed as overall inclusive, open and constructive by the majority of the OSCE/ODIHR NAM interlocutors.

B. LEGAL FRAMEWORK

The UEC, the primary legislation regulating the conduct of elections, was adopted in 2001 and amended numerous times since then. Most recent amendments were adopted on 28 December 2009 following the agreement negotiated in the election legislation working group. Some changes addressed a few previous recommendations by the OSCE/ODIHR. The majority of interlocutors of the OSCE/ODIHR NAM expressed general satisfaction with the recent amendments and regarded them as an important achievement by the government and the opposition. The procedure for nominating the CEC chairperson and the introduction of a direct election of Tbilisi Mayor were of particular significance. However, some political parties found it regrettable that direct elections of mayors were not extended to other large cities as initially declared by the authorities.

In its last joint review of the UEC published in October 2008, the OSCE/ODIHR and the Venice Commission of the Council of Europe (VC/CoE) concluded that the Code generally provided an adequate basis for the conduct of democratic elections. However, they noted that further changes were required. Particular concerns were expressed with regard to provisions that allow political officials to campaign while conducting their official duties and regarding the possibility to use administrative resources for campaigning provided they are accessible to all contestants.³

Provisions related to complaints and appeals process continue to require further clarification and simplification. The 2008 OSCE/ODIHR and VC/CoE legal review of the UEC noted that these procedures were overly complex and ambiguous which negatively affected their implementation during previous elections.⁴ The December 2009 amendments were assessed by the OSCE/ODIHR NAM interlocutors as having brought about only marginal improvements in this area. Among others, in line with previous recommendation by the OSCE/ODIHR, the deadlines for the submission of electoral complaints and for the review of appeals by the Appellate Court were extended from 24 to 48 hours.

C. ELECTORAL SYSTEM

The 2010 municipal elections will be conducted to elect members of local self-government bodies, including 63 local councils in municipalities and self-governing cities, the Tbilisi Council and the Mayor of Tbilisi. Following the demands of the opposition, the electoral system for municipal elections has been significantly altered in December 2009.

Members of local councils, excluding the Tbilisi *Sakrebulo*, will be elected under a mixed proportional-majoritarian system for a four-year term. Outside the capital, the number of majoritarian and party list candidates elected to each council varies

³ Joint Opinion by the OSCE/ODIHR and the VC/CoE on the Election Code of Georgia, 28 October 2008, paras 50-54, available at www.osce.org/documents/odihr/2008/11/34741_en.pdf.

⁴ *Ibid*, Joint Opinion, para 107.

depending on the administrative status of the territorial unit and the number of voters in the unit. The territory of each self-government unit constitutes one electoral district. For the majoritarian segment, each electoral district is divided in single mandate constituencies. While majoritarian candidates who receive most valid votes are considered elected, seats are allocated proportionally to election subjects that gained over five per cent of valid votes in the electoral district. Mayors of municipalities and self-governing cities (*gamgebelis*) are elected by the newly elected councils, except in Tbilisi.

The number of members of Tbilisi *Sakrebulo* was increased from 37 to 50. Half of its members will be elected in 25 single mandate constituencies. The law obliges the CEC to delineate their boundaries by 1 March 2010. A candidate receiving most valid votes in a constituency is considered elected. The remaining 25 members of Tbilisi *Sakrebulo* will be elected under a proportional system in the whole city as one constituency. Political parties and election blocs that gain over four per cent of valid votes will qualify for the allocation of seats.

For the first time, the mayor of Tbilisi will be directly elected. A candidate receiving most votes, but not less than 30 per cent, will be declared the winner. If no candidate meets this requirement, a second round is organized within one month between the two top-scoring candidates. Some political parties expressed dissatisfaction with the 30 per cent requirement.

In contradiction with Paragraph 7.5 of the 1990 OSCE Copenhagen Document, recent amendments removed a possibility for independent candidates to contest local elections. The UEC stipulates that only registered political parties and electoral blocs are granted the right to put forward party lists and candidates. Restrictions on the rights of independent candidates have previously been criticized by the OSCE/ODIHR and VC/CoE as challenging the right of citizens to seek political and public office.⁵

D. ELECTION ADMINISTRATION

The municipal elections will be administered by a three-tiered election administration comprising the Central Election Commission (CEC), 73 District Election Commissions (DECs) and some 3,500 Precinct Election Commissions (PECs).⁶ Election commissions at all levels have 13 members each, seven of which are appointed by political parties that qualify for state funding.⁷

The CEC is a permanent body appointed for a five-year term. Apart from seven members nominated by political parties, the remaining CEC members are nominated by

⁵ Joint Opinion of the OSCE/ODIHR and VC/CoE on the Election Code of Georgia, 16 June 2006, para 13, available at www.osce.org/documents/odihr/2006/06/18744_en.pdf.

⁶ In addition, the law provides for the establishment of special polling stations in military bases, hospitals, pre-trial detention centers, prisons (for prison staff) and police units.

⁷ These are parties that received at least 4 per cent of votes in previous parliamentary elections or at least 3 per cent of votes in local elections. Currently, 14 parties qualify for state funding. Since the UEC stipulates that only seven members of commissions will be appointed by political parties, seven parties that receive the highest funding qualify to appoint members of commissions. These are: UNM, Republican Party, Industry Will Save Georgia, Conservative Party, Labor Party, Political Union on our Own and Christian Democratic Movement.

the president and appointed by the parliament. In response to long-standing demands by the opposition, the procedure for appointing the CEC chairperson was altered by the December 2009 amendments. The chairperson is now elected by the representatives of opposition political parties in the CEC from among three candidates proposed by the president following consultations with non-governmental organizations. In the event that none of the proposed candidates receives the majority of votes, the chairperson is elected by the parliament.

The CEC members representing the opposition refused to support any of the three candidates on the grounds of their alleged affiliations with the governing party. Therefore, on 15 January 2010, the parliament elected the new CEC chairperson, Mr. Zurab Kharatishvili. On the same day, it also elected new members for two vacant posts and re-elected the secretary of the CEC.

The new CEC chairperson informed the OSCE/ODIHR NAM of measures being undertaken to enhance the CEC transparency and inclusiveness, including through regular meetings with political parties, civil society and the media, as well as the establishment of working groups on various electoral issues. The new chairperson also plans to increase public confidence in the CEC and promote collegiality. With regard to the latter, he suggested that political parties sign a memorandum committing them not to withdraw their CEC representatives during the campaign in order to increase independence and impartiality of party-appointed members of the CEC. However, this initiative was not supported by some political parties.

In their permanent composition, DEC members are comprised of five members selected in an open competition and appointed by the CEC for a five-year term. Upon announcement of elections, additional seven DEC members are appointed by political parties for the duration of an electoral period. PECs are established ahead of each election, and apart from political party nominees, include six members appointed by the relevant DEC. Following recent amendments, opposition political parties have the right to nominate secretaries of all PECs. This provision was welcomed by the representatives of opposition political parties.

With the support of the donor community, the CEC plans to provide training to members of election commissions, particularly at the precinct level. A high number of technical assistance, awareness raising and voter education projects will be implemented by various civil society and international organizations.

E. VOTER REGISTRATION

Georgian citizens of at least 18 years of age and registered in their respective electoral district are eligible to vote. Some limitations on the right to vote are imposed, *inter alia* in respect of prisoners serving a sentence.⁸ The CEC is responsible for the maintenance of the centralized voter register, which is updated four times a year on the basis of

⁸ In a ruling on the *Hirst v. United Kingdom* case of 6 October 2005, the European Court of Human Rights ruled that the disenfranchisement of prisoners without regard to the gravity of the crime committed and the duration of the sentence was disproportionate and incompatible with the right to participate in elections (*Hirst v. United Kingdom*, no. 74025/01, available at www.echr.coe.int).

information provided by the Civil Registry Agency of the Ministry of Justice. According to the CEC, some 3.58 million voters will be eligible to cast their ballots in the upcoming municipal elections. The CRA is to submit the final version of voters lists to the CEC by 1 May.

The CRA informed the OSCE/ODIHR NAM that in light of concerns with regard to the accuracy of voters lists, the Agency has undertaken significant efforts to ‘clean up’ the lists, having paid particular attention to the elimination of entries of deceased persons and verification of cases of high numbers of voters registered at the same addresses. The CRA estimates that the margin of error in voter data constitutes now only around one per cent.

In an effort to enhance public confidence in the quality of voters lists, the December 2009 amendments grant political parties the right to verify the voters lists and were allocated state funding for this purpose (100,000 Georgian lari or approximately EUR 42,372 each). According to the CEC, twelve political parties applied to take part in the verification, which is to be carried out between 5 February and 15 March 2010. As the amendments did not provide any details on the verification process, arguments arose between the stakeholders with regard to the applicable procedures and methodology. While political parties met by the OSCE/ODIHR NAM welcomed the opportunity to verify voters lists, some parties stated that the verification was difficult as lists received from the CEC were only split by district and not by precinct.

F. CAMPAIGN ENVIRONMENT

While many political parties are planning to put forward lists and candidates across the country, it appears that the race for the Tbilisi Mayor will be the main focus of the upcoming municipal elections. According to the OSCE/ODIHR NAM interlocutors, political parties have not yet developed comprehensive platforms and the campaign is likely to be built around the personalities of party leaders. Some opposition parties have promoted the idea of organizing primaries to elect a single candidate for the Tbilisi Mayor to compete with the incumbent representing the governing UNM. Negotiations on the matter are ongoing.

Many interlocutors expressed concern with regard to the potential misuse of administrative resources during these elections and opined that the legislation did not contain sufficient safeguards and lacked precision in this respect. In order to address this problem, a recent limitation was introduced stipulating that institutions of the state are not allowed to launch any additional social and welfare programs during an electoral campaign apart from those envisaged in their annual budgets. In addition, the CEC is considering the adoption of a code of conduct setting the standards of professional behavior for public servants. However, opposition political parties and representatives of the civil society were skeptical that these measures would have much effect in ensuring a level playing field between all contestants and preventing the misuse of administrative resources.⁹

⁹ According to OSCE/ODIHR NAM interlocutors, the budget of Tbilisi for 2010 was significantly enhanced as compared to 2009.

G. MEDIA FRAMEWORK

Television is considered to be the most influential source of news and information in Georgia. The Georgian Public Broadcaster (GPB), comprising of three television and two radio channels, and private *Rustavi 2* and *Imedi* channels have nationwide coverage. These channels are widely perceived as supportive of the government. Two smaller channels, *Kavkazia* and *Maestro*, are regarded as pro-opposition; however, they cover only Tbilisi. While OSCE/ODIHR NAM interlocutors stated that radio and newspapers offer more diverse and balanced reporting, they are considerably less influential.

Most interlocutors were critical of the GPB, stating its news coverage and current and political affairs programmes lack balance and impartiality required of a public broadcaster and was generally biased in favor of the authorities. Opposition parties stated that the GPB's coverage of their activities during the pre-electoral period was limited and mostly negative in tone. The management of the GPB informed the OSCE/ODIHR NAM of steps that are being undertaken to increase the credibility of the broadcaster and to improve professional standards among journalists. In this respect, the GPB welcomed the recent amendment to the Law on Broadcasting stipulating that the amount of annual funding provided to the GPB should be linked to the country's gross domestic product, rather than decided upon by the government, as having the potential to enhance the financial and editorial independence.¹⁰

The OSCE/ODIHR NAM was also informed about the newly-launched second channel of the GPB, the primary purpose of which will be to provide airtime to political parties and to broadcast sessions of parliament and its committees. A memorandum on the principles of work and allocation of airtime on this channel were developed by NDI in co-operation with the CEC and political parties. Many of the OSCE/ODIHR NAM interlocutors welcomed the establishment of the second channel as an opportunity to ensure a more balanced coverage of a broader range of political parties and views.

During the campaign, public and private broadcasters are obliged to allocate free airtime for election advertisements of 'qualified' election subjects¹¹ and to provide them with equal conditions for placement of paid campaign advertisements.

H. ELECTION OBSERVATION

Domestic civil society organizations are planning to carry out a number of election-related projects, including the monitoring of complaints and appeals process, media coverage and campaign spending. Several non-governmental organizations are planning to launch a joint website to provide data on voting, counting and tabulation of election results from across the country. In addition, it is anticipated that some 3,500 short-term election observers will be deployed by domestic observer organizations.

¹⁰ The amendment was also welcomed by the OSCE Representative on Freedom of the Media. See press release at www.osce.org/fom/item_1_42400.html.

¹¹ "Qualified" election subjects are parties and/or candidates of parties that received at least four per cent of votes in the last parliamentary elections or at least three per cent of votes in last local elections. "Unqualified" election subjects must demonstrate public support through opinion poll results in order to enjoy free airtime/space.

While the legislation grants observers broad rights and access to all stages of an electoral process, representatives of domestic observer organizations expressed serious concern with the recent amendment allowing for the imposition of significant fines on observers for interfering in the work of election commissions. In absence of a definition of what actions might constitute interference, domestic observer organizations feared this provision might be interpreted in a restrictive manner and be used to obstruct the work of observers.

IV. CONCLUSIONS AND RECOMMENDATION

All OSCE/ODIHR NAM interlocutors strongly encouraged an observation activity by the OSCE/ODIHR in connection with the upcoming municipal elections. They emphasized that the presence of international observers will be crucial during the pre-electoral period. In addition, the monitoring of media coverage and of potential misuse of administrative resources was underscored as important. The OSCE/ODIHR NAM recommends that a standard Election Observation Mission (EOM) be deployed to observe the municipal elections. The OSCE/ODIHR will request the secondment by OSCE participating States of 30 long-term observers to follow the election process countrywide, as well as 350 short-term observers to observe election day procedures, including voting, counting of votes and tabulation of results.

ANNEX: LIST OF MEETINGS

STATE INSTITUTIONS

Ministry of Foreign Affairs

Sergi Kapanadze, Director of International Organizations Department

Parliament

Mikheil Machavariani, Deputy Chairman of the Parliament of Georgia

Pavle Kublashvili, Chairman of Legal Committee

Akaki Minashvili, Chairman of Committee of Foreign Relations

Central Election Commission

Zurab Kharatishvili, Chairperson

Julie Giorgadze, Spokesperson

Civil Registry Agency, Ministry of Justice of Georgia

Lasha Tsimakuridze, Deputy Head of Agency

Mamuka Samkharadze, Head of the Division of Passport and Population Registration

Georgian Public Broadcaster

George Chanturia, General Director

Maia Bichikashvili, Deputy General Director

POLITICAL PARTIES

Alliance for Georgia

Zaal Gogsadze, Representative

Christian Democratic Party

Kakhaber Korbzaia, Regional Director

Avtandil Arjevanidze, Head of Mtatsminda District of Tbilisi

Justice for Georgia

Lado Bozhadze, Representative

Party of People

Alexander Shalamberidze, Political Secretary

Conservative Party

Kakha Kukava, Member

NON-GOVERNMENTAL ORGANIZATIONS

Eka Siradze, Executive Director, International Society for Fair Elections and Democracy

Tamar Khidasheli, Chairperson, Georgian Young Lawyers Association

Ketevan Chachava, Executive Director, New Generation-New Initiative

Tiniko Bolkvadze, Human Rights and Good Governance Program Coordinator, Open Society Georgia Foundation

INTERNATIONAL ORGANIZATIONS

Ian Woodward, Program Manager, Civic and Elections Program, NDI
Nino Ghvinadze, Civic and Elections Program Assistant, NDI
Irina Rekhviashvili, Parliamentary Program Associate, NDI
Andrea Keerbs, Resident Country Director, International Republican Institute
Keti Maisuradze, Deputy Chief of Party, International Foundations for Electoral Systems
Michelle Logsdon, Director, United States Agency for International Development (USAID)
Khatuna Khvichia, Project Management Specialist, USAID
Inita Pauloviča, Deputy Resident Representative, UNDP
Tamar Zhvania, Project Manager, UNDP
Teona Gamtsemlidze, Legal Officer, UNDP

DIPLOMATIC REPRESENTATIONS

H.E. Ambassador Branimir Radev, Embassy of the Republic of Bulgaria
H.E. Ambassador Lorenzo Amberg, Embassy of Switzerland
H.E. Ambassador Vittorio Sandalli, Embassy of Italy
Boryz Wódz, Special Representative of the Secretary General of the Council of Europe in Georgia
Julie Fisher, Chief of Political and Economic Affairs, Embassy of the United States of America
Erik Holmgren, Political and Economic Officer, Embassy of the United States of America
Ayça Özlem Saritekin, Second Secretary, Embassy of Turkey
Igor Mussalimov, Charge d'Affaires, Embassy of the Republic of Kazakhstan
Robin Liddell, Minister Counsellor, Delegation of the European Union to Georgia
Helga Pender, Project Manager, Delegation of the European Commission
Kaupo Känd, Political Adviser, Office of the EU Special Representative for the South Caucasus