

**INTERIM REPORT
(8-27 September 2006)**

I. EXECUTIVE SUMMARY

- In the 5 October municipal elections, some 1,732 members of 69 Sakrebulo (local councils) throughout Georgia will be elected under a mixed proportional-majoritarian election system. The elections were called on 26 August, and will be administered by a three-tiered election administration, including the Central Election Commission (CEC), 76 District Election Commissions (DEC) and some 3,005 Precinct Election Commissions (PEC).
- A total of five parties and one electoral bloc, and a number of independent candidates, will contest elections. Some political parties have decided to boycott or not to take part in the elections.
- The election administration is operational and the technical preparations for the election are underway, although the CEC faces difficulties meeting the tight legal deadlines.
- The registration of election subjects was generally conducted in an orderly manner and the electorate will be offered a degree of choice of political parties and candidates. However, 282 out of 1,025 majoritarian contests and 6 out of 69 proportional contests will be non-competitive, with only one candidate/party list on a ballot.
- The delimitation of local majoritarian election districts follows the territorial-administrative boundaries of the country, and the OSCE/ODIHR Limited Election Observation Mission (LEOM) is currently analyzing the data on the number of voters per district.
- The OSCE/ODIHR LEOM is following the resolution of election disputes and has to date been made aware of 18 complaints, mainly against decisions by election commissions with regard to candidate registration.
- Across the country the campaign to date has been low-key. In the capital, the campaign of the incumbent Mayor is highly visible. Parallel to his election campaign, State and municipal authorities launched highly advertised social aid programmes.
- There has been only limited visibility of election-related events in the media. However, social aid programmes and other activities of the authorities have received extensive coverage. The television channels have generally respected legal requirements with regard to allocation of free time. Debates are being held on public and some local television channels, however, the governing United National Movement (UNM) has decided not to participate.

II. ELECTION ADMINISTRATION

The 5 October municipal elections will be administered by a three-tiered election administration, including the CEC, 76 DEC and some 3,005 PECs. The Unified Election Code (UEC) defines the seven-member CEC and the five-member DEC as standing, professional and non-partisan bodies.

The composition of the CEC was established on 3 June, 2005 following selection of its members by the Parliament of Georgia based on the nominations by the President of Georgia. Currently, the CEC consists of a Chairperson and five members.¹

The CEC holds regular sessions, which are open to the public. Both domestic and partisan observers as well as mass media have widely used their right to attend the CEC sessions. The work of the CEC is generally conducted in a collegial manner, however discussions on controversial matters among all the members of the commission are held only rarely. Minutes and decisions are made available on the CEC website, although only in Georgian. Assisted by an international organization, the CEC has developed a training program for the members of DEC and PECs, which is currently being implemented all across the country. The CEC has also published a PEC training manual, which is available in Georgian, Azeri (in the Latin script), Russian, and Armenian.

The calling of the elections on 26 August, setting the election date for 5 October, has put the election administration under a significant time constraint, and the CEC has not been able to meet some legal deadlines. The CEC subsequently prolonged a number of legal deadlines by issuing a decree, in some instances retrospectively, when these deadlines had already expired.² The CEC failed to address an ambiguity in the UEC, with regard to the requirement to open campaign funds, in a consistent and a timely manner. As a result, some majoritarian candidates were denied registration. Ultimately, in some local majoritarian districts only one candidate was left on the ballot.

Most DEC members were appointed in March 2006, after the CEC announced an open competition for vacant positions in some 70 DEC.³ DEC membership was only open to persons who had passed a test in electoral matters and received a certificate issued by the CEC. Opposition parties and some NGO representatives have raised concerns over the appointment procedure claiming that it allows the authorities and the governing party a dominant influence over the composition of the CEC and DEC.

At the DEC level the technical preparations for the election day are under way. Most DEC conduct regular, public sessions and publish minutes of their meetings. National minorities are represented in the DEC in some minority areas in the predominantly ethnic Armenian region of Samtskhe-Javakheti, while they are underrepresented in the DEC in the predominantly ethnic Azeri districts of the Kvemo Kartli region. However, ethnic minorities appear to be better represented in the PECs in both regions.

¹ The present composition has resulted from the transfer of a former CEC Chairperson to the post of a Minister of Justice and the appointment of a former CEC Secretary, Guram Chalagashvili, as a new head of the CEC on 22 December, 2005.

² This concerned the deadlines for the creation of precincts, formation of PECs, announcement of the preliminary number of registered voters and the establishment of a cut-off date for making amendments to the voters list.

³ DEC 5 (Isani/Tbilisi), DEC 57 (Tkbuli/Imereti) and DEC 79, 81 and 82 (all three in Adjara) maintain the same composition as for the October 2005 parliamentary repeated elections, while members of the DEC 86 Zemo Abkhazeti in the Kodori Gorge were appointed after the calling of these municipal elections.

The composition of nine-member PECs allows for party representation. Up to two-thirds of its membership may be nominated by the three top-scoring political parties in the last parliamentary elections – the UNM, Industry Will Save Georgia⁴, and the Labor Party of Georgia, – while the rest are selected by a DEC. In practice, the precinct-level commissions administering these municipal elections were hastily formed by the DECs on the basis of the so-called special groups, which were established just days before the calling of the elections for the purpose of updating the voters lists. The principles of the formation of these special groups provided for the same degree of party representation.

While the DECs in some regions⁵ are located in the same building as the local executive (Gangeoba), in other regions⁶, the office of the UNM is located in the Gangeoba building. This contributes to blurring the distinction between the DECs, the local administration and the ruling party. In addition, the OSCE/ODIHR LEOM received allegations of PEC members or public employees canvassing voters with UNM questionnaire forms in Tbilisi, Kutaisi, Zugdidi and Telavi.

Voters lists

The CEC is responsible for the maintenance of a centralized computerized voter register. The update of the voter register was initiated ahead of the municipal elections with the creation of 2,804 special groups established on 31 July, 2006. The task of the special groups, which were created for the period from 23 August to 12 September, was to carry out a door-to-door check on the territory of each precinct. With the announcement of elections on 26 August, the mandate of the special groups came to a halt after only some few days of work. On 1 September, the special groups were transformed into 3,005 PECs.

In most areas of Georgia, the DECs, assisted by selected members of PECs, continued the work started by the special groups. This entailed the conduct of door-to-door checks and the verification of voters' data. Voters lists were also made available for public inspection in the PECs, and the CEC created a hotline where people could call-in free of charge to make enquiries, including about their entry into the voters lists. The hotline is operating in six languages. As of 25 September, the officially announced number of voters is 3,201,168, which constitutes a significant increase over past elections.

Despite the commendable efforts undertaken by the authorities and election administrators to improve the quality of voter registers, the opposition parties and some civil society organizations continue to express lack of confidence in their accuracy to the OSCE/ODIHR LEOM. They point to inconsistencies in the updating process, presence of double entries, spelling mistakes and other inaccuracies.

The final voters lists were due to be delivered and posted for public review in the PECs from 24 September, which was also the deadline for inclusion of voters in the lists by a court decision. The UEC does not allow for election day registration (except for citizens returning

⁴ Industry Will Save Georgia contested the last parliamentary election in an electoral bloc with the New Conservatives Party (New Rights), which decided not to take part in these municipal elections. Under the UEC, Industry Will Save Georgia, as a party in the bloc that gained the highest number of seats, had the sole right to nominate PEC members, but in a number of regions decided to share this right with its ex-bloc partner.

⁵ Five DECs in Kvemo Kartli region and some DECs in Adjara are located in the Gangeoba building.

⁶ The UNM office in Akhalkalaki and Aspindza (both Samtskhe-Javakheti) are located in the Gangeoba building.

from abroad or voters who are released from detention centres or hospitals on the eve of the elections).

In Tbilisi, the OSCE/ODIHR LEOM has noted that in every city district a number of voters, varying from a few dozen to more than a thousand, appear on the voters list without their addresses indicated. The OSCE/ODIHR LEOM will follow up on this and other issues related to the voters lists.

Registration of election subjects

According to the UEC, the registration of election subjects is conducted at the CEC and the DEC levels. Firstly, political parties and movements register with the CEC in order to be able to nominate candidates for the municipal elections. Electoral blocs can then be created and registered by the CEC. Subsequently, the centrally registered political parties and movements register their lists and candidates for the proportional and majoritarian races with the respective DECs. Independent candidates can contest elections in districts outside Tbilisi and need to be nominated by initiative groups of voters (IGVs) registered at the DEC level.

Eleven political parties and movements applied for registration, and nine were registered by the CEC. The political movement Samshoblo (Motherland) and the Merab Kostava Society were denied registration on the grounds of incomplete documentation. The National Democratic Party and the New Conservative Party (New Rights) withdrew from the race on 8 September and on 11 September respectively, alleging unfair competition. A total of five parties – the UNM, the Labour Party, Georgia’s Way, Industry Will Save Georgia and the National Ideology Party – and one electoral bloc formed by the Republican and the Conservative Parties under the name “Davitashvili, Khidasheli, Berdzenishvili” – will compete in the forthcoming elections.

In general, the registration of election subjects was performed by the CEC and the DECs in an orderly manner. However, the OSCE/ODIHR LEOM is aware of at least two regions, Kvemo Kartli and Imereti regions, where election subjects – and in particular independent candidates – have been denied registration in significant numbers.⁷ An average of three party lists per election district offers the electorate a choice on the proportional ballot. However, in six out of a total of 69 election districts only one party list – in all cases the one of the governing UNM party – contests the proportional vote.

With regard to the majoritarian races, some 2,400 candidates will compete in a total of 1,025 local majoritarian election districts. According to the preliminary information, in 282 (27.5 per cent) local majoritarian districts, elections will be non-competitive, with only one candidate on the ballot. In all but one case it will be a candidate of the UNM.

III. LEGAL FRAMEWORK

The legal framework for the 2006 municipal elections consists of, but is not limited to, the UEC, which was adopted in 2001 and amended 15 times since. The June 2006 joint OSCE/ODIHR and Venice Commission of the Council of Europe (VC/CoE) legal review of

⁷ According to the preliminary information, in Gardabani DEC #21, from a total of 43 registered IGVs, only 13 candidacies were accepted, in Dmanisi DEC #24, only 12 candidates were registered from a total of 48 IGVs and in Marneuli DEC #22, all the 18 IGV candidates were denied registration. In Imereti, in Chiatura DEC#56, a similar situation occurred when all 24 IGV candidates were denied registration despite their claim that they had been misinformed by the CEC about the rules for the opening of campaign funds.

the UEC notes that the Code contains a number of positive features and addresses some of the shortcomings identified in previous reviews and reports⁸, but fails to reflect a number of earlier recommendations.

In December 2005, the VC/CoE conducted an independent review of the newly-adopted system of election to the Tbilisi Sakrebulo⁹. Although the OSCE/ODIHR did not participate in this review, it shares some of the concerns expressed by the VC/CoE with regard to some elements of the system, including the excessive residency requirement, the lack of provision for independent candidates, and the use of a single majority ballot in the Tbilisi Sakrebulo election, while voters in the rest of Georgia cast two ballots. The most recent amendments to the UEC of June and July 2006 will be the subject of a separate review by the OSCE/ODIHR and the VC/CoE to be published later this year.

The municipal elections are taking place following a reform in the system of local self-governance. The voters of Georgia will directly elect 69 Sakrebulos (local councils) in four self-governing cities, 60 municipalities, four communities established in conflict zones, as well as the Tbilisi Sakrebulo. Under the new provisions, city mayors and municipality Gamgebelis will be elected by the Sakrebulos. Incumbent mayors or Gamgebeli standing as candidates in the forthcoming elections are obliged by the UEC to resign from their posts. The provision, however, does not apply to the Mayor of Tbilisi who under the latest amendments is allowed to run without having to resign.

For the elections of local-self governance the UEC establishes a mixed electoral system whereby in each Sakrebulo throughout the country (except Tbilisi) 10 members are elected through proportional representation system, and a certain number of members are elected through majority system in local majoritarian election districts for a four-year term.

Although Article 6 of the UEC contains a general provision for the equality of suffrage, the requirement to draw the district boundaries on the basis of the number of voters appears to apply only to the self-governing cities (Art 129^{1.2}). The delimitation of local majoritarian election districts in municipalities follows the old territorial-administrative divisions, according to which a community (unit) elects one member to the Sakrebulo, irrespectively of a number of inhabitants in that community (unit).¹⁰ The OSCE/ODIHR LEOM is currently analyzing the number of voters per local majoritarian district and subsequent implications.

For the city of Tbilisi, the UEC provides for a 37-member Sakrebulo. Twenty-five members are elected in 10 local majoritarian election districts, whereby the party list which “received more votes than others, but not less than 30 percent of those who participated in the election” takes all the seats allocated to that district. The remaining 12 seats are distributed proportionally among those parties which gained at least four per cent of the votes¹¹ in all of Tbilisi’s 10 districts. The Sakrebulo would then elect the Tbilisi mayor, by 2/3 of the votes, from among its members for a four-year term. This system has been criticized by the opposition as reducing the representative nature of the Sakrebulo and favouring the ruling party.

⁸ Opinion No.362/2005, Joint Opinion on the Election code of Georgia as amended up to 23 December 2005, 16 June 2006.

⁹ Opinion No. 358/2005, Opinion on the Draft Organic Law on “Making Amendments and Additions into the Organic Law – Election Code of Georgia”, 20 December 2005.

¹⁰ For a definition of a territorial-administrative unit, see Article 1 of the Organic Law of Georgia on Local Self-Government. The law enters into force upon the announcement of the results of the 2006 municipal elections.

¹¹ With only 12 seats to distribute, the four percent threshold appears rather theoretical. In order to gain a seat, a party or bloc list would in effect need to obtain more than 8 per cent of the votes.

Complaints and Appeals

The UEC contains satisfactory provisions for the resolution of election disputes, which allow for complaints to be filed with courts or election commissions. However, the recent significant increase in the court fees may discourage some election stakeholders to seek legal redress. The Constitutional Court of Georgia, which serves as one of the higher instances for the consideration of election-related appeals, will only be operational after the elections as several of its newly-appointed judges are yet to be sworn in.

To date, the OSCE/ODIHR LEOM has been made aware of 18 complaints, almost all of which were filed against legal acts (decrees and ordinances) of election commissions. The majority of complaints are related to the registration of candidates, including complaints against denial of registration to independent candidates due to the failure to open a campaign fund.

Two complaints were filed against the CEC ordinance by which it registered a party list of the UNM headed by the incumbent Mayor of Tbilisi Giorgi Ugulava and containing candidates to the Tbilisi Sakrebulo who did not appear on any of the majoritarian ballots.¹² In two controversial decisions, the Tbilisi City Court initially dismissed the complaints on the grounds that the two complainants, the registered electoral bloc 'Davitashvili, Khidasheli, Berdzenishvili' and Georgian Young Lawyers Association (GYLA), were not entitled to file such a complaint. Both decisions were challenged in a closed hearing of the Appellate Court, but were dismissed.

IV. CAMPAIGN ENVIRONMENT

Under the UEC, the campaign starts on the date of announcement of elections, i.e. 40 days before elections. However, in practice, the campaign can only commence when the party, electoral bloc or independent candidate has received registration. The deadlines for registration of different election subjects vary and disadvantage some election subjects over others by shortening the time available for their campaign.

To date, the electoral campaign has remained very low-key and mainly limited to door-to-door canvassing of voters and small-scale meetings. In the regions, few campaign posters are visible and other campaign material is nearly absent. Most parties explain the slow start of campaign activities by the unexpectedly early announcement of the elections. Some point to a lack of resources. The political parties contesting the election, with the exception of the UNM, do not seem to have developed clear campaign platforms.

In Tbilisi, the campaign of the incumbent Mayor is highly visible, with posters displayed on billboards and municipal buses and with campaigners actively canvassing voters. Parallel to his election campaign, State and municipal authorities launched highly advertised social aid projects.¹³ These activities may blur the distinction between the legitimate campaign activities and the use of administrative resources for election purposes.

¹² The legal basis for the complaints was the Article 128⁸.3 of the UEC, which states that party lists shall be composed of those candidates who are nominated for majoritarian elections.

¹³ Such programmes include issuing of vouchers to teachers to lower their gas expenditures, the pay-out of frozen pensions and of bonuses to pensioners or bonuses to families under the poverty line, as well as temporary employment schemes such as a "clean city campaign" carried out by students during week-ends or three month internship programmes.

The OSCE/ODIHR LEOM has received credible allegations from sources in the Kharagauli district #48 that local executive authorities exert pressure on an initiative group of voters and other supporters of a former UNM candidate, who now runs as an independent. The OSCE/ODIHR LEOM has received similar allegations from the Marneuli election district #22 as well as from other districts.

The OSCE/ODIHR LEOM has so far noted a few instances, where incumbent mayors (outside Tbilisi) apparently have not stepped down from their posts, but continue to use their office and other public resources during their campaign.

V. MEDIA

The legal framework for the media during the election campaign consists of the Constitution of Georgia, which provides for freedom of speech and prohibits censorship as well as of a number of articles of the Law on Broadcasting and of the UEC. The UEC obliges the public and private broadcasters to allocate free airtime for election advertisements of 'qualified election subjects', to provide them with equal conditions for placement of paid campaign advertisements and to take part in debates.

On the national level, a qualified election subject is a political party that has its own faction in the parliament or has, in the last elections, received no less than four per cent of the party list vote. On the local level, a qualified election subject is also a political party that (1) has gained no less than 25 per cent of the votes in the municipal elections, or (2) whose majoritarian candidate in the last parliamentary elections reached the second round or (3) which meets the requirements stated for the national level broadcasters.

The UEC requires the public broadcaster to provide the total of two hours of free airtime on a daily basis for the election-related coverage and campaign promotion, including the total of 24 minutes per day dedicated to all 'qualified election subjects'. The broadcaster is also obliged to distribute the remaining free air time equally among parties and electoral blocs other than 'qualified election subjects'. The *1st Channel* chose to allocate 27 minutes to each qualified and 5 minutes each to other registered subjects.

So far, the TV channels monitored by the OSCE/ODIHR LEOM have complied with their legal obligations regarding the allocation of free air time and organization of televised debates. On the regional level, local television channels have announced the intention to hold debates closer to the election day.¹⁴ However, the UNM has decided not to participate in such debates.

Based on the preliminary findings of the OSCE/ODIHR LEOM's media monitoring¹⁵, the campaign is not very visible in the media, and there is only a low-key reflection of election events. At the same time, the media has given extensive coverage to public appearances of the authorities. A number of spots devoted to the activities and achievements of the authorities (such as the "Tbilisi News" commercial) have been broadcast at both national and local level.

¹⁴ Local television channels in Samtskhe-Javakheti, Imereti and Adjara.

¹⁵ The OSCE/ODIHR LEOM has commenced its media monitoring on 13 September analyzing the election coverage by the following media outlets: *1st Channel* (Public service broadcaster), *Imedi TV*, *Rustavi 2*, *202 TV*, *Adjara TV* (TV channels); *Akhali Taoba*, *Akhali Versia*, *Alia*, *Rezonansi*, *Sakartvelos Respublika*, *24 hours* (dailies), *Asaval Dasavali*, *Georgian Times*, *Kviris Palitra* (weekly newspapers).

The private *Rustavi 2* channel dedicated 36 per cent and 30 per cent of its political prime time news to the government and to the president respectively. Compared to other nationwide channels, the public *1st channel* devoted the biggest share of its broadcast time to the political news and had a similar coverage of the two aforementioned subjects as *Rustavi 2*. The coverage of the authorities by both channels was largely neutral or positive in tone. The newspapers have so far offered its readers a more critical approach. However, they reach out to only a limited readership due to a relatively low circulation.

VI. DOMESTIC AND NON-PARTISAN OBSERVATION

A total of eight non-governmental organizations including the non-partisan domestic observer groups International Society for Fair Elections and Democracy (ISFED), New Generation New Initiative (nGnI) and Georgian Young Lawyers Association (GYLA) have been registered to observe the elections. ISFED has launched a long-term observation programme and on election day plans to deploy 3,000 observers throughout the country and to conduct a parallel vote tabulation (PVT) in Tbilisi, Rustavi, Batumi and Kutaisi. For its part, the nGnI plans to deploy 2,500 observers and will also conduct a PVT in the same cities as ISFED. GYLA runs various programmes focusing mainly on legal aspects of the elections. Transparency International Georgia will concentrate on monitoring abuse of administrative resources in the electoral campaign.

VII. OSCE/ODIHR LEOM ACTIVITIES

The OSCE/ODIHR LEOM to the 5 October municipal elections started operating on 8 September, 2006. The nine-member core team was later joined by 19 long-term observers, who have been briefed and deployed to nine locations throughout Georgia, including Tbilisi. The OSCE/ODIHR LEOM is headed by Ambassador Geert Ahrens and consists of 28 observers representing 19 participating States.

The Head of the OSCE/ODIHR LEOM and other Mission members established contacts with election commissions, political parties, candidates, civil society, media, State and other officials. Long-term observers have met the majority of DEC's and established similar contacts on the local level. On 15 September, the Head of Mission had a detailed discussion with President Saakashvili. Briefings for diplomatic missions and international organizations were held on 11 and 27 September, 2006.