

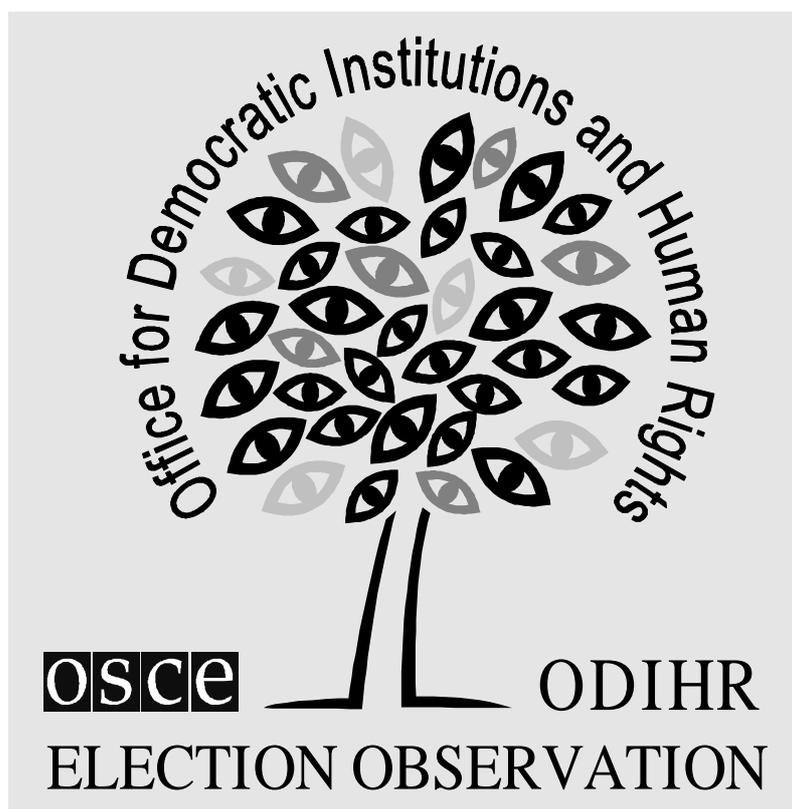


Office for Democratic Institutions and Human Rights

**REPUBLIC OF GEORGIA
PRESIDENTIAL ELECTION**

9 APRIL 2000

FINAL REPORT



**Warsaw
9 June 2000**

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REPUBLIC OF GEORGIA
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OSCE/ODIHR Final Report¹

I. EXECUTIVE SUMMARY

The 9 April 2000 presidential election was the third since Georgia gained independence in 1991. Following a turbulent four-year period characterised by secessionist conflicts, internal displacements, severe economic crisis, the forced resignation of the first President, and the 1992 abolition of the office of the President, a new Constitution was adopted in 1995 restoring the Presidency. Eduard Shevardnadze, credited for restoring stability in the country since his 1992 election as Chairman of the State Council, was elected President in 1995. The 2000 presidential contest took place shortly after the political party headed by the President secured 56 percent of the seats in the 1999 parliamentary elections.

The Organisation for Security and Co-operation Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Election Observation Mission for the 2000 presidential election in Georgia concluded that fundamental freedoms were generally respected during the election campaign and candidates were able to express their views. However, further progress is necessary for Georgia to fully meet its commitments as a participating State of the OSCE. In particular, problems were identified in the following areas: interference by State authorities in the election process; deficient election legislation; not fully representative election administration; and unreliable voter registers. Therefore, the following measures are recommended:

- *A significant effort to reinforce the separation of political party and State on the one hand, and Government and election administration on the other. In the first place, judicial proceedings should be initiated against officials who breached the law during the presidential election, thus demonstrating that such actions are unacceptable in a State governed by the rule of law;*
- *A review of the election legislation prior to the 2001 municipal elections with the aim of establishing a comprehensive code, in compliance with international standards and practices, and enjoying the confidence of all political interests and the electorate;*
- *Amendments to the CEC composition to make it a fully multi-party body composed of qualified members guided only by the rule of law – no political interest should be in a position to control the functioning of any election commission; and*
- *A comprehensive review and update of voter registers.*

A substantial number of amendments to the electoral legislation addressed some concerns raised previously by international observers. However, other concerns were remedied only partially or were not at all addressed. Furthermore, some amendments enhanced the powers of the Chairpersons of election commissions at all levels, thus raising new concerns. Moreover, the amendments were adopted less than three weeks before election day, causing confusion among the election administration and some political parties, in particular those entitled to appoint new members to the election commissions.

¹ *This report is also available in Georgian. However, the English text remains the only official version.*

Despite provisions stipulating the inclusion of additional representatives of the parliamentary minority in election commissions at all levels, the parliamentary majority retained to a large extent its dominant position in the election administration. In fact, the implementation of the amended provisions was delayed past legal deadlines, thus frequently preventing the new members from fully participating in the administration of the election process. In addition, on a number of occasions the Central Election Commission applied the legal provisions selectively.

Other important concerns relate to the accuracy and transparency of voter lists, and a number of ambiguous, vague and sometimes contradictory procedural provisions of the election legislation.

Eleven candidates applied for registration to the Central Election Commission. Seven party-nominated and independent candidates were registered through a procedure that was not fully transparent. Two prominent candidates withdrew one day before the election. A number of smaller political parties boycotted the election and another urged the electorate to vote against all candidates.

Only two candidates, incumbent President Eduard Shevardnadze and Jumber Patiashvili, campaigned actively. The authorities provided strong support for the incumbent's election campaign. There was no clear dividing line between State affairs and the incumbent's campaign.

Outside the free airtime allocated to registered candidates, the State media failed to provide balanced reporting on candidates and gave the incumbent a clear advantage. The coverage in the private media was more balanced, although the incumbent again received the highest amount of coverage, in terms of time, space and quality.

On election day, voting was conducted in a generally calm atmosphere. Observers reported series of identical signatures on the voter lists, group voting and the presence of unauthorised persons, including police and local officials, in polling stations.

However, the election process deteriorated after the close of polls. Counting procedures lacked uniformity and, at times, transparency. While in some polling stations the law was properly implemented, in others it became apparent during the counting that ballot box stuffing had taken place. Tabulation procedures lacked transparency and instances of protocol tampering were reported. In general, procedural safeguards to support the integrity of the process were not implemented, in part due to a lack of adequate administrative instructions and training.

The OSCE/ODIHR will monitor the follow-up to these concerns, and stands ready to continue the dialogue with the Parliament, the Government and other authorities as well as civic society in Georgia with a view to addressing the recommendations in this report.

II. ACKNOWLEDGEMENTS

The Organisation for Security and Co-operation Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) in Tbilisi on 9 March 2000 to monitor the presidential election scheduled for 9 April 2000. Mr. Nikolai Vulchanov, OSCE/ODIHR Election Adviser, was appointed Head of the OSCE/ODIHR EOM.

This report consolidates the findings of 18 long-term observers and election experts, and 147 short-term observers from 24 OSCE participating States. On election day, observers visited 742 of the 2,580 polling stations in 72 of the 76 election districts of Georgia. The observation was supported by Embassies of OSCE participating States and Missions of international organizations based in Georgia. The OSCE/ODIHR is grateful for the generous grant from USAID to support the deployment of locally recruited international observers.

The OSCE/ODIHR Election Observation Mission wishes to thank the Ministry of Foreign Affairs, the Central Election Commission, the Ministry of Defence and the Parliament of Georgia for their assistance and co-operation.

The OSCE Mission to Georgia, headed by Ambassador Jean-Michel Lacombe, provided assistance during the course of the observation, including the secondment of Mission staff as long-term observers.

III. LEGAL FRAMEWORK

A. General Outline

The previous presidential election in Georgia was held on 5 November 1995. The President is elected for a term of five years on the basis of universal, equal and direct suffrage by secret vote, restricted to two consecutive terms. The President enjoys a wide range of powers including the authority to appoint and dismiss ministers, who are directly responsible to him. The executive powers of the President include: conducting foreign policy; concluding international agreements and treaties; declaring a state of emergency; calling of referenda, setting elections for the Parliament; dismissing regional representative bodies; and abrogating acts of the executive responsible to him.

The Constitution, the Presidential Election law and the Organic Law on Parliamentary Elections are the principal texts establishing the legal framework for the 2000 presidential election (hereafter Presidential law and Parliamentary law).² The Presidential law defers to the provisions of the Parliamentary law in a number of areas, including election campaigning, establishment of election commissions and their competencies, compilation of voter lists, procedures for checking signatures on the list of candidate supporters, and voting procedures on election day. The Presidential law regulates the registration of candidates, the counting of votes, and the determination and summing up of results. Both election laws were adopted by Parliament on 1 September 1995. Since then, the Presidential law has been amended three times, most recently on 25 February 2000, and the Parliamentary law amended five times. A large number of amendments to the Parliamentary law, many applicable to the presidential election, came into force on 23 March 2000, only 18 days before the election. Importantly, both laws include transitional provisions, which substantially modify their

² Organic Laws have priority over ordinary laws (Article 66 of the Constitution). They are passed by the majority of all deputies entitled to vote, whereas ordinary laws are passed by a majority of deputies present during parliamentary voting.

substance.

Other laws relevant to the conduct of elections include: the Administrative Code (adopted in 2000); the Law on Internally Displaced Persons; the Law on Political Parties; the Citizenship Law; the Law on Rallies, Meetings and Manifestations; the Law on Mass Media and Journalist Professional Activity. As regards criminal penalties, the Criminal Code contains six election-specific articles.³

In addition to these Acts, the Central Election Commission (CEC) has the authority to adopt “Resolutions”, that are normative acts, and “Decrees”, that are individual acts.⁴ The CEC Chairperson, has the authority to issue “Decrees” as well. Similarly, District and Precinct Election Commissions (DECs and PECs) and their Chairpersons may also decree decisions.

B. Eligibility – Voters and Candidates

According to the Georgian Constitution, every citizen who has attained the age of 18 years has the right to vote. Only individuals who have been confirmed as incompetent or have been deprived of their liberty by the due process of law have no right to vote.

Candidates for the presidency must be Georgian citizens, at least 35 years of age, and have lived in Georgia for at least 15 years. A person cannot be a candidate if, during the previous two years, did not live in Georgia and was not registered abroad by a Georgia Consulate.

C. Election System

The candidate who receives more than 50 percent of the votes cast by “participating voters” is elected. However, for the elections to be considered valid, a majority of voters must participate in the election. If the election is considered valid, but none of the candidates receives more than 50 percent of the votes of participating voters, a second round of elections is held within two weeks between the two candidates who achieved the best results in the first round. For the second round to be considered valid, at least one third of the total number of voters must participate. The candidate who receives the highest number of votes shall be considered elected, provided that the number of votes received is at least one fifth of the total number of voters. If these requirements are not met (in either of the rounds), the elections are declared “not held” and new elections organised in two months.

The Parliamentary law establishes 85 election districts. These correspond to the territorial and administrative division of the country, with the exception of Tbilisi, which has 10 election districts. Election districts are divided into election precincts, each with between 20 and 3,000 voters. However, as it was not possible to conduct elections in Abkhazia and parts of Tskhinvali Region/South Ossetia, elections took place in only 75 election districts as well as three polling stations in Gilprish Election District in Abkhazia. Some voters residing in the lower Gali Region in Abkhazia were able to vote in Zugdidi District. Additionally, voting took place at 26 polling stations located in diplomatic and consular offices abroad.

³ Articles 164-169.

⁴ A normative act is a decision issued by an authorised State body which is general in nature and is of multiple application. Normative acts only take effect after publication in the Official Bulletin of Legislation. They may be reviewed by the Constitutional Court on the basis that a citizen’s fundamental rights are breached by a particular act. An individual act comes into force without publication in the Official Bulletin.

D. Amendments to the Legal Framework

Shortly before the election, amendments were introduced in the legislation to take into account that only a limited number of Georgian citizens possess new identity documents. Without the amendments these citizens would have been disenfranchised. Additionally, the Revival Union of Georgia, the main parliamentary opposition, had threatened an election boycott unless other legislative changes were introduced.

Some amendments were very significant, in particular those that modified the composition of election commissions at all levels, aspects of voting procedures, security provisions for election material, and the powers of chairpersons of election commissions. A proposal by the parliamentary opposition to apply indelible ink to voters' finger as a safeguard against multiple voting was rejected by the parliamentary majority.

In its Final Report on the 1999 parliamentary elections, the OSCE/ODIHR suggested 18 recommendations to improve various aspects of the election framework. Additionally, following a request from the Parliament of Georgia, the OSCE/ODIHR submitted an analysis of the Presidential law (including further recommendations) to the Parliamentary Committee for Legal Affairs. The OSCE/ODIHR stressed that the incorporation of these recommendations during the legislative review should take into account the limited time available before the election, as substantial amendments at a late stage could be counterproductive. The OSCE/ODIHR also pointed to a number of measures that could be implemented in the time available without negatively impacting on the work of the election administration.

A number of ODIHR recommendations, were incorporated in the legislation. These include:

- Changes in the manner voters mark ballot papers;
- some improvements to candidate nomination and registration procedures;⁵
- identification badges for PEC members;
- specific persons who may be present in polling stations and a prohibition on the presence of unauthorised persons;
- the right of all commission members to have access to election commission documentation; and
- preliminary aggregation of results in the proportional ballot at the DEC level.⁶

Some recommendations required time and funding to implement fully. Other recommendations were included, but their implementation was postponed by transitional provisions.⁷ In general, the amendments to the law were not sufficient to significantly improve the election process. Moreover, many of the concerns raised by OSCE/ODIHR were only partially or not at all addressed. Regrettably, some of the new provisions were not implemented or enforced on election day.

Recommendations not taken into consideration relate to:

- steps to introduce a uniform voter registration system allowing for records cross-checking;
- clear provisions detailing the equal rights of parties and candidates during the campaign;

⁵ Article 13, 14 and 39. However, these came into force on 23 March after the registration of candidates for the Presidential election was completed on 10 March.

⁶ This amendment relates to parliamentary elections. The Presidential law already stipulated this requirement.

⁷ For example Article 16 of the amended Parliamentary law reduces the number of voters at precincts to 2,000. Appropriately, transitional Article 70 stipulates that the reduction shall only come into force after the presidential elections 2000. Additionally, Article 50 introduces the requirement to use transparent ballot boxes, whilst Article 74 postpones the application of this article until after the presidential election.

- a mechanism to enforce the media related campaign provisions;
- distribution of protocols to both domestic and international observers following the summing up of results;
- the inclusion of summary tables of all PEC results in the DEC aggregation protocols; and
- public display of PEC and DEC protocols immediately after their completion.

E. Legal Issues

1. Process of Amending the Legal Framework

As noted by the ODIHR in its report on the 1999 parliamentary elections, 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, the adoption of some 230 amendments less than three weeks before the election did not give sufficient time for the election administration and political parties affected by the changes to adapt to the new provisions. As a result, the implementation of the new election legislation was at times confusing.

As two laws were applicable, both with transitional provisions, it was not always apparent which articles were applicable. Furthermore, some provisions remained vague and open to selective interpretation, whilst others were contradictory. The following examples highlight some of the problems:

- The modalities were not clear 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.j).
- Whilst observers could attend sessions of election commissions and be present in voting premises (Article 31), whether they have access to view all documents necessary to fulfil their tasks is not clear. On election day, some observers were prevented from observing the count at polling stations, as PEC members were unsure of observers’ rights. Consequently, a number of observers were denied access to PEC protocols at the DEC.
- As the provision governing the appeal process against decisions of election commissions refers exclusively to “decisions of election commissions”, whether decisions of chairpersons may be appealed is not clear (Article 29.2).
- The procedure for dismissing PEC members as outlined in Article 28.2 is vague and does not include the requirement that substantive reasons for dismissal be given.
- Articles 20.1 and 20.2 relate to the salaries of CEC members. While Article 20.1 stipulates that “the Chairperson, Deputy Chairperson, Secretary and members of the commissions shall be provided with salaries ... determined by Parliament”, Article 20.2 states that “the CEC shall determine the number of paid members of the CEC....”
- The law entitles the CEC to dissolve subordinate election commissions in “extraordinary situations” and to transfer their power to special groups that are established by the CEC.⁸ Without more definition, this article gives the CEC dangerously broad powers.

2. Structure and Powers of Election Commissions

The amended election legislation included provisions changing the structure of election commissions to increase opposition representation. In addition, the amended law provided that only members of election commissions nominated by the minority parliamentary bloc shall be elected as Deputy

8 Article 22.2.g *ibid.*

Chairpersons at all levels of the election administration. However, the Deputy Chairperson is not invested with significant powers and does not replace the Chairperson automatically in case of vacancy but only upon the written decision of the Chairperson.⁹

Although the law appears to curtail the dominant position of the ruling party, other amendments raise new concerns. In particular, the amended law confers the commission Chairperson with additional powers,¹⁰ that lessen the transparency of election administration. Also, this shift of power to the Chairperson is not accompanied by clear provisions regarding the appeal process against decrees by election commission Chairpersons.

Article 19.8 gives the CEC the authority “not to consider an application (or complaint) if two thirds of present members decide so”. This provision raises serious concerns.

3. Voter Turnout

The turnout definition was based on Article 20.1.b of the Presidential law stipulating that the number of participating voters is equal to the number of voter signatures on the voter lists.¹¹ However, Article 20.1.d states that the number of participating voters should be equal to the number of ballots found in the ballot box after the polling. While minor technical errors can lead to small differences that can be easily reconciled, ideally these two numbers should be equal. Both definitions of “participating voters” can be subject to abuse. Indeed, EOM observers reported both cases of illegal signing of voter lists and incidents of ballot stuffing. In any case, the transparent implementation of the law requires an unambiguous definition of the term “participating voters”.

4. Other Concerns

The amended Code does not include penalties, administrative or criminal, for multiple voting – an important omission.

All election commissions and their Chairpersons can issue decrees. These decrees are approved by simple majority. Additionally, the CEC can issue resolutions, which are normative acts and are adopted by at least two thirds of the present members. The amended law also makes reference to “decisions”, without specifying the voting majority required for approval or the legal nature.

Article 47.7 prohibits any campaigning on the day of elections, except the display of campaign material previously set up outside precincts. The law should prohibit the display of such material 50-metres from polling stations.

According to Article 11, the Supreme Court has three days from the consolidation of election results to determine allegations of financial violations, an extremely short deadline. In particular, to require parties, blocs and candidates to submit their campaign accounts so soon after polling day may be highly impractical.

⁹ Article 19.4.

¹⁰ Article 23.3 Parliamentary law.

¹¹ This is also the definition used in the amended Parliamentary law.

IV. PRE-ELECTION PHASE

A. Election Administration

1. Structure of Election Administration

The Parliamentary law establishes a three-tier election administration: the Central Election Commission (CEC), District Election Commissions (DEC) and Precinct Election Commissions (PEC).

The CEC has broad powers. Among others, the CEC has the mandate to ensure a uniform application of the law. It establishes election districts and appoints six members of DECs. Further, it decides on election complaints and appeals, and calls, if necessary, for repeat elections or new elections.¹²

The work of the CEC is supported by approximately 40 administrative staff, working in departments including: legal; organisation; protocol; financial; media and public relations; and information technology.

Following the parliamentary elections, the CEC composition was modified to take into account the results of the elections in line with article 21 of the Parliamentary law in force at the time. Until late March 2000, the CEC had 17 members as follows:

- five members appointed by the President, including the Chairperson;
- five members appointed by the Parliament, of which no more than three from the parliamentary majority;
- five members appointed by the political parties that secured the best results in the 1999 parliamentary elections (proportional ballot);¹³ and
- two members appointed by the Supreme Councils of Ajara and Abkhazia (one each).

However, following the amendments to the law, four additional members were appointed, one from the parliamentary majority (CUG) and three from the parliamentary minority (two from the Union of Democratic Revival and one from the Socialist Party). The amended law also created the position of “First Deputy Chairperson”.

The amendments had the potential to reduce the advantage previously enjoyed by the parliamentary majority. However, the additional members were appointed late and their participation was minimal. As a result, the amendments did not significantly alter the functioning of the CEC and the parliamentary majority retained a dominant position.

¹² 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 lists submitted by parties and election blocs; determine rules for the use and allocation of election funds; establish election 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 election. The decisions of the CEC, which are taken by a majority vote are binding.

¹³ These parties/blocs were as follows: Citizens Union of Georgia (parliamentary majority); Bloc Revival of Georgia (comprising three parliamentary parties: Union of Democratic Revival, Socialist Party and the Traditionalist Union); Industry Will Save Georgia; Labourist Party; National Democratic Party.

The composition of the 75 DEC's was also modified shortly before election day. Until the amendments came into force, the DEC's had 10 members, five appointed by the CEC, including the Chairperson, and five by the political parties that achieved the best results in the 1999 parliamentary elections. Following the amendments, DEC's consisted of no less than nine and no more than 13 members. In effect, three new members were added to the 10 existent. One was appointed by the CEC and two by political parties. However, it was far from clear which parties had the right to make the additional two nominations. Initially, the CEC stated the Socialist Party and the Traditionalist Union would have this right. However, a later interpretation of the law, granted the Union of Democratic Revival and the Socialist Party this right. The Traditionalist Union was eligible to make nominations if either of the two other parties declined to do so.

Inter alia, the DEC's have the responsibility to: appoint a chairman and five members for each PEC; supervise the activities of the PEC's and receive their reports; ensure the creation of equal conditions during the campaign and consolidate and announce election results in the district.

The DEC's established 2,580 PEC's with no less than five and no more than 13 members each. Up to seven members are appointed by political parties.

The PEC's are responsible for compiling the voter lists in their respective precincts, providing voters with voting invitations and licenses, and conducting voting and counting of votes on election day. In addition, the transitional provisions of the Presidential law empower the PEC's to issue temporary identification documents to "habitants of villages" who lack one of the eight acceptable forms of identification. However, the records used by PEC's to carry out this task are not clear. The PEC mandate expires as soon as the results are summarised at the DEC.

2. Implementation of Legal Provisions

On a number of occasions the CEC applied the legal provisions selectively. The amended election law provides that PEC members should wear identification badges. If applied, this provision would have enabled unauthorised persons to be more easily identified. Regrettably, the CEC did not apply this provision. The law also includes provisions prohibiting the President, members of Parliament and other officials from making media appearances for campaign purposes. The results from the ODIHR media monitoring demonstrate that these provisions were not adhered to, and the CEC took no action.

As the CEC is endowed with a wide range of powers, it was imperative that they acted in an impartial, transparent and timely manner. In addition, as important changes were introduced late in the process, it was vital that PEC's were properly trained and informed. The CEC instruction manual for PEC's contained some instructions that vary the law or its spirit. For instance, it instructs that police officers assigned to precincts "shall be admitted in the polling station with oral consent of the PEC Chairperson". In contrast, the law requires that police officers are admitted inside the polling station only if demanded by the Chairperson of the PEC. Considering that during election day police were frequently present in polling stations, this contradiction raises concern.

At the District level, with the exception of Ajara, none of the DEC Chairpersons were considered to be opposition and many were identified as close to the CUG. In some instances, the "*gamgabeli*" (the district governors appointed by the President) interfered with the nomination process of election commission members. The majority of DEC's failed to elect their Deputy Chairpersons from those nominated by the parliamentary minority.

A large number of DEC's 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 DEC's.

B. Registration of Candidates

To nominate a candidate, parties and initiative groups should submit an application to the CEC no later than 50 days prior to the election. Thereafter, they have to submit to the CEC 50,000 valid signatures in support of their nomination, no later than 40 days prior to the election. If these requirements are met, the CEC shall register the candidate.

The Presidential law specifies that the procedure for checking the petitions and supporting information shall be carried out in accordance with the Parliamentary law. The amendments partially improved the verification procedures, still not fully transparent. However, these came into effect after the registration process was completed, and the previous provisions giving the CEC the authority to determine the rules for verification were applied.

Initially, 17 candidates applied for registration. Two withdrew, one was rejected due to a failure to fulfil the "residency requirement", and another for an alleged citizenship of the Russian Federation. Two failed to submit the required number of signatures. In total 11 candidates were registered by the CEC. Of these, two were in pre-trial detention. Following the verification of signatures, a further four candidates were rejected by the CEC. On 10 March, the CEC approved the registration of seven candidates.

The Citizens Union of Georgia, the parliamentary majority, nominated incumbent President Eduard Shevardnadze. The Union of Democratic Revival, the largest party in the parliamentary opposition coalition, nominated Aslan Abashidze, Chairman of the Supreme Council of AR Ajara. The Union of Georgian Traditionalists also endorsed his candidacy. Jumber Patiashvili, a former leader of the Georgian Communist Party, was nominated as an independent although the People's Party and Socialist Party officially supported his candidacy. The other four candidates were not supported by any of the major political parties and were nominated by small non-parliamentary parties or civic initiative groups. Tengiz Asanidze sought registration to highlight his continued detention in Batumi jail despite a presidential pardon. Industry Will Save Georgia Party formally did not supported any candidate. The Labourist party together with a number of smaller political parties boycotted the election and the National Democratic Party invited the electorate to vote against all candidates.

Only commission members can be "acquainted with lists of supporters". Candidate proxies were able to attend the verification process, but only when checking the number of signatures for the candidate they represent. The procedure for checking of supporter signatures was conducted in two stages. During the first stage, in the presence of candidate proxies, the CEC staff verified the number of signatures in support of candidates. During the second stage, in the absence of proxies, CEC members verified whether the personal data (name, address, ID number) of those who signed in support of candidates were correct. For this purpose, the CEC was assisted by the relevant department of the Ministry of Interior. A transparent election process requires that proxies participate in this stage as well. In addition, the procedure for checking supporter signatures and their ID should be detailed in the law, giving an indication of which government agencies are required to assist the CEC.

1. Withdrawal of Candidates

Aslan Abashidze withdrew his candidacy on 8 April, the eve of the election. Tengiz Asanidze's request to withdraw his candidacy was denied because of late arrival.

The provisions pertaining to withdrawal of candidacies should be clarified. Article 16.6 of the Presidential law does not establish a deadline at all, allowing a candidate to withdraw even on election day, yet Article 19.6 of the Parliamentary law imposes a deadline. Additionally, the CEC must be required to make a formal decision on withdrawal of candidacies.

C. Voter Registration

1. Voter Lists and Civil Registers

PECs are mandated to compile voter lists and post them publicly no later than 30 days before the election. Central and local authorities assist in the compilation of the lists. Citizens permanently residing on the territory of a given precinct and internally displaced persons (IDPs) currently living there are registered in the precinct. IDPs appear on a separate voter list.

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), operate under the guidance of the Ministry of Justice.
- The National Registration Office at the Ministry of Interior (former OVIR), 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 implementation of this provision is impossible without a uniform civil/voter registration system allowing for cross-checking records.

2. Supplementary Voter Lists and Voter Licenses

Article 33 of the Parliamentary law allows voters to register on supplementary lists on election day. Those entitled to be included on supplementary lists are: voters with voting license; PEC members working outside of the precinct in which they are registered; and, most significant, voters inadvertently omitted from the lists.

This provision raises concern 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. This provision should be used only in exceptional cases. Additionally, PEC, DEC and CEC protocols should indicate the number of voters on supplementary voter lists.

PECs can issue voting licenses to those who have changed their place of residence up to the day prior to election day. Although the law does not specify entitlement, voter licenses were also given to persons who would be away from their place of permanent residence on election day. The voter list, where the license is issued, should indicate this fact.

3. Internally Displaced Persons

The conflicts in Tskhinvali Region/South Ossetia and Abkhazia produced approximately 198,000 internally displaced (IDP) voters. The largest concentrations are in Tbilisi and Samegrelo Region, particularly Zugdidi District. Regrettably, elections could not be held in Abkhazia and parts of Tskhinvali Region/South Ossetia, but IDPs were able to vote in the Districts of their temporary residence. In addition, the Zugdidi DEC established polling stations for residents of Gali District. Also, mobile ballot boxes were located close to the main bridge over the Inguri River, which separates Abkhazia from the rest of Georgia.

4. 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.

Observers noted that, in some districts the number of registered voters varied substantially for different elections. Also, registered IDP numbers according to UNHCR and the Georgian authorities varied.

The Georgian authorities should take immediate measures to improve the registration procedures before the municipal elections scheduled for the fall of 2001. The issuance of new identification documents to citizens should be finalised before these elections in order to create reliable data for the compilation of voter lists.

D. Printing and Distribution of Ballot Papers

The counterfoil of each ballot paper contained a unique serial number and the ballots contained a note of the PEC and DEC number for which they were intended. Prior to delivery to DEC, the CEC packed the required number of ballots by PECs into special security plastic bags, which carried unique serial numbers. These procedures were introduced for the presidential election for the first time, thus creating some confusion. PECs generally received the correct number of ballots, but the CEC admitted that some sets of serial numbers were printed twice and other PEC specific ballot paper series were not printed. Approximately 60,000 “training ballots”, without serial numbers, were distributed to polling stations to make up for the shortfall.

Observers were not able to monitor the printing, packing and distribution of ballot papers from the CEC to the DEC. On election day, most observers reported that the adopted safeguards were positive. However, PECs were not properly trained in their use, and problems were observed on election day.

E. Media and the Elections

1. Media: Legal Framework

The Presidential law states that the media “shall cover the preparation and holding of the election thoroughly”. All candidates have “equal rights to use media and other means of mass media on the whole territory of Georgia” and are granted one hour of free air time on State Television and Radio”. Article 47 of the Parliamentary law regulates the media role during the election campaign. It provides that:

- selling broadcast time by State TV and Radio is forbidden;
- broadcast time allocated by private television and radio stations for political campaigning, both with and without charge, shall be distributed *equally among the parties and election blocs*;
- the cost of TV or radio broadcast shall be the same for all;
- election commissions, together with TV and radio stations, shall ensure the creation and observance of a timetable for political broadcasts;
- except for the period allocated for election campaigning, the President of Georgia, Members of Parliament and other State officials are prohibited from making appearances related to the election campaign; and
- campaigning on election day is prohibited.

2. Media Monitoring

Between 13 March and 8 April, the OSCE/ODIHR Election Observation Mission monitored seven media outlets: three TV stations (1st Channel of State Television, Rustavi 2, and TV Ajara) and four newspapers (*Sakartvelos Respublika*, *Svobodnaya Gruzija*, *Alia*, and *Akhali Taoba*).

The State broadcaster began providing 70 minutes of daily free airtime on 20 March. Each candidate was granted a five-minute slot in the morning and a five-minute slot in the early evening. Between 6–8 April, candidates were each given ten-minute slots in the early evenings. In the mornings, the slots were scheduled to follow the order of candidates on the ballot paper and in reverse order during the evening broadcasts. During the last three days of the campaign, they appeared in reverse order.

Jumber Patiashvili, Avtandil Joglidze, and Vazha Zhghenti started using their free time from the outset, Eduard Shevardnadze on 27 March, and Kartlos Gharibashvili on 3 April. Aslan Abashidze chose not to use any of his free airtime. As a result of his detention in Batumi prison, Tengiz Asanidze was prevented from campaigning on TV. Although a proxy of Asanidze could have used the free time on his behalf, this did not happen.

Some candidates complained that the allocation of slots was disadvantageous. State TV should consider reviewing the broadcast schedule to equalise access to “prime” slots.

Outside the free time allocated to candidates, the EOM identified a pronounced advantage on some of the media for certain candidates. In particular, State Television failed to fulfil its obligation to provide balanced reporting on candidates, giving the incumbent a distinct advantage in its news and editorial coverage. Eduard Shevardnadze received 56.50 percent of all time allocated to candidates during the monitoring period. Outside the free campaign time, Eduard Shevardnadze received over 84 percent of the total time dedicated to candidates, half of which was positive in tone. In contrast, Jumber Patiashvili received just over 9 percent of the time, of which around one quarter was negative.

The line between the incumbent’s campaign and State affairs was frequently blurred and State Television covered both activities disproportionately. The 1st Channel also devoted large amounts of time to cover the incumbent’s activities during numerous visits of foreign Heads of State during the campaign period.

State Television also violated Article 47 of the Parliamentary law by showing 1 hour and 45 minutes of political advertisement for President Shevardnadze outside the free time for candidates. Formally,

the slots had been sold to advertisement companies, which then resold them to Shevardnadze's campaign team. This indirect allocation of advertisement slots to one of the candidates clearly violates at least the spirit of the law. A similar case occurred during the 1999 parliamentary elections, when the Citizens' Union of Georgia was given airtime in the same manner.

Batumi-based TV Ajara, a regional broadcaster, broadcasts two hours in the evenings on the regional frequency of the 1st Channel. This broadcaster devoted 81.77 percent of its coverage to Aslan Abashidze, which was mostly positive. Eduard Shevardnadze received 14 percent, of which around two thirds were negative. Patiashvili received just over 3 percent, most of which was positive. TV Ajara sometimes also used the frequency of the 1st Channel outside its official time slot.

Channel 25, a private TV station broadcasting in Ajara, was considered to be the main source of independent news in that region. However, in February 2000, majority ownership of the broadcaster was acquired by a Batumi businessman. The former owners claimed they were forced to sell their shares and took the case to court. Channel 25 stopped broadcasting news for virtually the entire campaign period.

Private Rustavi 2 Television had a more balanced approach than the 1st Channel of State TV and TV Ajara, at least in quantitative terms. Still, Shevardnadze received considerably more coverage than any other candidate. Of the time devoted to candidates, the incumbent received 62.56 percent, followed by Patiashvili with 17.72 percent and Abashidze with 14.96 percent. While 77 percent of Shevardnadze's coverage was positive, there was also a small amount of critical reporting. Coverage for Patiashvili was largely neutral. Abashidze received almost exclusively neutral coverage.

In two newspapers, *Sakartvelos Respublika* and *Svobodnaya Gruzija*, the share of coverage for President Shevardnadze was even higher than on State TV, as was the proportion of positive coverage he received. While formally independent, both newspapers are partially funded by the State and are considered to be state-controlled. In *Sakartvelos Respublika*, Shevardnadze received 87.96 percent of all space allocated to candidates, followed by Patiashvili with 5.81 percent and Abashidze with 4.10 percent. All other candidates received less than one percent. Shevardnadze's coverage was 86 percent positive. By contrast, almost half of Patiashvili's coverage was negative. In *Svobodnaya Gruzija*, Shevardnadze received 94.32 percent of the space devoted to candidates, compared to 4.80 percent for Patiashvili and less than one percent for any other candidate. In this newspaper, 77 percent of Shevardnadze's coverage was positive. By contrast, around 94 percent of the space devoted to Patiashvili was negative.

The two private newspapers *Alia* and *Akhali Taoba* had the most balanced reporting of all media monitored. In *Alia*, Shevardnadze received 39.63 percent of the space devoted to candidates, compared to 36.21 percent for Patiashvili and 17.66 percent for Abashidze. Shevardnadze received 44.8 percent positive, 40.5 percent neutral, and 14.7 percent negative coverage. The breakdown for Patiashvili was 50.5 percent, 41.5 percent and 8.0 percent, respectively. *Akhali Taoba*, dedicated 39.98 percent of the space for candidates to the incumbent, followed by 31.83 percent for Patiashvili and 13.60 percent for Abashidze. Shevardnadze received 62.9 percent of positive, 18.5 percent neutral, and 18.6 percent negative coverage. Patiashvili's share of positive coverage was 50.8 percent, with 41.8 percent neutral and just 7.4 percent negative coverage.

Candidates did not engage in direct debate on television, thereby lessening the opportunity for the electorate to identify the main policy differences between candidates.

F. Election Campaign

Fundamental freedoms were generally respected during the election campaign and candidates were able to express their views. However, during the campaign period a very limited number of violent incidents were reported including assaults on two prominent members of parties boycotting the election. Both Irakli Tsereteli, leader of the National Independence Party, and Lela Tsomaia of the “Zviad the Liberator” Party sustained injuries during separate incidents and alleged that the attacks were politically motivated. On occasions, the tone of the campaign went beyond acceptable limits.

The law refers to the establishment of equal campaign conditions and the rights of parties and candidates. However, how equal campaign conditions can be realized or what penalties should be applied when violations occur, are unclear.

1. Rallies and Public Meetings

Jumber Patiashvili began his campaign as soon as the official campaign period began, touring the country and holding a number of rallies and meetings with the general public. However, a number of these events were disrupted. In Kakheti, Kvemo Kartli and Samegrelo, Patiashvili was prevented from campaigning effectively, mainly due to “parallel campaign events” organised by his opponents or because his team was refused permission to use public buildings.

President Shevardnadze began meeting supporters on 20 March and presented his political program on 24 March. In general, he held few meetings with the general public, instead preferring events with invited audiences. The Chairman of Parliament and the State Minister who toured the country speaking at various events actively supported the incumbent’s campaign. None of the other five candidates campaigned actively. Aslan Abashidze declined to hold a single public meeting.

The National Centre for Freedom and Democracy, an umbrella organisation consisting of parties boycotting the election, held two public meetings and press conferences, poorly covered by the electronic media. The National Independence Party held a public meeting to promote election boycott.

2. Election Date

The election date coincided with the anniversary of a massacre of 21 civilians by Soviet Special Forces in 1989. At that time, Patiashvili was First Secretary of the Georgian Communist Party, and Shevardnadze the Foreign Minister of the USSR and a member of the CPSU Political Bureau. During the pre-election period, the archives of Anatoli Sobchak who led the official investigation of the massacre arrived in Georgia and a book written by Sobchak on the 9 April events was published in Georgian language on 7 April, only two days before the election. Thus, the pre-election campaign took place against the backdrop of this tragic anniversary with accusations and counter-accusations of culpability as a constant theme.

3. Role of State Officials and Use of State Resources

The authorities did not behave impartially and gave strong support for the election campaign of the incumbent. Also, there was no clear dividing line between State affairs and the incumbent’s campaign.

On 4 April, President Shevardnadze campaigned in Akhaltsikhe amid tight security. Observers reported schools and some workplaces were closed for the campaign event, which had the appearance of a public holiday. Schoolchildren were given Shevardnadze campaign material including a banner reading “thank you President Shevardnadze for our happy childhood”. One teacher commented that the school Director had instructed teachers to escort the children to particular locations on the candidate’s route.

An exhibition football match between German and Georgian football veterans was organised on 6 April. Banners across Tbilisi main streets and close to the Parliament building advertised the event and asserted that the “German football team supports Eduard Shevardnadze’s candidacy”. The banner also displayed a circled figure “1”, the ordinal number of Shevardnadze on the ballot paper.

Also, opposition candidates complained that visits of foreign dignitaries were used, at times openly, for campaign purposes. Certainly, these visits generated increased media coverage for the incumbent, especially since State TV covered the visits very extensively.

In a number of districts, DEC offices were located in buildings also housing CUG campaign offices. In Borjomi, the DEC was housed in the *gamgeoba* (district executive authorities) building as well as a CUG office. Such cases violated the election law specifying “Election Commissions shall not be located in the premises where the offices of the National Government, local government and self-government bodies and/or political parties are located”, Article 30.9. Observers reported that Shevardnadze’s campaign material was frequently distributed through PECs and DEC, thereby further questioning their impartiality. In Terjola District, one observer reported that pensions were paid in the same building of a polling station on election day.

G. Election Observation

In line with paragraph 8 of the Copenhagen document, the Parliamentary and Presidential laws contain provisions establishing the rights for election observers.¹⁴ Party representatives, candidate proxies, the media, observer from registered domestic and international organisations are entitled to be present at sessions of election commissions and observe polling on election day.

The CEC registered two domestic observer groups; the International Society for Fair Elections and Democracy (ISFED) and the International Centre for Civic Culture. ISFED, by far the larger organisation, deployed some 1,800 observers on election day. The CEC rejected the applications of other NGOs who requested accreditation. ISFED was accredited on 10 March, though they had applied on 20 January, and was therefore unable to attend sessions of election commissions during the early stage of the election process.

In addition to the OSCE/ODIHR EOM, the CEC accredited 10 other international observer delegations including the Parliamentary Assembly of the Council of Europe, Eastern European Democratic Institute, CIS Executive Committee and the CEC of the Russian Federation. Some PECs were not aware of observers’ rights and in a few cases prevented them from conducting their tasks, including denying them access to election material or ejecting them from a polling station.

¹⁴ The Parliamentary law makes specific reference to international and domestic observers, the Presidential Law is less specific, but does mention “accredited representatives”, which can be taken to include observers.

Domestic observers were generally able to carry out their tasks without interference, although ISFED reported that some of their observers were denied access to PECs or asked to leave PECs before the count began. Domestic observers should have the same rights as international observers.

V. ELECTION DAY

A. General Assessment

EOM observers filed 871 observation report forms recording visits to 742 of the 2,580 polling stations in Georgia. Some observers returned to the same polling station at different times over the election day. In addition to the report forms, observers submitted a large number of narrative reports detailing specific violations and irregularities.

Observers were asked to give an overall assessment of the voting and counting procedures.¹⁵ Regarding the conduct of voting on election day, in 84 percent of the forms observers reported a good or very good overall opinion. A bad or very bad overall assessment was given in 16 percent of reports. There was a variation in the overall assessment across different regions:

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

Overall evaluation	1	2	3	4	5	6	7	8	9	10	11
Very bad	3	10	0	2	11	5	6	4	4	0	0
Bad	7	12	14	15	6	15	16	19	13	0	6
Good	62	57	41	49	68	61	51	60	71	75	44
Very good	30	21	45	34	14	19	27	17	13	25	50

01 Tbilisi 02 Kakheti 03 Mtsheta-Mtianeti 04 Shida Kartli
 05 Kvemo Kartli 06 Imereti 07 Samtskhe-Javakheti 08 Samegrelo-Zemo Svaneti
 09 Guria 10 Racha-Lechkumi 11 Ajara

The assessment of the vote-count process was alarmingly worse with only 52 percent reporting positively and 48 percent recording a bad or very bad assessment. Of major concern was the number of observers who reported series of apparently identical signatures on the voter lists, and 35 percent of report forms where observers noticed “stacks” of unfolded ballot papers when the ballot boxes were opened, clear evidence that irregularities had taken place.

B. Turnout

According to the CEC final results, the total number of registered voters for the 2000 presidential election was 3,088,925.¹⁶ This total includes voters added to the supplementary registers on election day, but as PECs are not obliged to record this as a separate figure, it is not possible to ascertain how many voters registered in this way. According to the CEC, 2,343,176 voters “participated” in the elections, giving a national turnout of 75.86 percent. However, some regions experienced significantly higher turnout. In Kvemo Kartli region the turnout was over 94 percent. Observers in Marneuli district in Kvemo Kartli reported a number of cases where turnout exceeded 90 percent by lunchtime. In one case, 2,733 of the 2,747 registered voters had voted by 14:00, one voter every 11 seconds. Overall, Marneuli District recorded a turnout of 98 percent from 86,000 registered voters of whom, 99 percent voted for Eduard Shevardnadze. Observers reported a few other cases of

¹⁵ Based on a scale of 4 ranging from very good (4) to very bad (1).
¹⁶ Protocol of 19 April 2000.

unusually high turnout in other districts. One PEC in Senaki District with over 500 voters had a 100 percent turnout by 9:20.

Turnout in 16 districts exceeded 90 percent, and in a further 10 it exceeded 85 percent. Turnout in the 10 Districts of Tbilisi varied from 46.9 percent to 78.2 percent. Three other Regions recorded turnout in excess of 85 percent (Samtskhe-Javakheti, Shida Kartli and Guria). In general, observers did not report overcrowding in polling stations (7 percent average). The turnout in Ajara averaged 64.2 percent.

C. Voting

1. Atmosphere

Polling was generally conducted in a calm atmosphere, although observers reported a higher incidence of intimidation of voters in Kvemo-Kartli, Imereti and Samtshke-Javakheti, (around 9 percent of observations, compared to a national average of 4 percent).

Overall, voters were largely able to cast ballots without interference or attempts to influence their will. However, observers reported that campaign material was present in 10 percent of polling stations and occasionally active campaigning was taking place. Invariably, such material was for the incumbent. In a few cases such material was inside voting booths.

2. Polling Stations, PECs and Authorised Representatives/Observers

Observers reported that physical access to polling stations was at times difficult, particularly in Shida Kartli and Kvemo Kartli. In Samtshke-Javakheti, 21 percent of polling station premises were considered unsuitable for the task.

In general, polling stations received sufficient election materials although a few observers noted that PECs received too few ballots. Generally, polling stations opened at 07:00 or shortly thereafter. The security bags for voting material were used in most cases, but many PEC did not seal the bags after the count, making them ineffective.

Ballot papers, PEC instruction material and voter information were only available in the Georgian language. Observers reported that in Kvemo Kartli, voters and PEC members alike had difficulty understanding the procedures.

Observers reported that PECs with thirteen members were rare. Some PEC chairpersons could not distinguish between PEC members and candidate proxies. In a few cases, PEC members seemed unclear about the parties that had appointed them. In general, PECs had representatives from the parliamentary minority, but observers noted that CUG representatives and DEC appointed members controlled proceedings. Rare were deputy chairpersons representing the opposition as stipulated by the amended law. Some observers commented that PEC members on occasions declined to give information, particularly regarding the number of voters having cast ballots. PEC members usually did not wear identification badges.

Candidate proxies representing Eduard Shevardnadze seemed to have a high degree of authority and on occasions appeared to have more authority than the PEC chairpersons. Whilst the presence of proxies certainly contributed to the transparency of the process on election day, steps should be taken to ensure that they are adequately trained, and they fulfil their tasks properly.

Many domestic observers appeared passive even when having witnessed irregularities. Some EOM observers reported that, in some cases, ISFED observers were former PEC members in previous elections. In some districts, PECs had been instructed to ask domestic observers to leave before the count took place.

3. Role of State and Local Officials

Observers reported the presence of unauthorised persons in 1/5 of polling stations visited during polling, despite clear regulations on who is entitled to be present. In most cases, these persons were uniformed or out of uniform police or local officials from the *gamgeoba* office. Observers reported that these persons often interfered in the process, and on occasions appeared to be directing proceedings instead of the PEC chairperson.

4. Compliance with procedures

Observers noted the following:

- Voter information was not always displayed, including the notification that Aslan Abashidze had withdrawn from the election contest. On a few occasions, observers reported that PECs had displayed information that Tengiz Asanidze had withdrawn, despite the fact that his application to withdraw was rejected by the CEC.
- Ballot boxes were not uniformly sealed, and, sometimes, the sealing was not adequate.
- PECs often failed to retain voter licenses, thus allowing the bearer of the license to vote at another polling station again.
- Generally, ballot papers were validated with the signature of two PEC members and a stamp in the presence of the voter. However, some PECs signed and stamped ballots in advance in violation of the law. During the count, a few observers noticed that some ballots were not validated at all, but the PECs counted them as valid.
- With few exceptions, voters signed the registers when receiving ballot papers, although a number of observers reported series of apparently identical signatures on voter lists. Such cases may indicate proxy voting or other serious violations on a large scale. In a few cases, voters arrived to vote to discover a signature already placed against their name.
- Some voters were refused the right to vote without justification.
- The number of people requesting the mobile ballot box varied markedly between polling stations. In one case, over 200 (non-military) voters had requested to use the mobile box. The PEC planned to dispatch it at 17:30, hardly giving the PEC enough time to permit such a large number of voters to vote. In other, polling stations, only a handful of voters requested the mobile ballot box.
- The secrecy of the vote was not always guaranteed, in particular in Samtskhe-Javakheti and Kvemo-Kartli.
- “Group voting” took place in particular in Mtskheta-Mtianeti and Kvemo-Kartli.
- Multiple voting, i.e. where voters are in possession of more than one ballot, was reported in particular in Kvemo-Kartli and Samtskhe-Javakheti.
- Proxy voting, i.e. one voter voting on behalf of another, was observed particularly in the regions already mentioned.
- Instances of open voting where voters showed their marked ballots before depositing them in the ballot box.

- In a small number of cases, observers reported personally witnessing ballot stuffing during their visit.

5. Military Voting

Military voting was not considered any more problematic than voting and counting at regular polling stations, although observers reported seeing pre-signed voter lists, and on one occasion, stacks of ballots in a mobile box.

D. Voter Lists

When visiting polling stations, observers recorded the number of registered voters based on information given by the PECs. This data was compared with figures for “regular” and IDP voters provided by the CEC before election day. This comparison highlighted some significant discrepancies. Usually the figures were lower, dramatically in the case of IDP voters.

During election day, observers were asked to record separately the number of voters who registered to vote on election day. In a number of cases, this figure was exceptionally high. Such an extensive use of supplementary voter lists opens the door to abuse and contributes to a decrease of confidence in the election process.

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 11 percent of PECs failing to check voters ID documents as required by law.

E. Vote Count

The EOM monitored the count in 63 polling stations. The overall assessment of the count was characterised as bad or very bad in 48 percent of cases. A significant number of PECs appeared unaware of the correct counting procedures or made no effort to follow it. Many observers reported the process was chaotic and sometimes conducted in an agitated and intimidating atmosphere. The process often lacked transparency.

Of major concern are cases where some PECs, DEC and local officials obstructed the work of observers. Such instances include ejection of observers from polling stations, demands that observers stand away from the ballot box when opened, refusal to show data from the results protocols or give satisfactory answers, and denial of access to PEC protocols during observations at DEC.

On one occasion, the PEC chairman counted the number of unused ballots in a different room. On another occasion, the ballot box was removed by the PEC and opened in a locked room which observers were not permitted to enter. In a third case, observers reported that unauthorised persons, including uniformed and out of uniform police and *gamgebeli* were present during the count, on occasions interfering in the process.

Observers reported instances of the following procedural problems:

- The use of the security bags for sealing election material was poor. In many cases, PECs did not seal the bags or packed the material incorrectly, for example packing the used ballots with the unused.
- Failure to count the number of unused ballot papers or pack them.
- Failure to count the number of registered voters before opening the ballot boxes.
- Failure to count the number of signatures on the voter list, i.e. the number of voters who received ballots.
- Almost 30 percent of report forms indicated that ballot boxes contained ballots without the required number of stamps or signatures – these should be determined as “false ballots”.
- Failure to establish the number of “false”, invalid, spoiled ballots and counting invalid ballots as spoiled ballots.¹⁷
- A significant number of reports indicate that some PEC members disagreed with the determination of ballots as valid or invalid. Invalid ballots were rarely packed before counting the valid ballots.
- Where the PECs were unable to reconcile the figures, on occasions they simply entered figures that would “balance” the results. For instance in one case “missing” ballots were counted as unused.

The following highlight cases of serious violations:

- In a significant number of cases, upon opening the ballot box, observers noted ballot papers grouped together in batches indicating that ballot box stuffing had taken place.
- Occasionally, observers noticed the PEC signing the voter list to make the number of ballots in the box correspond to the number of voters who received ballot papers. Observers frequently reported series of apparently identical signatures on the voter lists.
- In a number of cases PEC members signed blank protocols before the count was completed, on other occasions protocols were completed in pencil.
- Sometimes invalid, blank, spoiled and “false” ballots were added to the votes for one of the candidates.
- On one occasion, the PEC chairman invalidated all votes for Jumber Patiashvili by circling the ordinal number of other candidates on the ballots.
- On one occasion, observers reported that the ballots in the box had different signatures than those of the PEC members signing the ballots despite the fact that they had signed all the ballots.

F. Tabulation of Preliminary Results at DEC and the CEC

Observers were present at the DEC level to monitor the delivery of PEC protocols and the preliminary tabulation process. The protocols were generally delivered directly to the DEC by PEC chairpersons often accompanied by police officers. However, in a few cases, observers reported that protocols were first delivered to other offices. For instance in Kobuleti district, a copy was handed in to the local CUG branch office before delivery to the DEC.

In most cases, observers were given access to the PEC results, although there were instances when DEC refused to grant observers to see PEC individual results. In general, the process at the DEC lacked transparency and in some instances it raised serious concerns. Sometimes the figures entered following the count at the PEC did not correspond to those reported at the DEC. Sometimes the

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A false ballot is one which lacks the required number of signatures and or a PEC stamp.

differences amounted to hundreds of votes in favour of one candidate, with the other leading candidate losing votes.

In a PEC in Saburtalo district, the PEC chairman informed the observer that 1,035 people had voted from 2,981 on the voter list. Of these voters, 298 had been added to the supplementary voter list on election day. The PEC chairman announced that Jumber Patiashvili received 450 votes to 522 for Eduard Shevardnadze. The voting material was then placed in unsealed envelopes and taken away from the polling station by the police and the PEC chairman without first completing the protocols. Observers recorded the information on the protocol for this PEC at the DEC. It contained the following information: 2,218 voters had cast ballots of which 1,996 voted for Eduard Shevardnadze and 199 for Jumber Patiashvili. This observer also reported other anomalies in Saburtalo, including one PEC where 710 voters had cast ballots at 18:00 whilst the final figure of participants given was 1,744. Similarly at another polling station, 1,004 voters had voted at 18:30 whilst the protocol indicates that 2,193 voted before 20:00.

There was a massive presence of police and local officials in a number of DEC's without any visible reason. Instances of blank pre-signed PEC protocol forms delivered by PEC chairpersons were reported. On occasions, observers noted that PEC chairpersons were invited in some other office to show their materials for inspection before formally depositing the election materials to the DEC.

DEC's informed the CEC of partial preliminary results by telephone. The figures released by the CEC were based on a random summation of various precinct results provided by the DEC's. Prior to the first announcement of preliminary results by the CEC at approximately 23:30, the CEC computer department was not involved in the aggregation process. Instead, the aggregated results were calculated personally by the First Deputy Chairman.

The official tabulation was conducted by CEC technical staff with standard software that did not include special safeguards against technical errors. In case 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. Post-Election Appeals

According to the Presidential law, complaints concerning violations of the election law have to be submitted to the DEC the day after election. The DEC scrutinises the complaint and submits its recommendation to the CEC. The CEC legal department reviews the submitted complaints and presents its recommendation to the CEC during the session on complaints. The legal department's recommendations did not provide the commission with a comprehensive summary of the complaints, and on numerous occasions the legal department alleged that the appeals were flawed, but failed to provide reasons. Most commission members decide without being familiar with the complaints, basing their judgement solely on the recommendation of the legal department and/or DEC.

The CEC did not consider a substantial number of complaints. Instead, complaints were received as "information" and the commission did not decide or vote on the complaints. This is a clear violation of article 19.8 of the Organic Law on Parliamentary Elections, a provision that raises concerns even in case of its uniform application.¹⁸ The CEC received about 100 complaints from 18 DEC's. The CEC invalidated the results of six precincts.¹⁹

¹⁸ Article 19.8 determines that the commission is authorised not to consider an application (or complaint) if 2/3 thirds of the present members

In general, the handling of complaints did not meet the basic requirements of a fair and transparent appeal system

The Supreme Court did not hear any post election complaint.

B. Tabulation and Publication of Final Result

According to article 22.6 of the Presidential law, the CEC summarizes in a protocol the final results of the election within 20 days after elections on the basis of the district protocols. On 19 April 2000, the CEC produced a document on the summarization of the final results of the 9 April election. The content of the protocol was not adopted by a formal decision, i.e. decree or resolution. Out of 20 present CEC members, 17 approved the protocol and three voted against it.

The protocol respected the letter of the law, but lacked essential information for a transparent completion of the election process. The protocol contains the numbers of registered voters, participating voters and votes received by each candidate. It declares the incumbent as reelected and announces the invalidation of results in six precincts. Nevertheless, the law does not define the content of the protocol nor its legal status. It remains unclear whether the protocol on summarization of results is simply the assessment of the results or a legal act, which establishes binding results. As only legal acts of elections commissions can be appealed, this ambiguity raises further concerns.²⁰

The EOM received the breakdown of the final results at the district level and was allowed to verify PEC protocols and other data acquired by observers in the field against official PEC protocols stored at the CEC. A random verification showed that, in a small number of cases, there were noticeable discrepancies between the documents stored at the CEC and data acquired by the EOM. Nevertheless, in an overwhelming number of cases, there were no changes or only insignificant differences. The EOM appreciates that its representatives had unrestricted access to the relevant documents.

decide so. This provision, which does not establish any legal requirements in substance, opens the field for a selective and politically influenced handling of complaints.

¹⁹ The CEC invalidated the following results on 14 April 2000: DEC 2/ precinct 38, DEC 3/precincts 10 and 12, DEC 10/precincts 6 and 40, DEC 13/precinct 8 (decree 9/2000).

²⁰ Article 29.2 of the Parliamentary Law.

VII. FINAL RESULTS

According to the CEC Final Protocol the results are as follows:

Total number of registered voters	3,088,925	100.00%
Total number of participant voters	2,343,176	75.86%
Candidates	Votes Received	%
Eduard Shevardnadze	1,870,311	79.82
Avtandil Joglidze	5,942	00.25
Vaja Jgenti	3,363	00.15
Tengiz Asanidze	2,793	00.12
Kartlos Gharibashvili	7,863	00.34
Jumber Patiashvili	390,486	16.66
<i>“Unaccounted” ballots</i>	<i>62,418</i>	<i>2.66</i>

The victory of President Shevardnadze further strengthens the position of his party, the Citizens Union of Georgia, which already controls the Parliament following the 1999 parliamentary elections.

VIII. CONCLUSIONS

Considerable progress is necessary for Georgia to fully meet its commitments as a participating State of the OSCE, and restore the confidence of opposition parties and voters in the democratic process.

Despite the introduction of procedures to improve the security and integrity of the election process, the conduct of polling on election day demonstrated that the will is deficient to conduct elections in full accordance with the law. Where breaches of the criminal code occurred and sufficient evidence exists to initiate criminal proceedings, the Georgian authorities should act, demonstrating that such actions are unacceptable in a State governed by the rule of law.

During its transition to democracy, it is vital for Georgia to fully establish its democratic credentials and reinforce the separation of party and State. The role of appointed local executive officials should be addressed and the authority of elected officials strengthened. It is vital that the election code, the adoption of which is tentatively scheduled for the autumn session of Parliament is based on broad political agreement to restore the confidence of the political parties and voters before the 2001 municipal elections.

IX. RECOMMENDATIONS

The following recommendations should be considered in conjunctions and as supplemental to the recommendations contained in the OSCE/ODIHR Final Report for the 1999 parliamentary elections in Georgia as well as the OSCE/ODIHR Analysis and Recommendations Concerning the Presidential Election Law of Georgia -18 February 2000.

Election Administration

- Steps are required to restore the confidence of voters and opposition political parties in the election administration. The CEC is a collegial administrative body and not a political body. The CEC composition should be further amended to make it a fully multi-party body composed only of qualified members nominated by political parties and guided only by the rule of law. No political interest ought to have a majority of nominations at any election commission, as no political interests should be in a position to control its functioning.
- The complicated system of legal acts issued by the election administration and introduced by the amended Parliamentary law should be simplified and decisions should be taken by an adequate majority to ensure broad agreement between the political interest represented in the commissions.
- Training of PECs and DECes must be considerably improved as a matter of urgency. This training should include an explicit reference to the articles of the Criminal Code related to election violations.

Election Legislation

- The election legislation should be further reviewed with the aim of establishing a comprehensive election code, in compliance with international standards and practices, and enjoying the confidence of the political interests and the electorate.
- The introduction of detailed provisions on the realization and enforcement of equal campaign conditions would improve the pre-election campaign environment.
- Clarity and certainty in candidate's nomination process is of exceptional importance. The nomination requirements identified in legislation should be exhaustive making it unnecessary for the CEC to issue any further decision on the verification procedure for supporters' signatures and identity documents. List of supporters should always be available for review by the appeal body and should not be destroyed before the appeal deadline has passed.
- The election legislation should unambiguously specify the rights of observers both domestic and international to monitor all stages of the election process, without undue restriction, and specify their right to have access to all election related information immediately upon request.
- Adequate enforcement mechanisms should be introduced to regulate the conduct of the media during election campaigns.
- The Criminal Code should be amended to include specific penalties for multiple voting and tampering with the ballot box.

Executive Authorities

- The election law should stipulate that state resources cannot be used for campaign purposes and clarify the role of local government in granting access and setting payment terms for use of publicly owned buildings. There must be a clear dividing line between State affairs and an incumbent's campaign.
- In view of the conduct by local officials on polling day, consideration should be given to prohibiting the local executive from acting as candidate or party proxies and specifying that they may not be present in polling stations and DEC premises on election day.
- Local officials should not be present in DEC premises during the voting, counting and aggregation procedures under any circumstance. Members of law enforcement bodies should only be granted access to polling stations and DEC premises to restore order upon explicit request of the Chairperson.

Transparency

- In order to increase the security of the voting process, transparent ballot boxes, envelopes for the ballots, and strict multi-party control on the design, production and distribution of ballot papers should be introduced.
- Copies of PEC result protocols should be given to all PEC members and domestic observers as well as representatives of candidates. Protocols should be completed in ink in the PEC premises in front of proxies and observers, or face invalidation, and one copy should be posted in a visible place of the PEC building immediately after signing by all members of the PEC. If the PEC has spare blank protocols after distribution to the aforementioned persons, only the required number should be forwarded to the DEC, the remainder should be invalidated at the PEC premise.
- The PEC, DEC and CEC protocols should include more information. At PEC level, it should include a separate line on the number of voters who were added to the supplementary registers on election day. The DEC should include all aggregated information from figures included in the PEC protocols, together with summary tables detailing the results from PECs. The CEC should issue a similar protocol giving the aggregated figures from DEC premises.
- Clear and detailed administrative instructions should be issued to ensure the transparency and security of the counting and tabulation process.
- The computer software used by the CEC for aggregating the preliminary and final results should include additional security features such as a "record" of figures altered and audits on anomalous results. Consideration should be given to introducing a double entry system.
- Where election material is received from PECs by the DEC premises in unsealed packages, a report should be submitted to the CEC for consideration whether the results should be invalidated.

Complaints²¹

- Members of PECs, representatives of candidates and domestic observers should be allowed to submit complaints regarding voting after the close of the polls, as some irregularities during voting may only become apparent once ballot boxes are opened.
- The DEC and the CEC should be obliged to hear all complaints and appeals and each member be given copies of the original complaint and supporting documentation in advance of the session of the election commission. The commissions should also be obliged to issue a legal act on each complaint and appeal so that the appellant could continue his appeal to the next instance if necessary.
- All CEC Decisions should be subject to appeal, and the deadline for appeals should come into force from the moment the appellant becomes or should be aware of the decision, not from the time the decision is entered. All appeal deadlines should be clearly stated in the election legislation.

Voter Registers

- The accuracy of voter lists should be improved. As recommended after the parliamentary elections, the responsibility for the compilation of voter lists should be tasked to an appropriate central State agency also responsible for the maintenance of civil registers and to the municipal authorities in close co-operation with the Central Election Commission. Parties should have the right to access voter lists.
- The Ministry of Interior should, as a matter of urgency, issue new identity papers to all citizens of Georgia. This would improve the identification procedures and contribute substantially to improve the quality of voter lists for the municipal elections due in the fall of 2001.

²¹ For more, see OSCE/ODIHR, International Election Standards Program, *Generic Election Disputes Resolution Guidelines*, 12 December 1999.