

OSCE/ODIHR Election Observation Mission
Georgia, Parliamentary Elections 2003
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POST-ELECTION INTERIM REPORT

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The Post-Election Interim Report reflects the findings of the OSCE/ODIHR Election Observation Mission (EOM) from the 2 November parliamentary elections to the annulment of the proportional part of the vote on 25 November. It should be read in conjunction with four pre-election interim reports and the Statement of Preliminary Findings and Conclusions issued on 3 November by the International Election Observation Mission (IEOM). The IEOM was a joint undertaking of the OSCE/ODIHR, the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP). Bruce George, President of the OSCE PA, led the OSCE short-term observation while Julian Peel Yates (UK) headed the OSCE/ODIHR long-term observation mission. A complete and final analysis of the election process will be offered in the OSCE/ODIHR Final Report.

As reported in the Statement of Preliminary Findings and Conclusions “the 2 November parliamentary elections in Georgia fell short of a number of OSCE commitments and other international standards for democratic elections”. Developments during the tabulation of results and the complaints and appeals process only served to further underline the extent to which the parliamentary elections failed to meet OSCE commitments and other international standards.

Executive Summary

- The election process was characterised by a clear lack of political will by the governmental authorities to organize a genuine democratic election process, resulting in widespread and systematic election fraud. Severe shortcomings were apparent before, during and after the 2 November elections, most obviously in Adjara and Kvemo Kartli region, where egregious election fraud materially affected the integrity of national election results.
- These failures provoked a political crisis when opposition parties and large numbers of citizens demonstrated their refusal to accept perceived manipulation and fraud. Ultimately the demonstrations led to the resignation of the President and the cancellation of the proportional component of the parliamentary elections. Nino Burjanadze, the Speaker of Parliament, is Acting President until the new presidential election, now scheduled for 4 January 2004.
- The Georgian authorities failed to produce reliable voter lists for the elections. This led to the de facto disenfranchisement of potentially significant numbers of voters, particularly in Tbilisi, Rustavi and Kutaisi cities. Other failings before polling included pressuring voters, cases of violence against opposition supporters and misuse of state owned resources by the pro-government “For New Georgia” bloc.

- Serious irregularities took place in polling stations on 2 November as noted through direct observation by international observers of ballot stuffing, use of pre-marked ballots, multiple voting and the destruction of ballot boxes. Other attempts to manipulate the vote were also observed and some domestic election observers were obstructed and even intimidated.
- After the close of polls, some members of Precinct and District Election Commissions (PECs and DEC)s) were directly involved in producing dishonest election results, mostly but not exclusively benefiting the bloc “For New Georgia” and the Union of Democratic Revival. Some of these results are strikingly implausible. Their actions reveal a complete disregard for the electoral choices made by their fellow citizens, and contributed to a serious political crisis. A culture of impunity for the violation of election-related laws can only be curbed through the prosecution of those persons who have knowingly and willingly broken the law.
- The Central Election Commission (CEC) took a passive approach to violations committed by lower level commissions and accepted implausible election results largely without question. It failed to administer the process efficiently or provide remedy to those seeking redress for election violations. While the administration had the capacity, international support, and funding to organise a genuine election, many CEC members placed narrow party interests above democratic principles. The incoming Georgian authorities must not accept the continuation of this situation. Those who have tolerated or committed fraud in this and previous elections should be considered unfit to serve on election commissions.
- The media and domestic observers from the International Society for Fair Elections and Democracy (ISFED) and the Georgian Young Lawyers Association (GYLA) played a crucial role in enhancing the transparency of the process. The evidence they gathered during the election period served as a basis to challenge the legality of the elections in Court. The arrest and continuing detention in Adjara of Giorgi Mshvenieradze, while fulfilling his legitimate role as a domestic observer in accordance with paragraph 8 of the OSCE Copenhagen Document, is a cause of genuine and serious concern.
- A parallel vote tabulation (PVT) conducted by ISFED according to a dependable methodology, and an exit poll which resulted in similar findings, provided electors with an independent verification of the many irregularities in the election process.
- Prior to the events of 22/23 November, which resulted in the resignation of President Shevardnadze, the courts heard election complaints and appeals and in a few cases made bold judgements. However, too often the judiciary failed to provide a clear resolution of election disputes. The new administration must ensure that the courts are able to function independently and that their judgements are upheld and enforced.
- During demonstrations against election fraud the Georgian authorities largely respected the rights of peaceful assembly and free speech and both the protesters and the law enforcement bodies displayed commendable restraint. However, the EOM is concerned by a selective approach by the former administration towards freedom of movement, as well as the assault on peaceful demonstrators on 19 November in Bolnisi. This event should be investigated fully and the perpetrators prosecuted.

- On 25 November the Supreme Court annulled the result of the proportional component of the parliamentary election (150 deputies). However, the status of the 75 majoritarian election contests remains uncertain. A few majoritarian results have been challenged in Court, which may have wider legal implications. The parliament elected in 1999 is presently considered the legitimately constituted parliament and will remain so until new parliamentary elections are held. It reconvened on 25 November with 165 deputies in attendance and called for a presidential election to be held on 4 January 2004 in line with the constitutional requirement to hold elections within 45 days. No date for new parliamentary elections has yet been set.
- The electoral timeframe will challenge the electoral administration. Issues yet to be addressed include the composition of the electoral administrative bodies, the preparations for elections including corrected voter lists and the means of funding the process.
- The presidential election will provide an early opportunity to demonstrate to the electorate and international observers whether the authorities at all levels now have a willingness to hold genuine, credible and democratic elections. Following the 2003 elections, it is incumbent on the authorities to restore public confidence in the democratic election process and the political impartiality of State institutions. The judiciary may yet play a decisive role in drawing a line under the era of impunity for breaches to the election law. Its activity, together with the media and domestic civil organisations, remains crucially important.
- An advance team of OSCE/ODIHR experts will continue to monitor the political developments and the electoral preparations until the OSCE/ODIHR EOM starts its regular observation activities from 7 December and operates in full capacity.

The Vote Count and Tabulation of Results

On 2 November, the International Election Observation Mission (IEOM) deployed some 450 observers. They noted a wide variety of shortcomings and irregularities as well as a number of direct observations of serious election fraud. The EOM observed the counting of ballots in some 150 polling stations. In general the count was contentious and disorganised and in 31% of observed polling stations the counting process was deficient while 24% of observers indicated a poor or very poor confidence in the accuracy of results. During the counting of votes many Precinct Election Commissions (PECs) failed to follow correct procedures and observers reported a relatively large number of serious violations including 6 instances of ballot stuffing. In 21 polling stations (15% of those observed) observers were hindered while conducting their activity. In the majority of cases, PECs failed to display election results publicly.

IEOM short-term observers (STOs) followed proceedings in 42 of the 75 District Election Commissions (DECs) after the close of polling stations where they observed the preliminary tabulation of results. While they noted that in some cases DECs were performing their tasks according to the law too often the process was tense, disorganised, non-transparent and frequently seriously flawed. While many DECs complied with the CEC's request to provide it with data on individual PEC election results, of the observed DECs 12 refused. In most DECs observers were given access to election results, but in a significant minority of cases observers were unable to receive information relevant to their activity, including access to results data. In 16 DECs observers indicated a poor or very poor level of confidence in the accuracy of the results tabulation.

Observers continued to monitor closely the work of selected DEC. The work of the DEC deteriorated even further after 3 November and a significant number simply ignored the Unified Election Code (UEC) and basic electoral principles. In some cases DEC were directly and wilfully involved in manipulating the election results. A catalogue of serious shortcomings observed includes:

- Completing results sheets (protocols) or amending PEC protocols inside and outside DEC premises rather than at the PEC as stipulated by law, e.g. in Tkibuli, Tsalenjikha, Isani, Tskaltubo and Samtredia;
- Fabricating protocols in both majoritarian and proportional contests, sometimes with vastly inflated turnout figures, e.g. in Gardabani, Marneuli, Khelvachauri and Batumi;
- The existence of different protocols with differing results for the same PEC, e.g. in Nadzaladevi and Vani;
- Signing blank protocols, e.g. PECs in Marneuli, Vani and Dusheti;
- Failing to deliver protocols to the DEC, e.g. by PECs in Kutaisi and Vani;
- PECs failing to seal election material and DEC failing to store material securely, e.g. in Gldani, Baghdadi, Lanchkuti, Batumi, Kobuleti and Khulo;
- The presence of unauthorised persons in DEC premises including police, who in a few cases were influencing the work of the DEC, e.g. in Gurjaani, Dedoplistskaro, Dusheti, Tsalka, Chiatura and Zugdidi;
- DEC accepting unsigned, unstamped PEC protocols, e.g. in Khelvachauri;
- Interference in the work of the DEC by gangebali (local government executives), e.g. in Samgori, throughout Kvemo Kartli and in Khashauri;
- Serious instances of intimidation of DEC members and observers, e.g. in Rustavi;
- Manipulating downwards the turnout figure after election day to ensure that the top scoring candidate did not face a second round run-off, e.g. Liakhvi;
- Manipulating upwards the number of votes received by a leading candidate to avoid a second round contest, e.g. in Lagodekhi;
- Attempting to manipulate the election result by cancelling specific PEC results to change the second placed candidate and thus second round candidates, e.g. Mtatsminda and Aspindza;
- Ignoring official election complaints, e.g. Bolnisi, Samgori, Rustavi, Marneuli Gardabani, Khashauri and Mtatsminda;
- Tolerating fraudulently completed ballots, e.g. in Samgori where the recount evidenced dishonestly completed ballots which were nevertheless included in results;
- Negotiating results rather than basing these on protocols, e.g. Samgori and Kutaisi;
- Misinforming observers of the number of complaints and court appeals, e.g. in Abasha;
- The failure by 18 PECs located out-of-country to submit original results sheets to the DEC.

Announcement of Preliminary Results

On election day, the domestic observer organization ISFED conducted a parallel vote tabulation (PVT) reporting the cumulative election results from a large sample of polling stations across Georgia. In addition, two organisations conducted exit polls: GSM, for Rustavi 2 TV, and Niccolo M & Sora, for State TV. Both asked over 20,000 voters for whom they had voted at the point of leaving polling stations. The data from these surveys were released on election night or shortly thereafter and the PVT and the GSM exit poll indicated that the National Movement had a clear lead over the second placed FNG bloc which in turn had a small lead over the third-placed Labour party. According to this data three other parties overcame the 7% threshold: the Burjanadze-Democrats, Revival and New Rights although the figure against which the 7% is calculated was unclear.

From early morning on 3 November, the Central Election Commission (CEC) began to announce preliminary unofficial results on its website. However, it abandoned efforts to post original PEC results data and results were based on verbal reports given by DECs. While the publication of unofficial preliminary results by the CEC was a welcome innovation and promoted transparency, the mathematical logic of the data posted was not checked and many anomalies were clearly apparent. Significantly, the CEC data varied considerably from the PVT and exit poll data giving the FNG a lead over the National Movement. However, when the results from Adjara were included, for a while Revival became the leading party. After the inclusion of results from Kvemo Kartli, it fell back to second place but retained a lead over the National Movement. In a few cases the results posted by the CEC contradict those noted by international observers on election night.

The official CEC and PVT results are set out below:

Party/Bloc	Official Results %	Place	PVT%	Place
For New Georgia	21.32%	1	18.92%	2
Union of Democratic Revival	18.84%	2	8.13%	5
National Movement	18.08%	3	26.60%	1
Labour	12.04%	4	17.36%	3
Burjanadze-Democrats	8.79%	5	10.15%	4
New Rights	7.35%	6	7.99%	6
7% Threshold				
Industry Will Save Georgia	6.17%	7	5.20%	7

Increases in the number of voters registered in Adjara led to election results purporting to show an even higher number of votes for Revival than during previous elections. The Adjara authorities claimed some 289,000 registered voters, an increase of 22% compared to 2000. Of these, 97% are claimed to have voted, 96.7% in favour of Revival. However, these irregularities were not restricted to Adjara. Manipulated turnout was also noted in other districts e.g. Tkibuli (Imereti). Polling in Kvemo Kartli was also characterised by a high number of election day and subsequent violations witnessed by international observers and highly doubtful turnout data. An analysis of selected polling stations in various regions of Georgia indicates that in a high number of cases PECs were processing voters implausibly quickly. Inflated turnout and fraudulently garnered votes for particular parties had a significant effect on the national election results.

Decisions made by the CEC shortly before election day and on election day itself caused difficulties in establishing the actual number of registered voters and consequently the turnout, which determined the validity of election contests. In some districts the number of registered voters was established only after election day.

Election Administration

The CEC failed to use its authority to ensure that the elections were held according to law and did not hold a session until 9 November. In general, the CEC did not scrutinise results but appeared to accept dubious and implausible results without question and failed to give clear instructions to its staff on how to deal with anomalous results. Many DEC's failed to carry out their tasks according to the CEC's instructions and the legislation. Serious shortcomings included:

- Many DEC's failed to provide preliminary results to the CEC as instructed;
- 18 DEC's failed to submit PEC results sheets to the CEC as required by law;
- Many DEC's failed to submit the correct version of original PEC protocols (i.e. #1 or #2) to the CEC;
- Major discrepancies were observed between 18 DEC results and the PEC results on which these were based;
- The large majority of DEC's failed to display protocols which detailed PEC results;
- A few DEC chairpersons amended results between the DEC and the CEC or at the CEC.

The Ministry of Foreign Affairs had responsibility for the conduct of polling abroad. Observers noted unexplained and anomalous late increases in the number of registered voters living abroad, some after the legal deadline for the closure of registers. The results of some out of country polling stations were wholly implausible e.g. Istanbul, Trabzon, Lugansk and Baku. Mtatsminda DEC, to which the overseas votes are attributed, was unable to comply with a Court order to recount votes due to an absence of ballot papers and voter lists. The number of votes cast for Industry Will Save Georgia was subject to constant inflation and ultimately appears insupportable, e.g. in Lughansk #47 (Ukraine) where original results gave the party 0 votes and the final protocol gave it 1000 votes. The large numbers of votes for Industry from polling stations abroad brought the party much closer to meeting the 7% threshold.

The ODIHR Final Report on the 1999 elections highlighted anomalies in determining the figure against which the 7% representation threshold is calculated. On 13 November, unusually the CEC determined the number of participating voters based on the number of valid ballots and then determined this figure as the base for calculating the 7% turnout. It should be noted that the figure for voter participation (turnout) and the figure against which the 7% threshold is calculated (votes) are not synonymous. It is regrettable that the CEC did not clarify the issue prior to the election.

On 13 November the CEC announced the results of 54 majoritarian contests. Although second round contests and PEC reruns were originally scheduled for 16 November, most were rescheduled for 23 November and some for 30 November, leading to a fragmented election process. The CEC decided not to publicise the official proportional results received from DEC's and to use the full 18-day time limit before announcing final results on 20 November. This reduced transparency and did nothing to reduce political tensions.

Handling Election Disputes

Election commission members, party and candidate representatives and domestic observers all used legal mechanisms to complain against election day and subsequent violations. Regrettably, some DEC's were unwilling to address complaints and many were ignored, dismissed on technicalities or in a few cases the papers were lost e.g. in Dusheti a large number of complaints were stolen and in Rustavi

over 100 pages of complaints were not addressed. The CEC received over 100 complaints and appeals, but did not begin to address them until 13 November. The large majority were dismissed although in a few cases the CEC overturned DEC decisions e.g. by ordering ballot recounts in Krtsanisi and Ozurgeti. However, overall the election administration did not provide a practical mechanism to hear and rule on complaints and appeals.

The judiciary was extremely active in hearing cases, sometimes working well into the night to meet tight deadlines. In some cases the courts took bold decisions. However, the high number of violations and subsequent complaints challenged their ability to rule on each case effectively. Often the judiciary failed to provide a clear resolution of disputed issues. Even when courts abolished election results, issues were referred back to DECs to re-examine. This was particularly problematic in cases where the DEC had demonstrated a complete disregard for the law e.g. Bolnisi. In most cases where courts ordered a recount, DECs simply re-tabulated results using dubious protocols.

The National Movement appealed against the election results in three districts in Adjara. However, all disputes taken to court involving DECs in Adjara fall within the jurisdiction of the Adjara court system. On 25 November the Supreme Court annulled the result of the proportional component of the parliamentary election (150 deputies). The status of all 75 majoritarian election contests remains uncertain.

Political Environment

Immediately after 2 November, the National Movement and the Burjanadze-Democrats claimed victory in the elections and denounced the Georgian authorities claiming they had rigged the election. A tense atmosphere existed even before the CEC's announcement of preliminary results, after which the political situation became more polarised and antagonistic. Beginning on 4 November these parties together with Ertoba (Unity) launched protest rallies in Tbilisi, with party supporters joined by activists from the Youth movement "Kmara!" (Enough!). Labour, Revival, New Rights and the Industry Party, however, criticised the parties' stance and tactics.

Demonstrations gained additional momentum on 6 November when implausible election data from Adjara were made public heightening the opposition's frustration. During this period demonstrations also took place outside a number of DECs across Georgia. The protests included a week-long vigil outside parliament during which major opposition politicians announced various demands including the cancellation of election results and the resignation of President Shevardnadze. In addition, the Burjanadze-Democrats called on all opposition parties to boycott parliament.

Despite the strident rhetoric, on 9 November talks were held between the President and the leaders of the two leading opposition parties. These proved inconclusive and the opposition continued its demonstrations. On 10 November, the President unexpectedly travelled to Adjara for consultations with Aslan Abashidze. The talks appeared to signal publicly a rapprochement between the two professed political rivals. On 14 November, after a rally in Tbilisi, the two opposition parties ended the vigil outside parliament and urged supporters to engage in non-violent civil disobedience. Demonstrations continued to take place in many cities and large towns in Georgia.

On 18 November, Revival organised a counter-demonstration in Tbilisi, which was attended by both the party's supporters and pro-Presidential forces. Many demonstrators travelled from Adjara without obstruction. This stands in marked contrast to earlier demonstrations organised by the National

Movement and the Burjanadze Democrats where the Georgian authorities restricted movement out of some regional towns and into Tbilisi.

As was widely reported in the international media, in dramatic scenes on 22 November the demonstrations culminated in direct action to prevent the convening of the incoming parliament. On 23 November President Eduard Shevardnadze resigned. Under the constitution, Nino Burjanadze, the Speaker of Parliament, is Acting President until the new presidential election takes place on January 4.

Throughout the political crisis security forces and opposition demonstrators behaved with restraint and the rights of peaceful assembly and free speech were generally respected. However, a violent incident involving firearms occurred in Zugdidi and on 19 November, in Bolnisi, a peaceful opposition demonstration was violently attacked by pro-government supporters including members of the local government executive while police passively looked on.

The Media

Controversies regarding the announcement of election results overshadowed the anticipated second round elections. However, Georgian media covered the demonstrations and political events extensively and coverage by the international media ensured a wider global audience. Prior to 22 November, Channel 1 reported negatively on the opposition demonstrations while Imedi TV adopted a more pro-opposition stance shortly before the demonstrations reached their conclusion.

After 2 November the two State TV channels (Channel 1 and Adjara TV) provided consistently biased coverage of political events. Channel 1 misrepresented the IEOM's findings and conclusions delivered at a press conference on 3 November, presenting a much more positive picture than that delivered by the speakers and the text of the preliminary statement. Notwithstanding the strong support given by Channel 1, on 18 November the President criticised it for not supporting the State sufficiently. In response, on 19 November the Chairman of the channel resigned commenting that it should not be simply the role of the State TV to defend the interests of the Government. Adjara TV continued to present unquestioningly dutiful coverage to Revival and Aslan Abashidze.

The tone of political discourse in the media was often rancorous and extreme, the clearest example being a clip broadcast during the news on Adjara TV that likened Mikheil Saakashvili to Adolf Hitler. Partisan reporting was not limited to State TV. Rustavi 2 lent strong support to the political stance of the National Movement and the Burjanadze-Democrats. The decision by the channel to broadcast controversial advertisements for Kmara resulted in the channel being fined US\$128,000 by the courts.

Repeat and Second Round Elections

Decisions on when and where repeated polling would take place were subject to constant change. On 16 November polling took place in four polling stations in Samtredia and one polling station in Tsalenjikha. The EOM observed polling in Samtredia where ballot boxes had been stolen on 2 November and reported a number of shortcomings and anomalies including: intimidation of voters; preventing international observers from following mobile voting; issuing very large numbers of temporary identity documents in the run up to the poll, deploying huge numbers of "observers" from an organisation called "Great Silk Road", some of whom carried concealed weapons and interfered with the voting process. In spite of the irregularities and intimidation the opposition candidate won the election, albeit with a significantly reduced margin.

Due to the State of Emergency introduced on 22 November, the second round of elections did not take place. The status of these second majoritarian districts contests remains unclear.